

Ideas for Accommodating Persons with Alcoholism

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A service of the Office of Disability Employment Policy of the U.S.
Department of Labor

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Preface

Alcohol is the most widely used psychoactive drug in the United States. According to the National Institute of Alcohol Abuse and Alcoholism (NIAAA), more than seven percent of the population ages 18 years and older (nearly 13.8 million Americans) have problems with drinking, including 8.1 million people who are alcoholic. Almost three times as many men (9.8 million) as women (3.9 million) are problem drinkers, and prevalence is highest for both sexes in the 18-to-29-years-old age group.

In the workplace, 6.6% of Americans employed in full-time jobs report heavy drinking, defined as drinking five or more drinks per occasion on five or more days in the past 30 days; 4.9% of part-timers and 10.4% of unemployed workers also report heavy drinking. The highest percentage of heavy drinkers (12.2%) is found among unemployed adults ages 26-34.

These statistics, coupled with the requirements of the Americans with Disabilities Act (ADA), show why knowing about workplace accommodations for people with alcoholism is important.

When considering accommodations for people with alcoholism, remember that the accommodation process must be conducted on a case-by-case basis. Symptoms caused by alcoholism vary from person to person. When determining effective accommodations, the person's individual abilities and limitations should be considered and problematic job tasks must be identified. Therefore, the person with alcoholism should be involved in the accommodation process.

Not all people with alcoholism will need accommodations to perform their jobs and many others may need only a few

accommodations. For those who need accommodation, the following pages provide basic information about alcoholism, information regarding ADA and alcoholism, and accommodation possibilities. The following is only a sample of possibilities to consider. Numerous other solutions and considerations may exist.

ALCOHOLISM

The following information regarding alcoholism was edited from several sources, including many of the resources listed in the resource section of this publication. The information is not intended to be medical advice. If medical advice is needed, appropriate medical professionals should be consulted.

What is alcoholism?

Jointly, the National Council on Alcoholism and Drug Dependence and the American Society of Addiction Medicine define alcoholism as "a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. Alcoholism is characterized by a continuous or periodic impaired control over drinking; preoccupation with alcohol; and use of alcohol despite adverse consequences and distortions in thinking, most notably denial."

What are the symptoms of alcoholism?

Alcohol abuse is a pattern of problem drinking that causes health problems, social problems, or both. However, alcohol dependence, or alcoholism, refers to a disease that is characterized by abnormal alcohol-seeking behavior that leads to impaired control over drinking.

Short-term effects of alcohol use include:

- distorted vision, hearing, and coordination
- altered perceptions and emotions
- impaired judgment
- bad breath and hangovers

Long-term effects of heavy alcohol use include:

- loss of appetite
- vitamin deficiencies
- stomach ailments
- skin problems

- sexual impotence
- liver damage
- heart and central nervous system damage
- memory loss

Other signs, such as sudden changes in mood, difficulty in getting along with others, poor job performance, irritability, and depression, might be explained by other causes. Unless you observe excessive drinking, it can be hard to determine the cause of these problems.

Can alcoholism be treated?

Alcoholism is a treatable disease, but a cure has not yet been found. This means that even if an alcoholic has been sober for a long time and has regained health, he or she may relapse and must continue to avoid all alcoholic beverages. While some people with alcoholism require medication to help them withdraw from alcohol, many others do well with the assistance of social support, emotional reassurance, and counseling.

ALCOHOLISM AND THE AMERICANS WITH DISABILITIES ACT

Is alcoholism a disability?

Yes. According to the Equal Employment Opportunity Commission (EEOC) and most courts that have addressed the issue, people with alcoholism meet the definition of disability under the Americans with Disabilities Act (ADA). However, an employer may discipline, discharge, or deny employment to an alcoholic whose current use of alcohol adversely affects job performance or conduct to the extent that s/he is not "qualified."

For example: If an individual who has alcoholism often is late to work because he is currently using alcohol, an employer can take disciplinary action on the basis of the poor job performance and conduct. However, an employer may not discipline an alcoholic employee more severely than it does other employees for the same performance or conduct.

(A Technical Assistance Manual on the Employment Provision (Title I) of the Americans with Disabilities Act, Equal Employment Opportunity Commission, January 1992:
<http://www.jan.wvu.edu/links/ADAtam1.html>)

Does an employer have to allow use of alcohol at work as an accommodation?

No. The ADA specifically provides that an employer may prohibit the use of alcohol in the workplace and require that employees not be under the influence of alcohol. The Act specifically permits employers to ensure that the workplace is free from the use of alcohol and does not interfere with employers' programs to combat the use of alcohol.

(A Technical Assistance Manual on the Employment Provision (Title I) of the Americans with Disabilities Act, Equal Employment Opportunity Commission, January 1992:
<http://www.jan.wvu.edu/links/ADAтам1.html>)

Are tests for alcohol use considered medical tests under ADA?

