



11 Beacon Street, Suite 925
Boston, Massachusetts 02108
(617) 723-8455 *Voice*
(800) 872-9992 *Voice*
<http://www.dlc-ma.org>

Western Mass. Office
32 Industrial Drive East
Northampton, MA 01060
(413) 584-6337 *Voice*
(800) 222-5619 *Voice*
email: mail@dlc-ma.org

FREQUENTLY ASKED QUESTIONS AND ANSWERS REASONABLE ACCOMMODATIONS OF DISABILITIES IN EMPLOYMENT

Q: What is a reasonable accommodation?

A: A reasonable accommodation is a change or adjustment to a job or a workspace that allows a person with a disability to apply for a job or to perform the essential functions of a job.

Q: What does "essential functions of a job" mean?

A: Most jobs are made up of more than one function. Very few people go to work and do the exact same thing, all day, every day. Essential functions are those job duties and skills which are necessary to do or be able to do in order to perform the job. In other words, without them the job could not be done.

Q: When is an employer required to provide a reasonable accommodation?

A: Employers are required to provide reasonable accommodations to any person with a disability who is either working or looking for work. The requirement is ongoing. In other words, an employer cannot refuse an accommodation request for an employee just because the employee already receives an accommodation or received one in the past, or because she didn't ask for the accommodation when she began working there.

Q: I'm looking for work right now. Can I request an accommodation to assist me in applying for a job?

A: Yes. If you need an accommodation to be able to participate in the application process, then you may request one, and a potential employer would have to provide it for you as long as it is reasonable. For example, an individual who is deaf may request that a company provide an ASL interpreter during his interview for a job.

Q: What are some examples of reasonable accommodations?

The Protection and Advocacy System for Massachusetts



A: Examples of reasonable accommodation can include:

Changing the employee's work schedule

Restructuring the employee's job

Assigning non-essential functions of the job to other employees

Providing the employee with special equipment, devices or software

Providing the employee with whatever assistance is needed to permit the employee to participate fully in meetings, seminars, etc., such as a sign-language interpreter or a reader

Providing the employee with additional training

Providing the employee with paid or unpaid leave needed due to the disability

This is **not** a complete list of all possible reasonable accommodations, but only a list of **some examples**. Employers and employees should work together to identify the most appropriate accommodation given each of their needs.

Q: Are there any accommodations my employer would not have to provide?

A: Yes. Some accommodations would not be considered "reasonable," and so would not be required. For example, two types of accommodations that an employee might request which would not be considered "reasonable accommodations" are:

- Accommodations that would not be effective in allowing the employee to perform the job's essential functions.

Example: A school bus driver could not reasonably expect an employer to provide as an accommodation that he only be required to work after 6 pm. The nature of the job is such that it can only be performed during hours when transportation to and from schools is needed, i.e. in the morning and early afternoon. The ability to work at these times is therefore an essential function of the job.

- Accommodations that would be an undue hardship on the employer. Undue hardship means that the accommodation would pose a significant difficulty or expense on the employer.

Example: A paralegal for a small law firm could not expect as a reasonable accommodation that her employer hire a full time assistant to do those things that she cannot do because of her disability. This is an undue hardship because the accommodation is too expensive.

Q: I want to ask my employer for an accommodation that I think is reasonable. How do I go about asking for it?

A: To make a reasonable accommodation request, all you need to do is discuss your request with someone at your employer's offices who has the power to act on your request. Depending on how large or small your employer is, that might be an officer of the company, your direct supervisor, a human resources representative, or some other company official. Some employers have a person whose entire job it is to deal with such requests – if yours does, then that's the person to approach. If you're not sure who to ask, then your supervisor is probably the best place to start.

As for the request itself, while it doesn't need to be in writing, it is a good idea whenever possible to put it in writing, or to follow up any verbal request that you make with a written memo. It does not need to be formal. Issues your request should address are:

- What is your disability? Describe it in as simple terms as you can – remember that the person reading your request is not a doctor. If your disability is not obvious or already known to your employer, it would be helpful to provide a letter from a doctor or other medical professional explaining why you need the accommodation.
- How does your disability affect your ability to do your job? Be as specific as possible. The more specific this information is, the easier it will be for your employer to understand why you need what you are requesting.
- What reasonable accommodation are you requesting? Give several suggested accommodations that you believe will help you perform your job. If your request involves purchasing some item, you might want to include an estimate of the cost. If it's time off you need, you should give an estimate of how much time.

Q: I prepared and submitted my request. What happens next?

A: What happens next is that your employer should respond within a reasonable period of time. If necessary, you and your employer should discuss your request in greater detail and work together to come up with an accommodation that will work well

for everyone. Your employer may have an alternate accommodation idea, different from what you asked for. It's important that you consider the employer's idea and, if you don't think it will work, explain clearly why it won't work. Also, be prepared to offer other suggestions. The idea is for this process to be a joint effort of the employer and employee to find a solution that will allow you to do your job and enable your employer to run its business.

If your employer offers a different accommodation, ask yourself: "Will this accommodation allow me to perform the tasks my job requires?" If the answer to this question is "yes," then perhaps the employer's offered accommodation will solve the problem. If not, you need to explain to the employer what is wrong with its proposed accommodation.

Here are a few suggestions for this collaborative process:

- Keep copies of all documents that go back and forth during the process outlined above. They will be important if you are unable to reach an agreed resolution.
- There are certain types of accommodations that are not reasonable to expect, such as:
 - A promotion
 - Creating a new job that does not exist in the organization
 - Bumping another employee from a job in order to give it to you
 - An indefinite leave of absence

Q: Can my employer ask me to submit medical support for my request?

A: Yes. An employer may ask for reasonable documentation regarding a person's disability and/or functional limitations so that it can assess the employee's request for accommodation. However, this does not mean that an employer has the right to look into an employee's entire medical history. Reasonable documentation means only that documentation which is needed to establish that a person has a disability and needs an accommodation as a result of the disability.

Q: I did everything you said but my employer didn't do any of the things you said they're supposed to do. What do I do now?

A: First, make sure that you have waited a reasonable time after making your request before taking any other actions. (This is one reason why it's better to make the request in writing; letters have dates on them, which will show that you waited a reasonable time before doing anything else.)

If you have waited that reasonable time, then do the following:

- If you work for an employer that has an internal grievance or dispute resolution process, file a complaint stating what accommodation you asked for, when you asked for it, and that no action was taken (or that your request was refused).
- If you are a union member, you can use your union's grievance procedure with the employer and file a complaint.
- If you are a Federal employee, you must file a complaint with your agency's EEO office within 45 days of your employer's denial of your request for accommodation.
- If you are not a Federal government employee, you can file a complaint with the Massachusetts Commission Against Discrimination (MCAD) or the Equal Employment Opportunity Commission (EEOC).

If you need to file a complaint with MCAD or EEOC, you have only 300 days, about ten months, from the time when your request was denied or your employer failed to respond to your request.

Q: How do I contact MCAD or EEOC to file a complaint?

A: MCAD and EEOC can be contacted at the following addresses/telephone numbers:

Massachusetts Commission Against Discrimination
 One Ashburton Place
 Boston, MA 02108
 (617) 994-6000
 TTY/TDD (617) 994-6196

Springfield Office
 436 Dwight Street
 Springfield, MA 01103
 (413) 739-2145

U.S. Equal Employment Opportunity Commission
 475 John F. Kennedy Federal Building
 Boston, MA 02203
 (617) 565-3200
 TTY/TDD (617) 565-3204