

FACTS ABOUT THE AMERICANS WITH DISABILITIES ACT

Title I of the Americans with Disabilities Act of 1990, which takes effect July 26, 1992, prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.

An individual with a disability is a person who:

- * Has a physical or mental impairment that substantially limits one or more major life activities;
- * Has a record of such an impairment; or
- * Is regarded as having such an impairment.

A qualified individual with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:

- *Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- *Job restructuring, modifying work schedules, reassignment to a vacant position;
- *Acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; and providing qualified readers or interpreters.

An employer is required to make an accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources and the nature and structure of its operation. An employer is not required to lower quality or production standards to make an accommodation, nor is an employer obligated to provide personal use items such as glasses or hearing aids.

MEDICAL EXAMINATIONS AND INQUIRIES

Employers may not ask job applicants about the existence, nature or severity of a disability. Applicants may be asked about their ability to perform specific job functions. A job offer may be conditioned on the results of a medical examination or inquiry, but only if the examination or inquiry is required for all entering employees in the job. Medical examinations or inquiries of employees must be job related and consistent with the employer's business needs.

DRUG AND ALCOHOL ABUSE

Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA, when an employer acts on the basis of such use. Tests for illegal drugs are not subject to the ADA's restrictions on medical examinations. Employers may hold illegal drug users and alcoholics to the same performance standards as other employees.

EEOC ENFORCEMENT OF THE ADA

The U.S. Equal Employment Opportunity Commission issued regulations to enforce the provisions of Title I of the ADA on July 26, 1991. The regulations take effect on July 26, 1992, and will cover employers with 25 or more employees. On July 26, 1994, employers with 15 or more employees will be covered.

FILING A CHARGE

Charges of employment discrimination on the basis of disability, based on actions occurring on or after July 26, 1992, may be filed at any field office of the U.S. Equal Employment Opportunity Commission. Field offices are located in 50 cities throughout the United States and are listed in most telephone directories under U.S. Government. Information on all EEOC-enforced laws may be obtained by calling toll free on **800-669-EEOC**. EEOC's toll free TDD number is **800-800-3302**. If you have been discriminated against on the basis of disability, you are entitled to a remedy that will place you in the position you would have been in if the discrimination had never occurred. You may be entitled to hiring, promotion, reinstatement, back pay or other remuneration, or reasonable accommodation including reassignment. You may also be entitled to damages to compensate you for future pecuniary losses, mental anguish and inconvenience. Punitive damages may be available, as well, if an employer acted with malice or reckless indifference. You may also be entitled to attorney's fees. This fact sheet is available in the following formats: print, braille, large print, audiotape and electronic file on computer disk. For further information call the Office of Equal Employment Opportunity on **(202) 663-4395 (voice)**, **(202) 663-4399 (TDD)** or **FTS 989-4395 (voice)**, **989-4399 (TDD)**.
January 1992 EEOC-FS/E-5

Shirley J. O'Brien, Forbes Building, Room 301, Tucson, AZ 85721