



Employment Rights Helpline at Equip for Equality

SELF-ADVOCACY ASSISTANCE ★ LEGAL ADVICE ABOUT EMPLOYMENT RIGHTS ★ SAMPLE LETTERS & FORMS ★ REFERRALS

FACT SHEET: Taking Time Off of Work Because of Your Disability

I need to take time off of work because of my disability. Should I ask for help under the Americans with Disabilities Act (ADA)?

It depends.

- The Americans with Disabilities Act (ADA) says that employers need to provide **reasonable accommodations** to employees with disabilities. Reasonable accommodations are changes to your work environment, how you do your job, or to your employer's policies that help you, as a person with a disability. Examples include changing your work hours, allowing you to bring your service animal to work, giving you technology, like an iPad, to help you do your job, or having sign language interpreters at meetings.
- Many courts and the Equal Employment Opportunity Commission (EEOC), the federal agency in charge of carrying out the ADA, have said that "a leave" or taking time off of work can be a reasonable accommodation.
- Leave can be taken all at once (ex: in-patient treatment) or once in a while (ex: medical appointments).
- In Illinois, there are strict limits on *how much* leave you can take as a reasonable accommodation. Generally, leave under the ADA can only be about two weeks.

What does this mean for you?

Before you ask to take time off under the ADA:

- (1) Find out if you can take time off under your employer's policies or any other laws.
- (2) If you cannot take time off under your employer's policies or any other laws, you may want to ask for leave as a reasonable accommodation under the ADA. Please keep reading, as this Fact Sheet has information to help you decide whether to ask for time off under the ADA.

Step 1. Leave under laws/policies other than the ADA.

You may be able to take time off under your employer's policies or other laws. In many situations, it is better to use these policies/laws than to use the ADA. Here are some examples:

- Do you have sick, personal, or vacation days that you can use?
- Does your work have extended personal or medical leave?
- Do you live in a city (like Chicago) that requires paid sick leave?

- Does your employer have short-term disability (STD) insurance?
- Can you use the [Family and Medical Leave Act](#) (FMLA)?

If you are unsure, review your Employee Handbook or a copy of your STD policy.

My employer has a leave policy. Can my employer treat me differently because I need time off because of my disability?

No. Employers must let you ask for time off like everyone else. Many employers offer leave as an employee benefit (ex: paid or unpaid sick leave, annual leave, or personal days). Many employers also offer short-term disability (STD) and long-term disability (LTD). If you request leave because of your disability and it falls under your employer’s leave policy, your employer must treat your request the same as any other non-disability related leave request. Your employer *can* require that *all* employees provide a form or document explaining why you need leave.

What’s the difference between the ADA and FMLA?

Review our [Fact Sheet comparing leave under the ADA and FMLA](#).

I can take some time off under my employer’s leave policy and/or FMLA. But I will still need a little more time off. What should I do?

You can ask for a short leave extension as a reasonable accommodation under the ADA. Keep reading to learn more about how to ask for a short leave extension and approximately how long of an extension you can ask for.

I cannot use any other leave. What should I do?

You might want to ask for time off as a reasonable accommodation under the ADA. See below.

Step 2. Requesting leave as a reasonable accommodation under the ADA.

I may need to ask for leave under the ADA. What do I need to know?

Here are some important tips:

- Under the ADA, leave is unpaid.
- Under the ADA, leave cannot be “indefinite.”
 - *Say:* “I need to go to a treatment center for two weeks.”
 - *Don’t say:* “I need to go to a treatment center. I’m not sure how long I will be there.”
- Under the ADA, leave is an accommodation that helps you *return to work or stay at work*, not extend the amount of time you are out of the office.
 - *Say:* “I need leave after my surgery and then I will be able to come back to work.”
 - *Don’t say:* “I need leave after my surgery, but I will not be able to return to work at all.”

- Generally, you can only take two weeks of leave (at least in the Seventh Circuit Appellate Court, which includes Illinois, Indiana and Wisconsin).
- Tell your employer as soon as possible that you need time off, so they can prepare for your absence. (This is because the law requires your request to be “reasonable.” If you don’t give them enough time to prepare, it may be easier for your employer to say no to your request.)

I need to take more than two weeks off. What should I do?

Brainstorm whether there are other accommodations that would help you go back to work sooner. Use our [Fact Sheet on Requesting Reasonable Accommodations](#).

