

The Employers' ADA Handbook: Accessibility Hour

Learner's Guide

Table of Contents

| | | |
|--------------------------------|-------|-------|
| Overview | Page | 2 |
| Guidance on Title I of the ADA | Pages | 2-5 |
| Reasonable Accommodations | Pages | 5-14 |
| Funding | Pages | 14-15 |
| Common Scenarios | Pages | 15-19 |
| Conclusion | Page | 19 |
| Resources | Pages | 19-23 |

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Overview

Opportunities for Ohioans with Disabilities (OOD) supports employers in creating workplaces that are diverse and inclusive of employees with disabilities. One way OOD does this is through providing consultations and training on navigating Title I of the Americans with Disabilities Act, known as the ADA. This learner’s guide for “Accessibility Hour” is the fifth in a five-part series and addresses some of the most common questions we receive from employers. The topics discussed include:

- Guidance on Title I of the ADA
- Reasonable Accommodations
- Funding
- Common Scenarios

The information included is for educational purposes, is not an exhaustive list, and is not intended as legal advice.

Guidance on Title I of the Americans with Disabilities Act (ADA)

Title I makes it unlawful to discriminate against individuals with disabilities in all aspects of employment. The purpose of Title I is twofold. First, it ensures individuals with disabilities have access to the same employment opportunities as all individuals. Secondly, it requires employers to provide reasonable accommodations to qualified applicants and employees with disabilities when needed, unless doing so causes an undue hardship.

Title I is regulated and enforced by the Equal Employment Opportunity Commission (EEOC). The EEOC has published guidance to assist employers in following their responsibilities under Title I. Content from this guidance informs the content of this learner’s guide. For a full list of guidance used in this learner’s guide, see the resources section in the final pages of this document.

Frequently referenced EEOC guidance can be found through these resources:

- “Coronavirus and COVID-19” on the EEOC [website](#).
- “Guidance (by Subject Area)” on the EEOC [website](#).
- “ADA Guide for Employers and Businesses” on the Great Lakes ADA Center [website](#).
- “ADA Library” on the Job Accommodation Network (JAN) [website](#).
- “U.S. Equal Employment Opportunity Commission” on the JAN [website](#).
- “ADA Title I Employment Regulations: 29 C.F.R Part 1630” on the New England ADA Center [website](#).

Frequently Asked Questions (FAQs) pertaining to Title I are answered in this section.

FAQ: When should an individual with a disability disclose their disability?

Answer:

Individuals with disabilities are not required to disclose their disability and it is their choice to decide whether to do so. To request a reasonable accommodation, an individual must disclose their disability. A reasonable accommodation may be requested at any point in the hiring process or during employment. Although not required, it is advised that an individual with a disability disclose their disability when they encounter a barrier with participating in a work-related activity, such as completing a job application,

performing an essential function of the job, or accessing a benefit of employment such as parking and entering the facility.

The decision to disclose a disability can be a difficult one. When considering whether to disclose, individuals with disabilities may have reasons why they wish to disclose and reasons why they wish not to disclose.

Reasons individuals may wish to disclose:

- To receive protection under Title I for reasonable accommodation at work,
- To relieve the distress associated with not disclosing, and
- To develop a support system.

Reasons individuals may wish not to disclose:

- Fear of being viewed negatively by others,
- Fear of being questioned that the condition is real, and
- Fear of being accused of trying to obtain special privileges.

FAQ: May an employer ask individuals to voluntarily self-identify a disability as part of an affirmative action plan?

Answer:

An employer may invite applicants and employees to voluntarily self-identify a disability when the employer is using the information to benefit individuals with disabilities or when the employer is fulfilling an affirmative action requirement under a federal, state, or local law. In doing so, the employer is required to perform an action that benefits individuals with disabilities and the invitation to self-identify must be necessary to provide the benefit.

Under Title I, the employer is required to take these actions when asking individuals to self-identify:

- Clearly communicate in all written questionnaires (or orally if a written questionnaire is not used) that the requested information is being used strictly for actions and/or obligations related to an affirmative action plan,
- Clearly communicate that the requested information is voluntary, will be kept confidential according to ADA criteria, and will be used in accordance with the ADA, and
- Clearly communicate that declining to provide information will not result in adverse treatment.

FAQ: What conditions are considered disabilities under the ADA?

Answer:

The name of a disability, medical condition, or impairment itself is not sufficient to determine whether an individual meets the ADA's definition of disability. The ADA's definition of a disability is a legal definition, not a medical one, and varies from the definition used by other entities and laws. The ADA defines a person with a disability as "...a person who has a physical or mental impairment that substantially limits one or more major life activity." The ADA definition also includes individuals with a record of such an impairment and individuals regarded as having such an impairment. The ADA also prohibits discrimination against a person based on their association with a person with a disability.

Neither the ADA or the EEOC provides an exclusive list of individual diseases, diagnoses, or conditions that qualify as a disability. Instead, the ADA defines disability as a substantial limitation based on a physical or mental impairment. To determine a substantial limitation, consider the following:

- The nature and severity of the impairment,
- The length of time the impairment will last or is expected to last, and
- The long-term impact of the impairment or the expected long-term impact.

A substantial limitation does not mean the individual with a disability cannot perform a major life activity or that it is significantly or severely restricted. Determining whether an impairment is substantially limiting is not intended to require an extensive analysis. Instead, it should be based on a comparison of the ability of “most people in the general population” with the intention of Congress that this be “construed broadly in favor of expansive coverage.”

By nature, some disabilities do substantially limit a major life activity. The ADA National Network resource “[The Americans with Disabilities Act Questions and Answers](#)” includes a list of conditions which should “easily be concluded” to be a disability. The list includes these examples of conditions: “deafness, blindness, intellectual disability, partially or completely missing limbs, mobility impairments, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV infection, multiple sclerosis, muscular dystrophy, major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia”.

