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Understanding Your Rights

Under federal guidelines in the United States, all employers with 15 or more employees are required to make reasonable accommodations that allow persons with disabilities to complete their jobs effectively. These guidelines were established by the Americans with Disabilities Act (ADA) and are enforced by the U.S. Department of Labor. Additionally, some states require smaller employers to adhere to the same standards.

There is no list of ADA qualifying disabilities- rather the ADA defines a disability as “a physical or mental impairment that substantially limits one or more major life activity.” Under this broad definition ADHD, Autism, and all mental disorders can be considered disabilities. As long as your daily functioning is affected by your diagnosis, you can claim the legal protections afforded to you by the ADA even if you do not socially identify as having a disability.

Just like this is no list of qualifying disabilities, there is no standard list of what can or cannot be a workplace accommodation. The ADA instead broadly defines reasonable accommodations as “any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.”

*NOTE: I am using the terms “reasonable” and “unreasonable” as that is what is used throughout the ADA. Please note that I am not passing judgment on what I personally believe to be reasonable or not. If anyone has any suggestions for alternative language, please let me know.*

Employers are required to honor reasonable accommodations unless they can demonstrate that it would create an undue hardship on the employer– Examples of “unreasonable” accommodations include eliminating core functions of the job, burdening or displacing other employees, or significant financial burden.

Determining whether or not something is an undue burden is a process that takes the unique circumstances of the employer into account. **In general, costs such as purchasing equipment or even paying for a personal assistant have not been found to be unreasonable accommodations under the ADA.** An employer may, however, elect to go with the cheapest of two accommodations if both of them are equally effective*.*

In nonprofit and government settings it is extremely common for agencies to be operating on very tight budgets, however don’t let this discourage you from asking for additional equipment or materials if it is needed to do your job effectively. Items such as white noise machines or a secondary computer monitor are available for less than $100 from many retailers and in the eyes of the ADA, it is extremely unlikely that such a low cost would be accepted as an undue burden.

When determining whether or not an accommodation is an undue burden, the employer must take into account all of their resources as an agency– not just the resources available for your work location or specific position. The calculation cannot include your salary, length of time at the company, or even whether or not your position is permanent. The determination of what is undue is based entirely on the resources available to the company at large. It is also worth noting that fear that other employees will be jealous of the accommodation is not a valid reason to reject the accommodation.

The Dreaded “Productivity” Requirements

Across the field of Social Work a set number of “billable hours” or “contact units” are common requirements for social workers to meet. Under the ADA is it not considered a reasonable accommodation to reduce productivity requirements for employees, as this can be a form of altering the core job expectations. However, this does not mean that you are out of luck and that accommodations can’t help you.

While your employer may not be able to lower your productivity standards, they are required to help you meet your productivity standards through accommodations. It would not be acceptable for your employer to flat out deny all of your accommodation requests. In the process of establishing workplace accommodations, it is acceptable for the employer to suggest alternatives, ask for feedback, or “negotiate” in some way. Your employer is required to provide some sort of accommodation and if they find and propose an alternative solution that meets your needs just as well, then that is acceptable. To reiterate, they cannot simply say no altogether and refuse to make accommodations. If this happens to you, it is within your rights to file a complaint with the local labor authority or even hire a lawyer. (Author’s note: It is also completely valid to decide to stick it out, or look for another job)

List of Potential Accommodations

Remember, there is no standard list for what can or cannot be an accommodation. Feel free to pick and choose from the following, or let these items be a starting point for thinking of other solutions that would be helpful to you personally.

As you read through this list, you may find it helpful to take notes of accommodations that sound supportive to you.

Accommodation for dealing with disruptive noise

1. White Noise Machine
2. Sound Absorbing panels
3. Cubicle doors/shields/shade
4. Relocation of desk/office to an area with less foot traffic and/or noise pollution
5. Noise canceling headphones when doing paperwork
6. Soft background music/ headphones playing sound when doing paperwork
7. Noise-*reducing* earplugs such as Loop which allow you to hear while reducing the intensity of sounds

