

HR COMPLIANCE OVERVIEW

Employer Considerations for ADA Accommodations in a Remote Work Environment

The Americans with Disabilities Act (ADA) requires employers with 15 or more employees to reasonably accommodate an applicant's or employee's disability. The ADA is enforced by the U.S. Equal Employment Opportunity Commission (EEOC). Failure to comply with the ADA's accommodation requirements can have substantial consequences for employers.

In recent years, remote work has become increasingly common. However, special considerations may apply to employers with a remote workforce when responding to requests for ADA accommodations.

This Compliance Overview addresses some of the considerations for employers when responding to requests for ADA reasonable accommodations made by remote workers.

Highlights

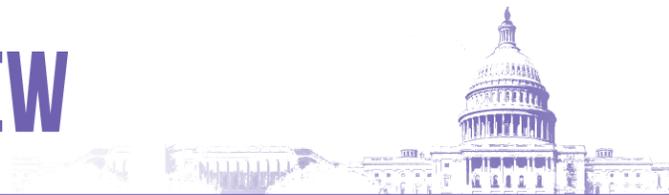
Some considerations for employers providing ADA accommodations in a remote work environment include:

- Identifying and assessing the need for an accommodation;
- Engaging in the interactive process remotely;
- Providing accommodations during the hiring process;
- Obtaining and delivering special equipment;
- Managing privacy and confidentiality;
- Establishing written policies; and
- Training relevant personnel.

LINKS AND RESOURCES

- [Text of the ADA](#)
- EEOC [overview](#) regarding disability discrimination
- EEOC [enforcement guidance](#) on reasonable accommodation and undue hardship under the ADA

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ADA Reasonable Accommodations Overview

The ADA requires employers with **15 or more employees** to provide reasonable accommodations for an individual's disability unless doing so would impose an undue hardship on the employer. A reasonable accommodation generally includes:

- Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for their desired position;
- Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of the position; or
- Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

An employer's duty to provide reasonable accommodations is typically triggered by an employee's or applicant's request for an accommodation (whether made orally or in writing). After an employer receives a request for or becomes aware of the need for an accommodation, the employer must promptly engage in the **interactive process**. The interactive process generally involves an informal collaboration between the employer and the individual that identifies the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. Employers may, but are not required to, provide an individual with their preferred accommodation.

Whether a particular accommodation imposes an **undue hardship** on an employer's business depends on the individual circumstances of the employer, their business and the employee.

Enforcement and Penalties

Individuals alleging violations of the ADA may initiate an action against an employer by filing a charge of discrimination with the EEOC. If there is a local or state law similar to the ADA, individuals may be required to file a charge with the state or local agency that enforces the law, and the EEOC may work with the agency to investigate and resolve the charge. Under the ADA, individuals have **180 days** from the date the alleged violation took place to file a charge with the EEOC. The filing deadline is extended to **300 days** if a state or local agency enforces a state or local law similar to the ADA. Individuals must file an EEOC charge before they may file a lawsuit in federal court.

If a court determines that an employer violated the ADA, the employer may be subject to injunctive relief, back pay, reinstatement or front pay, compensatory and punitive damages, and attorney fees and costs.

Considerations for ADA Accommodations in a Remote Work Environment

Employers have to contend with a variety of considerations when evaluating reasonable accommodations, regardless of the circumstances. However, special considerations may apply to employers with a remote workforce. Therefore, to reduce the risk of noncompliance, employers may consider the following with respect to ADA accommodations in a remote work environment.

Identifying and Assessing the Need for an Accommodation

The first step in an ADA accommodation process is typically an employee's or applicant's request for an accommodation. In making a request, individuals do not need to use any particular language, mention the ADA or use the phrase "reasonable accommodation." Sometimes, individuals may make offhand remarks about how a particular physical

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limitation is affecting their ability to do their job. However, in a remote work environment, there may be less day-to-day interaction with workers that would elicit information regarding a need for accommodation. Therefore, it is important for employers to establish effective processes for identifying a request for accommodation.

In particular, employers may consider providing a streamlined process for remote workers to submit requests for accommodations. For example, employers may provide contact information for a designated individual, such as an HR manager, who will receive and respond to initial requests for accommodations. In each case, employers may consider including clear instructions for employees to submit requests for accommodations, such as in the employee handbook.