However, other disabilities may create a substantial limitation for some individuals and not others. This determination is unique to each individual and must be determined on a case-by-case analysis.

Here is an example of determining whether an impairment is substantially limiting from JAN:

- “An individual who had been employed as a receptionist-clerk sustained a back injury that resulted in considerable pain. The pain permanently restricted her ability to walk, sit, stand, drive, care for her home, and engage in recreational activities. Another individual who had been employed as a general laborer had sustained a back injury, but was able to continue an active life, including recreational sports, and had obtained a new position as a security guard. The first individual was found by a court to be an individual with a disability; the second individual was found not significantly restricted in any major life activity, and therefore not an individual with a disability.”

OOD’s on-demand [webinar](#) “The Employers’ ADA Handbook – Title I Overview” provides additional information on the definition of disability, major life activities, and the criteria for determining a substantial limitation.

FAQ: Who do I contact for ADA services?

Answer:

OOD offers Worksite Accessibility Services for employer partners at no cost to consult on accessible work environments, workplace barriers, possible reasonable accommodation solutions, and best practices for navigating Title I of the ADA. More information on these services is available on the OOD [website](#). In addition to the services available from OOD, additional resources are available to employers which offer practical guidance and best practices for navigating Title I of the ADA.

The ADA National Network is a comprehensive [resource](#) for all five titles of the ADA, including Title I. The network has 10 regional centers which offer technical assistance, training, and publications to educate on the ADA and help to identify effective solutions for implementing the law. Ohio is in the Great Lakes Region. Information about the resources available from the Great Lakes Region is available on their [website](#). The Northeast ADA Center’s [resource](#) “The Small Business at Work Toolkit” offers employers resources and practical advice for following Title I when hiring and retaining qualified employees with disabilities.

The Job Accommodation Network (JAN) is a federally-funded source of guidance on workplace accommodations and disability employment issues. JAN offers an “A to Z of Disabilities and Accommodations” [resource](#) which organizes topics by disability, limitation, work-related function, topic, and accommodation so employers may find the information they are looking for easily. In addition, JAN offers a “Workplace Accommodation Toolkit” [resource](#) which includes information and examples for creating disability-inclusive workplaces, accommodation policies and processes, accommodation forms, and includes videos demonstrating best practices for inclusive behaviors. Visit JAN’s [website](#) for more information.

The Equal Employment Opportunity Commission (EEOC) has a “Small Business Resource Center” on its [website](#) which provides information for employers on federal employment discrimination laws, including the ADA. This resource includes employer requirements, tips, fact sheets and videos. In addition, the EEOC offers small business assistance on its [website](#) through training and consultations with its small business liaisons. Contact information for the small business liaisons is available on the EEOC [website](#).

Reasonable Accommodations

Title I of the ADA requires covered employers to provide reasonable accommodations for qualified applicants and employees when one is needed, unless doing so causes an undue hardship. A reasonable accommodation is a change in the workplace or a work process that enables an individual with a disability to access the hiring process, perform the job, and/or enjoy the privileges of employment. Undue hardship is an accommodation that is too costly or difficult to implement and is determined through an individualized assessment based on criteria from the EEOC guidance.

Frequently Asked Questions (FAQs) pertaining to reasonable accommodations are answered in this section.

FAQ: Are employers required to create a formal process for providing reasonable accommodations? What is the best way to navigate the ADA process with an employee? What are best practices for providing Title I reasonable accommodations, including identifying and implementing effective solutions?

Answer:

No, the ADA does not require employers to create a formal process or procedures to provide reasonable accommodations. Guidance from the EEOC states “a request for reasonable accommodation is the first step in an informal, interactive process between the individual and the employer.” However, creating a formal reasonable accommodation process is a best practice to ensure requests for reasonable accommodations are received and acted upon quickly and effectively. Here are two resources which offer best practices for creating and following a reasonable accommodation process:

- Job Accommodation Network's resource "[Interactive Process.](#)"
- Opportunities for Ohioans with Disabilities' webinar "[Navigating the Reasonable Accommodation Process.](#)"

When an applicant or employee communicates a problem with the hiring process or in the workplace and relates this to a medical condition, the employer should treat this as a request for reasonable accommodation and promptly start the interactive process.

The first step is to gather the necessary information to process the request. This should be an interactive collaboration between the employee with a disability and the employer to clarify what the employee needs and to determine an effective solution. Each request for an accommodation is considered on a case-by-case basis as each employee, disability, workplace, and employer is unique.

When the disability or the need for a reasonable accommodation is not obvious, the employer may ask the applicant or employee questions or request medical documentation to analyze the situation and make an informed decision. The EEOC offers [guidance](#) which addresses medical inquiries and documentation regarding what is permitted to be requested, what professionals may provide documentation, and confidentiality of medical information.

Next, the employer and the employee should explore options to overcome the workplace barrier. Ask the employee what ideas he/she has about what might be helpful. The employee often knows what accommodations will work best. When the employee and the employer do not know what the effective solution is, outside sources are available to assist. Here are some examples of sources to consider:

- With the employee's permission, ask the employee's medical provider for recommendations or to comment on an accommodation being considered.
- [OOD](#) provides Ohioans with disabilities services to find and keep a job. Vocational Rehabilitation (VR) services are customized through assessments and one-on-one meetings with professional VR counselors.
 - Interested Ohioans with disabilities may visit www.oodworks.com to learn about VR services, take a self-assessment, create a profile, and apply.
- JAN is a federally-funded source which offers guidance on workplace accommodations and disability employment issues through consultations and resources on their [website](#).
- The ADA National Network provides guidance and training on how to implement the ADA and has ten regional centers. Ohioans can consult the Great Lakes region through their [website](#).

