

The Americans with Disabilities Act or the Rehabilitation Act of 1973 (ADA) requires that some employers provide reasonable accommodations to qualified individuals with disabilities who cannot apply for a job, do a job or take part in work benefits without accommodations due to their disability. The Federal government and private employers, state, and local governments that employ 15 or more employees are generally covered by the ADA.

What is a Reasonable Accommodation?

It is a change made by an employer to a job, the workplace or the way things are usually done. This change makes it possible for an applicant or employee with a disability to apply for a job, do a job or take part in work benefits. Work benefits include lunch rooms, fitness centers or training provided by an employer.

Examples of reasonable accommodations are:

- Providing or modifying equipment or tools for the job
- Making facilities accessible
- Part-time or modified work schedules
- Job restructuring
- Providing qualified readers or interpreters
- Changing application forms, tests, training materials, policies
- Working from home
- Medical leave
- Reassignment to an open job

More examples of reasonable accommodations are on the Job Accommodation Network (JAN) website at: <http://askjan.org/>

There are some workplace changes that employers *do not* have to make under the law:

- Removing a basic or essential job duty
- Lowering job quality or quantity standards
- Providing personal need items like glasses, wheelchairs and hearing aids
- Changing rules on work conduct like rules against violence, stealing, horseplay and property destruction

Am I Eligible for a Reasonable Accommodation?

You must be both qualified for the job **and** have (or have a history of) a disability that substantially limits you in at least one major life activity to be eligible.

You are qualified for the job if you meet the skills, experience, education and other job requirements. You must also be able to do the basic tasks of the job with or without a reasonable accommodation. If you are qualified, you are eligible for a reasonable accommodation if you (i) have a physical or mental disability that substantially limits one or more of your major life activities or (ii) have a history of that type of disability. Examples of major life activities are seeing, hearing, eating, walking, learning, and communicating. Major life activities also include the operation of major bodily functions like the immune system, normal cell growth, the brain, the cardiovascular system, the digestive and neurological systems or a particular organ within a body system.

How Do I Ask for a Reasonable Accommodation?

You can ask an employer for a reasonable accommodation. Your family members, health care professional or representative can also ask the employer for a reasonable accommodation for you. This request can be spoken or in writing. There are no special words that have to be used. The request must make it clear that you need a change due to a disability.

It is a good idea to ask for a reasonable accommodation in writing. Keep a copy of that request. This can be very important later if the employer denies or ignores your request. A Sample Accommodation Request Letter prepared by the Job Accommodation Network is attached. This letter has the kind of information that should be in a request.

The employer may have a procedure for asking for a reasonable accommodation. You can ask the employer to give you a copy of it. It is often helpful to follow the employer's procedure, but you do not have to do that.

When Do I Ask for a Reasonable Accommodation?

It is up to you to tell the employer when you need a reasonable accommodation due to a disability. Do not assume the employer knows you need a reasonable accommodation. This is true even if your disability is visible or you told the employer about your disability earlier.

There are certain times when you should think about asking for a reasonable accommodation. One time is when you are having trouble applying or interviewing for a job, doing your job or taking part in work benefits due to your disability. Another time is when you are getting into trouble on the job due to your disability. Think about asking for an accommodation before you get into serious trouble.

You can ask your employer for a reasonable accommodation more than one time. You may need to ask more than once if your disability-related needs change. You may also need to ask again if your accommodation is not working.

What Happens When I Ask for a Reasonable Accommodation?

The employer can ask for documentation when your disability or needs are not visible. The documentation should be about the disability, limitations and possible accommodations related to the workplace issues that you face. You should give the employer this documentation if it is requested. The employer should not ask you about other disabilities that are not related to the workplace issues you face.

The employer may need more information when you ask for an accommodation. Many times the employer will ask you for details about your limitations, the workplace issues you face and your ideas on reasonable accommodations. The employer may also tell you about its ideas for reasonable accommodations. The employer can choose the accommodation to use when more than one works for you.

Can the Employer Deny a Reasonable Accommodation?

Yes, if the reasonable accommodation is an “undue hardship”. This means that the reasonable accommodation is very difficult, expensive, disruptive or would alter the basic nature or operation of the business. If cost is the issue, the employer must count funds it can get from other places before saying the accommodation is an undue hardship. The employer may get funds from places like Vocational Rehabilitation and tax credits to help pay for the accommodation. If there are still not enough funds to pay for the accommodation, the employer can ask you to pay for the difference.

The employer can also deny a reasonable accommodation because it does not believe you are a qualified individual with a disability who is eligible for an accommodation. [See Section “Am I Eligible for a Reasonable Accommodation?” for more information.]

Where Do I File a Charge or Claim When I Believe My Right to a Reasonable Accommodation Is Violated?

For applicants and employees of private employers and state and local governments:

You can file a charge with the Equal Employment Opportunity Commission (EEOC). This charge must be filed within 300 days of the date your accommodation request was denied. You can call the EEOC at: 1-800-669-4000.

For applicants and employees of the federal government:

You can file a complaint with the EEO counselor of the federal agency where you applied or work. This complaint must be filed within 45 days of the date your accommodation request was denied.

How Disability Rights Tennessee (DRT) Can Help:

1. DRT can give you more information about reasonable accommodations.
2. DRT can help you ask for a reasonable accommodation from an employer. DRT will look at your situation. DRT will help you ask for a reasonable accommodation if it thinks you are eligible.
3. DRT can tell you about your options when the Employer will not give you a reasonable accommodation. Each case is unique. Depending on your situation, DRT may advocate on your behalf and/or give you information on other resources that may help you.

If you think your rights have been violated or have questions or concerns about reasonable accommodations, please feel free to contact Disability Rights Tennessee (DRT), previously Disability Law & Advocacy Center of Tennessee (DLAC), at gethelp@disabilityrightstn.org or 800.342.1660.

About Disability Rights Tennessee (DRT)

DRT is a nonprofit legal services organization dedicated to protecting the rights of Tennesseans with disabilities. DRT is the federally mandated Protection & Advocacy (P&A) System for Tennessee. DRT is primarily funded by the Administration for Children and Families, the Substance Abuse and Mental Health Services Administration, the Rehabilitation Services Administration, the Health Resources and Services Administration, and the Social Security Administration.

This document is provided for general reference purposes only. None of the information in this document is legal advice. To obtain legal advice regarding these issues, you should consult an attorney.