

## WHAT IS A DISABILITY UNDER THE ADA?

The ADA does not provide a specific list of impairments that are disabilities, but the regulations of the Equal Employment Opportunity Commission (EEOC) offer some guidance. Impairments that usually result in disabilities include:

- Orthopedic, visual, speech and hearing impairments
- Tuberculosis
- HIV infection and AIDS
- Cerebral palsy
- Epilepsy
- Muscular dystrophy
- Multiple sclerosis
- Cancers
- Heart disease
- Diabetes
- Mental retardation
- Emotional and mental illness

What is *not* a disability? Under the EEOC's regulations, temporary, non-chronic impairments of short duration with little or no permanent impact are usually not disabilities. Such impairments include:

- Broken limbs
- Sprained joints
- Concussions
- Appendicitis
- Influenza

Keep in mind, however, that some temporary conditions that are not considered disabilities under the ADA may be protected under the state's law, which would then take precedence.

Impairments do not include physical characteristics such as eye color, hair color, left-handedness, height or weight; common personality traits such as a quick temper or poor judgment (where these are not symptoms of a mental or psychological

disorder); or environmental, cultural or economic characteristics such as poverty, lack of education or a prison record.

Under the statute, the following conditions are *not* considered disabilities:

- Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders (not resulting from physical impairments), and other sexual disorders.
- Compulsive gambling, kleptomania or pyromania
- Psychoactive substance use disorders resulting from current illegal use of drugs
- Homosexuality or bisexuality

### **The “Don’ts”: Discriminatory Behavior**

The ADA prohibits discrimination in a broad range of employment activities, including:

- The application and interview process
- Hiring and termination
- Compensation
- Promotion
- Job Training
- Virtually any other term or condition of employment