


Your Right to Reasonable Accommodations at Work

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Equip for Equality



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Equip for Equality

Mission to advance the human and civil rights of people with disabilities

- ▶ Private and independent not-for-profit
- ▶ Federally mandated and funded, every state has a Protection & Advocacy System (P&A)
- ▶ Serves people with all disabilities of all ages
- ▶ Offices across the State
- ▶ Three Divisions:
 - ▶ **Special Education Clinic**
 - ▶ **Civil Rights Team**
 - ▶ **Independent Monitoring Unit**

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Client Assistance Program (CAP)

- ▶ CAP: Established by the Rehabilitation Act
- ▶ What CAP does generally:
 - ▶ Helps people who apply for or receive services under the Rehabilitation Act, including vocational rehabilitation and independent living services
 - ▶ Advises and informs people about their rights under Title I of the Americans with Disabilities Act (ADA)
 - ▶ Something that EFE has been doing for many years
- ▶ Across the country, most CAPs are housed outside of state government, many of them within the state P&A
- ▶ As of July 1, 2022, CAP was redesignated from within DRS to Equip for Equality (EFE)

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Division of Rehabilitation Services (DRS)

- ▶ Mission of DRS: *to work in partnership with people with disabilities and their families to assist them in making informed choices to achieve full community participation through employment, education, and independent living situations*
- ▶ DRS is housed within the Illinois Department of Human Services
- ▶ Provides both home services and vocational rehabilitation (VR) services
 - ▶ Focus of CAP is with the DRS VR program

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Who is eligible for DRS VR services?

- ▶ To qualify for DRS VR services an individual must:
 - ▶ Want to work
 - ▶ Have a significant physical or mental impairment that makes it difficult to work

*includes high school and transition students who are preparing to enter the workforce or looking for part-time employment

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Title I of the ADA

- ▶ CAP's Role: Provide information and advice under Title I of the Americans with Disabilities Act (ADA)
- ▶ How CAP can help you:
 - ▶ Answer questions about disability disclosure, reasonable accommodations, challenge discrimination
 - ▶ Help write requests for accommodations
 - ▶ Help brainstorm solutions if individuals are dealing with a difficult employer

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How to reach CAP

- ▶ Phone: 1-855-ILCAP-25 (855-452-2725)
- ▶ Email: cap@equipforequality.org
- ▶ Website: www.equipforequality.org/cap
 - ▶ Calendar of upcoming trainings
 - ▶ Coming soon:
 - ▶ Fact sheets, sample letters and worksheets available in English, Spanish
 - ▶ ASL & other languages to come

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EFE's Employment Rights Helpline

What does the Employment Helpline do?

- ▶ Discuss rights under the ADA
- ▶ Answer employment rights questions
- ▶ Help individuals understand their options
- ▶ Share fact sheets, sample letters, and forms
- ▶ Provide referrals
- ▶ Offer other assistance as needed

Our services are free of charge - must go through intake process

- ▶ (844) 744-4879 (V)
- ▶ (800) 610-2779 (TTY)
- ▶ www.equipforequality.org/employment

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Americans with Disabilities Act (ADA)

What does “ADA” stand for?

Goals of the ADA

- ▶ Non-discrimination
- ▶ Equal opportunity
- ▶ Helping people with disabilities find/keep jobs

Am I protected by the ADA?

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Workplace Protections

Discrimination is prohibited in all aspects of employment, including:

- ▶ Job application procedures
- ▶ Hiring / Firing
- ▶ Benefits and Compensation
- ▶ Advancement
- ▶ Training
- ▶ Any terms, conditions, or privileges of employment
- ▶ Refusing to provide reasonable accommodations
- ▶ Certain medical exams and inquiries

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Reasonable Accommodations

Employers must give applicants and employees a reasonable accommodation

What is a Reasonable Accommodation?

Change to:

- ▶ How you do the job
- ▶ Application or interview
- ▶ Benefits of job

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Job Applications

- ▶ You can get reasonable accommodations for job applications if you need them because of your disability.
- ▶ Some examples include:
 - ▶ A paper copy of an online application
 - ▶ Providing the application in large print, Braille, or as an audio file
 - ▶ Allowing you to answer questions orally or have someone write down your answers for you
 - ▶ Interviewing you in an accessible location
 - ▶ Allowing you extra time or other accommodations to complete tests

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Reasonable Accommodations

It might take some time to figure out an accommodation that:

- ▶ Works for you
- ▶ Doesn't cause big problems for your boss
- ▶ No "one size fits all"

The goal: Find the right accommodation for the employee's disability, employee's job and employer's needs

Not sure about what accommodations you might need? The **Job Accommodation Network (JAN)** is an online source of free, expert, and confidential guidance: <https://askjan.org/>

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Examples of Reasonable Accommodations

