

# The Reasonable Accommodation Process: A 10-Point Checklist

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The Americans with Disabilities Act (ADA), recently amended by the ADA Amendments Act, requires employers to engage in a good-faith interactive process with a disabled employee to determine an effective reasonable accommodation. Some state disability bias laws impose similar duties. Whether an employer has fulfilled the reasonable accommodation obligation continues to be a hotly contested issue in disability discrimination litigation. The following checklist will help employers properly handle accommodation requests.

1. **Develop a consistent policy.** Train managers and supervisors on what to do when they receive an accommodation request. Standardize documentation and procedures for consistency in handling such requests.
2. **Enable employees to request accommodations.** An employer's obligation to engage in the interactive process is triggered whenever an employer becomes aware that an employee has a disability and requests an accommodation. There may also be an obligation if the employer knows (or should know) that an employee has a disability that is causing problems with work. Notify employees that the company provides reasonable accommodation to employees with disabilities and who to contact. Make it clear that it is the employee's responsibility to request an accommodation.

3. **Analyze essential job functions.** Having detailed job descriptions identifying the essential job functions will allow you to determine whether a reasonable accommodation would enable the employee to perform them.
4. **Consult with the employee.** The first step in the interactive process is to meet with the employee to discuss his or her specific limitations and needs. Solicit suggestions directly from the employee about what type of accommodation will be most effective. Consider having the employee obtain suggestions from his or her health care provider. Remember, however, that employees are not required to identify an effective accommodation so long as they can describe the work-related problems posed by the disability.
5. **Get expert advice.** Once you identify the employee's specific limitations, the next step is to determine what would constitute a reasonable accommodation. Reasonable accommodation might include providing special equipment, restructuring the job, providing a leave of absence, modifying the work schedule, or reassigning the employee. If a reasonable accommodation is not readily apparent, you may need to seek outside advice.
6. **Respond promptly.** Don't let too much time pass once the employee makes an accommodation request. You should act promptly to begin the interactive process and provide a reasonable accommodation, if appropriate. Failing to

act promptly in response to an accommodation request can constitute a violation of the ADA and expose you to liability.

7. **Keep the employee informed.** If there is an unavoidable delay in implementing the accommodation – for example, special equipment will take time to arrive – inform the employee of your efforts and the anticipated timetable and determine if temporary interim measures are appropriate.
  
8. **Choose among effective options.** Employers need to assess the effectiveness of various accommodation options. If there are several options, and one is less expensive, you can choose that option so long as it effectively removes the workplace barrier. You have the ultimate discretion to choose an effective accommodation, but the disabled employee's preferences should be considered. While you can't require an employee to accept an accommodation, an employee who refuses to accept a genuinely effective accommodation may not be qualified to remain in the job.
  
9. **Keep your door open.** Providing a reasonable accommodation does not end your interactive obligations. Continue to monitor the situation to ensure the accommodation is enabling the employee to perform the essential job functions. If the accommodation is not effective in eliminating workplace barriers, resume the interactive process and continue efforts to find an effective accommodation.

10. **Document scrupulously.** Always document your consultations with the employee and the efforts you make to identify and provide a reasonable accommodation. Written confirmation of every accommodation considered and offered should be sent to the employee, so that he or she cannot later deny that a particular accommodation was offered or considered.

The ADA's reasonable accommodation process can be extremely complex. Adopting a consistent policy for dealing with accommodation issues and meticulously documenting the employer's efforts, in consultation with knowledgeable employment law counsel, will go a long way towards minimizing potential liability.

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