



ADA: An Employer's Guide

This guide provides an overview of employer responsibilities under the Americans with Disabilities Act (ADA).

The Americans with Disabilities Act

The federal Americans with Disabilities Act (ADA) applies to employers with 15 or more employees and prohibits them from discriminating against qualified individuals with disabilities. For employers to be nondiscriminatory, they must ensure equal opportunity in hiring, promotion, and benefits, and provide reasonable accommodations when doing so wouldn't impose an undue hardship on the organization.

A **qualified individual with a disability** is one who is qualified to perform the essential functions of the job with or without reasonable accommodation. We'll refer to both qualified employees and applicants collectively as "employees" throughout this guide.

Under the ADA, a disability is:

- A physical or mental impairment that substantially limits one or more major life activities of an individual;
- A record or history of such an impairment; or
- Being regarded as having such impairment.

An employee may be permanently disabled and require an ongoing accommodation or have a temporary disability that would require a short-term accommodation. The ADA would apply in both situations.

Major life activities include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and the operation of a major bodily function.

Keep the following in mind:

- An impairment does not need to prevent or significantly restrict an employee from performing a major life activity to be considered substantially limiting.
- Whether an impairment is substantially limiting should be interpreted broadly in the employee's favor and doesn't require extensive analysis.
- Determining whether an impairment substantially limits a major life activity requires an individualized assessment.
- Whether an employee's condition substantially limits a major life activity should be considered without mitigating measures that may lessen the effects of an impairment. For instance, an employee might have an anxiety disorder that is well-managed by medication, and therefore not substantially limiting major life activities at that time. However, they would still qualify for protection under the ADA because the law considers their condition without the effect of the medication. (Vision issues that are corrected by regular eyeglasses and contact lenses are an exception to this rule.)
- An impairment that's episodic or in remission (e.g., cancer, epilepsy, and post-traumatic stress disorder) is still considered a disability if it substantially limits a major life activity when active.

Reasonable Accommodations

Employers are required to provide employees with disabilities with reasonable accommodations unless doing so would cause an undue hardship. A **reasonable accommodation** is a change or adjustment to a job or work environment that allows the applicant or employee to participate in the job application process, perform the essential functions of the job, or enjoy the full benefits of employment. Examples of reasonable accommodations include the following:

- Modifying work schedules (e.g., changing start/end times or allowing time off for medical appointments)
 - Adjusting when, how, or where an essential job function is performed
 - Restructuring the job by reallocating or redistributing marginal job functions
 - Offering the employee a leave of absence
 - Revising relevant workplace policies or procedures
 - Offering remote work options
 - Acquiring the services of an interpreter or qualified reader
 - Providing or modifying furnishings, equipment, tools, etc.
 - Making existing facilities readily accessible and usable by individuals with disabilities
- Accommodations vary depending upon the needs of the individual applicant or employee. Not all people with disabilities (or even all people with the same disability) will require the same accommodation.



The Interactive Process

To determine the employee's specific limitations and identify potential reasonable accommodation, employers and employees must engage in the interactive process. The interactive process might be quick and informal in some cases. In others, it may require documentation from medical professionals and multiple conversations between the employer and employee. As part of this process, employers should:

1. Analyze the employee's position to determine its purpose and essential job functions.
2. Discuss the various challenges that may affect the employee's job performance.
3. Explore a range of potential reasonable accommodations to help minimize or remove the identified challenges.
4. When appropriate, have the employee provide relevant medical information and appropriate supporting documentation.
5. Implement one or more accommodations and assess their effectiveness.
6. Check-in with the employee at regular intervals to ensure the accommodation is still working for them.
7. Document each step of the process as well as the key takeaway from your conversations with the employee.

Undue Hardship

An employer does not need to provide an employee's requested accommodation if doing so would create an undue hardship. An **undue hardship** is defined as something that would require significant difficulty or expense relative to an employer's size, financial resources, and the nature and structure of its operation. An employer isn't required to lower quality or production standards to make an accommodation and also isn't obligated to provide personal use items such as glasses or hearing aids.

The undue hardship standard is a high bar to meet and employers that are considering relying on that to deny an accommodation may want to consult with an employment attorney first.



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