

Disability and Workplace Accommodation

The Americans with Disabilities Act (ADA) Amendments Act of 2008 was signed into law on September 25, 2008 and became effective January 1, 2009.

You have rights in the workplace to help you perform your job with a disability. An employer has to apply a workplace accommodation for a disabled employee or potential candidate unless the accommodation would create an "undue hardship" on the employer.

"Undue hardship" means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. The ADA's "undue hardship" standard is different from that applied by courts under Title VII of the Civil Rights Act of 1964 for religious accommodation. (EEOC, 2002)

A disability is defined by the ADA as, "as an individual who has a physical 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."

Some Temporary Disabilities are covered, as well.

E.g. A temporary injury like a fracture that leads to a debilitating arthritis or an alteration in mobility, high risk pregnancy that includes restrictions from the treating physician, etc. are both covered under ADA and subject to workplace accommodation.

Modifying Leave Policy

May an employer apply a "no-fault" leave policy, under which employees are automatically terminated after they have been on leave for a certain period of time, to an employee with a disability who needs leave beyond the set period? No. If an employee with a disability needs additional unpaid leave as a reasonable accommodation, the employer must modify its "no-fault" leave policy to provide the employee with the additional leave, unless it can show that: (1) there is another effective accommodation that would enable the person to perform the essential functions of his/her position, or (2) granting additional leave would cause an undue hardship. **Modifying workplace policies, including leave policies, are a form of reasonable accommodation. (EEOC, 2002)**

You must notify the employer of your disability and request a workplace accommodation if you want assistance.

Also, additional information regarding ADA and Workplace Accommodation can be found at:
<https://www.eeoc.gov/policy/docs/accommodation.html#requesting>