Yes. Blood, urine, and breath analyses to check for alcohol use are considered medical exams, and therefore are subject to ADA limitations. According to EEOC, an employer's ability to make disability-related inquiries or require medical examinations is analyzed in three stages: pre-offer, post-offer, and employment. At the first stage (prior to an offer of employment), the ADA prohibits all disability-related inquiries and medical examinations, even if they are related to the job. At the second stage (after an applicant is given a conditional job offer, but before s/he starts work), an employer may make disability-related inquiries and conduct medical examinations, regardless of whether they are related to the job, as long as it does so for all entering employees in the same job category. At the third stage (after employment begins), an employer may make disability-related inquiries and require medical examinations only if they are job-related and consistent with business necessity.

Employers also may maintain and enforce rules prohibiting employees from being under the influence of alcohol in the workplace and may conduct alcohol testing for this purpose if they have a reasonable belief that an employee may be under the influence of alcohol at work.

(Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act, Equal Employment Opportunity Committee, July 2000:
<http://www.eeoc.gov/docs/guidance-inquiries.html>)

May an employer subject an employee, who has been off from work in an alcohol rehabilitation program, to periodic alcohol testing when s/he returns to work?

Yes, according to the EEOC, "but only if the employer has a reasonable belief, based on objective evidence, that the employee will pose a direct threat in the absence of periodic testing. Such a reasonable belief requires an individualized assessment of the employee and his/her position and cannot be based on general assumptions. Employers also may conduct periodic alcohol testing pursuant to "last chance" agreements.

In determining whether to subject an employee to periodic alcohol testing (in the absence of a "last chance" agreement), the employer should consider the safety risks associated with the position the employee holds, the consequences of the employee's inability or impaired ability to perform his/her job functions, and how recently the event(s) occurred that cause the employer to believe that the employee will pose a direct threat (e.g., how long the individual has been an employee, when s/he completed rehabilitation, whether s/he previously has relapsed). Further, the duration and frequency of the testing must be designed to address particular safety concerns and should not be used to harass, intimidate, or retaliate against the employee because of his/her disability. Where the employee repeatedly has tested negative for alcohol, continued testing may not be job-related and consistent with business necessity because the employer no longer may have a reasonable belief that the employee will pose a direct threat.

Example A: Three months after being hired, a city bus driver informed his supervisor of his alcoholism and requested leave to enroll in a rehabilitation program. The driver explained that he had not had a drink in more than 10 years until he recently started having a couple of beers before bed to deal with the recent separation from his wife. After four months of rehabilitation and counseling, the driver was cleared to return to work. Given the safety risks associated with the bus driver's position, his short period of employment, and recent completion of rehabilitation, the city can show that it would be job-related and consistent with business necessity to subject the driver to frequent periodic alcohol tests following his return to work.

Example B: An attorney has been off from work in a residential alcohol treatment program for six weeks and has been cleared to return to work. Her supervisor wants to perform periodic alcohol tests to determine whether the attorney has resumed drinking.

Assuming that there is no evidence that the attorney will pose a direct threat, the employer cannot show that periodic alcohol testing would be job-related and consistent with business necessity."

(Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act, Equal Employment Opportunity Committee, July 2000: <http://www.eeoc.gov/docs/guidance-inquiries.html>)

ACCOMMODATION CONSIDERATIONS FOR PEOPLE WITH ALCOHOLISM

(Note: People with alcoholism may develop some of these limitations, but seldom develop all of them. Also, the degree of limitation will vary among individuals. Be aware that not all people with alcoholism will need accommodations to perform their jobs and many others may only need a few accommodations. The following is only a sample of the possibilities available. Numerous other accommodation solutions may exist.)

Attendance Issues:

- Allow use of paid or unpaid leave for medical treatment
- Allow use of paid or unpaid leave or flexible scheduling for counseling
- Provide a self-paced workload or the ability to modify daily schedule

Maintaining Concentration:

- Reduce distractions in the workplace
- Provide space enclosures or a private office
- Plan for uninterrupted work time
- Allow for frequent breaks
- Divide large assignments into smaller tasks and steps
- Restructure job to include only essential functions

Difficulty Staying Organized and Meeting Deadlines:

- Provide clerical support
- Make a daily to-do list
- Use electronic organizers
- Maintain a current calendar
- Remind employee of important dates

- Schedule weekly meeting with supervisor to determine goals and address employee's questions, concerns, and work progress
- Write clear expectations of employee's responsibilities and the consequences of not meeting them
- Establish written long term and short term goals

Difficulty Handling Stress:

- Provide praise and positive reinforcement
- Refer to counseling and employee assistance programs
- Allow for the ability to modify daily schedule
- Allow for frequent breaks
- Do not mandate job-related social functions where there would be exposure to alcohol

Maintaining Stamina during the Workday:

- Allow flexible scheduling
- Allow for longer or more frequent work breaks
- Encourage the employee to use company sponsored health programs