When it is not clear whether a selected reasonable accommodation will be effective, a trial period can be considered. The trial should be supported with a written agreement between both parties that indicates the reasonable accommodation is being tested, states how long the trial will last, and describes what will happen if the accommodation does not work.

Once a reasonable accommodation is identified, it is helpful to create a plan to implement the solution successfully. Some accommodations are simple and easy to implement while others are more involved. Factors to consider when implementing an accommodation include installing and maintaining equipment and software, training on how to use new equipment and software, coordinating outside services, and communicating the use of a reasonable accommodation with necessary parties.

For continued success, reasonable accommodations need to be periodically monitored for effectiveness. Once an accommodation is being used successfully, encourage ongoing communication with the employee. Advise the employee that you will be checking on the effectiveness of the accommodation periodically. Advise the employee of whom to inform if the accommodation stops being effective or when an additional or different accommodation is needed.

FAQ: How many reasonable accommodations become too many and become an undue hardship?

Answer:

The responsibility to provide a reasonable accommodation for a qualified individual with a disability is an ongoing obligation and each request must be considered on a case-by-case basis. Often individuals with disabilities do not need reasonable accommodations to perform the job, but when one is needed, he/she may need only one accommodation while others may need more than one. Individuals with disabilities may need another accommodation or a different one when there is a change with the disability or in the work environment. At times, individuals with disabilities may only need a reasonable accommodation at certain times, such as when experiencing a flare-up of a condition.

An individual with a disability is entitled to accommodations that are reasonable and necessary for participating in a work-related activity. Thus, an employer must consider each request for a reasonable accommodation on a case-by-case basis through an individualized assessment.

An employer is not required to provide an accommodation which causes an undue hardship. An undue hardship means the accommodation is too costly or difficult to implement. Determining undue hardship must be based on an individualized assessment of the current situation. Here are the factors the EEOC guidance advises to consider when assessing undue hardship:

- “nature and cost of the accommodation”,
- “overall financial resources of the facility making the reasonable accommodation; the number of employees employed at this facility; the effect on expenses and resources of the facility”,
- “overall financial resources, size, number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity)”,
- “the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer”, and
- “the impact of the accommodation on the operation of the facility”.

If an accommodation results in an undue hardship, the interactive process should continue to determine if another accommodation exists that is effective and reasonable. When no such accommodation is identified, the employer should consider whether reassignment to a vacant position is an option. When an employer is assessing the cost of an accommodation, Congress intended for employers to consider their net cost after applying outside funding sources or tax benefits they are eligible to receive.

Employers must not base the determination of undue hardship on a generalized conclusion, fears or prejudices toward the individual's disability, or the possibility of the accommodation negatively impacting the morale of coworkers.

FAQ: My team sometimes has concerns that the reasonable accommodation is setting a precedent that we can't keep up.

Answer:

Some employers are concerned if they provide a reasonable accommodation for one employee, they are setting a precedent both for future requests for reasonable accommodations from individuals with disabilities and general requests for accommodations from all employees.

According to a [resource](#) from JAN, when an employer provides a reasonable accommodation for one employee with a disability, it is not necessarily required to provide the same reasonable accommodation for another employee with a disability. Reasonable accommodation requests are handled on a case-by-case basis through an individualized assessment of the specific facts of the current situation. A reasonable accommodation may be deemed reasonable in one situation, and an undue hardship in another, because the facts of each situation are unique. Determining undue hardship is also considered on a case-by-case basis through an individualized assessment using criteria provided through [EEOC guidance](#).

FAQ: Can you provide resources and examples of reasonable accommodations for common scenarios including COVID-19? Can you provide a list of common assistive technologies?

Answer:

Reasonable accommodations are considered on a case-by-case basis because each person, job, and employer are unique. The following information provides ideas and examples of reasonable accommodations that individuals and employers may consider when engaging in the interactive process to determine an effective solution for common scenarios.

Assistive Technology

The Assistive Technology Industry Association (ATIA) defines assistive technology as "any item, piece of equipment, software program, or product system that is used to increase, maintain, or improve the functional capabilities of persons with disabilities." Assistive technology can be low-tech or high-tech, hardware or software, or items and devices. The State of Minnesota has a "Guide to Assistive Technology" on their [website](#) which lists common assistive technology examples based on categories. Here are some examples from this resource:

Vision

- Magnifiers,
- Braille displays,
- Screen reading software, and
- Text-to-speech software.

Hearing

- Personal amplification systems,
- Face-to-face dual keyboard communication system,
- Phone with captioning, and
- Mobile devices with texting and specialized applications.

Speech Communication

- Voice amplification systems, and
- Speech generating devices.

Computer and Related Peripherals

- Alternative keyboards,
- Alternative mouse options, and
- Speech recognition software.

Driving

An individual with a disability may need a reasonable accommodation for driving-related situations at work including commuting to and from work, traveling to other locations during work, and working as a professional driver. There are a variety of disability-related limitations that may require the need for an accommodation including a low back condition that limits prolonged sitting, a sudden injury that results in paralysis of the legs and the need for vehicle modifications, or a seizure disorder that results in a temporary driving restriction. Here are some examples from JAN's [resource](#) on best practices and examples of reasonable accommodations related to driving and work:

- Commuting to and from Work
 - Permit a flexible schedule so an employee can use public transportation,
 - Provide telework so an employee can work remotely without having to commute,
 - Provide the employee with an accessible parking space at work, and
 - Reassigning the employee to a location closer to home.
- Traveling to Other Locations During Work
 - Limit time spent driving,
 - Limit driving distance,
 - Permit leave until the employee can drive again, and
 - Modify the vehicle to enable the employee to drive.
- Working as a Professional Driver
 - Professional drivers may be subject to federal requirements related to obtaining or maintaining a Commercial Driver's License (CDL) and the ADA does not interfere with employers following such federal standards.
 - Consider reassignment to a vacant position if no reasonable accommodation exists.