- ▶ Modifying workplace - building ramp, widening doors
- ▶ Providing a sign language interpreter for trainings or meetings
- ▶ Installing screen reading software
- ▶ Allowing a flexible work schedule
- ▶ Removing less important job tasks
- ▶ Allowing break periods
- ▶ Permitting a job coach
- ▶ Giving directions in writing
- ▶ Giving directions in person
- ▶ Making to-do lists
- ▶ Having weekly meetings with a supervisor
- ▶ Leave for medical or therapy appointments
- ▶ Distraction-free work environment

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Remote Work as an Accommodation

- ▶ Telework may be a reasonable accommodation if you can perform all of the essential parts of the job from home. If there are parts of the job you cannot do from home, full time telework is likely unreasonable.
- ▶ Even if an employer excused employees from certain job tasks during the pandemic, the employer is not required to continue to excuse essential parts of the job
- ▶ Telework accommodation previously disfavored, but may change after pandemic experience

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Reassignment as an Accommodation

- ▶ If no accommodations enable employee to return to work in previous job, employee can ask for reassignment to a different, vacant position
- ▶ Reassignment may be a good option if employer has a vacant position; employee is qualified for the vacant position; it would be safe for employee to work in the vacant position; the position is not subject to a bona fide seniority system.
- ▶ Reassignment is considered the accommodation of last resort (accommodating employee in current position is preferred)

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Leave as an Accommodation

- ▶ Employees with disabilities may be entitled to leave as a reasonable accommodation
- ▶ However, this leave is not considered job protected and some courts have found that more than a month of leave is not a reasonable accommodation.
- ▶ Leave is also unpaid leave.
- ▶ **Limit:** Only applies to employees, not family members

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A common question:

How do I ask for reasonable accommodations at work?

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How do you ask for a reasonable accommodation?

How to Ask for an Accommodation

- ▶ Make request to your supervisor or HR
- ▶ Make request in writing (or talk and then follow up in writing)
- ▶ Use “buzz” words - ADA and reasonable accommodation
- ▶ Complete employer-created forms, if necessary

Tip: Use EFE’s reasonable accommodation fact sheet

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Reasonable Accommodation Request Example

- ▶ Date of Letter
- ▶ Dear Supervisor, Manager, or HR:
- ▶ I have a disability. I am _(disability here)__. I am asking for reasonable accommodation to be able to do my job, under the Americans with Disabilities Act. The accommodations I need are _____. Please respond within two weeks. Thank you,
- ▶ Your name here

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What happens next?

Employer is supposed to engage in the “interactive process” and thinks if

- ▶ Is the requested accommodation reasonable and effective?
- ▶ Do other possible accommodations need to be examined?
- ▶ Employers must provide an **effective accommodation**, not necessarily the requested one.
- ▶ Employee’s preference gets “primary consideration”

Consult with:

- ▶ Supervisor and HR, doctors, VR agency, computer experts
- ▶ Job Accommodation Network

When need is not obvious, may request limited medical documentation

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What happens next?

After granting accommodations, your employer still has the obligation to ensure the accommodations are implemented and that they are effective.

An employer's duty to provide accommodations is ongoing. What does this mean?

- ▶ You can request different accommodation at a later date.
- ▶ Your employer should continue to provide your granted accommodations unless they present an undue burden.

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Additional Accommodation Information

- ▶ Must be an *effective* accommodation (not best)
- ▶ Personal devices are not required
- ▶ Individuals covered solely under the “regarded as” prong are not entitled to accommodations
- ▶ Individuals covered by association are not entitled to accommodations
- ▶ Employers are not prevented from providing extra accommodations
- ▶ Employee request triggers “interactive process”

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Case Example

Steven works as a marketing analyst. Steven has a learning disability and has difficulty taking notes during staff meetings. Steven verbally tells his supervisor that he needs a note taker because he has a learning disability. His supervisor asks him to sign a general release for medical documentation. Later Steven finds out that the company wants to purchase computer software that can take notes. This is a cheaper option for the company.

Steven calls CAP/EFE Helpline and asks:

- ▶ Did he request an accommodation? How should he follow-up?
- ▶ Does he have to provide this medical information?
- ▶ Can the company provide the software instead of the note taker?

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Case Example

- ▶ Steven did make a request for an accommodation. He should follow up in writing using the words: ADA and reasonable accommodation
- ▶ Supervisor can ask for medical documentation because Steven's disability is not obvious, but the request must be limited to confirming that Steven has a disability and needs accommodations.
- ▶ His employer can provide alternative accommodation so long as it is effective
- ▶ Steven should determine if the software would be effective; if so, he should try it. If not, he should notify his employer if the software is not sufficient

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Contact Equip for Equality

Independent CAP - Client Assistance Program

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Employment Rights Helpline

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