

# HR How-to:

## Reasonable Accommodations for Individuals With Disabilities

Provided by: Foundation Benefits



# HR How-to: Reasonable Accommodations for Individuals With Disabilities

HR professionals play a crucial role in ensuring compliance with legal requirements for accommodating individuals with disabilities to reduce legal risks and foster an inclusive work environment where individuals with disabilities can thrive and contribute. Understanding the requirements and processes surrounding reasonable accommodations for individuals with disabilities is essential for complying with legal requirements and securing equal opportunities for all employees.

This how-to guide aims to equip employers and HR professionals with an understanding of the reasonable accommodation process under the Americans with Disabilities Act (ADA). It explores the definition of reasonable accommodations, an employer's legal obligations under the law, the process for determining accommodations and best practices for implementing accommodations effectively. This guide can help provide HR professionals and their organizations with the knowledge and tools necessary to confidently navigate the complexities of reasonable accommodations under the ADA. For a step-by-step guide for complying with ADA reasonable accommodations, employers should reference the checklist in the appendix.

In many situations, employees may be entitled to protections under other federal laws, state and local disabilities laws, and collective bargaining agreements. Due to the complexities of complying with the reasonable accommodation process, employers are encouraged to consult with local legal counsel if they have any specific questions or concerns.



## Overview of the ADA

The ADA is a landmark legislation enacted to protect the rights of individuals with disabilities and prohibit discrimination in various areas, including employment. Under the ADA, employers with 15 or more employees must reasonably accommodate employees and applicants with disabilities unless doing so would cause undue hardship on the organization.

This law applies to all employment practices, including:

- Recruitment
- Compensation
- Hiring
- Firing
- Job assignments
- Training
- Leave
- Benefits

Generally, an employer must determine whether an accommodation may be made any time an employee or applicant who is otherwise qualified for a position requests an adjustment or change to the workplace for a reason related to a medical condition. By providing reasonable accommodations, employers can eliminate barriers and provide individuals with disabilities the opportunity to succeed in their roles.

Not every individual with a medical condition is protected by the ADA. To be protected, a person must be qualified for the job and have a disability defined by the law. Under the ADA, a **disability** is a physical or mental impairment that substantially limits one or more major life activities.

The ADA protects individuals who:

- Have a record of substantially limiting physical or mental impairment, even if they do not currently have a disability
- Are regarded as having a substantially limiting impairment, even if they do not

**Major life activities** include:

- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing
- Eating
- Sleeping
- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working

A major life activity also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

A **qualified employee or applicant with a disability** is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Essential functions are the basic job duties that an employee must be able to perform, with or without reasonable accommodation. Factors to consider in determining if a function is essential include:

- The determination of whether the reason the position exists is to perform that function

- The number of other employees available to perform the function (or among whom the performance of that function can be distributed)
- The degree of expertise or skill required to perform the function

## How to Reasonably Accommodate Employees

A **reasonable 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. A reasonable accommodation may include but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities
- Job restructuring, modifying work schedules or reassigning to a vacant position
- Acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials or policies; and providing qualified readers or interpreters

An employer is required to make a reasonable accommodation for the known disability of a qualified applicant or employee if it would not impose an undue hardship on the operation of the employer's business. Accommodations vary depending on 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.

### Step 1:

#### Receiving an Accommodation Request

For covered employers, their obligation to provide individuals with reasonable accommodations typically begins with a request from an applicant or employee for an accommodation. An employer generally does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. However, if an employer becomes aware of an individual's need for an accommodation or believes that a medical condition is causing a performance or conduct problem, they may ask the employee how to solve the problem and if the employee needs a reasonable accommodation.

A request for accommodation does not have to come directly from an applicant or employee, nor does it have to be in writing or include any specific language or reference to the ADA. Moreover, an individual does not have to identify any specific accommodation in a request.

An ADA accommodation request must describe problems posed by a workplace barrier that impedes an individual from the following:

- 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).

## Examples of requests that would trigger an employer's ADA responsibilities include:

- "I'm having trouble reaching tools because of my shoulder injury."
- "I need time off because my pain prevents me from working."
- "My wheelchair does not fit under the desk in my new office."

## Examples of requests that would not trigger an employer's ADA responsibilities include:

- "I would like a new chair because my present one is uncomfortable."
- "I have a mental disorder that causes me to behave erratically at work."

These examples would not trigger an employer's responsibilities under the ADA because they have no link to a medical condition (e.g., request for a new chair due to comfort reasons) or there's no change to a workplace barrier identified in the request (e.g., simply notifying an employer of erratic behavior at work).

### Imposing an Undue Hardship

An employer does not have to provide a reasonable accommodation if it imposes an undue hardship.



An **undue hardship** is an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources and the nature and structure of its operation.

