

Requesting and Negotiating ADA Accommodations

July 10, 2024

Thank you for joining today's webinar!
We will begin at 1 p.m. ET
You will not hear audio or see captions until we begin.

Requesting and Negotiating ADA Accommodations

July 10, 2024

AGENDA

Requesting & Negotiating ADA Accommodations

Logistics

Introductions

Requesting & Negotiating ADA Accommodations

Resources

Q&A

Logistics

- TPM is recording and capturing the transcript from today's meeting and will make it available on the Your Ticket to Work website at [EN Essentials Learning Events](#).
- Please feel free to ask a question in the MS Teams chat section.
- You may send additional questions or comments to: ENOperations@yourtickettowork.ssa.gov.
- Closed Captioning is available for participants who join using the MS Teams Application or by using the closed captions link provided in the GovDelivery email announcement for today's call.
 - To turn on Closed Captions in MS Teams, go to the three ellipses at the top of the MS Teams window; click on "More"; scroll down the list to "Language and Speech" then click on "Turn on live captions."
 - When using the link option, paste the link in the browser and it will open a separate window to view closed captions.
- Per the Ticket Program Agreement (Part III, Section 11 subsection I), EN staff are not permitted to record this meeting nor capture the transcript.

Introductions

MODERATOR

Derek Shields

Senior EN Development and Training Manager
Ticket to Work Program Manager

PRESENTER

Lore Lee

Consultant
Job Accommodation Network



Presentation



REQUESTING AND NEGOTIATING ADA ACCOMMODATIONS



AskJAN.org

JAN is a service of the U.S. Department of Labor's Office of Disability Employment Policy/ODEP.

DISCUSSION POINTS

- Job Accommodation Network (JAN)
- Americans with Disabilities Act (ADA) Rights and Responsibilities
- Disability Disclosure
- Requesting and Negotiating Job Accommodations



ASK JAN! WE CAN HELP

- Job Accommodation Network (JAN) was established in 1983
- National, free consulting service
- Expert, trusted, confidential guidance on job accommodations and disability employment issues
- Service of the U.S. Department of Labor's Office of Disability Employment Policy/ODEP



JAN IS A PARTNER IN THE ACCOMMODATION PROCESS

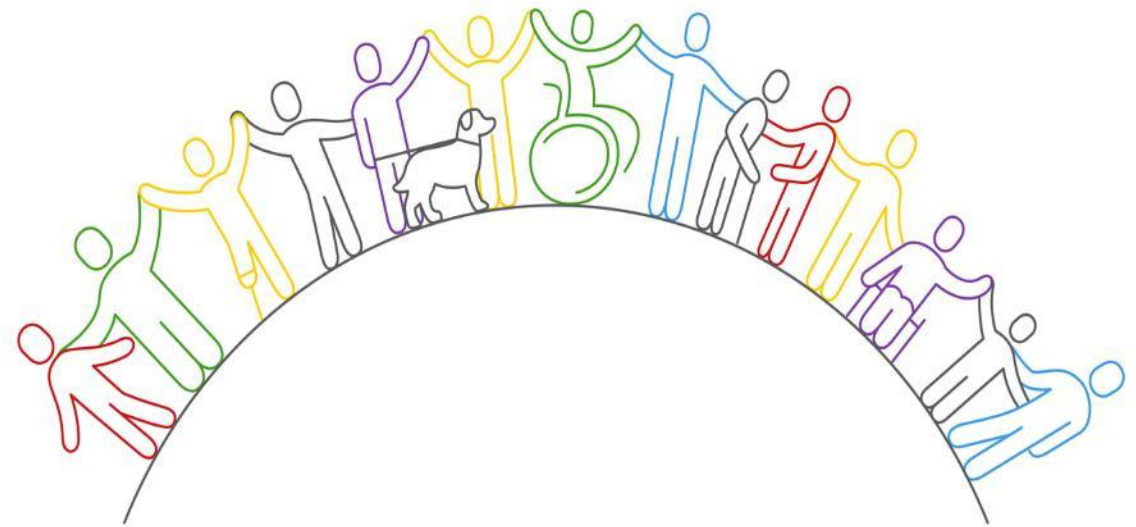


Practical guidance and technical assistance for employers, people with disabilities, and others on:

- Accommodation process strategies
- Job accommodation solutions
- Title I of the ADA and related legislation
- Self-employment and entrepreneurship options for people with disabilities

JAN IS A PARTNER IN THE ACCOMMODATION PROCESS (2)

- JAN consulting staff are highly qualified, experienced, and serve as a member of a specialty team:
 - ADA
 - Cognitive/Neurological
 - Motor
 - Sensory
 - Self-Employment



SERVICES FOR EMPLOYERS & PROFESSIONALS ASSISTING EMPLOYERS (E.G., HR, LEGAL, REHABILITATION, ETC.)



What does JAN do for employers?

- Provides employers of all types and sizes free and confidential one-on-one consultation on workplace accommodations, accommodation process strategies, and Title I of the ADA and related legislation
- JAN does not provide legal advice or legal advocacy and does not have authority to enforce the law

[AskJAN.org](https://www.AskJAN.org) for Employers

SERVICES FOR INDIVIDUALS WITH DISABILITIES & THEIR FAMILY MEMBERS & ADVOCATES



What does JAN do for individuals?

- Provides practical information about requesting and negotiating accommodations, accommodation solutions, and basic information about the employment provisions of the ADA
- JAN does not provide legal advice or legal advocacy and does not have authority to enforce the law

[AskJAN.org](https://askjan.org) for Individuals

HOW TO CONTACT JAN

Visit	AskJAN.org
Call	800.526.7234 877.781.9403 (TTY)
Live Chat	@ AskJAN.org
Email	JAN@AskJAN.org
Social Media	Facebook and LinkedIn – Job Accommodation Network X – @JANatJAN YouTube – JANInformation

WHEN YOU CONTACT JAN...



AskJAN.ORG

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Employers Individuals A to Z ADA Library COVID-19 MyJAN Publications Training About JAN



Have questions about workplace accommodations and the Americans with Disabilities Act (ADA)?
Ask JAN! We can help.
(800) 526-7234 or (877) 781-9403 (TTY)

Employer Live Chat

Follow JAN on Social Media

JAN Job Accommodation Network

about 6 hours ago



Stay-At-Work (SAW) and Return-to-Work (RTW) programs help retain valued employees and enhance the productivity of the workforce. JAN offers a resource that includes practical ideas for creating and maintaining SAW/RTW programs. [AskJAN.org/topics/Return.cfm](https://askjan.org/topics/Return.cfm)



f t v in

Employer Live Chat

Show Reader

A wooden gavel with a brass band, resting on a book, with a scale of justice in the background.

ADA BASICS

ADA, TITLE I

- Federal civil rights law that removes barriers to equal employment for individuals with disabilities who are qualified
 - Prohibits discrimination on the basis of disability
 - Requires reasonable accommodation unless an undue hardship
- Amended in 2008—ADA Amendments Act (ADAAA)
- Rehabilitation Act, Section 501, applies to executive agencies of the U.S. federal government (same non-discrimination/accommodation requirements as the ADA)
- Enforced by the [U.S. Equal Employment Opportunity Commission](#) (EEOC)

COVERED ENTITY (EMPLOYER)

- Job discrimination against *individuals with disabilities* under title I of the ADA is unlawful if practiced by a *covered entity*:
 - Private employer of 15 or more employees
 - State and local government employer
 - Employment agency, labor organization, labor-management committee
- Rehabilitation Act, Section 501, applies to executive agencies of the U.S. federal government (same non-discrimination and accommodation requirements as ADA)

[Your Employment Rights as an Individual with a Disability](#)

