



Questions and Answers: The Americans with Disabilities Act and Persons with HIV/AIDS

I. Introduction

What is the ADA?

The Americans with Disabilities Act (ADA) gives federal civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Are people living with HIV or AIDS protected by the ADA?

Yes. An individual has a “disability” under the ADA if he or she has a physical or mental impairment that substantially limits one or more major life activities, including major bodily functions such as the functions of the immune system; has a record of such an impairment; or has an actual or perceived mental or physical impairment that is not transitory and minor and is subjected to an action prohibited under the ADA. Persons with HIV, both symptomatic and asymptomatic, have physical impairments that substantially limit one or more major life activities or major bodily functions and are, therefore, protected by the law.

Persons who are discriminated against because they are regarded as having HIV are also protected. For example, a person who was fired on the basis of a rumor that he had AIDS, even if he did not, would be protected by the law.

Moreover, the ADA protects persons who are discriminated against because they have a known association or relationship with an individual who has HIV. For example, the ADA would protect a woman (who does not have HIV) who was denied a job because her roommate had AIDS.

Information on filing a complaint with the Department of Justice can be found at www.ADA.gov/HIV. For more information on how to send complaints to the Department by *mail, fax, or online*, [see the end of this document](#).

II. Employment

What employers are covered by the ADA?

The ADA prohibits discrimination by employers with 15 or more employees.

What employment practices are covered by the ADA?

The ADA prohibits discrimination in all employment practices. This includes not only hiring and firing, but job application procedures (including the job interview), job assignment, training, and promotions. It also includes wages, benefits, leave, and all other employment-related activities. Examples of employment discrimination against persons with HIV or AIDS would include:

- An automobile manufacturing company that had a blanket policy of refusing to hire anyone with HIV or AIDS.
- An airline that extended an offer to a job applicant and then rescinded the offer after the employer discovered (during the post-offer physical) that the applicant had HIV.
- A restaurant that fired a waitress after learning that the waitress had HIV.
- A university that fired a physical education instructor after learning that the instructor's boyfriend had AIDS.
- A County tax assessment office that cancelled training opportunities for an accountant following her disclosure that she had HIV.

- A retail store that generally rotated all sales associates between the sales floor (where they could earn commissions) and the stock room (where they processed merchandise) except for the sales associate who was rumored to have HIV, who was never rotated to the floor.
- A call center employee who was denied a promotion to shift manager because his employer believed the employee would be unreliable since he had AIDS.
- A company that contracted with an insurance company that had a cap on health insurance benefits provided to employees for HIV-related complications, but not on other health insurance benefits.

Who is protected by the employment provisions of the ADA?

The ADA prohibits employment discrimination against qualified individuals with disabilities. A “qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

What is an “essential function” of the job?

Essential functions of the job are those core duties that are the reason the job position exists. For example, an essential function of a typist’s position is the ability to type; an essential function of a bus driver’s position is the ability to drive.

Requiring the ability to perform “essential” functions assures that an individual with a disability will not be considered unqualified because of his or her inability to perform marginal or incidental job functions.

What is a “reasonable accommodation”?

A “reasonable accommodation” is any modification or adjustment to a job, the job application process, or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process, perform the essential functions of the job, or enjoy the benefits and privileges of employment. Examples of “reasonable accommodations” include: making existing facilities readily accessible to and usable by employees with disabilities; restructuring a job; modifying work schedules; acquiring or modifying equipment; and reassigning a current employee to a vacant position for which the individual is qualified. For example:

- An accountant with HIV who had no available sick leave required two hours off, monthly, for visits to his doctor. He was permitted to take longer lunch breaks and to make up the time by working later on those days.
- A supermarket check-out clerk with AIDS had difficulty standing for long periods of time. Her employer provided her with a stool so that she could sit down at the cash register when necessary.
- A secretary with AIDS needed to take rest breaks at irregular intervals during her work day. Her boss allowed her to take the breaks as needed throughout the day, so long as she completed her work before going home each evening.
- A machine operator required time off from work during his hospitalization with AIDS-related pneumonia. He had already used up all his sick leave. His employer allowed him to take leave without pay.
- A computer programmer with HIV had bouts of nausea caused by his medication. His employer allowed him to work at home on those days that he found it too difficult to come into the office for the month it took him to adjust to his medication.
- A newspaper editor with HIV who tired easily from walking began to use an electric scooter. His employer installed a ramp at the entrance to the building in which the editor worked so that the editor could use his scooter at the office.