Undue hardship must be based on an individualized assessment (not generalized conclusions) of current circumstances showing that an accommodation would cause significant difficulty or expenses. However, an employer is not required to lower quality or production standards to make an accommodation, nor is an employer obligated to provide personal use items such as glasses or hearing aids.

## Engaging in the Interactive Process

A request for a reasonable accommodation is the first step in an informal, **interactive process** between the individual and the employer to determine a suitable accommodation. An accommodation request triggers an employer's responsibility to work with the requesting individual to determine whether an accommodation may be made without causing undue hardship.

### Step 2:

#### Selecting an Accommodation

Once a reasonable accommodation is requested, the employer and the individual should do the following:

- Discuss the individual's needs.
- Identify the appropriate reasonable accommodation.

During this process, the employer may ask the individual relevant questions that will enable them to make an informed decision about the request. Where more than one accommodation would work, the employer may choose the one that is less costly or easier to provide.

When deciding which accommodation to implement, employers can consider the affected employee's preference but are not required to do so. An employee is entitled to a reasonable and effective accommodation—not necessarily the accommodation of their choice.

Additionally, the ADA requires employers to respond "expeditiously" once they've received an accommodation request. Therefore, employers should promptly implement an accommodation or at least promptly begin the interactive process with an individual who requests an accommodation. Unnecessary delays can result in costly ADA violations.



## Step 3:

### Determining the Reasonableness of an Accommodation

Employers and employees should interactively identify an effective accommodation (one that will allow the employee to perform the essential functions of the job) that is reasonable under the circumstances.

Often, even before conducting any undue hardship analysis, an employer may determine that certain requested accommodations are not reasonable and, therefore, not required. According to the U.S. Equal Employment Opportunity Commission, an accommodation is **reasonable** if it:

- Seems reasonable on its face (i.e., ordinary in most cases)
- Appears to be feasible or plausible

Examples of reasonable accommodations include:

- Job restructuring
- Providing leave
- Acquiring or modifying equipment
- Making existing facilities accessible
- Reassigning an individual to a vacant position

## There are generally three categories of reasonable accommodations:

1. Modifications or adjustments to a **job application process** that enable a qualified applicant with a disability to be considered for the position desired
2. Modifications or adjustments to the **work environment or the manner or circumstances under which the position held or desired is customarily performed** that enable a qualified individual with disabilities to perform the essential functions of that position
3. Modifications or adjustments that enable a covered employer's employee with a disability to enjoy **equal benefits and privileges of employment** as are enjoyed by other similarly situated employees without disabilities

Employers are not required to eliminate an essential function or lower performance standards when accommodating an individual.

## Step 4:

### Requesting Documentation

Employers may reach out to individuals for documentation related to their disability when it is not obvious. In other words, employers are entitled to know that the employee has a covered disability. However, there are some situations when an employer cannot ask for documentation.

Specifically, an employer cannot ask for documentation when:

- Both the disability and need for accommodation are obvious.
- The individual has provided sufficient information to corroborate their disability and reasonable accommodation needs.

If it is necessary to speak with the requesting individual's health care provider, an employer should first obtain a written medical release or permission from the individual. Their health care provider may not disclose information or answer questions related to the disability without expressed permission from the individual.

Additionally, an employer must keep confidential any medical information learned about an applicant or employee. An employee's request for a reasonable accommodation is generally considered medical information and must be kept in a separate file, not as part of the individual's personnel file.

## Step 5:

### Implementing the Accommodation

Implementing an accommodation is one of the most critical steps in the interactive ADA process. Employers should carefully review all aspects of implementing the accommodation to ensure it goes smoothly. This might include:

- Installing new equipment
- Training employees
- Coordinating outside services
- Adjusting schedules

Not considering these aspects might undermine the effort to make the accommodation and may force an employer to try other options prematurely.

## Step 6:

### Monitoring the Accommodation

Under the ADA, an employer's obligation to provide reasonable accommodations is ongoing. Therefore, monitoring the accommodation after it's essential is an important aspect of the process. This can ensure that the accommodation remains effective days, weeks or even years after it was implemented. Some accommodations may lose their effectiveness and will require the employer to find another solution.



Employers may also need to reevaluate the accommodation due to certain situations, including the following, because they could trigger undue hardship:

- Downsizing
- Restructuring
- Lost funding

## Summary

The ADA is intended to prevent discrimination toward qualified individuals with disabilities. However, responding to requests for accommodations can often be difficult and presents employers with many challenges.

By understanding the ADA's accommodation requirements and implementing accommodations effectively, employers and HR professionals can ensure their organizations promote inclusive and equal work environments for all employees and avoid potential legal pitfalls. Following the steps presented in this guide can help employers engage in a thoughtful dialogue with applicants and employees to develop reasonable accommodations in a timely and professional manner.

Contact Foundation Benefits today for accommodation resources.