Accommodation for dealing with disruptive coworkers

1. Permission to keep office door closed in order to preserve focus
2. Receiving communication through written means (text, email, slack) instead of phone calls so that the items can be attended do when it does not interrupt the existing flow
3. Scheduled “do not disturb” hours each week.
   1. Having a sign or visual signal that instructs colleagues to either come back later or send written communication, in order to preserve workflow
4. Regularly scheduled remote work days
5. Shifting work hours to less-busy times in the office (e.g. instead of 9-5, 8-4 or 11-7)
6. Disability Awareness training for supervisors

Accommodation for general focus & time management

1. Employer provided “Time Timer” or “Timeqube” to manage session time and general time management in the office
2. Utilization of small “fidget toys” or thinking putty throughout meetings and sessions with clients
3. Placement of large, easy to read clocks throughout the office
4. Receiving all meeting invites digitally, in order to efficiently sync with office calendar
5. EHR or client scheduling system that has the option to automatically sync with external calendars
6. Placing important deadlines as events on calendar (can also be sent as an invite from supervisor or trusted colleague)
7. Adjusting work schedule to times that avoid rush hour or other frequent roadblocks to timely arrival
8. Employer sponsored Job Coach (seperate from clinical & task supervisor)
9. Documenting that tardiness is not a manifestation of poor attitude or lack of commitment, but rather a symptom of disability

Accommodations for Memory & Forgetfulness

1. Receiving written summary of meetings (e.g. agenda or written notes) afterwards
2. Verbal debriefing following supervision or other important meetings
3. Having instructions and deadlines communicated via email or calendar invite
4. Directing colleagues communicate via written means in order to assist in remembering important information
5. Employer sponsored e-ink note taking tablet
6. Streamlining methods of communication – ie directing all communication to be through one app or source such as email.
7. Task Flow Charts
8. Cue Cards
9. Verbal reminders

Accommodations for Organization

1. Transition to fully digital system as much as possible
2. External assistance with filing papers (either from admin staff, supervisor, or external paid role)
3. Blocked out time monthly for express purpose of filing, organization, tidying
4. Employer sponsored provision of organization aids such as filing cabinets, drawers, baskets, drawer organizers, and so on.
5. “Walk and talk” supervision sessions that take place while filing, organizing, or completing other menial tasks that are difficult to complete
6. Hiring company sponsored Professional Organizer to optimize workspace organization and flow

Accommodations for Productivity

1. Employer provided dual-monitors, in order to facilitate easy side-by-side screen work on the computer
2. Employer provided office layout that allows for concurrent documentation to be completed in session with client (e.g. desk with computer that client can sit immediately next to and also see the screen, ipad or e-ink tablet, or similar rolling desk that is present in most doctor’s offices)
3. Employer sponsored utilization of medical transcription service or software, allowing the employee to dictate notes
   1. As appropriate, a student intern can be utilized to complete notes for sessions they shadowed or transcribe. Can be especially helpful in reducing the burden of group documentation. This is less preferable than other aids that exist for medical transcription.
4. Check-box style progress notes
5. Daily lunch break of at least 30 minutes (research has continually shown that humans are more productive after we rest!)
6. Implementation of strategies that assist with general focus and workflow, see above

Accommodations for Hyperactivity

1. Utilization of small “fidget toys” or thinking putty throughout meetings and sessions with clients
2. Office Furniture Accommodations, including:
   1. Ergonomic Chair/Desk
   2. Standing Desk
   3. Exercise Ball
3. Modified break schedule
   1. Breaks during long meetings

Accommodations for Emotional Regulation

1. Modified Work Schedule
2. Work from Home, or flex days
3. Receiving critical feedback via preferred means
   1. Could be written, verbally from supervisor, verbally from trusted coworker
   2. Walk & Talk Supervision
4. Disability Awareness (specific to your needs) training/consultation for supervisor and/or HR
5. Alternative Lighting (lamps, windows, etc)
6. Flexible Work Schedule
7. Preferential seating in meetings
8. Allowing extra time between meetings/client sessions
9. Rest area/private space
   1. Such as private office, single occupancy restroom with additional seating, or “private call” booth
10. Support Animal

Making Your Request

An employee may make a request for accommodations at any time during employment, even if you did not disclose having a disability during the hiring process.

Whether you will have to disclose your specific diagnosis or provide medical documentation depends on your state laws and individual employer policies. Under the ADA, employers *may* request detailed medical information after you request an accommodation in order to verify your request.