Does an employer have to provide a needed reasonable accommodation?

Once an employer determines that an accommodation is reasonable, it is required to provide it, unless the employer can demonstrate that the requested accommodation would impose an undue hardship on the operation of the business. If the requested accommodation would impose an undue hardship, the employer is not required to provide the accommodation. An undue hardship is an action that requires “significant difficulty or expense” in relation to the size of the employer, the resources available, and the nature of the operation. Determination as to whether a particular accommodation poses an undue hardship must be made on a case-by-case basis.

Customer or co-worker attitudes are not relevant factors in determining an undue hardship. The potential loss of customers or co-workers because an employee has HIV or AIDS does not constitute an undue hardship.

An employer is not required to provide an employee's first choice of accommodation. The employer is, however, required to provide an effective accommodation, *i.e.*, an accommodation that meets the individual's needs and will allow him or her to perform the essential functions of the job or enjoy the full benefits of employment.

When is an employer required to make a reasonable accommodation?

An employer is only required to accommodate a "known" disability of a qualified applicant or employee. Thus, in most circumstances, it is the responsibility of the employee to request the reasonable accommodation. If the employee does not want to disclose that he or she has HIV or AIDS, it may be sufficient for the employee to say that he or she has an illness or disability covered by the ADA, that the illness or disability causes certain problems with work, and that the employee wants a reasonable accommodation. However, an employer can require medical documentation of the employee's disability and the limitations resulting from that disability so disclosure may be necessary at some point during the interactive reasonable accommodation process.

What if an employer has concerns about an applicant's ability to do the job in future?

Employers cannot fire or choose not to hire a qualified person now because they fear the worker will become too ill to work in the future. The hiring decision must be based on how well the individual can perform at the present time. In addition, employers cannot decide not to hire qualified people with HIV or AIDS because they are afraid of higher medical insurance costs, workers' compensation costs, or the potential for absenteeism.

Can an employer consider health and safety when deciding whether to hire an applicant or retain an employee who has HIV or AIDS?

Yes, but only under limited circumstances. The ADA permits employers to establish qualification standards that will exclude individuals who pose a direct threat—*i.e.*, a significant risk of substantial harm—to the health or safety of the individual him/herself or to the safety of others, if that risk cannot be eliminated or reduced below the level of a "direct threat" by reasonable

accommodation. However, an employer may not simply assume that a threat exists; the employer must establish through objective, medically-supportable methods that there is a significant risk that substantial harm could occur in the workplace. By requiring employers to make individualized judgments based on reliable medical or other objective evidence—rather than on generalizations, ignorance, fear, patronizing attitudes, or stereotypes—the ADA recognizes the need to balance the interests of people with disabilities against the legitimate interests of employers in maintaining a safe workplace.

Transmission of HIV will rarely be a legitimate “direct threat” issue. It is medically established that HIV can only be transmitted by sexual contact with an infected individual, exposure to infected blood or blood products, or perinatally from an infected mother to infant during pregnancy, birth, or breast feeding. HIV cannot be transmitted by casual contact. Thus, there is little possibility that HIV could ever be transmitted in the workplace. For example:

- A restaurant owner may believe that there is a risk of employing an individual with HIV as a cook, waiter or waitress, or dishwasher, because the employee might transmit HIV through the handling of food. However, HIV and AIDS are specifically not included on the Centers for Disease Control and Prevention (CDC) list of infectious and communicable diseases that are transmitted through the handling of food. Thus, no direct threat exists in this context.
- An employer may believe that an emergency medical technician (“EMT”) with HIV may pose a risk to others when performing mouth-to-mouth resuscitation. However, the use of universal precautions among emergency responders means that the EMT will be using a barrier device while performing resuscitation.

