

ADA List of Do's and Don'ts for Employers

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Dos and Don'ts for Employers

- Don't ask an applicant about disabilities. You may, however, ask if they can perform the essential functions of the job.
- Don't have supervisors contact healthcare providers.
- Do address conduct prohibited in the handbook even if that conduct is a result of a disability.
- Don't allow supervisors to determine ADA eligibility. Supervisors should not be determining if someone has a disability; but they should be able to recognize plain language that may infer the need for an accommodation based on a workplace barrier.
- Don't collect information that may violate GINA.
- Do put descriptions in writing and identify the essential tasks of each job.
- Don't keep medical information in regular HR files. Keep medical information separate and secure.
- Do review application forms, interviewing practices, and selection procedures to assure that uniform questions are asked of all applicants, and that disabled individuals are evaluated on whether or not they can perform the fundamental tasks of the job.
- Don't deny someone a reasonable accommodation unless you have explored all possible options.
- Do review office layout to determine reasonable accommodations that could be made to existing facilities to permit accessibility and use by the disabled. This includes identifying auxiliary services for the visual and hearing impaired and considering job restructuring.
- Don't make assumptions about performance issues being a result of a disability.
- Do review personnel policies to assure that none adversely impact the disabled in terms of the workplace and benefits.
- Don't require medical exams until after an offer is made.
- Do educate employees and supervisors about ADA.
- Don't refer to someone's disability during a discussion about work-related performance issues.
- Do consider creating an ADA reasonable Accommodation Request Form.
- Don't require employment tests that may violate ADA.
- Do discipline someone appropriately for being unable to perform the essential functions of the job, which may include attendance for many positions.
- Do not count absences protected by FMLA or ADA.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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