

6 Things you need to know about ADA & ADAAA Accommodations

Revolutionize

— Employee assistance programs

The Americans with Disability Act of 1990 (ADA) and the ADA Amendments Act (ADAAA) of 2008 are federal laws that require employers with 15 or more employees to not discriminate against job applicants and individuals with disabilities. However, applicants and employees must be qualified for the job and be qualified to perform the essential functions or duties of a job, with or without a reasonable accommodation.

As well as being a regulatory requirement, it has been proven that effective employee engagement increases employee retention. To better support employees when they are out of work, engage with them to help get back to work or look for early intervention opportunities to help keep employees at work with a reasonable accommodation.

The regulatory landscape increases the complexity of this process, but once you're aware of these 6 elements of the ADA and ADAAA, you can offer better employee support.



1. Interactive Process

When an employee requests an accommodation, employers must engage in an interactive process with the employee. This process should determine what kind of accommodation will allow the employee to return to work and undertake the essential functions of their job. The employer can then determine if this accommodation is reasonable, or if it will cause an undue hardship. A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to perform the essential functions of a job. The interactive process should continue until an agreement is reached.



2. Medical Information

It is considered discrimination to request information regarding an employee's medical condition unless this information is asked of all employees. However, an individual medical examination or inquiry can be made if it is shown to be job-related and consistent with business activity. Any medical information received from employees must be treated as confidential.



3. Job Description

To ensure applicants and employees can meet the essential functions of their job, it is a good idea to have a clear and concise written description of all jobs before hiring for any role. This description can be used as documentation when determining if a reasonable accommodation will allow an employee to perform the essential functions of their role.



4. ADA and FMLA

The leave provision of the FMLA is separate from the reasonable accommodation obligations of employers covered under the ADA. An ADA disability and an FMLA serious health condition are different and must be analyzed separately. It is worth noting that an employee is entitled to group health plan coverage while on FMLA leave, but the ADA does not provide the same coverage for an employee.



5. Undue Hardship

A request for an accommodation under the ADA can be rejected by an employer if they can demonstrate that the reasonable accommodation would impose an undue hardship on their business. There are a variety of factors that can be used to determine if a particular accommodation would impose an undue hardship, including the type of covered entity and the financial resources involved in the provision, as outlined in § 12111 (10) (b).



6. Documentation

Documentation is key in the accommodation process. The entire interactive process needs to be documented along with the accommodation decision. If it is determined that providing the employee with a particular accommodation would cause an undue hardship, this needs to be clearly documented with supporting evidence. This way if a litigation case is ever brought to the employer, they have a documentation trail.

Support Employees When They Need it Most

Hosted on the secure Salesforce Lightning Platform and built by industry experts, the accommodation management software allows you to fully document all aspects of the interactive process on one central platform.

The first of its kind, our cloud-based software solution helps you effectively manage ADA & ADAAA accommodations, to support employees at work and assist employees in returning to work.

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