Having HIV or AIDS, however, might impair an individual’s ability to perform certain functions of a job, thus causing the individual to pose a direct threat to the health or safety of the individual or others. For example:

- A worker with HIV who operates heavy machinery and who has been experiencing unpredictable dizzy spells caused by a new medication he is taking might pose a direct threat to his or someone else’s safety. If no reasonable accommodation is available (e.g., an open position to which the employee could be reassigned), the employer would likely not violate the ADA if it removed the employee from the position until a physician certified that it was safe for the employee to return to the job.

As noted above, the direct threat assessment must be an individualized assessment. Any blanket exclusion—for example, refusing to hire persons with HIV or AIDS because of a perceived risk—would violate the ADA as a matter of law.

When can an employer inquire into an applicant’s or employee’s HIV status?

An application cannot seek information about health status or ask disability-related questions. Likewise, an employer may not ask a job applicant disability-related questions or questions likely to solicit information about a disability or ask an applicant to submit to a medical examination before an offer is made. An employer may, however, ask the applicant questions during the interview about the applicant’s ability to perform specific job functions.

An employer may condition a job offer on the satisfactory outcome of a post-offer medical examination or medical inquiry, if such medical examination or inquiry is required of all entering employees in the same job category. However, if the employer withdraws a job offer because the post-offer medical examination or inquiry reveals a disability, the reason(s) for not hiring must be job-related and consistent with business necessity. Having HIV alone can almost never be the basis for a refusal to hire after a post-offer medical examination.

After a person starts work, a medical examination or inquiry of an employee must be job-related and consistent with business necessity. Employers may conduct employee medical examinations where there is evidence of a job performance or safety problem, when examinations are required by other Federal laws, and/or when examinations are necessary to determine current “fitness” to perform a particular job. For example, an employer could not ask an employee who had recently lost a significant amount of weight, but whose job performance had not changed in any way, whether the employee had HIV or AIDS. An employer could, however, require an employee who was experiencing frequent dizzy spells, and whose work was suffering as a result, to undergo a medical examination.

What obligations does an employer have if an employee discloses his or her HIV status?

The ADA requires that medical information be kept confidential. This information must be kept apart from general personnel files as a separate, confidential medical file available only under limited conditions.

What obligations does an employer have to provide health insurance to employees with HIV or AIDS?

The ADA prohibits employers from discriminating on the basis of disability in the provision of health insurance to their employees and/or from entering into contracts with health insurance companies that discriminate on the basis of disability. Insurance distinctions that are not based on disability, however, and that are applied equally to all insured employees, do not discriminate on the basis of disability and do not violate the ADA.

Thus, for example, blanket pre-existing condition clauses that exclude from the coverage of a health insurance plan the treatment of all physical conditions that predate an individual's eligibility for benefits are not distinctions based on disability and do not violate the ADA. A pre-existing condition clause that excluded only the treatment of HIV-related conditions, however, is a disability-based distinction and would likely violate the ADA.

Similarly, a health insurance plan that capped benefits for the treatment of all physical conditions at \$50,000 per year does not make disability-based distinctions and does not violate the ADA.

A plan that capped benefits for the treatment of all physical conditions, except HIV or AIDS, at \$50,000 per year, and capped the treatment for AIDS-related conditions at \$10,000 per year, does distinguish on the basis of disability and likely violates the ADA.

What can an applicant or employee do if he or she believes that he or she is being discriminated against on the basis of his or her HIV or AIDS?

An applicant or employee who believes that he or she has been subjected to discrimination on the basis of having HIV or AIDS may file a charge with the nearest Equal Employment Opportunity Commission office. The charge must be filed within 180 days of when the discrimination occurred. The EEOC will investigate the charge and either act (on its own or through a referral of the charge to the appropriate government agency) to correct the problem or give the employee a "right to sue" letter. The right to sue letter permits the employee to sue the employer directly. The employee may be entitled to the

job or promotion he or she was denied, a reasonable accommodation that was denied, back pay, benefits, or other damages.