- If there is another accommodation that would work just as well for you, consider asking for that accommodation instead of time off.
 - *Example:* Instead of taking time off, could you work from home? Work part-time? What if your employer bought new equipment for you to use at work? Can your employer ask someone else to do the tasks you normally do that are not as important as your other tasks?
- If there is another accommodation that would work, but you prefer to ask for time off, it is very important to say: “If you cannot grant my request for leave, I am asking to engage in the interactive process to discuss other ideas I have for reasonable accommodations.”
 - *Example:* You ask your employer for four weeks of leave to adjust to new medications that make you tired. When you make the request, you ask to engage in the interactive process if the request for time off is denied. If your employer denies your request, at that point, you can talk about other options, including working a flexible schedule so you can work when you are not tired, even if that means starting work later or working on the weekends.

How do I request leave as an accommodation?

- Tell your supervisor(s) or human resources department that you need to take time off because of your disability. You can ask whoever you feel more comfortable with.
- Make your request in writing and use the phrase: “I am requesting a reasonable accommodation under the ADA.” This helps create a clear record of your request and helps your employer know that your request should be taken seriously. If you prefer to talk in person or by phone first, that is perfectly fine. Just be sure to follow up in writing.
- In your request, say that if your employer says that you cannot take time off, then you want to talk about other options. This is called “the interactive process.”
 - *Tip:* If you are asking for more than two weeks of leave, and if there are other accommodations that would help you to return to work sooner (work from home, part-time, computer, etc.), think about asking for those instead or as other options.
- Use the template letter at the end of this Fact Sheet.

What happens after I make this request?

Your employer may ask you questions about your disability and your request. Most of the time, these types of follow-up questions are okay and are part of the “interactive process.” For example:

- Your employer may ask you for a note from your doctor or for your medical records to make sure that you have a disability and need to take time off.
- Your employer may ask questions about your disability, how it impacts your ability to work, why you need leave, and whether there are other accommodations that could help you.
- Even though it may feel frustrating to answer these questions, it is important to answer your employer’s questions. If you do not think your employer’s questions are reasonable, please contact EFE’s Employment Rights Helpline (1-844-RIGHTS-9), and we can review the questions and help you decide how to respond.
- Try to work with your employer to find a solution that will work for them and for you.
- Review our [Fact Sheet about requesting reasonable accommodations and the interactive process](#).

Does my employer have to provide me with benefits, like health insurance, during my leave?

It depends. Your employer has to give you the same benefits as it gives to other employees who take leave. Depending on what your employer gives to other employees, they might be able to stop your benefits or may ask you to pay your insurance premium. If you do not know, you should ask for a copy of your benefit plan to review the details.

Where can I learn more?

- [EEOC Enforcement Guidance on Employer-Provided Leave and the Americans with Disabilities Act](#)
- [Job Accommodation Network: Accommodation and Compliance – Leave](#)

TEMPLATE LETTER

How to Request Leave as a Reasonable Accommodation

Date

(Email/U.S. Mail/Hand Delivered, etc.)
Human Resources Department
Employer's Address

Re: Request for Leave as a Reasonable Accommodation for (Your Name)

Dear Mr./Ms. (Contact at Human Resources Department):

I work as a _____ (Your Job Title) and have been in this position since ____ (Date).

I am writing to request leave as a reasonable accommodation under the ADA. I am asking for _____ (amount of time) or leave until _____ (rough end date).

As you may know, I have a disability (you may list your disability here or wait for your employer to ask for a record of your disability), and this short leave would allow me to be successful upon my return to work.

[Optional: You can attach now or wait for your employer request.] I have attached a doctor's note supporting my need for leave as an accommodation and my ability to return to work on _____ (your return to work date).

[Optional: If you are asking for more than two weeks and if there are accommodations that would allow you to return to work sooner.] If you cannot provide me with leave, I would like to explore other accommodations that would allow me to return to work, including _____ (other ways).

If you are unable to provide me with this leave, I ask that we engage in the interactive process to discuss whether there is a different accommodation that would be effective.

If you have any questions, you can feel free to contact the Job Accommodation Network a 1-800-526-7234 or the Great Lakes ADA Center at 1-800-949-4232 for more information, free of charge.

If you have any questions about my request, you can contact me in writing or by phone. However, I would appreciate a written response to this letter. Thank you very much.

Very truly yours,

(Your Name)



DO YOU HAVE A QUESTION?

CONTACT THE EMPLOYMENT RIGHTS HELPLINE FOR FREE LEGAL ADVICE

1-844-RIGHTS-9 (1-844-744-4879) (toll free - voice)

800-610-2779 (tty)

employment@equipforequality.org

www.equipforequality.org/employment

This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, an attorney should be consulted.

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