

# JAN

Job Accommodation Network

Practical Solutions • Workplace Success

## Accommodation and Compliance Series

### Employees with Alcoholism

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

## Preface

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# **JAN'S ACCOMMODATION AND COMPLIANCE SERIES**

## **Introduction**

JAN's Accommodation and Compliance Series is designed to help employers determine effective accommodations and comply with Title I of the Americans with Disabilities Act (ADA). Each publication in the series addresses a specific medical condition and provides information about the condition, ADA information, accommodation ideas, and resources for additional information.

The Accommodation and Compliance Series is a starting point in the accommodation process and may not address every situation. Accommodations should be made on a case by case basis, considering each employee's individual limitations and accommodation needs. Employers are encouraged to contact JAN to discuss specific situations in more detail.

For information on assistive technology and other accommodation ideas, visit JAN's Searchable Online Accommodation Resource (SOAR) at <http://AskJAN.org/soar>.

## **Information about Alcoholism**

### **How prevalent is alcoholism?**

In the United States, about 17.6 million people abuse alcohol or are alcoholic. In general, more men than women are alcohol dependent or have alcohol problems. Alcohol problems are highest among young adults ages 18-29 and lowest among adults ages 65 and older (NIH, 2007).

### **What is alcoholism?**

Alcoholism, also called "alcohol dependence," is a disease that includes four symptoms: craving (a strong need, or compulsion, to drink), loss of control (the inability to limit one's drinking on any given occasion), physical dependence (withdrawal symptoms, such as nausea, sweating, shakiness, and anxiety, occur when alcohol use is stopped after a period of heavy drinking), and tolerance (the need to drink greater amounts of alcohol in order to "get high") (NIH, 2007).

### **Can alcoholism be treated?**

Alcoholism treatment works for many people, but just like any chronic disease, there are varying levels of success when it comes to treatment. Alcoholism treatment programs use both counseling and medications to help a person stop drinking. Most alcoholics need help to recover from their disease. With support and treatment, many people are able to stop drinking and rebuild their lives (NIH, 2007).

## **Alcoholism and the Americans with Disabilities Act**

### **Is alcoholism a disability under the ADA?**

The ADA does not contain a list of medical conditions that constitute disabilities. Instead, the ADA has a general definition of disability that each person must meet (EEOC Regulations . . . , 2011). Therefore, some people with alcoholism will have a disability under the ADA and some will not.

A person has a disability if he/she has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or is regarded as having an impairment (EEOC Regulations . . . , 2011). For more information about how to determine whether a person has a disability under the ADA, visit <http://AskJAN.org/corner/vol05iss04.htm>.

### **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 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 (EEOC, 1992).

### **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 the Equal Employment Opportunity Commission (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 disability-related inquiries and medical examinations. 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 (EEOC, 2000).

### **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 (EEOC, 2000).

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 (EEOC, 2000).

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 (EEOC, 2000).

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" (EEOC, 2000).

## **Accommodating Employees with Alcoholism**

(Note: People with alcoholism may develop some of the limitations discussed below, 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.)

### **Questions to Consider:**

1. What limitations is the employee with alcoholism experiencing?
2. How do these limitations affect the employee and the employee's job performance?
3. What specific job tasks are problematic as a result of these limitations?
4. What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
5. Has the employee with alcoholism been consulted regarding possible accommodations?
6. Once accommodations are in place, would it be useful to meet with the employee with alcoholism to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
7. Do supervisory personnel and employees need training regarding alcoholism?

### **Accommodation Ideas:**

#### 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

### **Situations and Solutions:**

An office manager returning to work after in-patient treatment for alcoholism needed to attend AA meetings. His employer provided him with a schedule that allowed him to perform his job but also attend meetings.

A lawyer with alcoholism and stress from family problems had difficulty attending social events with clients where alcohol was served. His employer excused him from attending the events until he was able to deal with his family problems.

A maintenance worker with alcoholism came to work under the influence of alcohol. When confronted by his employer, he disclosed that he had recently relapsed after his son was diagnosed with a serious medical condition. His employer decided not to terminate him under the circumstances, but required him to sign a last chance agreement before allowing him to return to work.

## Resources

### **Job Accommodation Network**

West Virginia University  
PO Box 6080  
Morgantown, WV 26506-6080  
Toll Free: (800)526-7234  
TTY: (877)781-9403  
Fax: (304)293-5407  
jan@AskJAN.org  
<http://AskJAN.org>

The Job Accommodation Network (JAN) is a free consulting service that provides information about job accommodations, the Americans with Disabilities Act (ADA), and the employability of people with disabilities.