For more information about the ADA's employment requirements, or to file a charge of discrimination, please call the EEOC at 800-669-4000 (Voice) or 800-669-6820 (TTY), or visit www.eeoc.gov/employees/charge.cfm.

III. Public Accommodations

What is a public accommodation?

A public accommodation is a private entity that owns, operates, leases, or leases to a place of public accommodation. Places of public accommodation include a wide range of entities, such as restaurants, hotels, theaters, doctor's offices, dentist's offices, hospitals, retail stores, health clubs, museums, libraries, private schools, and day care centers.

Entities that meet the legal definition of a private club and those that qualify for an exemption for religious entities are not considered places of public accommodation.

What constitutes discrimination?

Discrimination is the failure to give a person with a disability the equal opportunity to use or enjoy the public accommodation's goods, services, or facilities. Examples of ADA violations would include:

- A dentist who categorically refused to treat all persons with HIV or AIDS.
- A moving company that refused to move the belongings of a person who had AIDS, or that refused to move the belongings of a person whose neighbor had AIDS.
- A health club that charged extra fees to persons who had HIV, or that prohibited members with HIV from using the steam room or sauna, or that limited the hours during which members with HIV could use the club's facilities.

- A day care center that categorically refused admission to children with HIV or the children of mothers with HIV.
- A funeral home that refused to provide funeral services for a person who died from AIDS-related complications.
- A building owner who refused to lease space to a not-for-profit organization that provided services to persons with HIV or AIDS.
- A cosmetology school that refused to enroll a student once they learned that she had HIV.
- An overnight summer camp where children sleep in group cabins that requires a camper with HIV to sleep in the camp infirmary.

The ADA also requires public accommodations to take steps to ensure that persons with disabilities have equal access to their goods and services. For example, the ADA requires public accommodations to make reasonable changes in their policies, practices, and procedures; to provide communication aids and services; and to remove physical barriers to access when it is readily achievable to do so.

What types of changes in policies, practices, or procedures would a public accommodation have to make to ensure equal access to persons with HIV or AIDS?

Even though a public accommodation may not intend to discriminate against persons with HIV or AIDS, its customary way of doing business may unintentionally exclude persons with HIV or AIDS or provide them with lesser services. If reasonable modifications in the business policies, practices, or procedures would rectify the problem, the public accommodation would be required to make those changes unless doing so would fundamentally alter the nature of the goods, services, or facilities at issue. For example:

- A hotel does not allow pets. It would be a reasonable modification of the hotel's policy to allow a person who has lost his vision from cytomegalovirus retinitis, an AIDS-related illness, to have his service animal stay with him in the hotel.
- A pharmacy requires customers to stand in line to be served. A person with AIDS finds it too tiring to stand in line. It would be a reasonable modification of the pharmacy's procedures to allow the

person to announce her presence and/or take a number and then sit down until her prescription is filled. It may also be a reasonable modification for the pharmacy to provide curbside service.

Are health care providers required to treat all persons with HIV or AIDS, regardless of whether the treatment being sought is within the provider's area of expertise?

No. A health care provider is not required to treat a person who is seeking or requires treatment or services outside the provider's area of expertise. However, a health care provider cannot refer a patient with HIV or AIDS to another provider simply because the patient has HIV or AIDS. The referral must be based on the fact that the treatment the patient is seeking is outside the expertise of the provider, not the patient's HIV status alone. For example:

- An individual with HIV has a severe allergic drug reaction while on vacation and goes to the nearest emergency room. The hospital routinely treats people experiencing allergic drug reactions. Sending the patient to another hospital that allegedly has an "AIDS unit" would violate the ADA.
- An individual with HIV is in a car accident and suffers severe third degree burns. He is taken to the nearest hospital, which does not have a burn unit. Sending the patient to another hospital that has a burn unit would not violate the ADA.
- A person with HIV goes to the dentist for a teeth cleaning. The dentist refers her to another dentist because the dentist claims he is "not equipped" to treat persons with HIV. Because there is no special equipment necessary for providing routine dental care to those with HIV or AIDS beyond universal precautions (for example, gloves, mask, and goggles) that a provider should use when treating all patients, this "referral" would violate the ADA.
- A person with HIV goes to a general dentist who determines that the patient requires periodontal surgery. The dentist tells the patient that he is not a periodontal surgeon and is, therefore, not qualified to perform her treatment. The dentist refers the patient to a periodontal surgeon for diagnosis and treatment, with the understanding that the patient will return to the dentist for the provision of routine dental care. This would not violate the ADA.

