

REASONABLE ACCOMMODATIONS IN EMPLOYMENT

The Fact Sheet addresses the duty of employers to provide reasonable accommodations to persons with disabilities under the Americans with Disabilities Act (ADA).

Which employers are required to comply with the ADA?

The ADA applies only to employers with 15 or more employees. However, the Pennsylvania Human Relations Act, which has similar protections to the ADA, applies to employers with 4 or more employees.

What is the employer's obligation to provide accommodations?

The ADA requires employers to provide reasonable accommodations to qualified individuals with disabilities who are employees or job applicants for employment unless doing so would cause an undue hardship.

Who is a "qualified person with a disability"?

A person with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities (such as seeing, walking, learning). Whether an impairment is substantially limiting depends on its nature, severity, length, and the availability of medication or other measures to control the disabling impact of the impairment. A person is qualified if he can perform the job's essential functions with or without reasonable accommodation.

What types of accommodations might be provided?

(1) Changes to the application process (example: more time for tests for applicants); (2) changes to the work environment (examples: provide reserved parking spaces; make restrooms or work stations accessible); (3) changes to the job (examples: re-assign marginal job functions to other employees; provide interpreters; change work schedules; allow unpaid leave); and (4) changes relating to the benefits or privileges of employment (examples: communicate benefit information in alternate formats; have social functions in accessible locations).

Is re-assignment to another job a reasonable accommodation?

Sometimes, but it will be considered only when no other accommodations are effective. An employer is not required to create a new position, remove another employee to create a vacancy, or provide a re-assignment if another employee is entitled to the position under an established seniority system.

When is an accommodation not "reasonable"?

An accommodation is not reasonable if: (1) it requires the elimination of an essential job function; (2) it results in lower production standards; (3) it involves the provision of a personal use item (such as a hearing aid or wheelchair); or (4) it would result in an "undue hardship" to the employer.

What is an "undue hardship"?

Undue hardship means significant difficulty or expense comparing the resources and circumstances of the particular employer with the cost or difficulty of providing a specific accommodation.

Does a person have to ask for an accommodation?

Generally, yes, but the request need not be in writing or mention the ADA.

Can the employer ask for medical documentation?

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

What happens once an employee requests an accommodation?

If the type of accommodation is not obvious, the employer should initiate an informal "interactive process." The employer should assess the job's purpose and essential functions. The employer then should consult with the individual to identify job-related limitations and how they can be overcome; to assess the effectiveness of potential accommodations; and to identify the employee's accommodation preference. However, the employer need not provide the employee's preferred accommodation as long as it selects one that is effective.

What can a person do if his employer denies a requested accommodation?

In Pennsylvania, he must file a complaint with the Equal Employment Opportunity Commission (EEOC) within 300 days of the discriminatory action or with the Pennsylvania Human Relations Commission (PHRC) within 180 days of the discriminatory action. For more information on filing a complaint with the EEOC contact 800-669-4000 (voice) or 800-669-6820 (TDD) or visit its web site at www.eeoc.gov. If the EEOC does not resolve the matter after investigation, the person can file a lawsuit seeking appropriate relief (such as backpay, reinstatement, and damages).

Who can I contact for more information on reasonable accommodation?

The EEOC has a publication on reasonable accommodation which you can access at www.eeoc.gov/documents/accommodation.html. For further information on the issues discussed in this Fact Sheet, please contact Disability Rights Network of Pennsylvania at 800-692-7443 (voice) or 888-375-7139 (TDD).