

NEA Disability Rights Toolkit

Disability Rights Coverage Checklist

Use this checklist to determine if a person is covered as a “person with a disability” under the Americans with Disabilities Act, as amended by the Americans with Disabilities Amendments Act.

1. Does employer employ at least 15 people?
2. Is the person an applicant or employee of covered employer?
 - a. Followed all requirements for application or remaining as employee; e.g., if an applicant they have complied with application requirements including requests for information
 - b. Not an independent contractor
3. Does person have a physical or mental impairment as diagnosed by health care provider?
4. Does impairment affect a major life activity such as?
 - a. Caring for oneself
 - b. Performance of manual tasks
 - c. Walking
 - d. Standing
 - e. Seeing
 - f. Hearing
 - g. Speaking
 - h. Breathing
 - i. Learning
 - j. Working a class or broad range of jobs
 - k. Eating
 - l. Sleeping
 - m. Lifting
 - n. Bending
 - o. Reading
 - p. Concentrating
 - q. Thinking
 - r. Communicating
 - s. Major bodily functions; e.g., respiratory, reproduction, etc.

5. Does impairment substantially limit that major life activity?
 - a. As determined on case-by-case basis
 - b. Compared to members of general population
 - c. The limitation is more than a temporary one
 - d. But can be on intermittent basis; e.g., when impairment “flares up”
 - e. Are limitations current or person has a record of such impairments
6. Is person otherwise qualified for the job they seek or hold?
 - a. According to thorough and accurate job analysis by employer
 - b. Able to perform essential duties of position (with or without reasonable accommodation)
 - i. As identified by accurate, thorough job analysis
 - ii. Based on employer’s judgment, job description, time spent on duties, impact of nonperformance, and actual experience of job incumbents
 - c. Possesses the education, training, knowledge, skills and abilities required to perform essential job duties
 - d. Does not pose direct threat to self or others (with or without reasonable accommodation)
 - e. Able to attend/participate in work as needed to perform essential duties
 - f. Not engaged in current illegal drug use
 - g. Agreeable to work under assigned supervisor
 - h. Has not admitted to inability to perform essential duties (even with accommodation)

If yes to all six of the questions above, the person is entitled to protection against discrimination in hiring process and as employee, and is entitled to reasonable accommodations that do not impose an undue hardship on employer

7. Is person associated with a person with a disability or is person regarded by employer as being a person with a disability (as defined above)?

If yes to question 7, the person is entitled to protection against discrimination in hiring process and as employee, but is not entitled to reasonable accommodations