

CHECKLIST | ADA REASONABLE ACCOMMODATION

Presented by Franconia Insurance & Financial Services

The Americans with Disabilities Act (ADA) is a federal law that requires covered employers to provide reasonable accommodations to employees and applicants with disabilities, except when the accommodation would cause an undue hardship on the operation of the employer's business.

A reasonable accommodation is a modification or adjustment to a job, the work environment or the operations of the hiring process. These modifications enable an individual with a disability to have an equal opportunity not only to get a job but also to successfully perform their job tasks to the same extent as people without disabilities.

This checklist outlines key steps to help employers like you comply with the ADA's reasonable accommodation requirements. Many states have their own laws that provide additional employment protections to employees, so employers must comply with the ADA and any applicable state laws. Accordingly, employers are encouraged to seek legal counsel to address specific issues and concerns.

Employers Subject to the ADA

Covered Employers	Yes	No
Is your organization subject to the ADA? Select "Yes" if your organization is any of the following: • A private-sector employer with 15 or more employees for at least 20 weeks in the current or preceding calendar year; • A state or local government agency with 15 or more employees for at least 20 weeks in the current or preceding calendar year; • An employment agency (such as a temporary staffing agency or recruitment company) of any size; or • A labor organization that operates a hiring hall or has at least 15 members. <i>If you answer "No," you can stop here. However, be sure to check any state employment laws that may apply to your organization.</i>	☐	☒

Interactive Accommodation Process

Interactive Accommodation Process	Complete
Receive a request for an accommodation (or become aware of an individual's need for an accommodation). A request for reasonable accommodation starts an informal, interactive process between an employee (or applicant) and your organization. The employee or applicant should let you know they need an adjustment or change at work for a reason related to a medical condition. This request can be informal, and the individual does not	☐

This checklist is merely a guideline. It is neither meant to be exhaustive nor meant to be construed as legal advice. It does not address all potential compliance issues with federal, state or local standards. Consult your licensed representative at Franconia Insurance & Financial Services or legal counsel to address possible compliance requirements. © 2023 Zywave, Inc. All rights reserved.

Interactive Accommodation Process	Complete
need to mention the ADA or use the term “reasonable accommodation” to start the interactive process under the ADA. In some situations, you may become aware of an individual’s need for a modification by observing them or through a third party (such as a family member, health professional or friend). <i>If the individual declines the need for assistance or accommodation, you can stop here. However, be sure to document the individual’s denial of assistance or accommodation. Check any state employment laws that may apply to your organization.</i>	
Create and maintain separate confidential records of the individual’s request and the entire accommodation process. Start recordkeeping as soon as you receive an accommodation request. Keep documenting as long as the employee remains at your organization. You should document every step of the process, including the request for accommodation, the individual’s medical condition, your interactions with the employee or applicant to discuss options, and why you selected a specific accommodation. To comply with the ADA, these records must be kept confidential and stored separately from the employee’s personnel file.	☐
Gather information about the individual’s disability and functional limitations. When the individual’s disability (or the need for an accommodation) is not obvious or already known, ask the individual for reasonable documentation about their disability and functional limitations. Make it clear why you are asking for this information to verify the existence of an ADA disability and to help identify an effective accommodation. You may require that the documentation about the disability and the functional limitations comes from an appropriate health care provider, such as a doctor, physical therapist, vocational rehabilitation specialist or licensed mental health professional.	☐
Review the individual’s job description. When an employee or applicant requests an accommodation or the need for an accommodation becomes apparent, review the individual’s job description and determine the essential functions of that individual’s job. Additionally, identify any nonessential job responsibilities or tasks that can be reassigned to other employees to accommodate the individual.	☐
Engage with the individual to identify options for an effective and reasonable accommodation. When an employee or applicant requests an accommodation, the appropriate accommodation may be obvious, or the individual may suggest a reasonable accommodation based upon their life or work experience. However, when the appropriate accommodation is not readily apparent, you must make a reasonable effort to identify one. The best way to do this is to consult with the	☐

Interactive Accommodation Process	Complete
employee or applicant about potential accommodations that would enable them to participate in the application process or perform the essential functions of the job.	
Evaluate whether the requested accommodation would create an undue hardship for your organization. An employer does not have to provide an accommodation that would cause an “undue hardship” to their organization. Undue hardship means that the accommodation would be unduly costly, extensive, substantial or disruptive or would fundamentally alter the nature or operation of the organization. Some factors to consider in determining whether an accommodation is an undue hardship are the cost of the accommodation, the employer’s size, financial resources, and the nature and structure of the operation. If a particular accommodation would be an undue hardship, you must try to identify another accommodation that will not pose such a hardship.	☐
Select an effective and reasonable accommodation for the individual. The employer may choose among reasonable accommodations as long as the chosen accommodation is effective, meaning it would remove a workplace barrier that is impeding the employee or applicant. If there are two possible reasonable accommodations, and one costs more or is more burdensome than the other, you may choose the less expensive or burdensome accommodation as long as it is effective.	☐
Identify the existence of a direct threat. Determine whether the individual is a direct threat to themselves or others in the performance of their job. An individual may be denied an accommodation or be terminated under the narrow exception of posing a direct threat to themselves or others. Under the ADA, a direct threat is a significant risk of substantial harm. Assessing the existence of a direct threat should be based on valid medical analysis and other objective evidence. If you determine a direct threat exists, document the threat by identifying the risk caused by the limitations, the potential harm that could result, and any medical or observable facts on which the risk is based.	☐
Implement the selected accommodation and monitor its effectiveness. The duty to provide reasonable accommodation is ongoing. Some individuals require only one reasonable accommodation, while others may need more than one. Others may need one reasonable accommodation for a time and then, at a later date, require another type of reasonable accommodation. If a reasonable accommodation turns out to be ineffective and the employee with a disability remains unable to perform an essential function, you must consider whether there would be an alternative reasonable accommodation that would not pose an undue hardship.	☐

CHECKLIST | ADA REASONABLE ACCOMMODATION

Use this checklist to review your organization's compliance with the ADA's requirement to provide reasonable accommodations to employees and applicants with disabilities. For assistance, contact Franconia Insurance & Financial Services.