# Appendix

# CHECKLIST | ADA REASONABLE ACCOMMODATION

Presented by Foundation Benefits

The Americans with Disabilities Act (ADA) is a federal law that requires covered employers to provide reasonable accommodations to employees and applicants with disabilities, except when the accommodation would cause an undue hardship on the operation of the employer's business.

A reasonable accommodation is a modification or adjustment to a job, the work environment or the operations of the hiring process. These modifications enable an individual with a disability to have an equal opportunity not only to get a job but also to successfully perform their job tasks to the same extent as people without disabilities.

This checklist outlines key steps to help employers like you comply with the ADA's reasonable accommodation requirements. Many states have their own laws that provide additional employment protections to employees, so employers must comply with the ADA and any applicable state laws. Accordingly, employers are encouraged to seek legal counsel to address specific issues and concerns.

## Employers Subject to the ADA

Covered Employers	Yes	No
<p><b>Is your organization subject to the ADA?</b></p> <p>Select "Yes" if your organization is any of the following:</p> <ul style="list-style-type: none"><li>• A private-sector employer with <b>15 or more employees</b> for at least 20 weeks in the current or preceding calendar year;</li><li>• A state or local government agency with <b>15 or more employees</b> for at least 20 weeks in the current or preceding calendar year;</li><li>• An employment agency (such as a temporary staffing agency or recruitment company) of any size; or</li><li>• A labor organization that operates a hiring hall or has at least 15 members.</li></ul> <p><i>If you answer "No," you can stop here. However, be sure to check any state employment laws that may apply to your organization.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Interactive Accommodation Process

Interactive Accommodation Process	Complete
<p><b>Receive a request for an accommodation (or become aware of an individual's need for an accommodation).</b></p> <p>A request for reasonable accommodation starts an informal, interactive process between an employee (or applicant) and your organization. The employee or applicant should let you know they need an adjustment or change at work for a reason related to a medical condition. This request can be informal, and the individual does not</p>	<input type="checkbox"/>

*This checklist is merely a guideline. It is neither meant to be exhaustive nor meant to be construed as legal advice. It does not address all potential compliance issues with federal, state or local standards. Consult your licensed representative at Foundation Benefits or legal counsel to address possible compliance requirements. © 2023 Zywave, Inc. All rights reserved.*

Interactive Accommodation Process	Complete
<p>need to mention the ADA or use the term “reasonable accommodation” to start the interactive process under the ADA. In some situations, you may become aware of an individual’s need for a modification by observing them or through a third party (such as a family member, health professional or friend).</p> <p><i>If the individual declines the need for assistance or accommodation, you can stop here. However, be sure to document the individual’s denial of assistance or accommodation. Check any state employment laws that may apply to your organization.</i></p>	
<p><b>Create and maintain separate confidential records of the individual’s request and the entire accommodation process.</b></p> <p>Start recordkeeping as soon as you receive an accommodation request. Keep documenting as long as the employee remains at your organization. You should document every step of the process, including the request for accommodation, the individual’s medical condition, your interactions with the employee or applicant to discuss options, and why you selected a specific accommodation. To comply with the ADA, these records must be kept confidential and stored separately from the employee’s personnel file.</p>	<input type="checkbox"/>
<p><b>Gather information about the individual’s disability and functional limitations.</b></p> <p>When the individual’s disability (or the need for an accommodation) is not obvious or already known, ask the individual for reasonable documentation about their disability and functional limitations. Make it clear why you are asking for this information to verify the existence of an ADA disability and to help identify an effective accommodation. You may require that the documentation about the disability and the functional limitations comes from an appropriate health care provider, such as a doctor, physical therapist, vocational rehabilitation specialist or licensed mental health professional.</p>	<input type="checkbox"/>
<p><b>Review the individual’s job description.</b></p> <p>When an employee or applicant requests an accommodation or the need for an accommodation becomes apparent, review the individual’s job description and determine the essential functions of that individual’s job. Additionally, identify any nonessential job responsibilities or tasks that can be reassigned to other employees to accommodate the individual.</p>	<input type="checkbox"/>
<p><b>Engage with the individual to identify options for an effective and reasonable accommodation.</b></p> <p>When an employee or applicant requests an accommodation, the appropriate accommodation may be obvious, or the individual may suggest a reasonable accommodation based upon their life or work experience. However, when the appropriate accommodation is not readily apparent, you must make a reasonable effort to identify one. The best way to do this is to consult with the employee or applicant about potential accommodations that would enable them</p>	<input type="checkbox"/>

