

**Dear HR Knowledge, what is the Americans with Disabilities Act?**

The Americans with Disabilities Act (ADA) is a federal law covering employers with fifteen (15) or more employees that prohibits discrimination against qualified individuals with disabilities. The law covers both employees and job applicants with regard to employment-related activities including recruitment procedures, hiring, firing, advancement, compensation, and other privileges of employment. Qualified individuals are those who can perform the essential functions of their job or the one that they are applying for.

To be protected under the ADA, an individual must have a substantial impairment, i.e., one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, or working.

One requirement for employers under the ADA is to provide reasonable accommodations to qualified individuals with disabilities, unless doing so would cause undue hardship. An accommodation is some type of change in the way things are normally done at work. Because medical conditions and job requirements vary in each case, accommodations must be made on an individual basis.

**The “Interactive Process” is Important for Employers to understand**

Under the ADA, employers are required to consult with individuals to explore possible accommodation(s) that will allow them to do the essential functions of their job. This is an informal process, known as the “interactive process,” in which the employer and employee work together to clarify what type of accommodation is needed. While there is not one perfect process, some strategies are more effective than others in achieving positive outcomes for everyone involved. This interactive process not only meets ADA employer requirements, but is also a key component in creating an inclusive workplace.

**What are essential job functions and why are they important?**

Essential job functions are the basic job duties that an employee must be able to perform, with or without reasonable accommodation. Essential job functions serve as the cornerstone in evaluating a disabled individual’s qualifications for a job. There are several reasons why a function can be considered essential:

- The position exists to perform that function. For example, an individual is hired to proofread documents. The ability to proofread is essential because this is the reason the position exists.
- There are a limited number of other employees available to perform that function. For example, it is essential for the file clerk to answer the phones if there are only two other employees in a busy office and those employees have many other tasks.
- A function is highly specialized and the person hired has the expertise to perform it. For example, a sales position requires a person to communicate in Spanish. Being fluent in Spanish is essential.



### **How can employers recognize an accommodation request?**

While most requests come directly from an employee, requests can also come from other sources such as a family member or health care professional. Other possible triggers include frequent absences or knowledge that an employee is on disability leave. Individuals do not have to expressly ask for an accommodation either, so there are no “magic words,” nor does the request need to be in writing. Additionally, employers are obligated to work with the employee in providing accommodations when the need is obvious. In all cases, the need for an accommodation must be attributed to a medical condition, that is, a condition that substantially limits one or more major life activities.

In cases where the individual cannot suggest an appropriate accommodation, the employer and the individual should work together to identify one. While the ADA provides the right to a reasonable accommodation, it does not provide the right to any specific requested or preferred accommodation. For example, an employer may choose to allow an employee to come to work late on days they have a medical appointment, rather than allow the employee’s request to work from home on those days.

Once an accommodation is identified and put in place, the interactive process should not stop there. The employer should assess the effectiveness of the accommodation and check in with the employee. If there is uncertainty whether a proposed accommodation would be feasible, a trial period is a good option.

### **A few examples of possible accommodations:**

- Modified break and work schedules
- Making existing facilities accessible
- Acquiring or modifying equipment
- Job reassignment
- Providing interpreters
- Providing training materials
- Permission to work from home

### **What accommodations are not considered reasonable?**

Reasonable accommodations do not include removing essential job functions, creating new jobs, and providing personal need items such as glasses.

### **Can employers request documentation?**

When an accommodation is needed, employers may request documentation from individuals about their condition, associated functional limitations, and how an accommodation will help them do their job. Documentation does not need to outline a specific diagnosis; rather it can describe a more general condition, for example, stating that the individual has an “anxiety disorder.” Employers are required to keep all information related to reasonable accommodation requests confidential.

### **What if there is no reasonable accommodation available?**

Employers do not need to provide accommodations if doing so would cause undue hardship; that is, it would be unduly costly or fundamentally alter the nature or operation



of the business. Many factors come into play when determining hardship, including cost, employer size, financial resources, and nature of the business. There is no one-size-fits-all model; what may constitute a hardship to one employer may not be a hardship to another. Before denying an accommodation request, employers are encouraged to be creative and consider whether a different accommodation would work.

### **Employer takeaway**

The ADA requires employers to go through an interactive process with qualified individuals with disabilities to come up with reasonable accommodations. The goal of an accommodation is to enable an employee to perform the essential functions of the job and provide an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy.

### **About HR Knowledge**

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