### **Office of Disability Employment Policy**

200 Constitution Avenue, NW, Room S-1303  
Washington, DC 20210  
Toll Free: (866)633-7365  
TTY: (877)889-5627  
Fax: (202)693-7888  
<http://www.dol.gov/odep/>

The Office of Disability Employment Policy (ODEP) is an agency within the U.S. Department of Labor. ODEP provides national leadership to increase employment opportunities for adults and youth with disabilities while striving to eliminate barriers to employment.

### **Addiction Resource Guide**

P.O. Box 8612  
Tarrytown, NY 10591  
Direct: (914)610-1775  
Fax: (914)631-8077  
info@addictionresourceguide.com  
<http://www.addictionresourceguide.com>

A comprehensive directory of addiction treatment facilities for substance abuse, alcoholism, drug and chemical dependencies and other addictions to help professionals and consumers find resources for dealing with addictive problems.

### **Alcoholics Anonymous**

<http://www.alcoholics-anonymous.org>

Alcoholics Anonymous is a fellowship of men and women who share their experience, strength and hope with each other that they may solve their common problem and help

others to recover from alcoholism. The only requirement for membership is a desire to stop drinking. There are no dues or fees for A.A. membership; they are self-supporting through their own contributions.

**American Society of Addiction Medicine**

4601 North Park Ave  
Upper Arcade, Suite 101  
Chevy Chase, MD 20815  
Direct: (301)656-3920  
Fax: (301)656-3815  
email@asam.org  
<http://www.asam.org>

The nation's medical specialty society dedicated to educating physicians and improving the treatment of individuals suffering from alcoholism and other addictions.

**National Association on Alcohol, Drugs & Disability**

2165 Bunker Hill Drive  
San Mateo, CA 94402-3801  
Direct: (650)578-8047  
TTY: (650)578-8047  
Fax: (650)286-9205  
solanda@sbcglobal.net  
<http://www.naadd.org>

The National Association on Alcohol, Drugs and Disability Inc., (NAADD), promotes and creates public awareness of issues related to alcoholism, drug addiction, and substance abuse faced by persons with other co-existing disabilities, and provides a peer approach to enhance access to services, information, education and prevention through the collaborative efforts of interested individuals and organizations nationwide.

**National Center on Addiction and Substance Abuse at Columbia University**

633 Third Ave., 19th Floor  
New York, NY 10017-6706  
Direct: (212)841-5200  
<http://www.casacolumbia.org>

CASA's mission is to inform Americans of the economic and social costs of substance abuse and its impact on their lives; Assess what works in prevention, treatment, and law enforcement; Encourage every individual and institution to take responsibility to combat substance abuse and addiction; Provide those on the front lines with the tools they need to succeed; Remove the stigma of abuse and replace shame and despair with hope.

**National Institute on Alcohol Abuse and Alcoholism**

5635 Fishers Lane, MSC 9304

Bethesda, MD 20892-9304

Direct: (301)443-3860

[niaaaweb-r@exchange.nih.gov](mailto:niaaaweb-r@exchange.nih.gov)

<http://www.niaaa.nih.gov>

A federal agency that supports research nationwide on alcohol abuse and alcoholism.

**Research Institute on Addictions**

1021 Main Street

Buffalo, NY 14203-1016

Direct: (716)887-2566

<http://www.ria.buffalo.edu>

RIA is a research center of the University at Buffalo, The State University of New York, and a national leader in the study of alcohol and substance abuse issues. RIA's research programs, most of which have multiple year funding, are supported by federal and private foundation grants.

**Substance Abuse and Mental Health Services Administration**

P.O. Box 2345

Rockville, MD 20847-2345

Toll Free: (877)726-4727

TTY: (800)487-4889

Fax: (240)221-4292

[SHIN@samhsa.hhs.gov](mailto:SHIN@samhsa.hhs.gov)

<http://www.samhsa.gov>

Mission is to build resilience and facilitate recovery for people with or at risk for substance abuse and mental illness.

## References

- EEOC Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act, as Amended, 29 C.F.R. § 1630 (2011).
- Equal Employment Opportunity Commission. (1992). A technical assistance manual on the employment provisions (title I) of the Americans with Disabilities Act. Retrieved December 21, 2011, from <http://AskJAN.org/links/ADAtam1.html>
- Equal Employment Opportunity Commission. (2000). Enforcement guidance on disability-related inquiries and medical examinations of employees under the Americans with Disabilities Act. Retrieved December 21, 2011, from <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>
- National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism. (2007). *FAQ for the General Public*. Retrieved December 21, 2011, from <http://www.niaaa.nih.gov/FAQs/General-English/> (no longer available)

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