Interactive Accommodation Process	Complete
to participate in the application process or perform the essential functions of the job.	
<p><b>Evaluate whether the requested accommodation would create an undue hardship for your organization.</b></p> <p>An employer does not have to provide an accommodation that would cause an “undue hardship” to their organization. Undue hardship means that the accommodation would be unduly costly, extensive, substantial or disruptive or would fundamentally alter the nature or operation of the organization. Some factors to consider in determining whether an accommodation is an undue hardship are the cost of the accommodation, the employer’s size, financial resources, and the nature and structure of the operation. If a particular accommodation would be an undue hardship, you must try to identify another accommodation that will not pose such a hardship.</p>	<input type="checkbox"/>
<p><b>Select an effective and reasonable accommodation for the individual.</b></p> <p>The employer may choose among reasonable accommodations as long as the chosen accommodation is effective, meaning it would remove a workplace barrier that is impeding the employee or applicant. If there are two possible reasonable accommodations, and one costs more or is more burdensome than the other, you may choose the less expensive or burdensome accommodation as long as it is effective.</p>	<input type="checkbox"/>
<p><b>Identify the existence of a direct threat.</b></p> <p>Determine whether the individual is a direct threat to themselves or others in the performance of their job. An individual may be denied an accommodation or be terminated under the narrow exception of posing a direct threat to themselves or others. Under the ADA, a direct threat is a significant risk of substantial harm. Assessing the existence of a direct threat should be based on valid medical analysis and other objective evidence. If you determine a direct threat exists, document the threat by identifying the risk caused by the limitations, the potential harm that could result, and any medical or observable facts on which the risk is based.</p>	<input type="checkbox"/>
<p><b>Implement the selected accommodation and monitor its effectiveness.</b></p> <p>The duty to provide reasonable accommodation is ongoing. Some individuals require only one reasonable accommodation, while others may need more than one. Others may need one reasonable accommodation for a time and then, at a later date, require another type of reasonable accommodation. If a reasonable accommodation turns out to be ineffective and the employee with a disability remains unable to perform an essential function, you must consider whether</p>	<input type="checkbox"/>

Interactive Accommodation Process	Complete
there would be an alternative reasonable accommodation that would not pose an undue hardship.	

Use this checklist to review your organization’s compliance with the ADA’s requirement to provide reasonable accommodations to employees and applicants with disabilities. For assistance, contact Foundation Benefits.

### Americans with Disabilities Policy

The Americans with Disabilities Act (ADA) is a federal law that prohibits employers with 15 or more employees from discriminating against applicants and employees with disabilities. It also requires employers to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job functions of the position.

complies with all applicable laws concerning the employment of individuals with disabilities and acts in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). The company does not discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

When a job applicant with a disability requests accommodation that can be reasonably provided without creating an undue hardship or causing a workplace safety risk, he or she will be given the same consideration for employment as any other applicant.

will reasonably accommodate qualified individuals (candidates and employees) with disabilities so that they can perform the essential functions of a job, unless the requested accommodations result in the following:

- A direct threat to the safety or well-being of the individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation; or
- An undue hardship to .

Individuals who are currently using illegal drugs are excluded from coverage under the company ADA policy.

The Human Resources department is responsible for implementing this policy, including the resolution of reasonable accommodation, safety, direct threat and undue hardship issues. Contact them with any questions or requests for accommodation.

# Request for Disability Accommodation Form

provides reasonable accommodation to individuals with disabilities as required by the Americans with Disabilities Act (ADA), upon request of the individual.

Please complete this form to request any type of accommodation for a physical or mental disability. Attach applicable medical documentation.

considers the following requests:

- For accommodations required to ensure equal opportunity in the hiring process.
- For accommodations that enable employees with disabilities to perform the essential functions of their job.
- For accommodations that enable employees with disabilities equal benefits and privileges of employment.

All information relating to requests for disability accommodation will be maintained by Human Resources, and are considered confidential medical records. As such, they will only be accessible to supervisors or managers, first aid personnel and government officials (regarding compliance with ADA, FMLA or other applicable laws) on a need-to-know basis.

*NOTE: may require additional medical certification or information.*

Employee Name

Date of Request

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Employment Status:  Applicant  Employee

Current Position and Department OR Position(s) Applied For

--

Name of Direct Supervisor (for current employees only)

--

Describe your disability (attach any available medical documentation):

--

Describe the aspect of your disability that requires accommodation:

--



Explain the accommodation you are requesting (actions, changes, equipment, etc.):

Detail any resources you have, can access, or are aware of which would provide the requested accommodation:

**If medical documentation is not attached, please complete the following:**

Name, Phone or Address of Primary Medical Practitioner or Physician

Name, Phone or Address of Medical Specialist (if applicable)

My signature constitutes permission for to contact the medical practitioner(s) listed above to release information applicable to my request for accommodation. I agree to complete any additional authorization forms required by the medical practitioner(s) for release of information. I certify that the information provided in this document is true to the best of my knowledge.

Employee Signature

Date

<input type="text"/>	<input type="text"/>
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Please attach additional pages if necessary. Please contact Human Resources with questions, and return this form to Human Resources upon completion.