COVID-19 Long-term Effects

Employers may receive requests from employees experiencing long-term effects after having COVID-19. To determine if the employee's condition rises to the level of a disability with a substantial limitation of a major life activity, the employer should follow the criteria provided in the EEOC guidance as it would with any request for a reasonable accommodation. Here are some examples from JAN's [resource](#) on possible reasonable accommodations related to the long-term limitations associated with COVID-19:

- Shortness of Breath with Exertion
 - Permit the removal of a face covering when possible,
 - Minimize physical exertion with work tasks,
 - Permit a modified break schedule to manage treatments, such as using an inhaler, and
 - Remove or swap marginal job functions.
- Extreme Fatigue
 - Permit a flexible schedule,
 - Provide an ergonomic workstation or ergonomic equipment,
 - Remove or swap marginal job functions, and
 - Permit telework.
- Brain Fog
 - Provide the use of noise cancellation devices,
 - Permit uninterrupted work time to focus on tasks,
 - Provide tools to help with memory such as check lists, and
 - Permit the use of apps for concentration, memory, and task management.
- Insomnia
 - Permit a flexible schedule,
 - Maintain a cool temperature at the workstation,
 - Modify a policy and allow cold drinks at the workstation, and
 - Permit telework.
- Tachycardia (Fast Heart Rate)
 - Permit a modified break schedule to allow time for rest,
 - Provide controls for workplace temperature,
 - Provide leave for treatment, and
 - Modify a policy to allow drinks at the workstation.
- Joint Pain and Body Aches
 - Permit a modified break schedule to allow time for rest,
 - Modify the physical demands of the job,
 - Provide an ergonomic workstation or ergonomic equipment, and
 - Remove or swap marginal job functions.
- Headaches
 - Provide alternative lighting,
 - Reduce glare,
 - Permit a flexible schedule, and
 - Permit telework.

Fragrance Sensitivities and COVID-19 Cleaning Supplies

As employees begin to return to the workplace, employers have asked how COVID-19-related cleaning protocols may impact a scent-free workplace and how reasonable accommodations can be provided in this situation. The Centers for Disease Control and Prevention (CDC) offers a resource on its [website](#) about cleaning and disinfecting public spaces. Here are some examples from JAN's [resource](#) on best practices and ideas for reasonable accommodations related to fragrance sensitivity:

- Remove the offensive fragrance when possible,
- Relocate the employee's workstation away from the offensive fragrance,

- Provide a private office with its own ventilation system,
- Permit telework,
- Reduce exposure to the offensive fragrance,
- Permit the employee to wear a mask or respirator if he or she wishes to,
- Provide a desk fan, and
- Permit a flexible break schedule to permit taking breaks to get fresh air.

Operating Heavy Equipment for Deaf and Hard of Hearing Employees

Employers commonly ask how they can provide accommodations to enable an employee who is deaf or hard of hearing to operate heavy equipment safely. The Occupational Safety and Health Administration (OSHA) provides a safety and health information [bulletin](#) titled “Innovative Workplace Safety Accommodations for Hearing-Impaired Workers” which offers a variety of ideas for reasonable accommodations for employees who are deaf and hard of hearing. Also, JAN offers a variety resources with best practices and accommodation ideas for employers to consider. Here are some examples of reasonable accommodations and ideas from both sources:

- Designate separate paths of travel for pedestrians and heavy equipment, such as forklifts and mark each with tape, paint, rope, and visual signage,
- Designate separate doors for pedestrians and heavy equipment,
- Require operators of heavy equipment to stop at all intersections,
- Install sensor warning lights on heavy equipment that blink as the vehicle approaches,
- Install strobe lights on heavy equipment to alert pedestrians to approaching heavy equipment,
- Install mirrors at all intersections to alert pedestrians to oncoming traffic,
- Install a rear-view camera or mirror for the operator of heavy equipment to see behind the vehicle, and
- Utilize alerting devices, such as pagers that vibrate, so the operator of heavy equipment can alert an employee with a hearing disability of an approaching vehicle.

Interviews and Sign Language Interpreters

Covered employers are required to provide reasonable accommodations for qualified applicants with disabilities when one is needed to compete for a job, unless doing so causes an undue hardship. When an applicant with a disability requests a reasonable accommodation, such as a sign language interpreter for an interview, the employer should promptly begin the interactive process and work collaboratively with the applicant to identify the need for the accommodation and an effective solution.

JAN’s [resource](#) “Finding an Interpreter for an Interview” states “It may be necessary to obtain a qualified interpreter for a job interview, because for many jobs the applicant and the interviewer must communicate fully and effectively to evaluate whether the applicant is qualified to do the job.” It can be helpful to research local and national providers for American Sign Language (ASL) interpretation in advance for easy reference when an applicant or employee makes a request for an interpreter. For more information on best practices when working with a sign language interpreter and to identify myths and facts when working with deaf or hard of hearing employees, please view OOD’s [fact sheet](#).

FAQ: What is an employer’s obligation to provide telework as an accommodation after returning employees to onsite work who were teleworking during the COVID-19 pandemic?

Answer:

An employer who receives a request for telework as a reasonable accommodation should treat this request the same as it does any request for a reasonable accommodation and promptly begin the interactive process. The employer and the employee making the request should collaborate to identify the need for a reasonable accommodation and what effective options are available. If the employee with a disability needs to work remotely due to the disability and can perform the job’s essential functions, the employer should consider whether telework is an effective reasonable accommodation.