[Employees' Practical Guide to Requesting and Negotiating Reasonable Accommodation Under the ADA](#)

COVERED INDIVIDUAL

- ADAAA Definition of Disability
 - **Actual Disability**—A physical or mental impairment that substantially limits one or more major life activities
 - **Record Of**—Past history of a physical or mental impairment that substantially limited a major life activity
 - **Regarded As**—How a person has been treated because of an actual or perceived impairment that is not transitory and minor
- ADA definition of disability is construed broadly—should not require extensive analysis

MUST BE QUALIFIED & ABLE TO PERFORM ESSENTIAL DUTIES

A person with a disability must be qualified for the job:

- Meets the job-related requirements (e.g., education, training, skills)
- Can perform the job's essential functions with or without a reasonable accommodation

[How to Determine Whether a Person Has a Disability under the ADA](#)



REASONABLE ACCOMMODATION

A modification or adjustment to a job or work environment that permits an applicant or employee with a disability to participate in the hiring process, perform the essential job functions, or enjoy equal benefits and privileges of employment

[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#) (EEOC)

- Reasonable means “feasible” or “plausible”—possible to provide without undue hardship
- Undue hardship—an action requiring significant difficulty or expense (high threshold)
- Must be effective for the purpose—enables applicant to compete or employee to perform essential functions

COMMON ACCOMMODATIONS



- Making existing facilities accessible and useable
- Job restructuring
- Flexible or modified work schedules
- Modifying policies
- Acquiring or modifying equipment
- Telework
- Providing a qualified reader, interpreter, job coach
- Access for service or emotional support animal
- Reassignment to a vacant position
- Leave

WHEN MUST REASONABLE ACCOMMODATION BE CONSIDERED?

- When a covered employer is aware that a person with a disability needs one to apply for a job, perform a job, or enjoy equal benefits and privileges of employment
- Request for accommodation triggers the interactive accommodation process
 - Generally, the individual with a disability must inform the employer that an accommodation is needed—employer not expected to guess
 - Request can be stated or written in "plain English" and does not have to mention the "ADA" or use the phrase "reasonable accommodation"

A photograph of two men in an office setting. The man in the foreground is wearing glasses and a light-colored sweater, looking towards the other man. The man in the background is wearing a white shirt and is partially obscured. A dark blue banner with white text is overlaid at the bottom of the image.

REQUESTING A JOB ACCOMMODATION

WHAT IS AN ACCOMMODATION REQUEST?

Any request by an applicant or employee for *an adjustment or change for a reason related to a health condition* is an accommodation request.

- “I am neurodiverse and need interview questions in advance.”
- “I'm having difficulty concentrating because of the side effects of medication.”
- “My wheelchair won't fit under my desk.”
- “I need to go to counseling appointments once a week and want to flex my schedule on those days.”
- Healthcare provider's note states employee needs 3 months of leave for medical treatment and recovery

ADA ACCOMMODATION REQUEST

- May be made by either the applicant, employee, or a family member, healthcare professional, or other representative acting on the individual's behalf
- May be verbal or documented and no specific words/terms are required
- Need not be made at a certain time. For example:
 - May be made after hiring, even if not requested during application process
 - May be made after performance problems have arisen (but employer is not required to forgo or rescind any consequences for what has already occurred)

[Reasonable Accommodation and Undue Hardship Under the ADA \(EEOC\)](#)

ENGAGE IN THE ACCOMMODATION PROCESS

- Follow internal accommodation policies and procedures
- Engage together in the accommodation conversation to learn about the accommodation needs and job responsibilities, and collaboratively explore reasonable and effective accommodation solutions
- When the health condition is not known or the need for accommodation is not apparent, reasonable information or documentation describing the health condition and why the accommodation is needed may be requested

[Reasonable Accommodation and Undue Hardship Under the ADA \(EEOC\) Q. 5-6](#)

