

Americans with Disabilities Act (ADA) Reasonable Accommodation Process

Table of Contents

Americans with Disabilities Act (ADA) Reasonable Accommodation Process	1
Resources.....	2
Facts About the ADA.....	2
U.S. Equal Employment Opportunity Commission (EEO)	2
Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA	2
Job Accommodation Network (JAN)	2
Triggering the ADA Process.....	2
OCR Acceptance of Reasonable Accommodation Request	3
Voluntary Process	3
OCR Review.....	4
OCR Approval of an Employee’s Request	4
Supporting Medical Documentation Insufficient.....	5
OCR Determines the Employee Does Not Qualify	6
Interactive Process (Initiated by Management)	6
ADA Reasonable Accommodation Agreement Letter.....	7

Resources

Facts About the ADA

<https://www.eeoc.gov/fact-sheet/facts-about-americans-disabilities-act>

U.S. Equal Employment Opportunity Commission (EEO)

<https://www.eeoc.gov/>

Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>

Job Accommodation Network (JAN)

<https://askjan.org/>

Triggering the ADA Process

The employee triggers the ADA process by doing any of the following:

- Mentioning they have a medical condition, or a condition is apparent
- Disclosing a medical condition regarding a change in their performance
- Revealing in some other way they have a need for a reasonable accommodation (there are no magic words or specific wording they need to use)

Once a need for an ADA accommodation is identified or discovered, the supervisor must do the following:

- Apprise the employee of their rights (i.e., telling the employee, “if you believe that you have a qualifying disability under the ADA you have a right to request a reasonable accommodation”)
- Provide the Request for Reasonable Accommodation form (14CR003E) to the employee either physically or via email (PDF)
- Submit the employee’s completed form (14CR003E) and supporting documentation to their management; leadership (division director, deputy director, and or their designee) will sign the reasonable accommodation form under the employee’s signature, and then submit it to the Office for Civil Rights (OCR) per Oklahoma Human Services policy

Supervisors and employees can obtain the reasonable accommodation form through these methods:

- On the **InfoNet** under forms (14CR003E)

- By sending a request for the form via email to the OCR at Civil.Rights@okdhs.org

OCR Acceptance of Reasonable Accommodation Request

The OCR accepts reasonable accommodation requests and medical documentation submissions via postal mail and PDF attachments in email.

Due to confidentiality issues, the OCR **does not** have a fax number and does not accept faxes. This is to protect and prevent employees' medical and personal information from falling into the wrong hands.

Under the ADA, the OCR can and does accept the reasonable accommodation form and medical documentation directly from the employee without their leadership's signature. When this happens, the OCR alerts the employee's leadership (immediate supervisor, reviewing supervisor, and the division director [deputy director and/or their designee]) of the following:

- That an employee in their division has filed a request for reasonable accommodation
- The OCR is reviewing the request
- The OCR will respond accordingly with next steps

While it is a common occurrence for employees to submit their requests directly to the OCR, it is **preferred** that the employee submit their paperwork to their supervisor instead, so that the employee's management can sign the form before submitting it to the OCR. This ensures the employee's management is on notice regarding the employee's need for a reasonable accommodation. Under the ADA, management must act expeditiously in their response to the employee and in their actions regarding their role (responsibility) in the ADA process.

Voluntary Process

The ADA process is **voluntary**.

We are required to provide our employees with the ADA paperwork and apprise them of their rights. However, when the ADA process is triggered, the OCR, leadership, and management **cannot compel, require, and/or make it mandatory** for an employee to fill out the ADA paperwork (reasonable accommodation form). The employee **can choose not to** fill out the form and/or participate in the ADA process.

OCR Review

Typically, when the OCR receives a reasonable accommodation request, they review the request and submitted medical documentation, and assess if the medical documentation verifies that the employee has a qualifying medical condition and/or disability under the ADA.

An **individual with a disability** is a person who:

- Has a physical and or mental impairment that substantially limits one or more major life activities
- Has a record of such an impairment; or
- Is regarded as having such an impairment

A **qualified employee or applicant with a disability** under the ADA is an individual who, with or without reasonable accommodation, can perform the essential functions of the job at issue.

OCR Approval of an Employee's Request

When the OCR determines the employee/applicant's condition qualifies as a disability, the OCR sends an email request to that employee and/or applicant's management (immediate and reviewing supervisor [CC the division director]) for them to initiate and engage in the interactive process with the employee/applicant. The interactive process is used to determine if there are reasonable accommodation options available that will allow the employee to perform the essential functions of their job without causing an undue hardship on the agency (division).

