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**Identifying Effective
Reasonable Accommodations**

**Southwest
ADA
Center –
Arkansas
Affiliate**



- One of 10 regional centers across the U.S. that make up the ADA National Network
- Serves Arkansas, Texas, Louisiana, Oklahoma and New Mexico
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UA Partners is pleased to serve as the Arkansas Affiliate of the Southwest ADA Center

Disclaimer

Information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.



Five Titles of the ADA

- **Title I – Employment**
 - Enforcement agency: EEOC
- **Title II – State and Local Government Entities**
 - Enforcement agency: DOJ
- **Title III – Public Accommodations**
 - Enforcement agency: DOJ
- **Title IV – Telecommunications**
 - Enforcement agency: FCC
- **Title V – Miscellaneous**



Essential Job Function

Fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.

A job function may be considered essential for any of several reasons, including but not limited to the following:

- The reason the position exists is to perform that function;
- The limited number of employees available among whom the performance of that job function can be distributed; and/or
- Highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

Impact of the ADA – Civil Rights Law



[Claudia Gordon](#)

ADA: Title I - Employment

Title I of the Americans with Disabilities Act of 1990 prohibits

- private employers,
- State and local governments,
- employment agencies and labor unions

from discriminating against qualified individuals with disabilities in

- job application procedures,
- hiring, firing, advancement, compensation,
- job training, and other terms, conditions, and privileges of employment.

Covers employers with 15 or more employees.

from ada.gov

Reasonable Accommodations

Reasonable accommodation – A modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity.

Applies to:

- Job application process
- Performing the essential functions of a job
- Access to benefits and privileges

from adata.org



Examples of Reasonable Accommodation

- Removing deep pile carpeting in a work area (or placing a usable surface over the carpet) so an individual can propel a manual wheelchair.
- Obtaining or modifying equipment or devices (except personal).
- Modifying examinations, training materials or policies.
- Providing interpreters.
- Adjusting work schedule to accommodate access to transportation

Adapted from ADA Building Blocks at: <https://www.adabasics.org/content/index.php>

When the solution is obvious...

...no need for a long process...avoid overburdening the employee.

- Raising the height of a desk
- Providing assistive technology or software
- Providing ergonomic chair



EEOC Recommended Process

1. Analyze the particular job and determine its purpose and essential functions;
2. Consult with the employee to ascertain the precise job-related limitations imposed by the disability and how those limitations could be overcome with a reasonable accommodation;
3. In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and
4. Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer.

From <https://askjan.org/topics/interactive.cfm>

Interactive Process

“An informal dialogue between the employer and employee used to identify the precise limitations resulting from the disability and determine potential reasonable accommodations that could overcome those limitations.”



Step 1: Recognizing an Accommodation Request

- Request does not have to be in writing
- No need to use specific words such as “disability”, “accommodation” or “ADA”
- A statement that there is a problem or barrier and it is related to a medical condition or disability
- If unsure, err on the side of caution



Is This an Accommodation Request?

- An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing."
- A new employee asks if it is okay to listen to music on her computer while she works.
- A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office.



Is This an Accommodation Request (cont'd)

- An employee tells his supervisor that he would like a new chair because his present one is uncomfortable.
- A blind employee asks if she might change her work hours because the bus route has changed and she is not able to get to work until 10 minutes after her start time.



Step 2: Gathering Information

- If obvious, no documentation may be needed
- If not obvious, ask questions to better understand the barrier
- Employee is usually best source of information
- Employer may ask for medical documentation, if necessary to better understand medical condition and barrier
- Avoid overburdening the employee with request for documentation



Step 3: Exploring Accommodation Options

- Brainstorm ideas with employee that are likely to remove the barrier and allow them to perform essential functions of the job
- Keep an open mind and don't shut down the conversation
- If employee is unsure what accommodations might help, ask the employee if they have a medical professional to consult
- May also consult ADA Coordinator, UA Center for Educational Access, VR agency, and AskJAN.org
- **Always respect the employee's confidentiality**



Step 4: Choosing an Accommodation

- Consider the employee's preference
 - The employer can choose a less expensive option if it is likely to be effective
- If it is not clear whether a particular accommodation will be effective, consider a trial period



Step 5: Implementing the Accommodation

- Make sure all steps are taken to implement the accommodation
 - Proper installation of software
 - Proper modification of work environment
 - Contracting with service providers (i.e. interpreters)
- Respect confidentiality and inform only supervisory personnel who need to know
- Timeliness is also important



Step 6: Monitoring the Accommodation



- Check with employee to be sure the accommodation remains effective
 - Provide maintenance to the accommodation, if needed (i.e. software or equipment)
- Encourage ongoing communication

Scenarios

- An employee in Office of Communications develops carpal tunnel syndrome and is supposed to keep typing to a minimum.
- A housekeeping employee injures his back and has to reduce his lifting to less than 25 lbs. He currently lifts trash cans that may weigh up to 40 lbs.
- A person with a psychiatric disability takes medication that gives them a dry mouth and works in a computer lab where drinks are not allowed.
- An employee has chronic migraines that are triggered by the fluorescent lighting in her office.

Examples of Requests that Would Not Be Considered “Reasonable Accommodations”

- Lowering production standards
- Personal use items (i.e. eyeglasses, hearing aids, wheelchair)
- Creating a job
- Bumping another employee from his/her job
- Changing to a new supervisor
- Medication monitoring

Undue Hardship

An action that requires "significant difficulty or expense" in relation to the size of the employer, the resources available, and the nature of the operation.

The concept of undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the business.

Accordingly, whether a particular accommodation will impose an undue hardship must always be determined on a case-by- case basis.



Resources



exploreaccess.org/workplace-access-resources/

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