

# ADA Q&A...The Rehabilitation Act and the ADA Connection

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*“The ADA is a promise of opportunity for education, employment, transportation and inclusion, but a promise without action is hollow. That is where rehabilitation comes in to go hand in glove with the ADA to take advantage of all that promise.”—Senator Tom Harkin.*

Both the Rehabilitation Act of 1973 with its 1992 amendments and the Americans with Disabilities Act of 1990 are civil rights laws that protect individuals with disabilities from discrimination.

However, the Rehabilitation Act also goes beyond providing legal protections. It provides for direct services to people with disabilities which help them to become qualified for employment. Knowledge of how the two laws work together—where one leaves off and another steps in—can help individuals with disabilities prepare for success in the work force and advocate for their rights in society.

## **Q. What is the historical relationship between the two laws?**

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A. Each law has had an influence on the other. The ADA was influenced by the earlier Rehabilitation Act in several important ways.

First, Congress was convinced that the Rehabilitation Act alone was not sufficient to end the widespread discrimination against people with disabilities that exists in this country. Secondly, where courts interpreted the antidiscrimination provisions of Section 504 of the Rehabilitation Act very narrowly, Congress clarified its intention to provide broader protections in the ADA. Finally, much of the ADA is based on Section 504 and its regulations.

In turn, the ADA influenced the Rehabilitation Act during its reauthorization in 1992. In 1992 the Rehabilitation Act was amended to reflect the language, goals and objectives of the ADA. The Rehab Act adopted the

ADA's emphasis on integration as its own, and translated the principles and policies of the ADA into government rehabilitation programs for people with disabilities.

## **Q. What principles and objectives do the 1992 amendments to the Rehabilitation Act and the ADA share?**

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A. Of critical importance is the assumption that people with disabilities—including individuals with the most severe disabilities—can work. This is important because, prior to the ADA, government agencies providing rehabilitative services assumed that most people with severe disabilities were not employable. Now they must assume that individuals with even the most severe difficulties can work, and the burden lies with the state rehabilitation program to prove that they cannot.

The integration of people with disabilities into the mainstream of society is also fundamental to both laws. Separate settings or programs are not acceptable unless necessary to ensure equal benefit.

## **Q. What is Section 504 of the Rehab Act, and how is it different from the ADA?**

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A. Section 504 is a civil rights act which protects the civil rights of persons with disabilities. It prohibits discrimination on the basis of disability by the federal government, federal contractors, and by recipients of federal financial assistance. Organizations that receive federal funds are required to make their programs accessible to individuals with disabilities. Although its protections are limited in that they only apply to programs or businesses that receive federal funds, it was an important model for the ADA. Title II of the ADA applies the same requirements to state and local government entities.

The biggest difference is that Section 504 applies to federally funded programs and

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the ADA applies to state and local government funded programs (Title II). Between the two laws, all government funded programs are covered. Of course, many programs such as school districts receive federal, state and local funds and therefore are covered by both laws at the same time.

Title III of the ADA applies civil rights protections for people with disabilities to the private sector. Under the ADA, private businesses and nonprofits must not discriminate against people with disabilities in how they provide their goods and services, and must make themselves accessible when they can afford to do so. Although the ADA's Title III requirements are different than those of Section 504—for example, Title III has a lesser standard of burden for the removal of architectural barriers—Section 504 was an important model for these protections as well.

**Q. What are the differing employment provisions of the two laws?**

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A. The ADA prohibits private sector employers who employ 15 or more people, and all state and local government employers, from discriminating against qualified individuals with disabilities in all aspects of employment. The ADA does not require private employers to have affirmative action programs.

The Rehabilitation Act as amended prohibits discrimination in employment in three areas:

- (1) Section 501 prohibits federal executive branch agencies such as the U.S. Postal Service from discriminating against qualified individuals with disabilities. It also requires these agencies to take affirmative action in the hiring, placing and advancing of individuals with disabilities.
- (2) Section 503 requires contractors who have contracts with the federal government for \$10,000 or more annually to take affirmative action to employ and to advance in employment qualified individuals with disabilities.
- (3) Section 504 prohibits recipients of federal financial assistance from discriminating against qualified individuals with disabilities in employment as well as in their other programs and activities.

**Q. How do vocational rehabilitation (VR) services provided through the Rehabilitation Act work together with the civil rights protections of the ADA and the Rehab Act to provide employment opportunities for persons with disabilities?**

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A. Primarily through two important services: job training and job accommodations. The employment provisions of both the ADA and the Rehabilitation Act prohibit discrimination against qualified individuals with disabilities. State vocational rehabilitation programs can fund education and training for individuals with disabilities that help them

become qualified for work.

Also, the employment provisions of both the Rehab Act and the ADA require employers to provide reasonable accommodations for qualified individuals with disabilities when it is not an undue hardship for them. Although most accommodations are not expensive or difficult, there are times when employment accommodations may be expensive and beyond the means of an employer. At such times, state vocational rehabilitation programs may be one resource that can help eliminate the financial hardship for an employer by paying for the costs of accommodations that are beyond the employer's own resources. For example, state VR programs may pay for assistive technology such as computers, job coaches necessary for the employment of individuals with severe disabilities, and personal assistance services (which are not considered reasonable accommodations).

**Q. How do I find out if I qualify for vocational rehabilitation services under the Rehab Act?**

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A. The first step is to apply for services at the appropriate agency. In Minnesota there are two agencies that provide vocational rehabilitation services. People who are blind or visually impaired are served by Minnesota State Services for the Blind (SSB). Their state office number is (651) 642-0500. People with disabilities who are not blind are served by the Division of Rehabilitation Services (DRS). Their state number is (651) 296-5616. You can get the numbers for the field office that serves your area by calling one of these numbers.

After you apply for services, they will determine if you are eligible. In order to be eligible, you may need to provide documentation of your disability; and you must need vocational rehabilitation services in order to get or keep a job that is commensurate with your interests, priorities, strengths and capabilities. Once eligibility is determined you will be assigned a priority status based on the severity of your disability. Then they will assess what your needs might be in order for you to work. It is important to note that this process cannot take more than 60 days unless you agree to an extension.

The rehabilitation needs of elementary school and high school students should be met by the school system. However, if you are a transition age youth (14 to 22) with a disability and are likely to need vocational rehabilitation services after you graduate, it is important that you, your parents and your school teacher or advisor establish a relationship with a DRS or SSB counselor to make sure that your goals for working and living independently begin to be addressed before you leave high school.

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**Q. What do I do if I feel that my rights are not being respected?**

A. If you feel that your rights under the Rehabilitation Act are not being met, you can call PACER (number listed below). You can also call the Client Assistance Project at (612) 332-1441 Voice; 332-4668 TTY. They can help you with information, advocacy or with an appeal procedure.

If you have an ADA complaint, you can contact the Equal Employment Opportunity Commission in Washington, DC at (202) 663-4900 or the Minnesota Department of Human Rights, (612) 296-5663. Ask for an intake officer.

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**Q. Where do I get more information about the services offered through the Rehab Act?**

A. If you would like more information about the provisions of the Rehabilitation Act or how to access services provided by DRS and SSB, contact Rachel Parker or Judy Moses at Project PRIDE at PACER, (952) 838-9000, voice; (952) 838-0190 (TTY).

If you have questions about the Americans with Disabilities Act, contact Deborah Leuchovius, also at (952) 838-9000.