

How to Conduct a Reasonable Accommodation Interview (A Suggested Procedure to Cover All the Bases!)

One of the employment requirements of the ADA is to have an interactive discussion with an employee who is requesting reasonable accommodation. Failure to provide an interactive process has been tried in the courts and, in most instances, this failure results in the case being lost by the employer.

When the Ninth Circuit Court of Appeals ruled on the Barnett v U.S. Air case, the court spelled out some pretty specific elements of the interactive process and justifications for it to be used as part of a reasonable accommodation consideration. Although the case went on to the Supreme Court for other issues and the employer won, the elements of the interactive process continue to be held in place in EEOC guidance.

Therefore, please consider utilizing the following suggested procedure for all reasonable accommodation interviews, which demonstrates good faith effort for an employer.

The Reasonable Accommodation Interview

Purpose

The Reasonable Accommodation Interview (RAI) is designed to provide equal employment opportunity for an employee with a disability and to allow the employer a process of assessing fairly and accurately the impact of a worker's disability on the performance of the essential functions of the job. It is **assumed** that the employer has accurately assessed the essential functions of an employee's job prior to the RAI.

In addition, following this procedure will serve as a demonstration of the "good faith" effort the employer is required to make and it assures evidence of an interactive process that considers the employee's needs and feedback.

The dynamics of this interview are similar to a job interview. Performance problems should not be discussed in the RAI because the dynamics of a RAI are not punitive or reward based but are fact-finding, problem-resolution based.

Preliminary Tasks the Employer Should Accomplish Prior to the RAI:

1. Review the employer's job evaluation process to ensure that an ADA Job Evaluation has been performed and that:
 - a. The fundamental job tasks identified include quantity and quality requirements
 - b. The behavioral requirements of the job have been stated in measurable terms

2. Review the employee's job description to ensure that the essential functions of the job have been identified, including:
 - a. Physical requirements for performing the job
 - b. Behavioral characteristics essential for job performance
 - c. Marginal functions not essential to job performance
 - d. Minimum qualification requirements essential for the position

Preliminary Requests

1. If time allows, prior to a formal meeting to discuss an employee's reasonable accommodation request, the manager or supervisor should request the following from the employee and the employee's physician:
 - a. Validation of a disability from a physician or other acceptable medical professional
 - Provide the medical professional with the definition of disability under the ADA
 - Ask the medical professional to specify what part of the definition the employee meets
 - Provide the medical professional a copy of the employee's job description with the essential functions listed and described in detail
 - b. A professional medical opinion that describes the impact of the disability on the employee's ability to functionally perform each essential function of the job (Some essential functions may not be affected at all.)
 - c. Suggestions of reasonable accommodations for the performance of the essential functions affected or impacted by the employee's disability
2. Request that the employee bring the above information to the Reasonable Accommodation Interview.

The Interview

1. During the formal RAI, managers, supervisors, or ADA Coordinators should begin the interview by reviewing with the employee, the employer's responsibilities under the ADA and the purpose of the RAI. Statements like: "As your employer, I am responsible to make a good faith effort to":
 - a. Provide reasonable accommodation for the employee in their current job (Provide reasonable accommodation examples, if possible.)
 - b. Provide equal employment opportunities
 - c. Provide accommodation unless to do so would be an undue hardship or pose a direct threat to the employee or other employees
 - d. Inform the employee of the consequences of failing to identify a reasonable accommodation which will assist the employee in performing the essential functions of the position - the employee may be considered not qualified for the position and it may be necessary to discuss reassignment
 - e. Discuss reassignment to another position. Review with the employee that reassignment under the ADA is:
 - Lateral placement, not competitive hire (there are some exceptions with unions and seniority)
 - Into a position for which the employee is qualified
 - Only to a position that is open or will come open within a reasonable amount of time

2. Ask the employee, in a documented interview setting, if he/she considers himself/herself to be a person with a disability and if so, what part of the ADA definition he/she thinks he/she meets.
3. Ask the employee what the impact of their disability has or will have on their job performance.
4. Review the essential functions of the job and ask what impact the disability has on each specific job function.
5. Brainstorm with the employee about potential accommodations if the employee's impairment affects acceptable performance or productivity requirements due to their disability.
6. Come to an agreement or resolution for providing equal employment opportunities through reasonable accommodation.
7. Research accommodation solutions and alternatives with other professionals (Job Accommodation Network: <http://www.jan.wvu.edu/>), DBTAC ADA Information Centers: <http://www.dbtacnorthwest.org>, etc.).
8. Keep a record of the Reasonable Accommodation Interview in a medical file separate from personnel records, or in a confidential file in the ADA Coordinator's Office.

Follow-Up

1. Talk with the supervisor (10 days/1 month/60 days).
2. Talk with the employee.
3. Document the follow-up.

Formal Documentation and Record Keeping

1. Reasonable Accommodation Interview results will be filed in the employee's confidential medical file or the confidential file of the ADA Coordinator, not the personnel file.
2. Reasonable Accommodation Follow-up documentation (including medical professional's statements and medical evaluations) will be filed in the employee's confidential medical file or the confidential file of the ADA Coordinator, not the personnel file.

Copies of both the Reasonable Accommodation Interview and the Reasonable Accommodation Follow-up will remain confidential and be provided directly to the employee if requested.