

A Quick Guide to ***MENTAL HEALTH, DISABILITY, AND WORKER'S RIGHTS***



If you have a mental illness or psychiatric disability, you have the legal right to a safe, healthy, and dignified working environment.

What Does this Mean for Me?

- You have the right to request **reasonable accommodations** to modify your working conditions so that you can perform your duties safely and effectively.
- Your **employer is obligated** to provide you with reasonable accommodations unless it would cause them undue hardship.
- In most cases **you are not required to disclose your mental health illness** to an employer unless you are requesting a reasonable accommodation.
- The ADA covers a wide range of mental health, psychiatric, and developmental impairments as protected disabilities, **including but not limited to depression, anxiety, PTSD, BPD, ADHD, and Autism**. The ADA does not have an official "list" of qualifying disabilities, but rather focuses on the **level of impairment the condition may have on your ability to perform your job safely and effectively**.
- You have the right to take **FMLA leave** from work (qualifying employers only) if your illness becomes more serious or chronic and you are unable to perform your duties safely. (See last page for more details)

IMPORTANT CONSIDERATIONS



Mental Health and ADA:

The ADA defines disability as *a physical or mental impairment that substantially limits one or more major life activities.*

<https://adata.org/factsheet/health>

Major Life Activities & Substantial Limitation

- Major life activities that are often impaired by mental conditions include **sleeping, concentrating, thinking, communicating, interacting with others, eating, taking care of yourself, regulating your emotions and thoughts, and impairments to any bodily system.**
- Under the ADA, you are substantially limited if your ability to perform these tasks is **limited in comparison to the general population.**
- **You do not have to be severely or permanently impaired** to request an accommodation.
- If you are using medication or other treatments to manage your illness, **you still have a disability** that may require an accommodation. Employers may not use this information to deny your request. <https://www.disabilitysecrets.com/resources/depression-disability-under-ada.htm>

WILL I BE TREATED DIFFERENTLY AFTER DISCLOSING MY MENTAL HEALTH DISABILITY?

Legally speaking, your employer may not fire, transfer, demote, or otherwise treat you differently because of your disability disclosure. At the same time, there are employers who hold bias against mental health disability and may try to do the above things.

If your employer discriminates against you following your disclosure, you have a legal right to file a lawsuit with the Equal Employment Opportunity Commission (EEOC) and your state's human relations agency. (See last page for more information)

MAKING A REQUEST FOR ACCOMMODATION



Is There a Formal Process?

There are no official forms for making an ADA accommodation request, although your employer might have a form that they like to use.

Simply disclosing your disability to your employer and making the request begins what is called the *Interactive Process*, at which point your employer is legally obligated to participate.

Regardless of how you make this request, it is always advisable to use clear, direct language and have some documented evidence of the request and your employer's response.

ACCOMMODATION REQUEST TEMPLATE:

https://docs.google.com/document/d/1lM9c2Ym-rd4rIGCH4GJZ59rY_pUd_-M7WZeqYl8WkTe0/copy

Please note that this is only an example. You have the right to provide as little or as much detail as you want when you are making the request, with the understanding that your employer may ask you for more information.

This document prepared by the EEOC can be given to your your mental healthcare provider to help them understand your respective rights and responsibilities in the ADA accommodation process:

<https://www.eeoc.gov/laws/guidance/mental-health-providers-role-clients-request-reasonable-accommodation-work>

The Interactive Process

- After making your request, your employer may ask you to put it in writing. A link to a template has been provided to the left to give you an idea of how this might look.
- After your request, your employer may ask for medical documentation of your condition, how it impacts your ability to work, and why the accommodation would be beneficial
- Your employer may request more information from your doctor, but only up to sufficient information to confirm your disability and need for accommodation.
- If your employer denies your request, they must provide reasoning as to why this would cause them undue hardship.

The Interactive Process is not meant to be adversarial. It was designed to facilitate a good faith dialogue between employees and employers. If you feel that your employer is acting in bad faith, not adhering to the process, or otherwise discriminating you after your request, see the last page for a link to EEOC resources.

EXAMPLES AND TESTIMONIALS



What Kind of Accommodations Could I Request?

The ADA does not specify what types of accommodations you can request in particular. As long as what you are requesting does not cause undue hardship to your employer, it is considered reasonable and eligible.

Some Examples:

- Someone experiencing depression might need schedule adjustments, time off to attend therapy appointments or modifications to work assignments.
- Someone with generalized anxiety may need to have access to breaks or a designated quiet space in order to ground themselves as needed.
- Someone with ADHD may need access to a private space when doing work that requires intense focus to complete.
- Someone with PTSD may need a working environment that limits specific triggers such as loud noises, crowds, or aggressive communications.
- An autistic employee may need clear written communication for all directives that may have otherwise only been given verbally.

It is important to note that these are only examples. When it comes to your health, YOU ARE THE EXPERT. You know what you need to be safe, healthy, and successful at work, and you have the right to request these things.

"I put in an accommodation request so that my principal could no longer have "gotcha" meetings without warning and context. He was obligated to provide me the details of any in-person meeting ahead of time, including what questions he was planning to ask and what information would be shared. I also requested that any and all in-person meetings with him and I be held after student dismissal. I needed these accommodations so that I could have adequate processing time before and after our interactions due to my anxiety disorder."

- Sarah, Art Teacher

"My accommodation is actually headphones. They help me focus and keep my anxiety down to a manageable level. I had 2 team leads bug me because they actually had to get my attention before they started talking to me. They bugged me so bad that I had to go to my supervisor multiple times and have him explain that not only is it company policy, but also considered an ADA accommodation."

- Amy, Healthcare Worker

DEFINITIONS AND MORE RESOURCES



The Americans with Disabilities Act (ADA):

The ADA is a civil rights law prohibiting discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. <https://adata.org/learn-about-ada>

Accommodations on the Job:

Accommodations are **any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities**. Employers must provide reasonable accommodations to applicants and workers with psychiatric disabilities (and other disabilities) unless this causes undue hardship. <https://adata.org/factsheet/health>
<https://www.eeoc.gov/laws/guidance/enforcement-guidance-ada-and-psychiatric-disabilities>

Family Medical Leave Act (FMLA):

FMLA is a law that helps protect your job when you need to take time off for your medical needs. You can also use FMLA to take care of a spouse, child, or parent. It allows you to take 12 weeks off of work per year (as defined by your employer) while maintaining your benefits and ensuring you will have your job when you return. In order to qualify you must work for an employer with over 50 employees, and have worked there for at least 12 months (need not be consecutive). You will also likely have to provide medical documentation.

<https://screening.mhanational.org/content/can-i-use-fmla-mental-health/>

ADDITIONAL RESOURCES

Job Accommodation Network - Resources and Counselors to help guide you in requesting an accommodation - www.askjan.org

EEOC - Information about ADA accommodations, mental health, legal rights, and recourse for discrimination - <https://www.eeoc.gov/laws/guidance/depression-ptsd-other-mental-health-conditions-workplace-your-legal-rights>