

- 1 (6) 'Labor organization' means an organization of any kind, an agency or
2 employee representation committee, a group association, or a plan, in
3 which employees participate and which exists for the purpose, in
4 whole or in part, of dealing with employers concerning grievances,
5 labor disputes, wages, rates of pay, hours, or other terms or conditions
6 of employment.
- 7 (7) 'Person' includes any individual, partnership, association, corporation,
8 labor organization, legal representative, trustee, receiver, and the State
9 and its departments, agencies, and political subdivisions.
- 10 (7a) 'Person with a disability' means any person who (i) has a physical or
11 mental impairment which substantially limits one or more major life
12 activities; (ii) has a record of such an impairment; or (iii) is regarded as
13 having such an impairment. As used in this subdivision, the term:
- 14 a. 'Physical or mental impairment' means (i) any physiological
15 disorder or abnormal condition, cosmetic disfigurement, or
16 anatomical loss, caused by bodily injury, birth defect or illness,
17 affecting one or more of the following body systems:
18 neurological; musculoskeletal; special sense organs; respiratory,
19 including speech organs; cardiovascular; reproductive;
20 digestive; genitourinary; hemic and lymphatic; skin; and
21 endocrine; or (ii) any mental disorder, such as mental
22 retardation, organic brain syndrome, mental illness, specific
23 learning disabilities, and other developmental disabilities, but
24 (iii) excludes (A) sexual preferences; (B) active alcoholism or
25 drug addiction or abuse; and (C) any disorder, condition or
26 disfigurement which is temporary in nature leaving no residual
27 impairment.
- 28 b. 'Major life activities' means functions such as caring for one's
29 self, performing manual tasks, walking, seeing, hearing,
30 speaking, breathing, learning, and working.
- 31 c. 'Has a record of such an impairment' means has a history of, or
32 has been misclassified as having, a mental or physical
33 impairment that substantially limits major life activities.
- 34 d. 'Is regarded as having an impairment' means (i) has a physical
35 or mental impairment that does not substantially limit major life
36 activities but that is treated as constituting such a limitation; (ii)
37 has a physical or mental impairment that substantially limits
38 major life activities because of the attitudes of others; or (iii)
39 has none of the impairments defined in paragraph a. of this
40 subdivision but is treated as having such an impairment.
- 41 (8) 'Place of public accommodations' includes, but is not limited to, any
42 place, facility, store, other establishment, hotel, or motel, which

1 supplies goods or services on the premises to the public or which
2 solicits or accepts the patronage or trade of any person. This includes
3 equivalent services provided via information technology.

4 (9) 'Qualified person with a disability' means:

- 5 a. With regard to employment, a person with a disability who can
6 satisfactorily perform the duties of the job in question, with or
7 without reasonable accommodation, (i) provided that the person
8 with a disability shall not be held to standards of performance
9 different from other employees similarly employed, and (ii)
10 further provided that the disabling condition does not create an
11 unreasonable risk to the safety or health of the person with a
12 disability, other employees, the employer's customers, or the
13 public;
- 14 b. With regard to places of public accommodation a person with a
15 disability who can benefit from the goods or services provided
16 by the place of public accommodation; and
- 17 c. With regard to public services and public transportation a
18 person with a disability who meets prerequisites for
19 participation that are uniformly applied to all participants, such
20 as income or residence, and that do not have the effect of
21 discriminating against persons with a disability.

22 (10) 'Reasonable accommodations' means:

- 23 a. With regard to employment, making reasonable physical
24 changes in the workplace, including, but not limited to, making
25 facilities accessible, modifying equipment and providing
26 mechanical aids to assist in operating equipment, or making
27 reasonable changes in the duties of the job in question that
28 would accommodate the known disabling conditions of the
29 person with a disability seeking the job in question by enabling
30 him or her to satisfactorily perform the duties of that job;
31 provided that 'reasonable accommodation' does not require that
32 an employer:
- 33 1. Hire one or more employees, other than the person with
34 a disability, for the purpose, in whole or in part, of
35 enabling the person with a disability to be employed; or
 - 36 2. Reassign duties of the job in question to other employees
37 without assigning to the employee with a disability
38 duties that would compensate for those reassigned; or
 - 39 3. Reassign duties of the job in question to one or more
40 other employees where such reassignment would
41 increase the skill, effort or responsibility required of such