Prior to the pandemic some employers may have believed a job’s essential functions could not be performed entirely when working remotely. The temporary shift to working remotely may have demonstrated that a job’s essential functions can be performed effectively in the remote work environment and as such, served as a trial period for showing work can be performed successfully from home. Employers have the right to explore all effective reasonable accommodation options and choose which solution to implement. However, employers are encouraged to consider the employee’s preference.

Here are resources and guidance which discuss telework as a reasonable accommodation:

- EEOC’s website: “[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)”
- EEOC’s [website](#): “Work at Home/Telework as a Reasonable Accommodation”
- JAN’s [website](#): “Requesting and Negotiating Accommodations During the Pandemic”

FAQ: How long should you give an employee to show the accommodations provided are adequate?

Answer:

According to the JAN [resource](#) “Temporary or Trial Accommodations” the ADA does not provide a requirement of how long accommodations are to be provided but emphasizes “the duty to provide accommodations is an on-going one.” Some accommodations are implemented for a short duration when an employee with a disability has an exacerbation of a condition and others are implemented long-term when an employee with a disability has a continued need for reasonable accommodation.

There may be times when it is helpful to implement a trial period for a reasonable accommodation such as when it takes time to research and identify an effective solution or when it is not known if a selected accommodation will be effective. In these cases, it is recommended that a trial period be considered. The trial should be supported with a written agreement between both parties that indicates the reasonable accommodation is being tested for effectiveness or used temporarily while researching a permanent solution. The agreement should also state how long the trial will last and describe what steps will be taken if the accommodation does not work.

Each request for an accommodation is unique and should be determined on a case-by-case basis to determine what is effective and reasonable. The same is true for determining the length of time a trial period should last.

FAQ: Any guidance on mental health accommodations?

Answer:

Requests for reasonable accommodations are considered on a case-by-case basis as each employee, job, and workplace are unique. Accommodations for employees with mental health disabilities may include modifying a policy, providing equipment, making a change to the built environment, or altering a supervisory method. Here are examples of reasonable accommodations:

- Permitting a flexible schedule to enable an employee with a disability to leave work early one day per week to attend a therapy session,
- Modifying a break schedule to enable an employee with a disability to take breaks when needed to participate in breathing exercises to promote relaxation and focus for work tasks,
- Install partitions in the work area to create a visual barrier to enable an employee with a disability working in a high traffic area to focus on work tasks,
- Modifying a training policy to permit a job coach to work with an employee with a disability during the onboarding and training of a new position,
- Provide noise cancelling headphones to enable an employee with a disability working in a noisy environment to concentrate on work tasks, and
- Altering how a supervisor communicates information, such as sending written communications through email to an employee with a limitation in memory to use as a reminder of due dates.

Here are resources and guidance which discuss mental health reasonable accommodations:

- ADA National Network's [resource](#): "Mental Health Conditions in the Workplace and the ADA"
- EEOC's [resource](#): "Enforcement Guidance on the ADA and Psychiatric Disabilities"
- OOD's [webinar](#): "Mental Health Disabilities in the Workplace"

FAQ: What job accommodations and job coach interventions are available for individuals with Autism Spectrum Disorder and Mental Illness?

Answer:

Accommodations related to mental health disabilities in the workplace is addressed in the previous question. This answer will focus on reasonable accommodations related to Autism Spectrum Disorder.

Requests for reasonable accommodations are considered on a case-by-case basis as each employee, job, and workplace are unique. Accommodations for employees with Autism Spectrum Disorder (ASD) may include modifying a policy, providing equipment, making a change to the built environment, or altering a supervisory method. Here are examples of reasonable accommodations:

- Minimize or remove sensory stimuli which can be overwhelming to an employee with ASD through providing noise-cancelling headphones, altering lighting, providing a private office, or permitting a flexible break schedule to take rest breaks away from a stimulating environment,
- Modify a training policy to permit a job coach to work with an employee with ASD to learn the new job, perform work tasks effectively, and adapt to the new work environment, and

- Restructure how a job is performed by permitting the use of checklists and flow charts for task completion and reminder apps on Smart devices for managing breaks, and
- Altering supervisory methods to include meeting more frequently to review daily work tasks.

Job coaching can be a form of reasonable accommodation that is effective in helping employees with disabilities, including ASD, to successfully onboard to a new job. Job coaches are trained to customize their approach based on the individual's needs and can be provided onsite in the workplace or remotely through virtual platforms and apps on Smart devices. The goal of job coaching is to enable the employee to learn the new job and perform work tasks effectively and independently.

Here are resources and guidance which discuss reasonable accommodations including job coaching:

- ADA National Network's [resource](#): "Individuals with Autism Spectrum Disorder and Employment: Application of the Americans with Disabilities Act (ADA) Title I Standards"
- JAN's [resource](#): "Autism Spectrum Disorder"
- JAN's [resource](#): "Job Coaches"
- OOD's [webinar](#): "Job Developers and Job Coaches in the Workplace"

Funding

According to the Northeast ADA Center's [resource](#) "The Small Business at Work Toolkit" one of the top five reported concerns of providing reasonable accommodations is the cost of the accommodation. Many employees with a disability do not need accommodations at work. When one is needed, a [survey](#) from the Job Accommodation Network revealed 56% of accommodations were free. Of those that required a one-time cost, the typical expenditure was \$500. Based on these studies, accommodations are often reasonable.

Under Title I, covered employers are required to provide reasonable accommodations to qualified applicants and employees, unless doing so causes an undue hardship. An undue hardship means an accommodation is too costly or too difficult to implement. Determining an undue hardship must be based on an individualized assessment of the current situation.

Frequently Asked Questions (FAQs) pertaining to funding are answered in this section.

FAQ: What tax benefits are available for employers to help pay for reasonable accommodations?

