



## Your Legal Rights in the Workplace Under the ADA As a Person with Seizure Disorder or Epilepsy<sup>1</sup>

The ADA is a federal law that prohibits employers with 15 or more employees from discriminating on the basis of disability, and gives employees and job applicants with disabilities a right to reasonable accommodations at work. It also provides rights outside the workplace (not discussed here), like equal access to state and local government programs, and activities and access to places that serve the public.

### 1. Am I Allowed to Keep My Condition Private?

In most situations, you can keep your condition private. Generally, employers cannot ask you whether you have epilepsy or seizure disorder, or whether you have any other medical condition, before making a job offer. An employer is allowed to ask medical questions in four situations:

- When it is engaging in affirmative action for people with disabilities, in which case you may choose whether to respond;
- When you ask for a reasonable accommodation (see Question 3);
- After it has made you a job offer, but before employment begins, as long as everyone entering the same job category is asked the same questions; and
- On the job, when there is objective evidence that you may be unable to do your job or that you may pose a safety risk because of your condition. Your employer cannot rely on myths or stereotypes about your condition to conclude that you are unable to do your job or pose a safety risk.

You may also need to discuss your condition to establish eligibility for benefits under other laws, such as the Family and Medical Leave Act (FMLA).

If you need to talk about your condition in order to answer a non-medical question (for example, if you are asked why there are gaps on your résumé), you may choose

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<sup>1</sup> This document is adapted from EEOC-NVTA-2015-3, issued 12-01-2015, available here: <https://www.eeoc.gov/laws/guidance/living-hiv-infection-your-legal-rights-workplace-under-ada> It does not constitute a legal opinion nor does it have the force and effect of law. This is intended to be a general statement and may not account for every individual situation that may arise or impacted by other laws not discussed here.



whether to respond. However, you should know that the employer could reject you for not answering the question, or for lying. If you do talk about your condition, the employer cannot **discriminate** against you (see Question 5), and it must keep the information **confidential**, even from co-workers. (If you wish to discuss your condition with coworkers, you may choose to do so.)

## 2. What if My Condition Could Affect My Job Performance?

If your job performance could be affected by your epilepsy or seizure disorder, the side effects of your medication, or another medical condition that has developed because of your epilepsy or seizure disorder, you may be entitled to a **reasonable accommodation** that will help successfully resolve the issue.

A reasonable accommodation is some type of change in the way things are done that you need because of a disability. Possible reasonable accommodations include altered break and work schedules (e.g., frequent breaks to rest or use the restroom or modified schedules to accommodate medical appointments), **changes in supervisory methods** (e.g., written instructions from a supervisor who usually does not provide them), **accommodations for visual impairments** (e.g., magnifiers, screen reading software, and qualified readers), **ergonomic office furniture**, **unpaid time off** (e.g., for treatment or recuperation), **permission to work from home**, and **reassignment to a vacant position if you can no longer do your job because of your condition**. These are only examples - you are free to request any change that you need because of your condition. However, your employer does not have to remove the essential functions (fundamental duties) of your job, let you do less work for the same amount of pay, or let you do lower-quality work.

Because an employer does not have to excuse poor job performance, even if it was caused by a medical condition or the side effects of medication, it may be better to ask for an accommodation before any problems occur or become worse.

## 3. How Can I Get a Reasonable Accommodation?

Ask for one. Tell a supervisor, HR manager, or other appropriate person that you need a change to the way things are normally done because of a medical condition. You may ask for an accommodation at any time. (However, many people choose to wait at least until they receive a job offer, because it's very hard to prove illegal discrimination that takes place before a job offer.)

## 4. What Will Happen After I Ask for a Reasonable Accommodation?



Your employer may ask you to put your request in writing, and to describe your condition and how it affects your work. You may also be asked to submit a letter from your doctor documenting that you have a medical condition and that you need an accommodation. If you do not want the employer to know your specific diagnosis, it may be enough to provide documentation that describes your condition more generally (by stating, for example, that you have a "neurological disorder"). The doctor may also be asked whether particular reasonable accommodations would meet your needs.

If a reasonable accommodation would help you do your job, the employer must give you one unless it involves significant difficulty or expense. The employer cannot legally fire you, or refuse to hire or promote you, because you asked for a reasonable accommodation, or because you need one. The employer also cannot charge you for the costs of an accommodation. However, if more than one accommodation would work, your employer can choose which one to give you.

## 5. If My Employer Knows that I Have Epilepsy or a Seizure Disorder, Could I Get Fired?

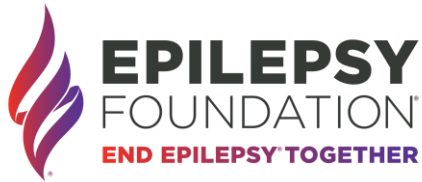
Employers are not allowed to discriminate against you simply because you have epilepsy or a seizure disorder. This includes firing you, rejecting you for a job or promotion, and forcing you to take leave.

Although employers do not have to keep employees who are unable to do the job, or who pose a "direct threat" to safety (a significant risk of substantial harm to yourself or others), they cannot rely on myths or stereotypes about epilepsy and seizure disorders when deciding what you can safely or effectively do. Before an employer can reject you based on your condition, it must have objective evidence that you are unable to perform your job duties, or that you would create a significant safety risk, even with a reasonable accommodation.

## 6. What if I Am Being Harassed Because of My Condition?

**Harassment** based on a disability is not allowed under the ADA. You should tell your employer about any harassment if you want the employer to stop the problem. Follow your employer's reporting procedures if there are any. If you report the harassment, your employer is legally required to take action to prevent it from occurring in the future.

## 7. What Should I Do if I Think that My Rights Have Been Violated?



The Equal Employment Opportunity Commission (EEOC) will help you to decide what to do next, and conduct an investigation if you decide to file a charge of discrimination. Because you must file a charge within 180 days of the alleged violation in order to take further legal action (or 300 days if the employer is also covered by a state or local employment discrimination law), it is best to begin the process early. **It is illegal for your employer to retaliate against you for contacting the EEOC or filing a charge.** For more information, visit <http://www.eeoc.gov>, call 800-669-4000 (voice) or 800-669-6820 (TTY), or visit your local EEOC office (see <http://www.eeoc.gov/field/index.cfm> for contact information).