- 1 other employee or employees from that required prior to
2 the change in duties; or
- 3 4. Alter, modify, change or deviate from bona fide seniority
4 policies or practices; or
- 5 5. Provide accommodations of a personal nature, including,
6 but not limited to, eyeglasses, hearing aids, or
7 prostheses, except under the same terms and conditions
8 as such items are provided to the employer's employees
9 generally; or
- 10 ~~6. Make physical changes to accommodate a person with a~~
11 ~~disability where:~~
- 12 I. ~~For a new employee the cost of such changes~~
13 ~~would exceed five percent (5%) of the annual~~
14 ~~salary or annualized hourly wage for the job in~~
15 ~~question; or~~
- 16 II. ~~For an existing employee the cost of the changes~~
17 ~~would bring the total cost of physical changes~~
18 ~~made to accommodate the employee's disabling~~
19 ~~conditions since the beginning of the employee's~~
20 ~~employment with the employer to greater than~~
21 ~~five percent (5%) of the employee's current salary~~
22 ~~or current annualized hourly wage; or~~
- 23 ~~7.6. Make any changes that would impose on the employer~~
24 ~~an undue hardship, provided that the costs of less than~~
25 ~~five percent (5%) of an employee's salary or annualized~~
26 ~~wage as determined in subsection (6) above shall be~~
27 ~~presumed not to be an undue hardship.~~
- 28 b. With regard to a place of public accommodations, making
29 reasonable efforts to accommodate the disabling conditions of a
30 person with a disability, including, but not limited to, making
31 facilities accessible to and usable by persons with a disability,
32 redesigning equipment, provide mechanical aids or other
33 assistance, or using alternative accessible locations, provided
34 that reasonable accommodations does not require efforts which
35 would impose an undue hardship on the entity involved.
- 36 (11) 'Undue hardship' means a significant difficulty or expense. The
37 following factors shall be considered in determining whether an
38 accommodation would impose an undue hardship:
- 39 a. The nature and cost of the accommodations needed under this
40 Chapter.
- 41 b. The overall financial resources of the particular facility or
42 facilities involved in the provision of the accommodation, the

1 number of persons employed at the facility, the effect on
2 expenses and resources at the facility, and any other impact on
3 the operation of the facility.

4 c. The overall effect on the financial resources of the covered
5 entity, the number of persons employed by the covered entity,
6 and the number, type, and location of the covered entity's
7 facilities.

8 d. The type of operations of the covered entity, including the
9 composition, structure, and functions of the workforce of the
10 entity; the geographic separateness of the particular facility to
11 the covered entity, and the administrative or fiscal relationship
12 of the particular facility to the covered entity."

13 **SECTION 3.** G.S. 168A-7 reads as rewritten:

14 **"§ 168A-7. Discrimination in public service.**

15 (a) It is a discriminatory practice for a State department, institution, or agency, or
16 any political subdivision of the State or any person that contracts with the above for the
17 delivery of public services including but not limited to education, health, social services,
18 recreation, and rehabilitation, to refuse to provide reasonable aids and adaptations
19 necessary for a known qualified person with a disability to use or benefit from existing
20 public services operated by such entity; provided that the aids and adaptations do not
21 impose an undue hardship on the entity involved.

22 (b) The North Carolina Office on the Americans with Disabilities Act is
23 responsible for coordinating technical assistance and determining the standards of
24 review for accessibility of information technology.

25 (c) A State department, institution, or agency, any political subdivision of the
26 State, and any person that contracts with these entities for the delivery of public services
27 shall administer its services, programs, and activities in the most integrated setting
28 appropriate to the needs of persons with disabilities."

29 **SECTION 4.** Chapter 168A of the General Statutes is amended by adding a
30 new section to read:

31 **"§ 168A-10.1. Dispute resolution in public services discrimination cases.**

32 The North Carolina Office on the ADA shall adopt rules for dispute resolution
33 processes to govern public services' responsiveness and to provide a consistent and
34 comprehensive mechanism for accommodating accessibility requests."

35 **SECTION 5.** This act becomes effective October 1, 2001. The provisions of
36 G.S. 168A-7(b) apply to information technology placed into service on or after July 1,
37 2002.