

**ON THE JOB  
EMPLOYMENT DISCRIMINATION Q&A:  
“REASONABLE ACCOMMODATION”**

**What is a “reasonable accommodation” for a disability?**

In general, an accommodation is any change in the workplace that allows a person with a disability to have equal work opportunities. An accommodation can be for a job application process, a change in the work environment or the way work is performed, or changes to benefits and privileges of employment.

A reasonable accommodation is an accommodation that a person needs to have equal work opportunities does not cause an employer an undue hardship.

**What are examples of reasonable accommodations?**

It includes, but is not limited to such things as:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- Restructuring jobs;
- Modifying work schedules;
- Providing additional unpaid leave;
- Reassigning to a vacant position;
- Acquiring or modifying equipment or devices;
- Adjusting or modifying examinations, training materials, or policies;
- Providing qualified readers or interpreters

**What are *not* considered types of “reasonable accommodation”?**

An employer does not have to get rid of an essential function of a job or lower production standards that it has for all employees in the same job category. Also, an employer generally is not obligated to provide personal use items, such eyeglasses, wheelchair or hearing aids, that a person uses both on and off the job.

**When might I need to ask for a reasonable accommodation?**

It may be necessary to apply for a job, to perform job functions, or to enjoy the benefits and privileges of employment that are enjoyed by people without disabilities.

Example: An applicant who is deaf needs a sign language interpreter for the face-to-face interview.

Example: An employee with a visual impairment needs a computer program that enlarges text so she can read the computer screen.

Example: An employee who uses a wheelchair needs the staff retreat to be held at a wheelchair accessible site.

### **Do I have to ask for a reasonable accommodation before I start a job?**

No, unless you would like a reasonable accommodation for the job application process. You may request a reasonable accommodation at any time during employment. However, it may be in your interest to request a reasonable accommodation before you have performance or other problems.

### **How do I get a reasonable accommodation for my disability?**

Ask your employer for the accommodation, either orally or in writing. If you want support, a family member, friend, health professional, or other representative can request a reasonable accommodation on your behalf.

You or your representative must let the employer know that you need an adjustment or change at work for a reason related to your disability. Tell the employer exactly what you need to do your job. To request an accommodation, you may use “plain English” and do not need to mention the Americans with Disabilities Act (ADA) or use the phrase “reasonable accommodation.” In addition, while you do not have to ask for a specific accommodation, it is helpful if you have suggestions as to what reasonable accommodations would best help you.

### **Once I request a reasonable accommodation, what should happen?**

After you request a reasonable accommodation, you and your employer should start an informal process to find out what you need and identify the appropriate reasonable accommodation. The employer may ask you relevant questions to help make a decision about the request for reasonable accommodation.

### **Can an employer ask about my disability if I need a reasonable accommodation?**

Yes, unless the disability and the need for accommodation is obvious. When a person requests a reasonable accommodation for a particular disability, an employer may ask for documentation or further information about that disability and the limitations caused by that disability. An employer, however, can only ask for documentation or information that is needed to establish that you have a disability and that because of the disability you require a reasonable accommodation. Thus, an employer can ask for medical records as it relates to your disability, but cannot request the whole medical file.

An employer can also require you to go to a healthcare professional that the employer chooses to document your disability and need for accommodation. However, the examination must be limited to determining whether you have the disability and the need for accommodation. If an employer does require you to go to a healthcare professional that the employer chooses, the employer must pay for all the costs associated with that visit.

### **How do I know what reasonable accommodation to ask for?**

Speak to the healthcare professional who's currently treating you for your disability and ask for suggestions about reasonable accommodations. You can also consult local and national organizations that advocate on behalf of people with particular disabilities (i.e. autism, mental illness, etc.) for suggestions about accommodations and resources.

For information about up-to-date technology, adaptive equipment and other possible accommodations, consult an organization like the Job Accommodation Network (1-800-232-9675 voice/TTD).

### **How do I know if the accommodation that I need for my disability is one that my employer must provide under the ADA?**

This must be determined on a case-by-case basis. Under the ADA, an employer with 15 or more employees must provide reasonable accommodation for employees with disabilities or job applicants who have disabilities, unless it would cause undue hardship. Under New York State law, an employer with four or more employees must provide reasonable accommodations, unless it would cause an undue hardship.

### **What is "undue hardship"?**

"Undue hardship" means doing something that is too difficult or expensive, compared to the size, financial resources, nature, and structure of the business. An accommodation can also cause undue hardship if it would be too disruptive, extensive or fundamentally change the nature of the business. For example, a light store would not be required to get rid of its lighting displays if an employee had a sensitivity to light.

