

# PUBLICATION

---

## EEOC Takes Issue with Educational Requirements as Job Qualification

December 05, 2011

**According to the EEOC, a job qualification that requires a high school diploma, may violate the Americans with Disabilities Act.**

**Recently, the EEOC issued an "informal guidance" letter which takes the position that a high school diploma job qualification may be illegal, if it is not job related and consistent with business necessity.**

Here is the EEOC's reasoning:

*...if an employer adopts a high school diploma requirement for a job, and that requirement "screens out" an individual who is unable to graduate because of a learning disability that meets the ADA's definition of "disability," the employer may not apply the standard unless it can demonstrate that the diploma requirement is job related and consistent with business necessity. The employer will not be able to make this showing, for example, if the functions in question can easily be performed by someone who does not have a diploma.*

*Even if the diploma requirement is job related and consistent with business necessity, the employer may still have to determine whether a particular applicant whose learning disability prevents him from meeting it can perform the essential functions of the job, with or without a reasonable accommodation. It may do so, for example, by considering relevant work history and/or by allowing the applicant to demonstrate an ability to do the job's essential functions during the application process. If the individual can perform the job's essential functions, with or without a reasonable accommodation, despite the inability to meet the standard, the employer may not use the high school diploma requirement to exclude the applicant. However, the employer is not required to prefer the applicant with a learning disability over other applicants who are better qualified.*

The EEOC's position contorts the ADA to promote a less educated workforce. As a practical matter, employers should now be prepared for the EEOC to second guess whether their educational requirements are job related and consistent with what the EEOC believes to be a business necessity.