

# Employers Council Consulting Services

## **CASE STUDY:**

### **The American Disabilities Act Managing Disabilities in the Workplace**

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# ADA: Why It Matters

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# Hypothetical Part I

Administrative Assistant, Kevin, requests a standing desk due to his back condition which limits his ability to sit for more than 15 minutes at a time. He has supplied ADA paperwork that states he must stand for at least 30 minutes after sitting for 15 minutes. Kevin's job requires he work at his desk for 85% of the day. The other 15% of the time he is retrieving mail, delivering documents and other items around the building. Although the expensive standing desk is affordable for the company, Supervisor Sam knows that if he gives Kevin the desk, all the other Administrative Assistants will also want one. Supervisor Sam asks you if he can deny Kevin's request

# Hypothetical Part II: What factors should we consider?

Administrative Assistant Kevin's job also includes occasionally (once every two weeks), driving to North Denver, roughly 45 minutes away from the office, to deliver a box of documents to the shredding service. Kevin requests that this task be reassigned to someone else

# Why Does the ADA Exist?

To protect qualified individuals with disabilities from unlawful discrimination in the workplace.



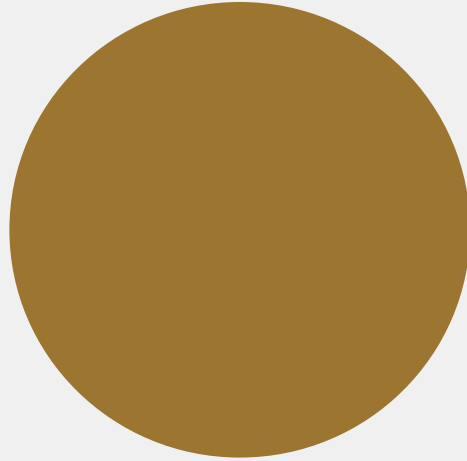
AND, to enable such individuals to complete in the workplace based on the same performance standards expected of non-disabled employees.

## What is a disability?

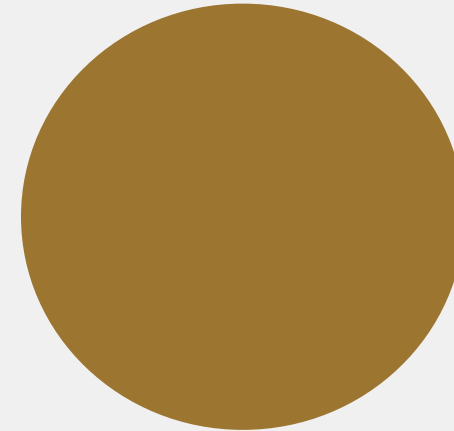
Physical or mental impairment that substantially limits one or more major life activities or major bodily functions



# WHO is Protected? A **Qualified** Individual with a Disability



Satisfies requisite skills,  
experience and  
education requirements



Can perform the  
**essential functions** of  
the job either with or  
without reasonable  
accommodations

# Qualified Individual with a Disability: **ESSENTIAL JOB DUTIES**

## Essential vs. Marginal Functions

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**Reason the position exists is to perform that function**

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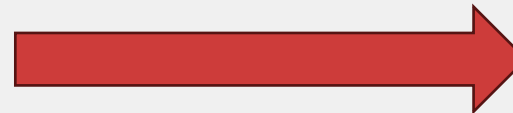
Limited number of employees available among whom the performance of job function can be distributed

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Function may be highly specialized requiring specific expertise or skill to perform

## What Happens?

1.) The **individual** with a disability must inform the employer accommodation is needed



2.) Employer must initiate an informal, **interactive process**

Employer then works to Identify potential **REASONABLE ACCOMODATIONS** to help and employee perform their **ESSENTIAL JOB DUTIES**

## Interactive Process Meeting(s)

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Informal

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What does employee  
need to enable job  
performance?

***How can I help you?***

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May get input  
from Doctor

[medical inquiry form]

## Reasonable Accommodation?

- Accessible facilities
  - Job Restructuring
  - Create a new position
  - Modify work schedule
  - Equipment/devices
  - Lower performance standards
  - Unpaid leave for treatment
- Remove/reassign EJJ
  - Reassign to open position
  - Waive warranted discipline
  - Modify exams/ training materials or policies
  - Provide qualified readers and interpreters
  - Provide reserved parking

# NOT Reasonable Accommodation

***Create a new position***

***Lower performance standards***

***Remove / reassign***

***Waive warranted discipline***

Be creative

Explore alternatives

Doctor's suggestions

## Defenses

Not qualified

Undue hardship

Direct threat

## Undue Hardship Defense

### Any accommodation that would:

- Be unduly costly
- Be disruptive or
- Fundamentally alter the nature or operation of the business

**Need not be provided**



## Undue Hardship Cannot be based on:



Morale of Co-workers



Disability Not Covered by Insurance



Increased Cost of Insurance



Increased Workers' Comp Liability

# Hypothetical Part I: Revisit

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# Hypothetical Part II: What factors should we consider?

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# Questions?

# THANK YOU

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