



FAQ about TBI and the Americans with Disability Act

Are TBIs disabilities 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 TBIs 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>.

Are employees (or applicants) with TBIs required to disclose their disability to their employers?

No. Employees need only disclose their disability if/when they need an accommodation to perform the essential functions of the job. Applicants never have to disclose a disability on a job application, or in the job interview, unless they need an accommodation to assist them in the application or interview process (EEOC, 2000; EEOC, 1995).

Can an employer ask an employee with TBI to submit to a medical examination?

Yes, if the need for the medical examination is job-related and consistent with business necessity. Special note: pre-job offer medical examinations or inquiries are illegal under the ADA. People with brain injuries (or any disability) do not have to submit to a medical exam, or answer any medical questions until after they have been conditionally offered a job (EEOC, 2000; EEOC, 1995).