Answer:

When an employer is assessing the cost of an accommodation, Congress intended for employers to consider their net cost after applying funding sources or tax benefits they are eligible to receive.

Here are some examples of tax benefits:

- The Internal Revenue Service (IRS) [website](#) offers the resource "Tax Benefits for Businesses Who Have Employees with Disabilities" which describes tax credits and deductions businesses may qualify for, such as:
 - Disabled Access Credit – This tax credit applies to small businesses and covers most expenses incurred with providing reasonable accommodations for employees, such as sign language interpreters, creating documents in braille, and building ramps. Note: a



small business is one with 30 or fewer employees OR \$1,00,000 or less in gross receipts from the previous year.

- Barrier Removal Tax Deduction – This tax deduction applies to all businesses and covers removal of barriers with the built environment and transportation, such as widening doors and modifying vehicles.
- Work Opportunity Tax Credit – This tax credit applies to small businesses and encourages employment of individuals from targeted groups, including individuals referred from vocational rehabilitation programs such as OOD. Note: a small business is one with 30 or fewer employees OR \$1,00,000 or less in gross receipts from the previous year.
- OOD offers services for eligible Ohioans with disabilities and employers:
 - Information about Vocational Rehabilitation is available on OOD’s [website](#).
 - Individuals may apply for services at <https://www.oodworks.com/>.
 - Information about services available for employers is available on OOD’s [website](#).

The employee requesting an accommodation should be given the option to pay the portion of the accommodation that is determined to be an undue hardship after a proper assessment of effective accommodations is made and available funding sources are applied.

FAQ: Are there federal grants available to employers which will provide financial assistance to the employer in purchasing costly equipment or technology for employee accommodations?

Answer:

When an accommodation has been identified as an undue hardship due to being too costly, the EEOC advises employers to consider the net cost of the accommodation after applying eligible tax benefits and considering outside funding sources. Here are some funding resources to explore:

- The Assistive Technology Industry Association’s (ATIA) [website](#) offers the “AT Resources Funding Guide” which provides funding resources from entities such as organizations, insurance providers, federal and state programs, advocacy groups, scholarships, grants, and others.
- JAN’s [website](#) offers an article on “Funding” which provides funding tips for both employers and individuals.

Common Scenarios

The ADA is a civil rights law. In general, civil rights laws focus on the needs and rights of individuals and believe all individuals are entitled to equal treatment in society. As opposed to other types of legislation, civil rights laws are fact-specific and more subjective than objective. Based on this, decisions made under Title I of the ADA must be determined on a case-by-case basis through an individualized assessment of the facts specific to the situation. Title I is regulated and enforced by the EEOC. The EEOC has published guidance for employers to reference when navigating common scenarios in the workplace, such as harassment, low performance, direct threat, and emergencies.

Frequently Asked Questions (FAQs) pertaining to common scenarios are answered in this section.

FAQ: What is the best way to address discrimination and harassment against employees with disabilities from coworkers? When providing a reasonable accommodation causes issues with coworkers or results in hurt feelings of coworkers, how should an employer handle this?

Answer:

Covered employers are required under Title I to ensure employees with disabilities are not harassed or discriminated against based on their disability. When such a complaint is brought to an employer's attention, the employer should respond promptly, conduct an appropriate investigation, and take corrective action when necessary.

It is a best practice to implement proactive measures to prevent discrimination and harassment before they occur. EEOC [guidance](#) indicates "regular, interactive training tailored to the audience and the organization" can be effective in preventing this prohibited treatment. Here are examples of content to include in a training program for all employees:

- Descriptions of prohibited harassment,
- Customized examples of harassment specific to the workplace,
- Information on employees' rights and responsibilities,
- Description of the complaint process,
- Explanation of consequences, and
- Contact information to report harassment or to ask questions.

In addition to training, making efforts to create a disability-inclusive workplace may further prevent this prohibited treatment and any issues or hurt feelings from occurring. Here are examples of ways to foster an inclusive workplace from OOD's [webinar](#) "Navigating the Reasonable Accommodation Process":

- Train all employees on Disability Etiquette and Disability Awareness:
 - OOD provides a variety of disability awareness training sessions which can be customized. Topics include Windmills Disability Awareness, Invisible Disabilities, and the Hiring and Onboarding Process. For more information review the "No-Cost Training Program for Your Business" [fact sheet](#).
 - OOD provides Disability Etiquette training which defines disability, includes practical examples of respectful interactions with people with disabilities, and addresses proper language usage. This training can be customized, and an archived version is available for on-demand access. The webinar and accompanying fact sheets are available through the following links:
 - Disability Etiquette [webinar](#)
 - 10 Tips for Effective Communications with People with Disabilities [fact sheet](#)
 - Four Simple Disability Etiquette Rules [fact sheet](#)
 - For more information, [please contact](#) your local Business Relations Specialist.
- Train all employees on the right to reasonable accommodation:
 - Employees should be trained on their right to reasonable accommodation to participate in the hiring process, to perform the essential functions of the job, and to enjoy the privileges of employment. Employees should also be aware of how to request an



accommodation. This training is recommended to initially be offered to new employees during onboarding and then on an ongoing basis.

- JAN offers examples on their [website](#) of accommodation policies, processes, forms, and training that employers may reference when creating or revising their accommodation policies and supporting documents.
- Train all supervisors on their role with reasonable accommodations:
 - Training is recommended for all supervisors on how to recognize a request for an accommodation and what steps to take when they receive one. Often an employee will make a request of a supervisor, not human resources.
 - Supervisors should also be made aware of confidentiality rules regarding medical information and reasonable accommodations.
 - In addition, supervisors should be advised on how to properly respond to coworkers that have questions about another coworker's reasonable accommodation. According to EEOC [guidance](#), here are examples of how the employer or supervisor may respond:
 - Emphasize the employer's policy of assisting any employee who encounters difficulty at work,
 - Explain that these types of situations are personal, and it is the employer's policy to follow confidentiality guidelines, and
 - Reassure the coworker that his or her privacy would be respected in a similar situation.