What types of communication aids and services would a public accommodation be required to provide to persons with HIV or AIDS?

A public accommodation is required to provide auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities, unless an undue burden (that is, significant difficulty or expense) or fundamental alteration would result. Thus, if a person with HIV or AIDS has an impairment—such as a vision, hearing, or speech impairment—that substantially limits his or her ability to communicate, the public accommodation must provide auxiliary aids or services that will ensure equal access to the goods, services, or facilities that the public accommodation offers. The impairment can be one that the person has had from birth, or one that has recently developed as a result of an AIDS-related complication.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length, importance, and complexity of the communication involved. Some examples of auxiliary aids and services (again, the effectiveness of which will be gauged based on the particular situation) are: exchanging written notes; typing back and forth on a computer; providing a qualified sign language interpreter; having a telecommunications device for the deaf (TTY) for customers with hearing impairments; reading aloud; providing large print, audiotapes, or Braille materials; locating merchandise for customers with vision impairments; and using TTYs or computer terminals for persons with speech impairments. For example:

- A person who was born deaf and uses American Sign Language as his primary means of communication goes to his physician to receive the results of his HIV test. The test results have come back positive. The physician may be required to obtain and pay for a sign language interpreter, as the communication between the physician and his patient is likely to be lengthy, important, and complex and may only be effective if a sign language interpreter is provided.
- A person with AIDS has recently lost his vision as a result of an AIDS-related complication. It would be appropriate for a restaurant waiter to read aloud the contents of the menu.

Can a public accommodation charge for reasonable modifications in its policies, practices, or procedures, or for the provision of communication aids and services?

No. A public accommodation may not impose a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs necessary to provide nondiscriminatory treatment. For example:

- A law firm routinely prepares wills and trusts. A woman with AIDS who recently has experienced vision loss requests that the firm draft her will and guardianship papers, and requests that the firm provide her with all drafts of her documents in large print. The law firm cannot charge the woman extra for preparing the documents in large print.

Can a public accommodation exclude a person with HIV or AIDS because that person allegedly poses a direct threat to the health and safety of others?

In almost every instance, the answer to this question is no. Persons with HIV or AIDS will rarely, if ever, pose a direct threat in the public accommodations context.

A public accommodation may exclude an individual with a disability from participation in an activity if that individual's participation would result in a direct threat to the health or safety of others. "Direct threat," however, is defined as a "significant risk to the health or safety of others" that cannot be eliminated or reduced to an acceptable level by reasonable modifications to the public accommodation's policies, practices, or procedures, or by the provision of appropriate auxiliary aids or services. The determination that a person poses a direct threat to the health or safety of others may not be based on generalizations or stereotypes about the effects of a particular disability; it must be based on an individual assessment that considers the particular activity and the actual abilities and disabilities of the individual. The individual assessment must be based on reasonable judgment that relies on current medical evidence. For example:

- A restaurant's refusal to admit an individual with AIDS would violate the ADA, because HIV cannot be transmitted through the casual contact that occurs in a restaurant setting.
- A gynecologist's refusal to treat a woman with HIV would be a violation of the ADA. Health care providers are required to treat all persons as if they have HIV or other blood-borne pathogens, and must use universal precautions (gloves, mask, and/or gown where appropriate, *etc.*) to protect themselves from the transmission of infectious diseases. Failure to treat a person who discloses that she

has HIV out of a fear of contracting HIV would be a violation of the ADA, because so long as the physician utilizes universal precautions, it is generally safe to treat persons with HIV or AIDS.