ACCOMMODATION PROCESS

A process for
collaboratively
identifying
accommodation
solutions

AskJAN.org A to Z Topic:
[Interactive Process](#)

Step 1

- Recognizing an Accommodation Request

Step 2

- Gathering Information

Step 3

- Exploring Accommodation Options

Step 4

- Choosing an Accommodation

Step 5

- Implementing the Accommodation

Step 6

- Monitoring the Accommodation

GATHERING/PROVIDING REASONABLE INFORMATION

- Employer may discuss with the employee the nature of their health condition and limitations—the individual will likely be the best source regarding symptoms, accommodation ideas, etc.
- If necessary, employer may specify what medical information is needed about the health condition (e.g., the type of impairment the individual has, how it limits a major life activity)
- May request information about how an accommodation would enable the employee to perform job-related tasks
- May not ask for the entire medical record or for information about conditions unrelated to the impairment for which accommodation was requested

MEDICAL INQUIRY RESOURCES

EEOC:

- [Disability-Related Inquiries and Medical Examinations of Employees](#)
- [Reasonable Accommodation and Undue Hardship Under the ADA](#)

JAN:

- [Medical Exams and Inquiries](#)
- [Medical Inquiry in Response to an Accommodation Request](#)
- [Sample Medical Documentation Form](#)
- [Avoiding “The Waiting Place” After Requesting Medical Information](#)

EXPLORING ACCOMMODATIONS

- Collaborate—employer and individual should work together to explore solutions!
- Search for a solution even when the accommodation requestor has not proposed a particular accommodation
- If the proposed solution is ruled out, continue to search for and offer an alternative reasonable accommodation if available, absent undue hardship
- Use resources, like JAN, to help explore accommodation solutions

[AskJAN.org](https://www.AskJAN.org)

NOT A ONE-SIZE-FITS-ALL SITUATION



- Impairments and limitations, as well as accommodation needs, are different based on the individual
- Have the full accommodation conversation
- Don't make assumptions about what an individual can/cannot do, or what accommodation is needed

ASKJAN.ORG A TO Z



[Employers](#)
[Individuals](#)
[A to Z](#)
[ADA Library](#)
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[About JAN](#)

By Disability

[By Limitation](#)

[By Work-Related Function](#)

[By Topic](#)

[By Accommodation](#)

By Disability - Find information on various disabilities, impairments, and conditions.

Addison's Disease	Chronic Fatigue Syndrome/Myalgic	Heart Condition	Phobias
Aging	Chronic Pain	Hepatitis	Poliomyelitis (Polio)/Post Polio
Albinism	Colorblind/Color Vision Deficiency	Human Immunodeficiency Virus (HIV)	Post-Traumatic Stress Disorder (PTSD)
Alcoholism	COVID-19	Huntington's Disease	Postural Orthostatic Tachycardia Syndrome

ASKJAN.ORG A TO Z BY TOPIC



[Employers](#)
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[By Topic](#)

[By Accommodation](#)

By Topic - Find information on accommodations and other ADA issues.

Accommodation Topics	Educators	Light Duty	Students with Disabilities
Americans with Disabilities Act Amendments Act	Effective Communication	Mediation	Success Stories
Assistive Technology (AT)	Emergency Evacuation	Medical Exams and Inquiries	Tax Incentive Topics
Association with a Person with a Disability	Entrepreneurship	National Disability Employment Awareness	Telework

CHOOSING & IMPLEMENTING ACCOMMODATIONS



- Employer chooses and implements reasonable accommodation
- Preference of the individual with a disability should be given primary consideration, when reasonable
- Ask employer to consider trial and short-term solutions—might demonstrate whether the accommodation will be effective, or enable employee to stay at/return to work sooner than anticipated

[Temporary or Trial Accommodations](#)

