



Employee Accommodation Requests under ADA

Title I of the Americans with Disabilities Act of 1990 (ADA) requires an employer to provide reasonable accommodations to qualified individuals (applicants and employees) with disabilities, unless to do so would cause undue hardship.

Reasonable Accommodations

There are three categories of reasonable accommodations:

- Modifications or adjustments to a job application process
- Modifications or adjustments to the work environment that enables an employee with a disability to perform the essential functions of that position
- Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other employees without disabilities

Examples of reasonable accommodations:

- making existing facilities accessible
- job restructuring
- part-time or modified work schedules
- acquiring or modifying equipment
- changing tests, training materials, or policies
- providing qualified readers or interpreters
- reassignment to a vacant position

Examples that are not consider reasonable accommodations:

- eliminating an essential function of the position
- lowering production standards, qualitative or quantitative
- providing personal use items for daily activities both on and off the job, such as a wheelchair or eyeglasses

Undue Hardship

- evaluated on a case by case basis
- refers to financial difficulty (for the institution, not the department) in implementing the accommodation
- also refers to accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business
- morale issues amongst employees is not considered undue hardship

Interactive Process

A request for an accommodation due to a disability starts with the employee or someone on behalf of the employee notifying the University of a need. This can be as informal as a call from a spouse that an employee has had emergency surgery to a more complex scenario of an employee transitioning from a leave covered by FMLA to a continued need for a leave of absence.

- The initial request does not have to be in writing; however, a [request form](#) is preferred.
- The process is led by Human Resources (HR) to ensure confidentiality and that appropriate interaction is taking place with employee, health care provider, and department.
- HR will ask relevant questions to the employee, the health care provider, and the department to make an informed decision about the request.
- The [request form](#) prompts the employee to detail the type of accommodation they are requesting.
- HR may request the employee to have their physician complete a [healthcare provider certification](#) that asks the physician to detail what functions of the job the employee can complete and how the employee's disability may/may not interfere with the essential functions of the job.
- Information should be specific enough that a determination can be made if the employee can perform the essential functions of the job with a reasonable accommodation that does not place undue hardship on the institution.
- Outcomes to include relevant information only will be shared with the employee's supervisor and/or department head.

Human Resources Response to COVID-19

Although the University has an ADA accommodation process in place, new steps have been implemented to ensure employees are up to date and that the process is adequately communicated to employees and departments. Some of the steps are as follows:

- Required each HR Business Partner to participate in a refresher ADA training
- Revised the University's ADA Accommodation Request form to include specific work accommodation requests based on the varied categories of job accommodation types
- Communicate in the monthly Focus on HR/Finance meetings a broad overview of the process and the type of accommodations employees may request
- Expanding the FAQs on the HR web site to further clarify accommodation requests related to COVID-19
- Using the interactive process HR, the employee, and the health care provider have an open and transparent engagement on reasonable accommodations (encouraging flexibility and creativity)

Accommodations Under COVID-19

During the complicated and sensitive pandemic, some employees are requesting accommodations based on underlying medical conditions that may put them at a higher risk of severe illness from COVID-19 according to the Centers for Disease Control and Prevention (CDC). The list of conditions below is current as of July 6, 2020 per the [CDC website](#).

- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease)
- Immunocompromised state (weakened immune system) from solid organ transplant
- Obesity (body mass index [BMI] of 30 or higher)
- Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies
- Sickle cell disease
- Type 2 diabetes mellitus

In these requests, it is important to evaluate the accommodation request carefully to ensure they are being analyzed fairly and completely. In these cases, the following questions may be relevant to ask of the employee and physician as part of the interactive process:

- Would a change to the work environment such as designating one-way aisles; using plexiglass, tables, or other barriers to ensure minimum distances between students and coworkers meet the needs of the disability?

- Would a temporary job restructuring of the marginal job duties (such as errands across campus/buildings or making copies) meet the needs of the disability?
- Would modifying a work schedule to reduce exposure to others in the workplace allow the employee to safely perform the essential functions of the job?
- How does the disability create a limitation?
- How does the requested accommodation effectively address the limitation?
- Can another form of accommodation effectively address the issue?
- How will the proposed accommodation enable the employee to continue performing the essential functions of the position?

Using information discovered during the interactive process, Human Resources will make the determination if and what the accommodation will be for each individual. The determination will be shared with the employee and supervisor and/or department head for implementation.

Employees requesting ADA accommodations must submit the completed [online ADA Accommodation Request Form](#) to the Department of Human Resources.

- Employees are required to provide a [healthcare provider certification](#) regarding their qualifying circumstance or health condition.
- It is the employee's responsibility to ensure that the [healthcare provider certification](#) or other supporting documentation is submitted to Human Resources within fifteen (15) days of the date of application.
- Employees will be required to engage in an interactive process with Human Resources to explore accommodation options.
- Employees do not need to disclose their health condition to supervisors. Medical records and information should only be submitted to Human Resources, where they are maintained in a confidential manner.
- If approved for an accommodation, HR may periodically review the accommodation to confirm that it is enabling the performance of the employee's essential job functions and is not creating an undue hardship for the University. Accommodations may be changed or discontinued if determined by the University not to be enabling the performance of the employee's essential job functions or to be creating an undue hardship.

For assistance with the request process or form, employees may contact the HR Business Partners at hrbusinesspartners@memphis.edu or 901.678.3573.

Resources

EEOC Guidance to Reasonable Accommodation and Undue Hardship:

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada#general>

EEOC Guidance to Coronavirus: <https://www.eeoc.gov/coronavirus>

Job Accommodation Network (JAN): <https://askjan.org/topics/COVID-19.cfm>

CDC Coronavirus web site: <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>