- A day care center's refusal to admit a child with HIV is also a violation. Day care centers cannot exclude a child solely because he has HIV or AIDS. HIV cannot be easily transmitted during the types of incidental contact that take place in child care centers. Children with HIV or AIDS generally can be safely integrated into all activities of a child care program. Universal precautions, such as wearing latex gloves, should be used whenever caregivers come into contact with children's blood or bodily fluids, such as when they are cleansing and bandaging playground wounds. This applies to the care of all children, whether or not they are known to have disabilities.
- A health club's revocation of the membership of a person with HIV, because of the fear that the person may transmit the virus through the sweat he leaves on the club's weight machines, also violates the ADA. There is no evidence that HIV can be transmitted by sweat.

What types of physical barriers to access is a public accommodation required to remove? Why is this important to persons with HIV or AIDS?

Persons with HIV or AIDS may find that they have less strength to open doors, or may tire more easily when walking or climbing stairs. They may use a wheelchair, electric scooter, or other device for mobility purposes. The ADA's barrier removal requirements address these situations.

The ADA requires that public accommodations remove all physical barriers to access in their existing facilities, where it is readily achievable to do so. "Readily achievable" means "easily accomplishable and able to be carried out without much difficulty or expense."

Examples of barrier removal may include installing ramps, making curb cuts in sidewalks and entrances, rearranging furniture, widening doors, installing accessible door hardware, and installing grab bars in toilet stalls. The obligation to engage in readily achievable barrier removal is a continuing one.

The ADA requires that all newly constructed places of public accommodation be readily accessible to and usable by individuals with disabilities. The ADA

also requires that all alterations made to existing facilities be readily accessible to and usable by individuals with disabilities.

What can a person do if he or she is being discriminated against by a place of public accommodation on the basis of his or her HIV status?

A person who believes that he or she is being discriminated against may file a complaint with the Department of Justice. Complaints may be directed to the Department of Justice at the address below.

The Department of Justice is authorized to investigate complaints and to bring lawsuits in cases of general public importance, or where there is a pattern or practice of discrimination. The Department may seek injunctive relief (such as having the public accommodation correct its discriminatory practices), monetary damages, and civil penalties. Due to resource limitations, the Department is unable to investigate every complaint that it receives.

Information on filing a complaint with the Department of Justice can be found at www.ADA.gov/HIV. For more information on how to send complaints to the Department by *mail, fax, or online*, [see the end of this document](#).

Individuals are also entitled to bring private lawsuits against places of public accommodation. If a person files a private lawsuit, he or she may not seek monetary damages. However, the person may seek injunctive relief and reasonable attorney's fees and costs.

IV. State and Local Governments

Does the ADA also prohibit State and local governments from discriminating against persons with HIV or AIDS?

Yes. The ADA applies to all State and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State or local governments. For example:

- A public school system may not prohibit a child with HIV or AIDS from attending elementary school.
- A county hospital may not refuse to treat persons with HIV or AIDS.

- A local police station must make sure that TTY users, including persons with HIV or AIDS, can call 911 and other emergency phone numbers directly, without having to go through a relay system.
- A city emergency medical technician may not refuse to treat or transport a person with HIV or AIDS.
- A State-owned nursing home may not refuse to accept patients with HIV or AIDS.
- A county recreation center may not refuse admission to a summer camp program to a child whose brother has AIDS.
- A paratransit system may not refuse to transport an eligible rider to an appointment at a medical clinic because that clinic specializes in treatment of HIV and AIDS.
- A high school student does volunteer work at a local AIDS service organization and students at her school, thinking that she has HIV, harass her. Feeling threatened, she reports the harassment to a teacher. The harassment rises to a level where it denies or limits her ability to participate in or benefit from the school's education program. The school must take prompt and effective action to address the harassment.

State and local governments must also reasonably modify their policies, practices, and procedures unless making the modifications would fundamentally alter the program, service, or activity; must provide auxiliary aids and services necessary for effective communication unless doing so would result in a fundamental alteration or undue financial and administrative burdens; and must make programs, services, and activities accessible.

What can a person do if he or she is being discriminated against by a State or local government on the basis of his or her HIV status?

