



**May 7<sup>th</sup>, 2007**

## Reasonable Accommodation for the Application Process

**1. I have a disability and will need an accommodation for the job interview. Does the ADA require an employer to provide me with one?**

Yes. Employers are required to provide "reasonable accommodation" -- appropriate changes and adjustments -- to enable you to be considered for a job opening. Reasonable accommodation may also be required to enable you to perform a job, gain access to the workplace, and enjoy the "benefits and privileges" of employment available to employees without disabilities. **An employer cannot refuse to consider you because you require a reasonable accommodation to compete for or perform a job.**

**2. Can an employer refuse to provide me with an accommodation because it is too difficult or too expensive?**

An employer does not have to provide a specific accommodation if it would cause an "undue hardship" that is, if it would require significant difficulty or expense. However, an employer cannot refuse to provide an accommodation solely because it entails some costs, either financial or administrative.

If the requested accommodation causes an undue hardship, the employer still would be required to provide another accommodation that does not.

**Example:** *A trucking company conducts job interviews in a second floor office. There is no elevator. The company calls Tanya to arrange for an interview for a secretarial*

*position. She requests a reasonable accommodation because she uses a wheelchair. Installing an elevator would be a undue hardship, but the employer could conduct the interview in a first floor office. The employer must move the location of the interview as a reasonable accommodation.*

### **3. What are some examples of "reasonable accommodations" that may be needed during the hiring process?**

Reasonable accommodation can take many forms. Ones that may be needed during the hiring process include (but are not limited to):

- providing written materials in accessible formats, such as large print, braille, or audiotape

- providing readers or sign language interpreters

- ensuring that recruitment, interviews, tests, and other components of the application process are held in accessible locations

- providing or modifying equipment or devices

- adjusting or modifying application policies and procedures.

***Example:** John is blind and applies for a job as a customer service representative. John could perform this job with assistive technology, such as a program that reads information on the screen. If the company wishes to have John demonstrate his ability to use the computer, it must provide appropriate assistive technology as a reasonable accommodation.*

***Example:** An employer requires job applicants to line up outside its facility to apply for a job, a process that could take several hours. Tara has multiple sclerosis and that makes her unable to tolerate prolonged exposure to temperatures in the 90's. Tara therefore requests that she be allowed to wait indoors where it is air conditioned until the human resources department is ready to take her application. The employer would need to modify its hiring procedure to accommodate Tara.*

### **4. Because of my learning disability, I need extra time to complete a written test. Does the ADA require an employer to modify the way a test is given to me?**

Yes. An employer may have to provide testing materials in alternative formats or make other adjustments to tests as an accommodation for you. The format and manner in which a test is given may pose problems for persons with impaired sensory, speaking, or manual skills, as well as for those with certain learning disabilities. For example, an applicant who is blind will not be able to read a written test, but can take the test if it is provided in braille or the questions are tape recorded. A deaf person will not understand oral instructions, but these could be provided in a written format or through the use of a sign language interpreter. A 30-minute timed written test may pose a problem for a person whose learning disability requires additional time.

**Thus, the ADA requires that employers give application tests in a format or manner that does not require use of your impaired skill, unless the test is designed to measure that skill.**

**Example:** An employer gives a written test for a proofreading position. The employer does not have to offer this test in a different format (e.g., orally) to an applicant who has dyslexia because the job itself requires an ability to read.

**Example:** An employer gives a written test to learn about an applicant's knowledge of marketing trends. Maria is blind and requests that the test be given to her in braille. An individual's knowledge of marketing trends is critical to this job, but the employer can test Maria's knowledge by giving her the test in braille. Alternatively, the employer could explore other testing formats with Maria to determine if they would be effective for example, providing a reader or a computer version of the test.

## **5. When do I have to tell an employer that I need an accommodation for the hiring process?**

It is best to **let an employer know as soon as you realize that you will need a reasonable accommodation** for some aspect of the hiring process. An employer needs advance notice to provide many accommodations, such as sign language interpreters, alternative formats for written documents, and adjusting the time allowed for taking a written test. An employer may also need advance notice to arrange an accessible location for a test or interview.

## Asking for an Accommodation

### **6. How do I request a reasonable accommodation?**

You must inform the employer that you need some sort of change or adjustment to the application/interviewing process because of your medical condition. You can make this request **orally or in writing**, or someone else might make a request for you (e.g., a family member, friend, health professional, or other representative, such as a job coach).

### **7. What happens after I request an accommodation?**

The employer may need to discuss your request more fully in order to understand your disability and why you need an accommodation. **You should respond to the employer's questions as quickly as possible** and be sure to explain how a proposed accommodation would enable you to participate fully in all aspects of the application/interviewing process. If your disability and need for accommodation are not obvious, the employer may ask you for reasonable documentation explaining the disability and why an accommodation is needed.

