



EMPLOYMENT RIGHTS



Non-Apparent Disabilities and Work

This fact sheet answers:

- What is a non-apparent disability?
- Does my non-apparent disability make me a qualified individual?
- Do I have to tell my employer that I have a disability?
- And more

Sometimes people have disabilities that other people may not notice. These are called non-apparent disabilities. People with non-apparent disabilities are protected by the Americans with Disabilities Act (ADA). The ADA protects people from disability discrimination in many areas of life, including work.

What is a non-apparent disability?

A non-apparent disability is a disability that other people may not notice. Sometimes they are called “invisible” disabilities. People may not know you have a non-apparent disability unless you tell them.

Some examples of non-apparent disabilities include:

- Autism
- Chronic Conditions, like Diabetes
- Learning disabilities
- Mental Health Conditions
- Traumatic Brain Injuries

Who is a “qualified individual” under the ADA?

A qualified individual is someone who can do the “essential functions” of a job. These are the important parts of your job.

You are qualified if you can do the essential functions with or without a reasonable accommodation.

Does my non-apparent disability make me a qualified individual?

The ADA protects people with disabilities. To have a disability, you must have an impairment that makes at least one important part of your life hard.

Important life activities include things like:

- Learning
- Seeing
- Sleeping
- Talking
- Thinking
- Walking

If your disability makes these or other important parts of your life hard, the ADA may protect you.

Do I have to tell my employer that I have a disability?

You only need to tell them if you are asking for a reasonable accommodation.

What is a reasonable accommodation?

A reasonable accommodation is a change to the workplace or job rules that helps a person with a disability at work.

These changes can help you:

- Apply for a job and go through the hiring process.
- Do the essential functions of your job.
- Use all the benefits and privileges of your job.



What are some examples of reasonable accommodations?

There are many types of accommodations. Which ones are reasonable for you depends on your job and disability. Some things that can be accommodations are:

- Changes to communication (like giving instructions in writing).
- Changes to testing requirements, training materials, or workplace rules.
- Job restructuring (removing a less important task from your job).
- New or adjusted equipment (like screen readers or adjustable chairs).
- Part-time or flexible work schedules.
- Qualified readers or interpreters (like ASL interpreters for important meetings).
- Reassignment to an open job you qualify for (usually only if no other accommodation works).
- Taking time off from work (unpaid leave in addition to FMLA or sick leave).
- Working from home.

When should I ask for a reasonable accommodation?

You can ask for a reasonable accommodation any time you need a change at work because of your disability.

It is best to ask for an accommodation before you have problems. Employers usually do not need to accommodate past problems.

What should I do if I don't know what accommodation to ask for?

The Job Accommodation Network (JAN) is a helpful tool. It has fact sheets for many disabilities with accommodation ideas. JAN also has staff that can talk about ideas with you.

Learn more at <https://askjan.org>.

How do I ask for a reasonable accommodation?

Tell your boss or human resource department that you need a change at work because of your disability. You can ask which one you are most comfortable with.

Ask in writing. This makes a record of your ask and helps your employer know that your request should be taken seriously.

If you ask in person or by phone follow up with them in writing to confirm your ask.

Use the sample letter at the end of this fact sheet to help.



Does my employer have to give me the accommodation I ask for?

Your employer only has to give you an accommodation that works. Here are some things to remember:

Effective Accommodation

Your employer must give you an accommodation that works. It does not have to give you the exact one you ask for. If more than one accommodation option works, your employer can pick the cheaper one. If the accommodation option your employer picks will not work for you, be ready to tell them why.

Undue hardship

Your employer does not have to give you an accommodation if it causes an “undue hardship.” This means the accommodation is very hard to do or very expensive.

There is no set rule for what makes something an undue hardship. Some things courts look at to decide if something is an undue hardship are:

- How much it costs,
- How much money your employer has, and
- How the accommodation will affect your employer.

Personal services or devices

Your employer does not have to give you accommodations that you need outside of work. For example, if you need a hearing aid at work and at home, that hearing aid is a personal device. Your employer does not have to give you a personal device.

A device is not a personal device if you only use it at work. For example, a headset to help you hear calls at work is an accommodation, because you only use it at work.

Removing essential functions

Your boss does not need to take away essential job duties or give them to someone else.

What happens after I ask for a reasonable accommodation?

You and your employer will use the “interactive process.” This is the time when you talk with your employer about what accommodations will work for you.

Your employer may:

- Approve the request right away.
- Ask for limited medical information.
- Ask how your disability affects you at work.
- Talk with others who know your job duties.

It is a good idea to make a record of any conversations about your accommodation request. Save copies of emails and documents that you submit. Keep notes of what you talked about during meetings and phone calls.



Can my employer ask for medical documents?

Yes, if your disability or need for an accommodation is not obvious.