FAQ: How should an employer plan for handling emergencies with employees with disabilities?

Answer:

Employers may be required under federal, state, or local laws or acts to institute evacuation plans. Title I of the ADA does not require employers to establish emergency evacuation plans. However, it does require covered employers to ensure employees with disabilities have equal access to the benefits and privileges of employment. If an employer has an emergency evacuation plan, they are required to include individuals with disabilities. Even in the absence of such a plan, employers may have to provide reasonable accommodations when needed.

Employees with disabilities may or may not need assistance during an emergency at work. According to EEOC [guidance](#), employers are permitted to ask employees to "self-identify if they will require assistance because of a disability or medical condition" in the event of an evacuation at work. The guidance further explains three ways an employer may request this information:

- In the post-offer phase of preemployment, an employer may ask all candidates whether they will need assistance during an emergency at work.
- During employment, an employer may periodically ask all employees whether they need assistance during an emergency at work. The employer must clearly communicate the reason for requesting this information and indicate this disclosure is voluntary.
- An employer may ask employees with known or obvious disabilities whether they will need assistance during an emergency at work when it is reasonable to believe assistance may be needed.

Individuals who are asked about their need for assistance during an emergency at work should be notified of the confidentiality rules which apply to such a disclosure.

JAN's "Emergency Evacuation" [resource](#) addresses best practices for developing an emergency evacuation plan which includes ideas for general accommodations employers can consider. Here are some examples of general accommodations by various categories:

- General Accommodations:
 - Install emergency alarms and signs that illustrate the emergency exit routes in accessible formats, and
 - Implement a "buddy system" for all employees to locate and help one another during an emergency.
- Physical Disabilities:
 - Purchase evacuation devices to assist with moving people with physical disabilities down the stairs or across rough surfaces,
 - Remove any barriers to an accessible exit route, such as boxes, displays, and furniture, and
 - Purchase supplies to use during emergency procedures, such as heavy gloves for protection from debris when pushing a manual wheelchair, patch kits to repair tires, and extra batteries for motorized wheelchairs.
- Sensory Disabilities:
 - Supplement audible alarms with visual and/or vibrating alerts,
 - Provide visual and/or vibrating alerting devices to employees with hearing disabilities,
 - Install tactile and/or audible signs and maps for employees with visual disabilities, and
 - Provide pagers or other communication devices to employees with communication disabilities.
- Intellectual Disabilities:
 - Provide training and communications on emergency evacuation procedures in alternative formats, such as through illustrations, color-coding, and audio format.
- Mental Disabilities:
 - Be aware that frequent training on emergency evacuation procedures may be beneficial for some individuals and may cause anxiety in others,
 - Notify employees in advance of upcoming training on emergency evacuation procedures, and
 - Consider offering training in alternative formats, such as through detailed written instructions.

FAQ: Can you ask a landlord for ADA services within the business?

Answer:

There may be times an employer receives a request for a reasonable accommodation that involves making changes to the built environment it leases from a property owner. When this occurs, the employer should review its lease agreement to determine what changes they are permitted to make. If the lease agreement requires the employer to obtain the property owner's consent, the employer should make a good faith effort to obtain the property owner's consent to make the changes.

According to [guidance](#) from the EEOC, if the property owner refuses to grant permission to the employer to make the changes, “the employer may claim undue hardship.” In this situation, the employer should continue the interactive process and collaborate with the individual making the request to identify if another reasonable accommodation exists that would not cause an undue hardship.

It is a best practice for employers to remember their obligation to provide reasonable accommodations when negotiating lease agreements with property owners to make sure responsibility for changes to the built environment are addressed.

Property owners may be required to make changes to the built environment for accessibility under Title II or III of the ADA and should realize that failure to do so could be considered “interference” with employee rights under Title I of the ADA.

Conclusion

Opportunities for Ohioans with Disabilities (OOD) appreciates your interest in identifying solutions and resources to support a workplace that is diverse and inclusive of employees with disabilities. Each employee with a disability, each employer, and each workplace is unique and because of this, the effective strategy to create a work environment that is accessible and inclusive will be unique. We hope the information shared in this learner’s guide and virtual training are helpful in supporting your efforts.

Resources

Guidance on Title I of the Americans with Disabilities Act (ADA)

- ADA Basics. “[ADA Basic Building Blocks Course](#)”
- ADA National Network. “[Learn About the National Network](#)”
- ADA National Network. “[Section 503 of the Rehabilitation Act Rules](#)”
- ADA National Network. “[The Americans with Disabilities Act Questions and Answers](#)”
- ADA National Network. “[What is the definition of disability under the ADA](#)”
- EEOC. “[Coronavirus and COVID-19](#)”
- EEOC. “[Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA](#)”
- EEOC. “[Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations](#)”
- EEOC. “[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#)”
- EEOC. “[Guidance \(by Subject Area\)](#)”
- EEOC. “[Small Business Assistance](#)”
- EEOC. “[Small Business Liaisons](#)”
- EEOC. “[Small Business Resource Center](#)”
- EEOC. “[The ADA: Your Responsibilities as an Employer](#)”
- EEOC. “[Questions and Answers for Small Businesses: The Final Rule Implementing the ADA Amendments Act of 2008](#)”
- Great Lakes ADA Center. “[ADA Guide for Employers and Businesses](#)”

