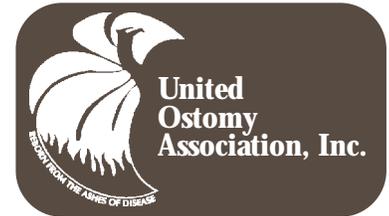


INFORMATION AND RESOURCES FOR EMPLOYMENT-BASED DISCRIMINATION

The UOA is a volunteer-based health organization dedicated to providing education, information, support, and advocacy for people who have had or will have intestinal or urinary diversions.



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IS AN OSTOMY OR CONTINENT SURGERY DISABLING?

While many persons who have had ostomy or continent surgery may not consider themselves to be disabled, they are protected under the Americans with Disabilities Act against employment-based discrimination. Despite the productive lives and well-being of most individuals who have these procedures, some employers not familiar with ostomy surgery may react negatively or treat these individuals differently.

Individuals who feel they have been discriminated against due to their ostomy or continent surgery, or due to certain needs resulting from surgery, should not be embarrassed or reluctant to rely on the protections offered under the ADA.

THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act is a civil rights law that bans discrimination against disabled individuals. Enacted in 1990, the Title I employment provisions of the law apply to private employers, state and local governments, employment agencies and labor unions. Employers with 15 or more employees became covered under the act in 1994. Federal government employees and employees of federal contractors or organizations receiving federal funds are protected under Section 504 of the Rehabilitation Act of 1973.

The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits and all other employment-related activities.

Under the ADA, employment discrimination is prohibited against "qualified individuals with disabilities." An individual is considered to have a disability if the person has a physical or mental impairment that:

- Substantially limits one or more major life activities
- Has a record of such an impairment
- Is regarded as having such an impairment

An individual is qualified for a job if he or she meets the

requirements of the position and can perform the essential functions of the job with or without reasonable accommodation. Employers are legally bound by the ADA to accommodate for disabilities, but they are not obligated to provide "special" benefits. They are only bound to treat the person no differently than anyone else.

WHEN DISCRIMINATION OCCURS

There are several steps that can be taken when a company discriminates against someone because of ostomy or continent surgery or the on-going needs of a person who has had these procedures.

Educate

First, try to solve the problem by talking with your employer. Many employers may not fully understand how the law applies to them. Additionally, the employer may not fully understand the needs of a person with an ostomy or continent procedure. Educating the employer about ostomy procedures and their positive outcomes may help to resolve the problem without any need for further action.

Negotiate

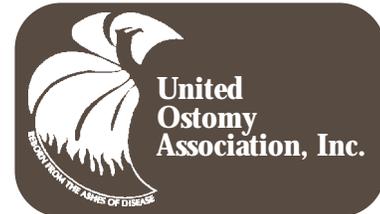
Try to negotiate a mutually agreeable and reasonable solution while asking for any needed accommodations. Accommodations for persons with an ostomy or continent procedure could include an office near a restroom, the ability to eat when and where needed, or access to a drinking fountain. Remember, the employer is not bound to provide special benefits such as increased sick leave, but only to provide equal access and opportunity for all employees.

Litigate

Litigation is the last step, but is sometimes the only way to ensure that your rights are protected. Use the resources listed on the reverse side of this panel to find a knowledgeable attorney that understands the needs of someone who has had an ostomy or continent procedure. An experienced lawyer may be able to resolve your issues with a letter or telephone

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call to the employer or can assist you in filing charges with the Equal Employment Opportunity Commission. An attorney is not needed to file charges, but charges must be made within 180 days of the discriminating event.

RESOURCES

Equal Employment Opportunity Commission

800-669-3362 • www.eeoc.gov

Provides information on ADA and investigates charges against an employer under the ADA. The EEOC has regional centers that provide assistance and information. In addition, you may contact your state EEOC office by calling 800-669-4000.

Department of Justice

800-514-0301 Information Line

800-526-7234 Job Accommodation Network

www.usdoj.gov • AskDOJ@usdoj.gov

Disability Rights Education and Defense Fund

510-644-2555 • www.dredf.org • dredf@dredf.org

A non profit organization providing free technical advice on your legal options as well as referrals to lawyers and other assisting organizations.

National Association of Protection and Advocacy Systems

202-408-9514

www.protectionandadvocacy.com napas@earthlink.net

This federally mandated program provides protection to persons with disabilities through legal-based advocacy and enforces an array of civil rights legislation. Each state has a Protection and Advocacy System, and can provide information and referrals to knowledgeable lawyers.

United Ostomy Association

800-826-0826 • www.uoa.org • info@uoa.org

UOA assists members and chapters alike in addressing issues of discrimination by providing information on the ADA and resolution options.



19772 MacArthur Blvd., Suite 200

Irvine, CA 92612-2405

(800) 826-0826 - (949) 660-8624

FAX (949) 660-9262

www.uoa.org • info@uoa.org