



## NASHIA Celebrates the ADA

Dear NASHIA Member,

Today, July 26, 2022, marks the 32nd Anniversary of the Americans with Disabilities Act (ADA), the landmark civil rights law that prohibits discrimination based on disability in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. NASHIA celebrates this historic legislation, while working on equality and accessibility in employment, education and community living. This issue features Title I of the ADA that prohibits employment discrimination.

The anniversary logo is from the ADA National Network ([adata.org](http://adata.org)), which provides a toolkit and other materials on the ADA that you can find on its [website](#) or call 1-800-949-4232. The Tool Kit is a project of the [ADA National Network](#) and its ten regional ADA Centers across the United States that provide comprehensive “one-stop” information, guidance and training on the ADA. You may also find resources on NASHIA's [webpage](#).

## ADA, Employment and Brain Injury

### Does the ADA Apply to People with Brain Injury?

Yes. The definition of disability is defined as a person who has a physical or mental impairment that substantially limits one or more major life activity. The ADA does not provide list of medical conditions or disabilities that apply to the law. To be protected under the ADA, you must have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working.

### What does Title I cover?

Title I 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. The ADA covers employers with 15 or more employees, including State and local governments. It also applies to employment agencies and to labor organizations.

### What are the responsibilities of employers?

### What are the sections of the ADA that address public life?

#### Title I: Employment

Equal employment opportunity for individuals with disabilities.

#### Title II: Public Services

Nondiscrimination on the Basis of Disability in State and Local Government Services This includes State executive agencies, legislatures, universities, community colleges, regional transit authorities.

#### Title III: Public Accommodations

Prohibits private places of public accommodation from discriminating against

An employer is required to make a reasonable 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. Not all people with disabilities -- or even all people with the same disability -- will require the same accommodation.

### What are reasonable accommodations?

Reasonable accommodations are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities. Reasonable accommodations for people with brain injury may include, but is not limited to:

- Assistive technology to assist with memory and other cognitive issues;
- Job restructuring, modifying work schedules, reassignment to a vacant position;
- Rest breaks for fatigue;
- Work settings that minimize extraneous noise, such as work settings next to the break room or water cooler where other employees gather, for individuals sensitive to noise or find it distracting.

### Can employers ask job applicants about their disability?

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, but only if the examination is required for all entering employees in similar jobs. Medical examinations of employees must be job related and consistent with the employer's business needs.

individuals with disabilities (e.g., hotels, restaurants, retail merchants, doctor's offices).

### Title IV: Telecommunications

Requires telephone and Internet companies to provide a nationwide system of interstate and intrastate telecommunications relay services that allows individuals with hearing and speech disabilities to communicate over the telephone. This title also requires closed captioning of federally funded public service announcements.

### Title V: Miscellaneous

Includes provisions that relate to the ADA as a whole, and its relationship to other laws, State immunity, its impact on insurance providers and benefits, prohibition against retaliation and coercion, illegal use of drugs, and attorney's fees. This title also provides a list of certain conditions that are not to be considered as disabilities.

---

### Resources on the ADA

- The Americans with Disabilities Act (ADA) National Network that provides information, guidance, and training on how to implement the ADA to support its mission to "assure equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities." Visit their [website](#) to learn more.
- The U.S. Department of Health and Human Services Office for Civil Rights [website](#).
- The U.S. Department of Justice Civil Rights Division [website](#).
- The U.S. Department of Labor's Office of Disability Employment

### NASHIA Team Produces New Resources to Help with Employment

*[Assessing Brain Injury Needs — While Keeping the Job Seeker Engaged](#)*, Jill Ferrington, MS, CRC, CBIS, NASHIA  
"Assessments for employment planning to support people living with brain injury are not "one-size fits all." Read the full article [here](#).

*[Job Retention After Brain Injury: Why It Makes Sense](#)*, Maria Crowley, MA, CRC, NASHIA

"When people with BI are able to return to work, the threat of lowered productivity and cost due to unfilled positions and hiring and training replacement staff is reduced."

Read the full article [here](#) for recommendations to help with supports to assist both employees at risk for job loss and businesses trying to prevent job loss.

Policy's [website](#) features resources for individuals with disabilities and employers related to job accommodations.

These articles are also on the Disability Employment Technical Assistance Center [website](#).



*President George H.W. Bush signs the landmark legislation, the Americans with Disabilities Act, on July 26, 1990.*

There were many who played key roles in the disability movement, including Ed Roberts the "Father of the Independent Living Movement;" Evan Kemp, Jr., disability activist and former chairman of EEOC; Judith (Judy) Heumann; former Senators Tom Harkin (IA), Ted Kennedy (MA), David Durenberger (MN), and Lowell P. Weicker (CT); and Justin Dart, Jr., considered to be the "Father of the ADA."

### ***Looking Back on the ADA***

It may be hard to remember life before the ADA. But, people with disabilities have faced discrimination and stigma for centuries. With the civil rights movement in the 1960s, individuals with disabilities saw the opportunity to advocate for their own civil rights.

Section 504 of the Rehabilitation Act of 1973 provided a foot in the door. Section 504 prohibits discrimination of people with disabilities in programs and activities, public and private, that receive federal financial assistance. The law also established the Architectural and Transportation Barriers Compliance Board, mandating equal access to public services and the allocation of money for vocational training.

The 1975 Education for All Handicapped Children Act (IDEA) mandated the right to free appropriate public education for children with disabilities. In the 1980s, advocates and activists lobbied to consolidate the pieces of disability rights legislation under one broad civil rights legislation, resulting in the ADA -- *which we celebrate today and everyday!*



**NATIONAL ASSOCIATION  
OF STATE HEAD INJURY  
ADMINISTRATORS**

The National Association of State Head Injury Administrators assists State government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.

**Support States. Grow Leaders. Connect Partners.**

National Association of State Head Injury Administrators | [Website](#)