- JAN. "[ADA Library](#)"
- JAN. "[A to Z of Disabilities and Accommodations](#)"
- JAN. "[Disability Disclosure](#)"
- JAN. "[Job Coaches](#)"
- JAN. "[Scents and Sensitivity in the Workplace](#)"
- JAN. "[Technical Assistance Manual for Title I of the ADA](#)"
- JAN. "[The JAN Workplace Accommodation Toolkit](#)"
- JAN. "[To Ask, or Not Ask? – Knowing When to Request Medical Information](#)"
- JAN. "[U.S. Equal Employment Opportunity Commission](#)"
- JAN website: <https://askjan.org/>
- New England ADA Center. "[ADA Title I Employment Regulations: 29 C.F.R Part 1630](#)"
- Northeast ADA Center. "[Small Business at Work Toolkit](#)"
- OOD. "[The Employers' ADA Handbook: Title I Overview Webinar](#)"
- OOD. "[Worksite Accessibility Services](#)"
- PACE University. "[Americans with Disabilities Act Compliant Words for Job Descriptions](#)"
- Psychology Today. "[Invisible Disability](#)"

Reasonable Accommodations

- ADA National Network. "[Learn About the National Network](#)"
- ADA National Network. "[Individuals with Autism Spectrum Disorder and Employment: Application of the Americans with Disabilities Act \(ADA\) Title I Standards](#)"
- ADA National Network. "[Mental Health Conditions in the Workplace and the ADA](#)"
- ATIA. "[What is AT?](#)"
- CDC. "[Cleaning, Disinfecting, and Ventilation](#)"
- EEOC. "[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#)"
- EEOC. "[Enforcement Guidance on the ADA and Psychiatric Disabilities](#)"
- EEOC. "[Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#)"
- EEOC. "[The ADA: A Primer for Small Business](#)"
- EEOC. "[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)"
- EEOC. "[Work at Home/Telework as a Reasonable Accommodation](#)"
- Great Lakes ADA Center website: <https://www.adagreatlakes.org/>
- JAN. "[Accommodating Employees with COVID-19-Related Symptoms](#)"
- JAN. "[Accommodations for Driving](#)"
- JAN. "[Accommodations Related to Commuting To and From Work](#)"
- JAN. "[Autism Spectrum](#)"
- JAN. "[Alerting Devices](#)"
- JAN. "[Finding an Interpreter for an Interview](#)"
- JAN. "[Fragrance Sensitivity](#)"
- JAN. "[Good Deeds Not Punished: Dispelling the Idea of Precedent Setting and the ADA](#)"
- JAN. "[Hearing Impairment](#)"
- JAN. "[Interactive Process](#)"

- JAN. "[Requesting and Negotiating Accommodations During the Pandemic](#)"
- JAN. "[Strobe Lights](#)"
- JAN. "[Temporary or Trial Accommodations](#)"
- JAN. "[Vehicle Rear Vision System](#)"
- JAN website: <https://askjan.org/>
- Minnesota. "[Guide to Assistive Technology](#)"
- OOD. "[Deaf or Hard of Hearing Employees – Fact Sheet](#)"
- OOD. "[Job Developers and Job Coaches in the Workplace Webinar](#)"
- OOD. "[Mental Health Disabilities Training](#)"
- OOD. "[Navigating the Reasonable Accommodation Process Webinar](#)"
- OOD. To apply for services: <https://www.oodworks.com/>
- OOD. "[Vocational Rehabilitation](#)"
- OSHA. "[Innovative Workplace Safety Accommodations for Hearing-Impaired Workers](#)"

Funding

- ADA Center. "[Tax Incentives for Small Businesses](#)"
- ADA National Network. "[Individuals with Autism Spectrum Disorder and Employment: Application of the Americans with Disabilities Act \(ADA\) Title I Standards](#)"
- ATIA. "[AT Resources Funding Guide](#)"
- EEOC. "[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#)"
- EEOC. "[Fact Sheet: Disability-Related Tax Provisions](#)"
- IRS. "[Tax Benefits for Businesses Who Have Employees with Disabilities](#)"
- JAN. "[Benefits and Costs of Accommodations](#)"
- JAN. "[Funding](#)"
- Northeast ADA Center. "[The Small Business at Work Toolkit](#)"
- OOD. "[Information for Employers](#)"
- OOD. To apply for services: <https://www.oodworks.com/>
- OOD. "[Vocational Rehabilitation](#)"

Common Scenarios

- ADA Basics. "[ADA Basic Building Blocks Course](#)"
- EEOC. "[Applying Performance and Conduct Standards to Employees with Disabilities](#)"
- EEOC. "[Enforcement Guidance on the ADA and Psychiatric Disabilities](#)"
- EEOC. "[Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA](#)"
- EEOC. "[Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures](#)"
- EEOC. "[Promising Practices for Preventing Harassment](#)"
- EEOC. "[The ADA: A Primer for Small Business](#)"
- JAN. "[Emergency Evacuation](#)"
- JAN. "[Technical Assistance Manual for Title I of the ADA](#)"
- JAN. "[The JAN Workplace Accommodation Toolkit](#)"

- JAN. "[Sample and Partner Example Accommodation Policies, Processes, Forms, and Training](#)"
- JAN. "[What Does 'Direct Threat' Mean – A Deconstructive Series for ADA Terminology](#)"
- OOD. "[10 Tips for Effective Communications with People with Disabilities – Fact Sheet](#)"
- OOD. "[Four Simple Disability Etiquette Rules – Fact Sheet](#)"
- OOD. "[Disability Etiquette Webinar](#)"
- OOD. "[Navigating the Reasonable Accommodation Process Training](#)"
- OOD. "[No-Cost Training Program for Your Business – Fact Sheet](#)"
- OOD. "[The Employers' ADA Handbook – Performance, Conduct, and Safety Webinar](#)"

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BUSINESS RELATIONS SERVICES MAP