A person who believes he or she is being discriminated against by a State or local government may file a complaint with the Department of Justice.

The Department of Justice is authorized to investigate complaints and to bring lawsuits to enforce the ADA. The Department may seek injunctive relief (such as having the State or local government correct its discriminatory practices) or

monetary damages. Due to resource limitations, the Department is unable to investigate every complaint that it receives.

Individuals are also entitled to bring private ADA lawsuits against State and local governments and seek injunctive relief, monetary damages (in some instances), and reasonable attorney's fees and costs.

Information on filing a complaint with the Department of Justice can be found at www.ADA.gov/HIV. For more information on how to send complaints to the Department by *mail, fax, or online*, [see the end of this document](#).

V. Housing

Does the ADA prohibit discrimination in the sale, rental, and other terms of housing?

Housing discrimination is not covered by the ADA. However, the Fair Housing Amendments Act of 1988, which is primarily enforced by the U.S. Department of Housing and Urban Development (HUD), prohibits housing discrimination against persons with disabilities, including persons with HIV or AIDS.

Persons who believe that they have been discriminated against in housing because of their HIV status may contact HUD at 800-669-9777 (Voice) or 800-927-9275 (TTY) or visit <http://www.hud.gov/complaints/>.

Housing discrimination is illegal in the sale or rental of a dwelling, including in apartments, houses, nursing homes, assisted living centers, and group homes, among other housing options.

VI. Air Transportation

Does the ADA prohibit discrimination by airlines?

Persons who believe that they have been discriminated against by airlines because they have HIV may contact the U.S. Department of Transportation
at 800-778-4838 (Voice) or 800-455-9880 (TTY)
or visit airconsumer.ost.dot.gov/ACAacomplaint.htm.

Discrimination by air carriers in areas other than employment is not covered by the ADA, but rather, by the Air Carrier Access Act (ACAA).

Resources

The Department of Justice offers technical assistance on the ADA as it applies to businesses, non-profit service agencies, and State and local government programs. To get answers to technical questions, obtain general ADA information, order free ADA materials, or ask about filing a complaint, please call: ADA Information Line for documents and questions:

800-514-0301 (Voice); 800-514-0383 (TTY); DOJ HIV/AIDS website: www.ADA.gov/HIV

The Equal Employment Opportunity Commission offers technical assistance on ADA provisions applying to employment and also provides information on how to file ADA complaints:

800-669-4000 (Voice); 800-669-6820 (TTY); www.eeoc.gov

The Job Accommodation Network (JAN) provides information and advice to employers and people with disabilities on reasonable accommodation in the workplace:

800-526-7234 (Voice); 877-781-9403 (TTY); www.askjan.org

The Department of Housing and Urban Development takes complaints concerning housing-related discrimination:

800-669-9777 (Voice); 800-927-9275 (TTY); www.hud.gov/complaints/

CDC-INFO, the Center for Disease Control and Prevention's National Contact Center, provides information on a wide variety of disease prevention and health promotion topics, including on HIV/AIDS. Representatives are available to answer questions in English and Spanish:

800-CDC-INFO (Voice); 888-232-6348 (TTY); www.cdc.gov/cdc-info/

The U.S. Department of Transportation responds to discrimination by air carriers in areas other than employment under the Air Carrier Access Act: **800-778-4838 (Voice); 800-455-9880 (TTY); airconsumer.ost.dot.gov/ACAComplaint.htm**

ADA Information Line

800-514-0301 (Voice) and 800-514-0383 (TTY)
24 hours a day to order publications by mail.

M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m. – 5:30 p.m. (Eastern Time)
to speak with an ADA Specialist. Calls are confidential.

For persons with disabilities, this publication is available in alternate formats.

To file a complaint with the Department of Justice:

Online: https://www.ADA.gov/HIV/ada_hiv_complaints.htm

By mail: US Department of Justice

950 Pennsylvania Avenue, NW

Civil Rights Division, Disability Rights Section -- 1425 NYAV

Washington, DC 20530

By fax: (202) 307-1197

Reproduction of this document is encouraged.

October 2016

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.