An employer is also not required to eliminate an essential function of the job as an accommodation.

It's obviously not a reasonable accommodation to ask to work at home or work after business hours if the job must be performed at the place of employment or if there is no work to be done after hours. An airline pilot whose primary duties are to fly airplanes clearly cannot "work at home."

Nor can a receptionist, whose primary responsibility is to answer the telephone at an office that is open from 9 a.m. to 5 p.m., work the night shift instead. In addition, an employer doesn't have to lower their production standards that are applied to all employees as an accommodation.

However, while an employer does not have to eliminate essential functions or lower production standards, it may do so if it wishes.

**Are there any general guidelines to determine whether an accommodation is reasonable?**

While each case must be examined on an individual basis, there are some guidelines that can help in determining whether an accommodation is reasonable.

- a. Generally, the less expensive and less disruptive an accommodation, the more likely that it will be reasonable and not cause undue hardship
- b. Accommodations that are predictable and unchanging are more likely to be found to be reasonable than those that are unpredictable or change.  
Example: If you need to leave early or arrive late one day each week to attend a psychotherapy appointment, you and your employer can plan for your absence and arrange for work to be done at other times or by someone else. In contrast, if you have a panic disorder that causes you to need to leave work at unpredictable times and for unpredictable lengths of time, it's harder for you or your employer to plan for these absences and to make other arrangements. [Of course, there are some situations in which allowing an individual to leave work for disability-related reasons at unpredictable times will be a reasonable accommodation, particularly if the need to leave is infrequent and the absences are of short duration.]
- c. Generally speaking, leaves requested in advance for a definite period of time are more likely to be reasonable accommodations under the ADA than those not requested in advance or those that are for an indefinite period of time.  
Example: People sometimes need time off from a job for hospitalization or to recover from illness or surgery. If you know in advance when and for how long you will be away, it is easier for an employer to plan for your absence than if you do not know until the last minute how long you will be gone or when you will leave. Therefore, if you are requesting a leave for medical reasons and you do not know exactly how long you will be gone, you may want to ask for a finite amount of time off and then request an extension later if necessary. If you are unsure how long you need a leave of absence, it is a good idea to keep your employer regularly informed about your status when you are out on leave.
- d. Accommodations that involve both parties being flexible and giving something up are more likely to appear reasonable than those in which only one party is being asked to give something up.  
Example: If you need to arrive late or leave early for a regularly scheduled doctor's appointment, this is more likely to be found to be reasonable if you are willing to work extra hours to make up the time away from work than if you are not.
- e. Some accommodations that *seem* reasonable may not be because they alter the work environment for other employees. If making a change in the work environment would be too disruptive, an employer can refuse to provide the accommodation based on undue

hardship.

Example: Asking to decrease the room temperature, dim the lighting, or requesting other changes to the environmental conditions to accommodate your disability might make other employees physically uncomfortable.

**What if there's more than one reasonable accommodation available? Does the employer have to give me exactly what I'm asking for?**

In this instance, the employer may choose among reasonable accommodations as long as the chosen accommodation is effective. While the employer is not required to provide the reasonable accommodation that an employee wants, if more than one accommodation is effective, it is the Equal Employment Opportunity Commission's (EEOC) position is that "preference of the individual should be given primary consideration. However, the employer has the ultimate discretion to choose between effective accommodations."

**How much time does my employer have to respond to my request for reasonable accommodation?**

An employer should respond as quickly as possible to a request for reasonable accommodation. After getting a request for a reasonable accommodation, the employer and the employee should start talking informally to see what the employee needs to do their job and identify the appropriate reasonable accommodation. The employer is allowed to ask relevant questions to make an informed decision about the request, including exactly what the employee needs.

**What's the bottom line about reasonable accommodation?**

Remember that there are *many* factors that affect whether an accommodation is reasonable under the ADA. Because the law requires a case-by-case determination of what is reasonable, even an attorney knowledgeable in the field cannot always say whether a particular accommodation could be reasonable. To figure out whether an accommodation is reasonable, it is necessary to know detailed information about the responsibilities of a particular job; the number of other employees who have the same job responsibilities; the method in which work is performed at a job; the cost of the accommodation and many other factors. The more arguments you have that the accommodations are necessary for you to perform your job functions and will not unduly burden the employer, the better chance you will have in receiving an accommodation.

**DUE TO THE GENERAL NATURE OF THE INFORMATION PRESENTED, THIS FACT SHEET  
SHOULD NOT BE REGARDED AS LEGAL ADVICE**