**Example:** A department store requires applicants to take a written test. Rodney has dyslexia and requests that the test be read to him as a reasonable accommodation. The human resources associate is unfamiliar with dyslexia and requests information about the condition and why the accommodation is necessary. Rodney must provide this information.

### **8. I asked for a specific accommodation, but the employer offered me a different one instead. Do I have to accept it?**

An employer has to offer an accommodation that will meet your needs. If more than one accommodation meets your needs, then the employer may choose which one to provide. You cannot insist on a specific accommodation only because it is a personal preference.

**If the employer's proposal does not meet your needs, then you need to explain why.**

***Example:** Charles is blind and asks that a written test be read to him as a reasonable accommodation. The employer proposes to provide Charles with a braille version of the test, but Charles explains that he cannot read braille. Thus, a braille version would not be an effective accommodation. The employer then proposes to provide Charles with an audiotope version of the test. While Charles preferred to have someone read the questions to him, the audiotope version meets his needs and thus is acceptable as a reasonable accommodation.*

## Discussing Disability with the Potential Employer

The ADA prohibits employers from asking questions that are likely to reveal the existence of a disability before making a job offer (i.e., the pre-offer period). This prohibition covers written questionnaires and inquiries made during interviews, as well as medical examinations. However, such questions and medical examinations are permitted after extending a job offer but before the individual begins work (i.e., the post-offer period).

### **9. What are examples of questions that an employer cannot ask on an application or during an interview?**

Examples of prohibited questions during the pre-offer period include:

Do you have a heart condition? Do you have asthma or any other difficulties breathing?

Do you have a disability which would interfere with your ability to perform the job?

How many days were you sick last year?

Have you ever filed for workers' compensation? Have you ever been injured on the job?

Have you ever been treated for mental health problems?

What prescription drugs are you currently taking?

### **10. May the employer ask me these questions after making a job offer?**

Yes. An employer can ask all of the questions listed in Question 9, and others that are likely to reveal the existence of a disability, after it extends you a job offer as long as it asks the same questions of other applicants offered the same type of job. **In other words, an employer cannot ask such questions only of those who have obvious disabilities.** Similarly, an employer may require a medical examination after making a job offer as long as it requires the same medical examination of other applicants offered the same type of job.

### **11. May an employer ask me whether I will need a reasonable accommodation for the hiring process?**

Yes. An employer may tell all applicants what the hiring process involves (for example, an interview, timed written test, or job demonstration), and then ask whether they will need

a reasonable accommodation for this process. (See Question 16 for a discussion about employers asking about an applicant's need for reasonable accommodation for the job.)

**12. I have an obvious disability. Can an employer ask me medical questions during an interview?**

No. Except as explained in Question 15 below, an employer cannot ask questions about an applicant's disability either because it is visible or because the applicant has voluntarily disclosed a hidden disability.

**13. After I got a job offer, the employer had me take a medical examination in which I revealed I have epilepsy. Can the employer withdraw my job offer?**

While the employer had the right to require a post-offer medical examination, he cannot withdraw the job offer solely because you revealed you have a disability. Instead, the employer can withdraw the job offer only if it can show that you are unable to perform the essential functions of the job (with or without reasonable accommodation), or that you pose a significant risk of causing substantial harm to yourself or others.

*Example: Darla receives a job offer to be a cook at a hotel resort, and during the medical examination she discloses that she has epilepsy. The hotel doctor expresses concern about Darla working around stoves and using sharp utensils. Darla tells the doctor that her seizures are controlled with medication and offers to bring information from her neurologist to answer the doctor's concerns. Darla also points out that she has worked as a cook for seven years without any incidents. The hotel will violate the ADA if it withdraws Darla's job offer based on her epilepsy.*

**14. During the hiring process, I gave the employer medical information that I do not want anyone else to know about. Must the employer keep this information confidential?**

Yes. **The ADA contains strict confidentiality requirements.** Medical information revealed during the hiring process (pre- or post-offer) must be kept confidential, with certain exceptions. The confidentiality requirements protect both information voluntarily revealed as well as information revealed in response to an employer's written or oral questions or during a medical examination.

An employer may share medical information with other decision-makers involved in the hiring process who need it so they can make employment decisions consistent with the ADA. The ADA also permits an employer to share medical information with the following individuals:

- supervisors and managers may be told about necessary restrictions on the work or duties of an employee and about reasonable accommodations

- first aid and safety personnel may be told if the disability might require emergency treatment

- government officials investigating compliance with the ADA

- state workers' compensation offices, state second injury funds, or workers' compensation insurance carriers.

An employer also may use the information for insurance purposes.

<http://www.eeoc.gov/facts/jobapplicant.html>