

CHECKLIST CONTINUED

- **Consider all of your leave options.**

If you don't qualify for leave under the FMLA, you still may be entitled leave as an accommodation under the ADA.

- **Determine whether state and local laws**

in your area provide additional protections or cover a wider range of health conditions.

- **Determine whether your employer is covered**

by the ADA or FMLA, since not all employers are covered.

- **Understand that retaliation is illegal.**

It is illegal for an employer to intentionally make your job worse or fire you because you asked for a reasonable accommodation or complained about discrimination on the basis of your disability.

- **Know the time limits** for enforcing your rights under the ADA and the FMLA. The ADA has short timeframes for pursuing a claim – 180 or 300 days, depending on where you live. The FMLA has a two- or three-year time limit, depending on the circumstances. Local laws may have other time limits.

- **Understand your remedies**, which may include an accommodation, lost compensation, reinstatement or promotion, and attorneys' fees, among other things.

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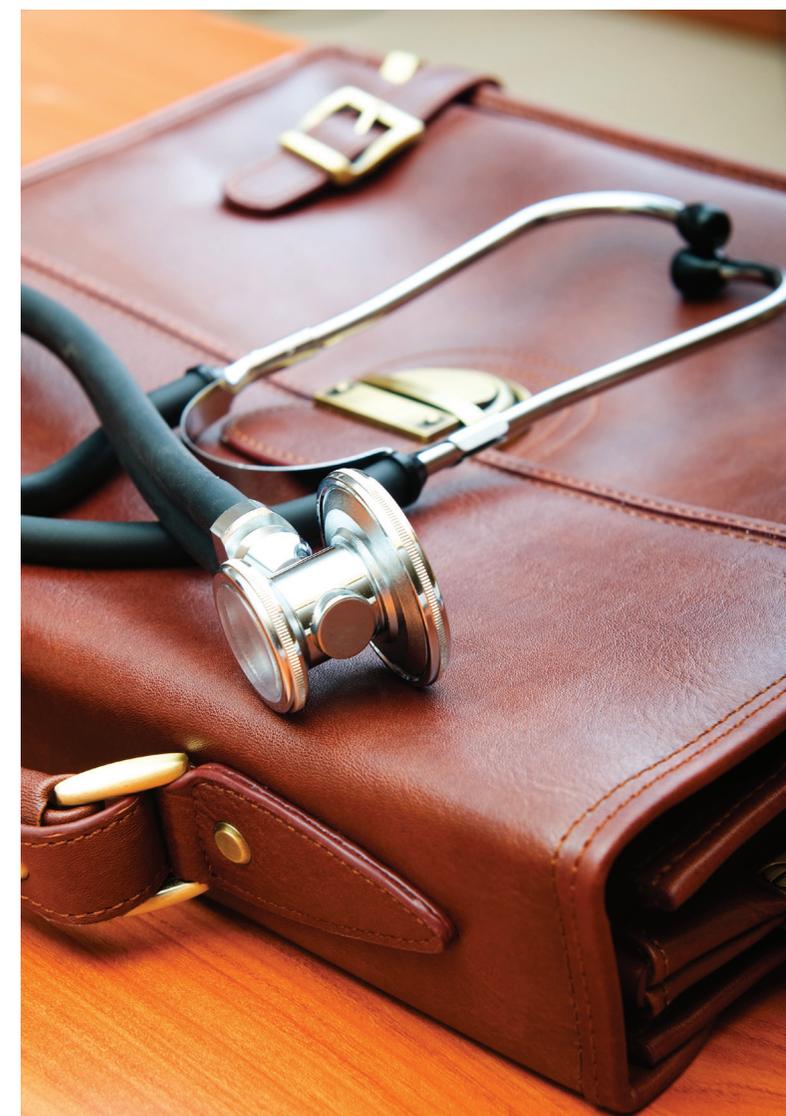
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YOUR RIGHTS IN THE WORKPLACE

More than 17.8 percent of working Americans have a disability. Over the past two decades, the law has undergone significant changes and has vastly expanded the rights of individuals with disabilities and serious health conditions in the workplace. These laws aim to protect employees' health and well-being at work, promote job security, and eliminate discrimination in the workplace.

The two primary laws that provide protections for individuals with disabilities in the workplace are the American with Disabilities Act (“ADA”) and the Family and Medical Leave Act (“FMLA”). Both laws require employers to act responsibly when notified of an employee's disability or major health concern, and make it illegal for an employer to refuse to accommodate the employee, or to demote, harass, or fire the employee on the basis of his or her disability. Local laws may afford additional protections to employees.

HOW IS A DISABILITY DEFINED?

In order to qualify for protection under the ADA, you must have a physical or mental condition that substantially limits a major life activity. Some examples of disabilities are cancer, diabetes, multiple sclerosis, arthritis, HIV/AIDS, depression, blindness, autism, epilepsy, mobility impairments, and certain pregnancy-related conditions. Employees are also legally protected

if employers perceive them to have a disability, even if they don't actually have one. Finally, if your employer is discriminating against you because you have a child, spouse or parent with a disability, you may also be protected.

WHAT IS A REASONABLE ACCOMMODATION?

If you are disabled but able to perform your job with an accommodation, the law requires your employer to provide you with a reasonable accommodation. Generally, you must provide your employer with a description of the disability; information regarding the nature, severity, and duration of the disability; the activity or activities that the disability limits; and how your condition limits your ability to perform the activity.

A reasonable accommodation is any measure that allows an individual with a disability to perform the main functions of her or his job. If there is no accommodation that would allow you to perform the main function of your job, then you are not covered. If there are multiple accommodations that would be effective, your employer can choose the accommodation that it prefers. Examples of accommodations include: temporary light duty; time off from work for treatment or recovery; flexible work hours or a part-time schedule; working from home; accessible facilities; and writing, hearing, or mobility aids.

WHAT PROTECTIONS DOES THE FMLA PROVIDE?

Many employees are also entitled to up to 12 weeks of unpaid, job-protected medical leave under the FMLA if they or an immediate family member require care for a “serious health condition.” A serious health condition is an illness, injury, or impairment that prevents the employee from performing her or his job functions and requires inpatient care or continuing treatment from a health care provider. The FMLA may also cover pregnancy- or childbirth-related disabilities. Conditions that may not qualify as disabilities under the ADA may qualify as serious health conditions under the FMLA.

CHECKLIST:

- **Assess whether your condition qualifies for protection under the ADA or FMLA.** While many medical conditions are protected under the law, there may be exclusions for minor impairments or illnesses of a short or limited duration.
- **Make your request for an accommodation in writing.** If you have a disability and would like to make a request for a reasonable accommodation, make the request in writing. A formal written request is more likely to alert your employer of its responsibility to accommodate you.

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