NEGOTIATING A JOB ACCOMMODATION

- Provide information about why the accommodation was denied
- Provide additional medical or other information if the information initially provided is considered *insufficient* by the employer
- Offer alternative accommodation solutions
- Engage in internal appeal and/or complaint options, if available
- Individuals may contact state protection and advocacy (P&A) organization
- Contact the Equal Employment Opportunity Commission (EEOC) and/or state Fair Employment Practices Agency (FEPA) to file a formal complaint

[Your Accommodation Request Was Denied. What Now?](#)

RESOURCES FOR NEGOTIATING ACCOMMODATIONS

- [Employee Accommodation Inquiry Letter](#)
What to do if an employer doesn't respond to an accommodation request
- [How to Inform an Employer that an Accommodation is Not Effective](#)
What to do if an employer offers an accommodation that doesn't work
- [Dealing with Improper Requests for Medical Documentation from an Employer](#)
What to do when an employer requests too much information
- [Leave as an Ineffective Accommodation](#)
What to do if an employer forces you out on leave after an accommodation request

A woman with dark hair tied back, wearing black-rimmed glasses, a white collared shirt, and a dark blazer, is gesturing with both hands as if in the middle of a conversation. She is looking towards the left of the frame. The background is a blurred office environment with a window and a desk. A dark blue banner is overlaid at the bottom of the image, containing the text 'EXAMPLE RESOURCES' in white, bold, uppercase letters.

EXAMPLE RESOURCES

ADA RIGHTS & RESPONSIBILITIES

- [Employees' Practical Guide to Requesting and Negotiating Reasonable Accommodation Under the ADA](#)
- [Employers' Practical Guide to Reasonable Accommodation Under the ADA](#)
- [Employers' Practical Guide to Reasonable Accommodation During the Hiring Process](#)
- [FAQ: Basic ADA and Accommodation Process Questions](#)
- [Your Employment Rights as an Individual with a Disability](#)
- [Reasonable Accommodation and Undue Hardship Under the ADA](#)
- [Job Applicants and the ADA](#)
- [Preemployment Disability-Related Questions and Medical Examinations](#)
- [Disability-Related Inquiries and Medical Exams of Employees Under the ADA](#)

DISABILITY DISCLOSURE & REQUESTING JOB ACCOMMODATIONS

- [Disability Disclosure Topics](#)
- [Disclosing a Disability Before an Accommodation is Needed](#)
- [Requesting and Negotiating a Reasonable Accommodation](#)
- [How to Request an Accommodation: Accommodation Form Letter](#)
- [Sample Language for Accommodation Request Letters](#)
- [A to Z by Disability...](#)
- [Accommodations Beyond Job Performance](#)
- [Practical Guidance for Medical Professionals: Providing Sufficient Medical Documentation in Support of a Patient's Accommodation Request](#)



QUESTIONS?

Questions

- Please feel free to ask a question in the MS Teams chat section.
- If joining via phone and you wish to ask a question:
 - Press *5 to raise your hand and we will unmute your phone.
 - Press *6 to speak.
- If joining via MS Teams and you wish to ask a question aloud:
 - Raise your hand and we will unmute your mic.
- Please limit questions to one per participant.

You may send additional questions or comments to: ENOperations@yourtickettowork.ssa.gov.



CONTACT JAN FOR MORE INFORMATION

Visit	AskJAN.org
Call	800.526.7234 877.781.9403 (TTY)
Live Chat	@ AskJAN.org
Email	JAN@AskJAN.org
Social Media	Facebook and LinkedIn – Job Accommodation Network X – @JANatJAN YouTube – JANInformation

Thank You

Lore Lee

Consultant

Job Accommodation Network



UPCOMING EVENTS

July 24: WISE Webinar

Ticket to Work and Reasonable Accommodations

August 6: All EN Payments Call

August 28: WISE Webinar

Working From Home with Ticket to Work

[2024 Calendar of Events](#)

Send an email to the EN Development and Training Department at ENOperations@yourtickettowork.ssa.gov with feedback, recommendations or ideas for future EN Essentials events.