Both management and the employee will discuss/evaluate the medical needs/limitations regarding the qualifying disability of the employee and the agency's needs.

The OCR also apprises the employee's management in the same email that reasonable accommodations can but **do not have to** follow exactly as recommended by the physician, as long as they are reasonable and effective. The OCR also includes an "Ask JAN" Network link with the following message:

Below is a link(s) from the Job Accommodation Network (JAN) website that may provide some helpful accommodation information regarding the employee's disability and/or limitation.

https://askjan.org/disabilities/Diabetes.cfm?cssearch=4133059_1 (example link for an employee who has diabetes)

<https://askjan.org/>

The OCR notes three things in the instructions for next steps in the OCR's Approval email to management:

1. At the **conclusion** of the **interactive process**, which should be **no more than 30 days**, please notify the employee of the accommodation to be granted **in writing** with a CC to the Office of Civil Rights (Civil.Rights@okdhs.org).
2. As the Programs Administrator for the Office for Civil Rights (OCR), if it is determined a reasonable accommodation **cannot** be provided, the Office for Civil Rights needs to review the determination before the employee is notified **to avoid a possible failure to accommodate claim**.
3. Please let us know if we can further assist as you move through the interactive process or answer any questions.

The OCR also sends an email notice to the qualifying employee letting them know that their documentation sufficiently meets the standard for reasonable accommodation under the ADA (i.e., that they met the standard of having a qualifying disability under the ADA), and that the OCR will request that their management staff initiate the interactive process of determining if an accommodation can be provided and, if so, what that could be.

The OCR also apprises the qualifying employee in the email of the following:

- When discussing accommodation options, the ADA does not require the agency to alter and/or waive any of the essential functions of their job or create a new job
- Reasonable accommodations are modifications that allow an individual with a disability to perform the functions of their job
- The accommodations can but do not have to follow exactly as requested by you or recommended by the physician, as long as they are reasonable and effective
- Please let us know if we can further assist as you move through the interactive process or answer any questions

Supporting Medical Documentation Insufficient

If the employee's medical documentation is unclear regarding a medical diagnosis and/or the requested medical information listed on the reasonable accommodation form, the OCR sends an email to the employee requesting additional information (supporting medical

documentation) stating, “Please provide a medical statement (letter) from your doctor explaining the disability or medical condition and how it impacts your ability to perform the essential functions of your job. Also, provide your doctor's recommendation for an accommodation that will assist you in performing the essential functions of your job.”

The OCR apprises the employee in the email of the following:

- The information is necessary for the processing of their request
- The OCR will give them a reasonable amount of time to obtain the information
- Their leadership will be notified of current circumstances

The OCR lets the employee know that if they have any questions and/or concerns, and/or need assistance, to feel free to contact them.

OCR Determines the Employee Does Not Qualify

If the employee does not have a physical and or mental impairment that substantially limits one or more major life activities, the OCR notifies both the employee and management via email (letter if necessary – if the employee has been out and does not have access to their email). The OCR provides the reasoning via policy, and in accordance with the ADA. The OCR apprises both that, at this point, the employee does not fall under the OCR’s purview. However, the employee is not precluded from filing in the future and/or providing the necessary medical documentation.

Interactive Process (Initiated by Management)

Legally, an interactive process is described as a timely, good-faith, and flexible dialogue between an employer and an employee to identify and assess actual and/or potential “reasonable accommodations” for the disabled employee.

The interactive process is ongoing and does not stop once you hold one interactive process meeting. If operational needs change or the accommodation is not effective, this needs to be discussed in subsequent interactive process meetings.

As part of the interactive process, the EEOC recommends that employers do the following:

1. Analyze the particular job involved and determine its purpose and essential functions
2. Consult with the individual with a disability to ascertain the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation

3. In consultation with the individual to be accommodated, identify potential accommodations, and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position
4. Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer

ADA Reasonable Accommodation Agreement Letter

After the interactive process, the supervisor needs to notify the employee in writing (via letter and/or email) in the form of an ADA Reasonable Accommodation Agreement letter. The supervisor needs to send the OCR a copy of the letter or CC the OCR on the email.

The letter and/or email needs to be memorialized on division letterhead and include the following components:

- When you (the supervisor) received the request for reasonable accommodation (date) and the specific ask (request)
- The date and summary of the interactive process meeting (discussion between you and the employee)
- Any accommodations that were agreed to and who is responsible for any actions pertaining to the accommodations
- If the employee's essential job functions will be modified, a statement that the modification is temporary
- A statement of review (duration) within 30, 60, or 90 days (we will review/access and or evaluate your reasonable accommodation in ____ days)