

# HR Insights

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## Recognizing Employee Requests for ADA Accommodations

The Americans with Disabilities Act (ADA) is a federal law that requires employers with 15 or more employees to provide reasonable accommodations to qualified employees and applicants with disabilities, except when an accommodation would cause undue hardship.

In general, the ADA requires individuals with disabilities to inform their employers that they need accommodations. However, it does not require them to mention the ADA by name, use any specific phrases or identify any specific accommodations in order to trigger an employer's responsibilities under the law.

This article provides guidance on how to prepare for, recognize and respond to reasonable accommodations for qualified individuals with disabilities. It also discusses the importance of training managers and supervisors to recognize and properly handle those requests—especially accommodations regarding the coronavirus (COVID-19) pandemic.

The guidelines discussed in this article are not legal advice. Employers should consult with legal counsel for specific advice. The following resources are also available for more information:

- The Equal Employment Opportunity Commission's (EEOC) [guidance](#) on reasonable accommodation and undue hardship under the ADA
- The EEOC's [webpage](#) on ADA compliance and responsibilities for employers

- The EEOC's [regulations](#) under the ADA
- The EEOC's [Q&A](#) about COVID-19 and compliance with ADA, the Rehabilitation Act and other equal employment opportunity laws

### Preparing for ADA Requests

One of the most important steps in preparing for ADA requests is to ensure that an organization has appropriate policies and procedures in place for handling them. These policies and procedures should be thoroughly documented and reviewed regularly to ensure that they are clear and actionable for managers and supervisors.

Existing job descriptions should also be reviewed to confirm they include all aspects and essential functions of a job, including physical requirements such as standing or sitting for long periods of time or lifting.

### Recognizing ADA Requests

As a general rule, the ADA applies any time an employee or applicant who is otherwise qualified for a position requests an adjustment or change at work for a reason related to a medical condition.

The request does not have to be in writing or include any specific accommodation in their request. However, it does have to describe problems posed by a workplace barrier that impedes the individual from any of the following:



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- Participating in the job application process
- Performing the essential functions of a job
- Enjoying benefits and privileges of employment equal to those enjoyed by employees without disabilities

A workplace barrier may be a physical obstacle (such as an inaccessible facility or piece of equipment) or a procedure or rule (such as a rule concerning when work is performed, when breaks are taken, or how essential or marginal functions are performed).

The examples below illustrate how a request may or may not put an employer on notice that an individual is requesting reasonable accommodation under the ADA. Here are potential requests for reasonable accommodation:

- An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing."
- An employee tells his supervisor, "I need six weeks off to get treatment for a back problem."
- A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office.

Conversely, the following would not be considered requests for reasonable accommodation under the ADA:

- An employee tells his supervisor that he would like a new chair because his present one is uncomfortable. (Although he requests a change at work, he does not link his need for a new chair with a medical condition.)
- An employee tells her supervisor that she has been diagnosed with a mental disorder that causes her to behave erratically at work. (Although she identifies a medical condition, she does not describe a workplace barrier that could be changed or adjusted.)

Individuals may also make requests for reasonable accommodations through a representative, such as a family member, friend or health professional. The following are examples of this type of ADA request:

- An employee's spouse phones the employee's supervisor to inform her that the employee had a medical emergency due to multiple sclerosis, needed to be hospitalized and thus requires time off.
- An employee has been out of work for six months with a workers' compensation injury. The employee's doctor sends the employer a letter, stating that the employee is released to return to work, but with certain work restrictions.

## Responding to ADA Requests

When an individual makes a request for reasonable accommodation, the employer should respond as quickly as possible since unnecessary delays can ultimately result in an ADA violation. However, a request for an adjustment or change due to a medical condition does not necessarily mean that the employer is required to provide the change. Instead, a request for reasonable accommodation triggers an employer's responsibility to engage in an informal, interactive process with the individual. During this process, the employer may ask the individual relevant questions that will enable it to make an informed decision about the request.

## Determining Disability

In some cases, an employer may need to determine whether an individual's medical condition meets the ADA definition of disability before addressing the merits of their accommodation request.

Under the ADA, an individual has a disability if they:

- Have a physical or mental impairment that substantially limits one or more of their major life activities;
- Have a record of an impairment as described above; or
- Are regarded as having an impairment as described above.

When a disability or need for accommodation is not obvious, the employer may ask the individual for reasonable documentation about their disability and functional limitations. Reasonable documentation means that the employer may request only the documentation it needs to establish that a person has an ADA disability and that the disability calls for a reasonable accommodation. An employer

may require this documentation to come from an appropriate health care or rehabilitation professional (e.g., doctor, nurse, physical therapist or vocational rehabilitation specialist).

As an alternative to requesting documentation, an employer may simply discuss with the person the nature of their disability and functional limitations. During this conversation, the employer should make the individual aware that the reason for its questions is to verify the existence of an ADA disability and the need for a reasonable accommodation.

### Determining Appropriate Accommodations

If an appropriate accommodation is not obvious, employers must make a reasonable effort to identify one. The best way to do this is to consult informally with the individual about potential accommodations that would enable them to participate in the application process, perform the essential functions of the job or enjoy equal employment benefits and privileges. The employer may offer suggestions for reasonable accommodations and discuss their effectiveness with the individual. The following are some examples of accommodations that may be appropriate:

- Acquiring or modifying equipment or devices
- Restructuring a job
- Modifying work schedules
- Reassigning to a vacant position
- Adjusting or modifying examinations, training materials or policies
- Providing readers and interpreters
- Making the workplace readily accessible to and usable by people with disabilities

When more than one possible reasonable accommodation exists, an employer may choose among these options as long as the chosen accommodation is effective in removing the workplace barrier that impedes the individual. If more than one accommodation is effective, the individual's preference should be given primary consideration. However, the employer providing the accommodation has the ultimate discretion to choose between effective accommodations. This means that employers may choose an effective accommodation that is easier or less expensive to provide

than other effective options, even if the rejected options would not cause an undue hardship on the employer.

### Training Managers

Managers and supervisors are often in the best position to identify when requests may be covered by the ADA. This is because they usually have direct knowledge of the essential functions of a particular person's position, the nature of a particular workplace and how specific changes may affect both the employer and the person making the request.

Thus, managers and supervisors who handle employee requests should receive training on the elements of a request that will trigger an employer's ADA responsibility to engage in an interactive process with the person making the request. This training should emphasize that, even though employees often do not mention the ADA or use terms such as "disability" or "reasonable accommodation" in their requests, employers are still required to begin the interactive process when they have enough information to believe that the request may be covered by the ADA.

### Responding to COVID-19 Accommodations

During the pandemic, organizations may have a responsibility to accommodate certain employees who have concerns about exposure to COVID-19. At least some of these requests may come from employees who are at high risk of developing complications associated with COVID-19. These individuals include older adults and those who have serious chronic medical conditions, such as diabetes, lung or heart disease, or a compromised immune system.

Keep in mind that when an employer receives a request for an accommodation to reduce the risk of exposure to COVID-19 for a medical reason, the employer must consider this an ADA request.

Examples of reasonable accommodations that may be appropriate for this type of request include:

- Working from home or another remote location
- Restructuring or adjusting job duties or procedures
- Reassigning to a different task or job duty
- Providing personal protective equipment (such as mask or gloves)

The guidelines discussed in this article are not legal advice. Employers should consult with legal counsel for specific advice. For additional workplace resources, contact Wallace Welch & Willingham.