Additionally, it can be more difficult for employers to assess an individual's need for accommodation or ability to perform their job functions in a remote work environment. Therefore, it is important for employers to have clearly defined job duties for each role and practices for assessing whether employees may adequately perform such roles.

Engaging in the Interactive Process Remotely

The ADA requires employers to respond to requests and engage in the process in a timely manner. Doing so may be more challenging in a remote work environment than in a traditional in-person environment. For example, the relevant parties may work in different time zones or face other scheduling obstacles. Therefore, it is particularly important for employers with remote workers to implement effective processes that enable the employer to respond efficiently to any requests for accommodations. In all cases, employers should document all efforts to contact individuals regarding their request for accommodations.

Providing Accommodations During the Hiring Process

The ADA requires employers to provide reasonable accommodations for applicants, as well as current employees. Hiring in a remote work environment can pose unique challenges for individuals with disabilities. For example, certain recruiting software may be inaccessible for individuals with visual impairments. To avoid discriminating against individuals with disabilities in the recruitment process, employers should generally offer alternatives to applicants who request a modification for the process, such as offering captioning for a hearing-impaired candidate.

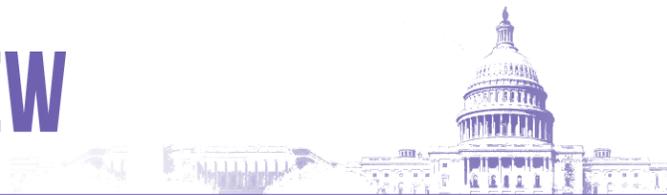
Obtaining Special Equipment

The provision of accommodations for remote workers may be more complicated than for in-person workers. Specifically, employers have less insight into a worker's home and the specific challenges the employee may face in performing their job duties. While the ADA does not require employers to make structural changes to an employee's home, employers are required to provide equipment that enables employees to perform their essential job functions (unless doing so imposes an undue hardship on the employer). Some potential accommodations employers may provide, depending on the nature of the disability, include ergonomic chairs, desks or footrests; specialized keyboards, mice or monitors; noise-canceling headphones; or lighting or visual aid equipment. Employers may also need to arrange shipping, set up support or provide reimbursement. Therefore, employers should establish processes, including finding reliable vendors, for obtaining and delivering special equipment for employees with disabilities.

Managing Privacy and Confidentiality

Under the ADA, employers are required to treat any medical information obtained from a disability-related inquiry or medical examination, as well as any medical information voluntarily disclosed by an employee, as a confidential medical record. Such records should be maintained separately from the employee's personnel file. Employers may only disclose

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such information in limited circumstances to supervisors, managers, first-aid and safety personnel, and government officials investigating ADA compliance.

A remote work environment can make maintaining confidentiality more complicated, as documentation and communication must generally be made over the internet. Therefore, employers should ensure that any networks or databases over which personal medical information is shared are secure and only accessible by the appropriate individuals. Employers should also implement practices to ensure that any telephone or video calls with employees to discuss an ADA accommodation are conducted privately and behind closed doors so other employees cannot hear the conversations.

Establishing Written Policies

To ensure equitable, consistent and compliant treatment of all individuals with disabilities, employers should consider establishing clear written policies and procedures regarding reasonable accommodations. Such policies should be tailored to a remote work environment and the specific challenges raised therein. For example, written policies may include clear procedures for requesting reasonable accommodations, specific policies for managing privacy and confidentiality concerns in a remote environment, and expense reimbursement procedures for the provision of special equipment, as applicable.

Training Relevant Personnel

Employers may also consider training relevant personnel, including HR personnel, managers and supervisors, on their responsibilities with respect to reasonable accommodations under the ADA. Employers may consider including specific examples of how to respond to requests for accommodations in a remote work environment, including ensuring timely communication, assessing an individual's need for an accommodation, ensuring proper documentation and maintaining confidentiality.

Employer Takeaways

Employers that fail to comply with the ADA's reasonable accommodation requirements may be subject to costly litigation and penalties. Therefore, employers should ensure that they understand and are in compliance with all their obligations under the law. Additionally, they should keep in mind the special considerations that apply in a remote work environment.