

Who You Know Matters Under The ADA

A little known provision of the Americans with Disabilities Act (ADA) protects applicants and employees from discrimination because of their known relationship or association with people with disabilities. Those protected from employment discrimination under the ADA could include family members, friends, or caregivers of disabled individuals even though they, themselves do not have disabilities. Recently the Equal Employment Opportunity Commission (EEOC), which enforces the ADA, issued guidance regarding the issue entitled “Questions and Answers About the Association Provision of the Americans with Disabilities Act.”

The new EEOC guidance can be found at www.eeoc.gov/facts/association_ada.html.

Employers who are subject to the ADA (those with 15 or more employees) and their managers should know that the following actions could be discriminatory:

- Firing or refusing to hire someone based on concerns that the individual will acquire a condition from a family member or other individual with whom he has a relationship; for example, denying employment to someone with a disabled child because of fears that she may be unreliable or miss work frequently;
- Refusing to provide health insurance for an employee's family member with a disability when the employer generally provides health insurance for employee dependents, or refusing to hire someone who has a disabled spouse because it's believed that person will dramatically increase the company's health insurance costs;
- Harassing someone based on the individual's association with a person with a disability such as failing to give an employee with a seriously disabled spouse difficult assignments or supervising her differently because she may be unreliable “due to her husband's medical problems;”
- Providing lesser benefits to someone who has a relationship or association with an individual with a disability than it provides to all other employees such as asking an employee not to bring his severely disabled child to the company party because she may scare the other kids and be disruptive; and
- Firing, refusing to hire, or denying any benefit or privilege of employment to someone because of concern that the employer's image will be negatively affected by an applicant's or employee's association with individuals with disabilities. For example, discriminating against an employee who provides volunteer services for people with HIV/AIDs or psychiatric disabilities is prohibited.

Note, however that the ADA does not require an employer to provide a reasonable accommodation to a nondisabled individual because she has an association with someone with a disability. Only qualified applicants and employees with disabilities are entitled to reasonable accommodations. For example, leave policies would not have to be modified for an employee who needs time off to care for a disabled child. Additionally, employers are not required to provide greater health insurance coverage to employees with disabled dependents that is beyond that provided to other employees.

The bottom line? Basically employers may not treat an employee differently because of his or her relationship with a person with a disability.

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