



Employment Rights of People with Disabilities

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The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all aspects of employment, such as recruiting, hiring, firing, training, job assignments, and promotions.

To be covered concerning a work issue under the ADA, a person's situation must meet certain rules. Their employer must have fifteen (15) or more employees or be a state or local government employer. The

person must be considered to have a disability under the ADA. The person must be a qualified individual with a disability and be able to satisfy the employer's job requirements, by having the required: education, employment experience, skills, or licenses. They must be able to perform the essential functions of the job with or without reasonable accommodations. Essential job functions are tasks that must be performed to get the job done. For example, to work as a delivery driver, you must have a driver's license and be able to drive.

An employee is only required to disclose a disability if they need an accommodation. The employee chooses if and when to reveal a disability. A potential employer cannot ask if the person has a disability or about the nature or severity of the disability during the application

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phase or during a job interview. A potential employer can ask if the applicant can perform the job duties with or without accommodations. They can also ask the applicant to demonstrate or describe how they can do this.

Reasonable accommodations are changes or adjustments to a job or work environment that allows a person with a disability to participate in the job application process, perform the essential functions of a job, and



enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. Examples of reasonable accommodations are a part time or modified work schedule, reassignment to a vacant position, providing or modifying equipment or devices, providing readers and interpreters,

designating an accessible parking space, and making the workplace accessible.

DRWV suggests that requests for accommodations are made in writing, dated, and a copy of the request is kept by the person submitting it. The ADA does not require that accommodations be requested in writing. If you are requesting an accommodation, DRWV suggests you be prepared to provide your employer with information that shows that you have a disability and what limitations you have. For example, you may want to get a letter from your doctor. Your employer may request this information.

The employer is not required to provide the exact accommodation that the employee requests. Obtaining an accommodation is usually not a one-step event. It is often a process and is accomplished by a series of communications and negotiations between the employee and the employer. An accommodation may not be considered reasonable if it causes undue hardship to the employer. Examples of undue hardship are costing too much, being disruptive, and fundamentally changing the nature of the employment. Fortunately, many reasonable accommodations can be provided at low or no cost to the employer. A database of reasonable accommodations can be found online through the Job Accommodation Network at <https://askjan.org> *(continued)*



Employment Rights *(continued)*

A medical exam cannot be required before a job offer. A job offer can be conditioned on passing a required medical exam if all starting employees for the job must take the exam. Disability related information revealed by the exam cannot be used to reject you unless the reasons are job-related and necessary for the job to be completed. An employer cannot refuse to hire a person because of their disability if they can perform the essential functions of the job with an accommodation.

Employment Rights Resources

Information and Technical Assistance on the Americans with Disabilities Act

<https://www.ada.gov>

Job Accommodation Network (JAN)

<https://askjan.org>

West Virginia Division of Rehabilitation Services, Rehabilitation Technology

Services <http://www.wvdrs.org/>

Client *Why we do what we do* Comments

"I just want to say that I think the advocate is really doing a really good job and I would like to say if it wasn't for her and Disability Rights of WV that I would not have the stuff I have now, so thank you all."



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