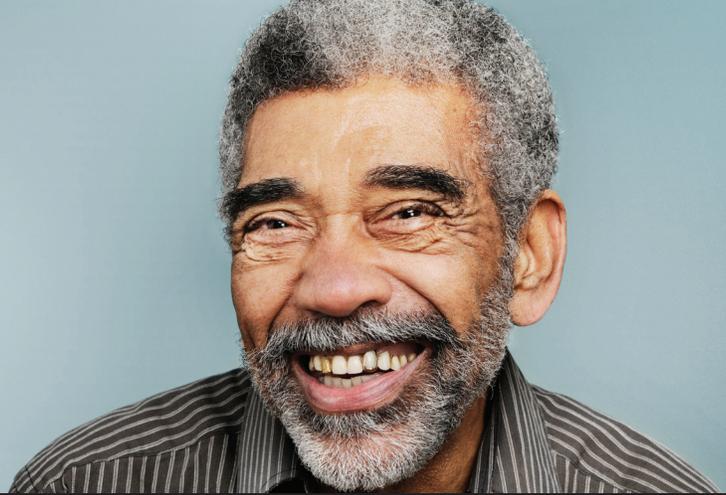


DISABILITY & AGING RIGHTS



DEVELOPED BY EQUIP FOR EQUALITY UNDER A GRANT PROVIDED BY THE ILLINOIS DEPARTMENT ON AGING



DISCRIMINATION

Reasonable Accommodations Under the Americans with Disabilities Act

People with disabilities, including older Americans who have a physical, sensory, cognitive or mental impairment, are covered by the Americans with Disabilities Act – also known as the ADA. Job applicants and employees are protected under Title I of the ADA. Title I requires employers to provide reasonable accommodations to qualified people with disabilities. Accommodations are any change in the work environment or in the way things are customarily done that enables a person with a disability to enjoy equal employment opportunities.

There are three categories of reasonable accommodations:

- Changes to the job application process
- Changes to the work environment that enable an employee with a disability to perform the essential functions of that position
- Changes that enable an employee with a disability to enjoy equal benefits and privileges of employment

Examples of reasonable accommodations include:

- Making existing workplaces accessible – such as installing a ramp
- Job restructuring
- Part-time or modified work schedules
- Leave
- Acquiring or modifying equipment
- Changing tests, training materials or policies
- Providing qualified readers or interpreters
- Working from home
- Reassignment to a vacant position

Generally, the person with a disability is responsible for requesting a reasonable accommodation. A request for a reasonable accommodation is the first step in an informal, interactive process between the employee and the employer.

Once an employer receives a request for an accommodation, the employer should respond as soon as possible because unnecessary delays can result in a violation of the ADA.

When the disability or the need for accommodation is not obvious, the employer may ask the person for reasonable documentation about the disability and functional limitations. If it is not obvious how the accommodation would enable the person to perform the job, the employer can ask for documentation about that.

Employers are required to make reasonable accommodations to qualified employees unless employers can show that the accommodation would be an undue hardship. Undue hardship is defined as a significant difficulty or expense. Courts will consider some of these factors in determining whether an accommodation is an undue hardship:

- The employer's type of operation – is it a large or small company?
- The employer's financial resources
- The cost of the reasonable accommodation
- The impact of the accommodation on operations

Generally, employers must remove marginal job functions as a reasonable accommodation. However, employers do not have to reallocate essential functions as a reasonable accommodation. So, this raises the question – how do you know whether a job function is essential?

Courts look at a variety of factors including:

- The job description
- The terms of a collective bargaining agreement
- The employer's judgment
- The amount of time spent on the job performing the function



- The consequences if the person does not perform the function
- The experiences of others people in similar jobs
- A limited number of employees are available to perform the function
- The position exists to perform the function. For example, driving is the reason the position of truck driver exists, so driving would be an essential function.

In addition to not being required to remove essential functions, employers are not required to lower production standards. However, an employer may have to provide reasonable accommodations to enable an employee with a disability to meet the production standard.

An employer does not have to provide personal use items as reasonable accommodations. Personal use items are items that are needed to accomplish daily activities both on and off the job. So, an employer is not required to provide an employee with a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices if they are also needed off the job.

Employers are not required to change a person's supervisor as a reasonable accommodation.

May someone other than the person with a disability request a reasonable accommodation on behalf of that person?

Yes, a family member, friend, health professional or other representative may request a reasonable accommodation on behalf of a person with a disability.

Do requests for reasonable accommodation need to be in writing?

No. Requests for reasonable accommodation do not need to be in writing. People may request accommodations in conversation, or they may use any other form of communication. However, we recommend that people with disabilities confirm their reasonable accommodations in writing so there is a record of the request.

Once a reasonable accommodation is requested, does the employer have to keep the information confidential?

Yes. An employer is required to keep confidential the disability-related information disclosed by the employee as part of the reasonable accommodation process. Also, an employer may not disclose that an employee is receiving a reasonable accommodation because this usually amounts to a disclosure that the person has a disability. ■

For more information:

Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act – Equal Employment Opportunity Commission Enforcement Guidance:
www.eeoc.gov/policy/docs/accommodation.html

Work at Home/Telework as a Reasonable Accommodation – Equal Employment Opportunity Commission Fact Sheet:
www.eeoc.gov/facts/telework.html



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