

## Employment Law Q&A: 5 steps for dealing with reasonable accommodation requests under the ADA



Ryan Neumeyer | Friday, July 14, 2017

Most employers understand that an employee with a disability may require a reasonable accommodation under the Americans with Disabilities Act (ADA). However, the logistics of assessing the employee's impairment and what accommodation is appropriate can sometimes trip employers up. This Q&A provides practical guidance – in five steps – for dealing with reasonable accommodation requests under the ADA.

### **Q. How do I deal with a request for a reasonable accommodation under the ADA?**

A. To comply with the ADA, employers are required to engage employees in what is called the “interactive process.” The interactive process is exactly what it sounds like: a discussion between the employer and the employee regarding an employee's limitations and potential help the employer can provide that will assist the employee in performing the essential functions of the job. These five steps will help employers engage in the interactive process and deal with accommodation requests:

**Step 1:** The beginning of the interactive process is to determine whether the employee's impairment is an actual disability under the ADA.

The ADA provides that the term “disability” means, with respect to an individual:

- A physical or mental impairment that substantially limits one or more major life activities of such individual
- A record of such an impairment

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- Being regarded as having such an impairment.

Only actual disabilities must be accommodated. An actual disability under the ADA is a physical or mental impairment that substantially limits one or more major life activities.

The Equal Employment Opportunity Commission's regulations favor "broad coverage to the maximum extent permitted by the terms of the ADA..." The regulations state that their goal is to limit "extensive analysis" into whether an individual has a disability, and instead focus on whether employers have "complied with their obligations and whether discrimination has occurred." This means that the majority of impairments are typically found to be substantially limiting a major life activity.

If an impairment is not obviously an actual disability, then the employer should request a medical release and provide a letter requesting the employee's doctor's opinion as to whether his or her impairment does substantially limit a major life activity. An employer could also send the employee to its own physician at its cost, if preferred.

**Step 2:** Once the employer determines that the employee is disabled under the ADA, the employer's representative should consult with the employee to find out his or her specific physical or mental abilities and limitations as they relate to the essential job functions, and to discuss the employee's preferences with regard to accommodations. If a reasonable accommodation is not readily apparent, then move to Step 3.

**Step 3:** The representative may request that the employee provide written documentation from a licensed medical practitioner specifying the employee's functional limitations as they pertain to the job. This documentation may also include the health care provider's suggestions about potential accommodations. Keep in mind that this inquiry should be made in conjunction with the disability inquiry in Step 1, if that inquiry is necessary as well.

An employer may also require an employee to undergo an independent medical exam (IME) that is job related and consistent with business necessity. The IME can be used to demonstrate the limitations of the employee and explain possible accommodations as well.

**Step 4:** Once the employer receives the information from the physician and/or an accommodation is agreed to without a physician's involvement, such accommodation should be put into practice. Although an employee may request a particular accommodation, the law does not require that the employer give the employee exactly the accommodation requested. The law only requires the employer to provide a reasonable accommodation, which may be different from the requested one. If an accommodation that will allow the individual to perform the essential functions of his or her position is not available, then the employer should determine whether leave would assist the employee or whether there is a vacant position available for which the employee is qualified.

**Step 5:** Once an accommodation is identified and implemented, document the nature and conditions of the accommodation (the steps in the interactive process should also be documented). Then, continue to monitor the employee to ensure that the accommodation is effective and that no retaliation occurs against the employee due to his or her disability. Reasonable accommodations are not static, so if the situation changes the employer should re-engage in the interactive process with employee.

The interactive process must be mutual and one side does not have the right to discontinue the process. Make sure that you share information, brainstorm and use outside sources if necessary. Always communicate clearly and honestly about what information is needed.



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