Your employer can ask for limited medical documentation to confirm:

- You have a disability.
- You need a reasonable accommodation.

Often, a note from your doctor or therapist with this information is enough.

Your employer cannot ask for your full medical history. The documents only need to show that you have a disability and that you need a reasonable accommodation.

If your employer asks you to sign a release for all your medical records, you do not have to sign it. Instead, you can:

- Offer to get a note from your healthcare provider, or
- Ask your employer to write down their questions so you can give them to your healthcare provider.

You can also ask to change the release, so it only includes information needed for your request.

Some employees find it helpful to give a medical note with the first request. There is nothing wrong with this, but your employer may have questions. If that is the case, you may need to ask your healthcare provider for a second note.

Do I have to respond to my employer's follow-up questions?

Yes, as long as the questions are reasonable.

Both you and your employer must take part in the interactive process in good faith. It is important to respond, even if you feel frustrated. You should respond to all reasonable questions and requests.

If you do not understand what information your job is asking for, you can ask them to explain.

The ADA encourages us to be creative and flexible. Try to work with your employer to find an accommodation that works for both of you.



What if I do not want my coworkers to know about my disability?

If you tell your employer about your disability to ask for an accommodation, the ADA says your employer cannot tell anyone about it.

Your employer can only share information about your disability with people who need to know. For example:

- A boss who gives you the accommodation.
- First aid or safety workers, if you would need emergency treatment.

Your coworkers may see your accommodation, but you do not have to tell them why you have it.

For example, your coworkers may notice that you can take extra breaks when you need them. However, you do not have to tell your coworkers why you can take extra breaks.

Some courts say that if you tell your employer you have a disability but don't ask for changes to help you do your job, your job may not have to keep it a secret.

I have more than one disability. Do I need to tell my employer about all of them?

No. You only need to talk about the disability related to the accommodation you are asking for.

For example, you may have diabetes and depression. If you only need an accommodation for your diabetes, then you do not need to talk about your depression.

How does the interactive process end?

Your employer will:

- Approve your request,
- Deny your request, or
- Offer a different accommodation.

If your employer offers a different accommodation, you should try it (unless it would be unsafe). Then be ready to tell your employer if the accommodation works or not.

Accommodations are an ongoing process. If your accommodation stops working for you, your employer should work with you to find a new one that works.





What if my employer denies or does not respond to my request?

Continue the interactive process

Ask your employer why it denied your request in writing. Depending on the answer, you could continue the interactive process.

For example, if your employer says that you did not have enough medical support, you could get more support. If your employer says your request would pose an “undue hardship,” suggest a different accommodation.

Follow up on your request

You may be able to follow up on your request with another part of your organization. For example, if your supervisor did not approve your request, try going to human resources.

File an internal complaint

Some employers have an internal complaint process. Union members can file complaints through their unions.

File an external complaint

You can bring a complaint for failure to provide a reasonable accommodation. If you want to file an employment discrimination case, the first step is to file a charge of discrimination. You can do this with the Equal Employment Opportunity Commission or the Illinois Department of Human Rights. Deadlines and statutes of limitations apply.

Contact Equip for Equality’s Employment Rights Helpline (1-844-RIGHTS-9) or a private attorney to talk about your options.

What do I do if someone at work gives me a hard time about my reasonable accommodation?

You have the right to use your accommodation without being harassed, bothered, or teased by anyone at work. You also have the right to use your accommodation without anyone trying to stop you from using it.

You can file a complaint if you are harassed because of your accommodation or anyone tries to keep you from using your accommodation.

Where can I learn more?

- EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act: www.eeoc.gov/policy/docs/accommodation.html
- Job Accommodation Network’s Practical Guide to Accommodations: <https://askjan.org/Eeguide/index.htm> ■

EMPLOYMENT RIGHTS

DATE

METHOD OF DELIVERY (Email/U.S. Mail/Hand Delivered, etc.)

Human Resources Department

Employer's Address

Re: Request for 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 ask for _____ (list accommodation needed here) as a reasonable accommodation under the ADA. As you may know, I have a disability (you may list your disability here or wait for your employer to request documentation that you have a disability) and this accommodation would help me be successful at my job. (If you would like, you can include clarification of how the accommodation will help you be successful at your job).

If you are unable to provide me with _____ (list accommodation needed here), I ask that we engage in the interactive process to determine whether there is an alternative effective accommodation. Please contact me if you have any questions about my request. I would appreciate a written response to this letter.

Thank you very much.

Sincerely,
(Your Name)



Equip for Equality
20 North Michigan Avenue
Suite 300
Chicago, IL 60602

www.equipforequality.org
1-800-537-2632
1-800-610-2779 (TTY)

Have more questions?

Contact our Employment Rights Helpline

1-844-RIGHTS-9 (1-844-744-4879)
employment@equipforequality.org
www.equipforequality.org