

The Law Requires Reasonable Accommodation

Title I of the Americans with Disabilities Act of 1990 (the "ADA") requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship.

Who Must Follow the ADA Requirements?

Discrimination against people with disabilities is illegal if practiced by employers with 15 or more employees* including:

- private employers,
- state and local governments,
- employment agencies,
- labor organizations, and labor-management committees.

(*State law M.G.L c. 151B only requires 6 or more employees for coverage.)

References:

- ◆ <http://www.eeoc.gov>
- ◆ <http://www.dlc-ma.org/>
- ◆ <http://www.opm.gov/>
- ◆ <http://askjan.org/>
- ◆ <https://adata.org>
- ◆ 42 U.S.C. §§ 12101-12117, 12201-1221

Additional Resources:

ADA Information Line- U.S. Dept. of Justice

For ADA documents and questions

800-514-0301 (voice)

800-514-0383 (TTY)

www.ada.gov

U.S. Equal Employment Opportunity Comm.

www.eeoc.gov

For publications:

800-669-3362 (voice)

800-800-3302 (TTY)

For Questions:

800-669-4000 (voice)

800-669-6820 (TTY)

U.S. Department of Labor

Job Accommodation Network

800-526-7234 (voice & TTY)

U.S. Department of Labor (To obtain information on the Family and Medical Leave Act)

To request written materials:

1-800-959-3652 (Voice) 1-800-326-2577 (TT)

To ask questions: (202) 219-8412 (Voice)

U.S. Department of Education

Regional Disability and Business Technical Assistance Centers

800-949-4232 (voice & TTY)

www.adata.org

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TT)

<http://janweb.icdi.wvu.edu/>



EMPLOYERS & REASONABLE ACCOMMODATIONS



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Se habla español

Updated 9/2021

What is a “Reasonable Accommodation”?

"In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities." There are three categories of "reasonable accommodations:"

(i) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or

(ii) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

(iii) modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities."

Examples

Reasonable accommodation may include:

- making existing facilities accessible;
- job restructuring;
- part-time or modified work schedules;
- acquiring or modifying equipment;
- changing tests, training materials, or policies;
- reassignment to a vacant position
- Flexibility with attendance or punctuality policy;
- Leave of absence.

How will I know if I need to provide a reasonable accommodation?

Generally, it is the responsibility of the employee to inform the employer that an accommodation is needed. Employers are required to provide reasonable accommodation only for the physical or mental limitations of a qualified individual with a disability that is known or when the employer should have known, based on the standard of a reasonable person when the disability is obvious.

When will an employee request a reasonable accommodation?

An employee can request an accommodation at any time during the application process or while they are employed.

What must an employer do after receiving a request for reasonable accommodation?

The employer may ask the individual for reasonable documentation about his/her disability and functional limitations. Once aware of a need for reasonable accommodation the employer should initiate the interactive dialogue and continue until an effective accommodation is realized or it is clear no reasonable accommodation is possible with or without undue hardship.

Do I have to pay for a needed reasonable accommodation?

The ADA requires that the employer provide the accommodation unless to do so would impose an undue hardship on the operation of the employer's business. If the cost of providing the needed accommodation would be an undue hardship, the employee must be given the choice of providing the accommodation or paying for the portion of the accommodation that causes the undue hardship.

What is an undue hardship?

- Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation.
- Employers may be able to show undue hardship where provision of a reasonable accommodation would be unduly disruptive to other employee's ability to work.
- An employer cannot claim undue hardship based on fears or prejudices toward the individual's disability.

What financial assistance is available to employers to help them make reasonable accommodations and comply with the ADA?

A special **tax credit** is available to help smaller employers make accommodations required by the ADA. An eligible small business may take a tax credit of up to \$5,000 per year for accommodations made to comply with the ADA. The credit is available for one-half the cost of "eligible access expenditures" that are more than \$250 but less than \$10,250.

A full tax deduction, up to \$15,000 per year, also is available to any business for expenses of removing qualified architectural or transportation barriers. Expenses covered include costs of removing barriers created by steps, narrow doors, inaccessible parking spaces, restroom facilities, and transportation vehicles.

For more info: **Internal Revenue Service**
(202) 622-6060 (Voice)