

JBLM REASONABLE ACCOMMODATION PROCESS

Reasonable Accommodation - is any change in the work environment or in the way a job is performed that enables a person with a disability to enjoy equal employment opportunities.

Title I of the Americans with Disabilities Act (ADA) requires employers to provide reasonable accommodation to qualified applicants and employees with a disability, unless the employer can demonstrate that doing so creates an undue hardship.

Employers also have an obligation to accommodate an employee's sincerely held religious belief under Title VII of the Civil Rights Act (Title VII), unless the accommodation creates an undue hardship.

Step 1: Initiate the Interactive Process

The interactive process starts with an accommodation request from an employee with a disability or religious matters, so it is important for employers to be able to recognize a request. According to the EEOC, an individual may use "plain English" and need not mention the ADA (Americans with Disability Act) or use the phrase "reasonable accommodation" when requesting an accommodation. Therefore, any time an employee indicates that he/she is having an issue(s) is related to a medical condition or religious matter, the employer should consider whether the employee is making a request for accommodation.

- Determine whether the employee is requesting under the American Disability Act (ADA)
 - The definition of a "disability" and a "qualified individual with a disability under provisions of the ADA; “an individual who, with or without reasonable accommodation, can perform the essential functions of the position”, along with information obtained during the interactive process, to help make this determination. The ADA defines disability as an impairment that substantially limits a major life activity.
- Determine whether the employee is requesting religious accommodation
 - Title VII requires employers to accommodate only those religious belief that are “sincerely held.” Because the definition of religion is broad and protects beliefs and practices with which the employer may be unfamiliar, the employer should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief. If, however, the employer has an objective basis for questioning either the religious nature or the sincerity of a particular belief or practice, the employer would be justified in seeking additional supporting information.

Note: Social, political, or economic philosophies, or personal preferences, are not "religious" beliefs under Title VII.

Managers or Supervisors Responsibilities;

- Respond promptly
- Engage in the interactive process
- Ensure that procedures are followed
- Ensure that you have contacted the JBLM Reasonable Accommodation Program
- Inform the employee about the Reasonable Accommodation Program

Step 2: Gathering Information

Once an accommodation request has been received, the employer should gather whatever information is necessary to process the request. Necessary information may include documentation of the disability and need for accommodation. In some cases, the employee's disability and need for accommodation are obvious and no additional information is needed. The employee who requested the accommodation is often the best source of information about the disability and possible accommodations. If the employee cannot provide the necessary information, then medical documentation can be useful. The important thing for employers to

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remember is not to ask for too much information.

Questions to consider:

- How does the disability or medical condition affect the employee's ability to perform the essential function or major duties?
- What specific job tasks are problematic as a result of these limitations?
- Get information from the employee when possible. Employees with disabilities are familiar with their limitations and often know what accommodations will work best for them.
- How the requested accommodation will help in overcoming the employee's challenges?
- Remember ADA rules for medical inquiries. A good policy for employers is to only ask for what is absolutely necessary.
- Employees requiring an accommodation a religious accommodation should advise their supervisors of the nature of the conflict between their religious needs and their work environment or duties. Employee should provide enough information to enable the employer to understand what accommodation is needed, and why it is necessitated by a religious practice or belief. Likewise, supervisors should follow-up with employees to request any relevant information before making a determination.

Step 3: Supervisor contact the EEO Disability Program Manager EEO Disability Program Manager provides RA guidance / Reasonable Accommodation Packet

IAW AR 690-12 Dated 12 December 2019; Appendix C-4, b states "A supervisor or decision-maker receiving a request for reasonable accommodation may be able to grant the request immediately. Absent extenuating circumstances, the requested accommodation should be granted or denied within **30-business days** from the date the decision-maker receives the initial request. However, the 30-business day timeline is paused pending receipt of the requested medical information or supporting documentation from the requester or a health care provider. Once the information has been received, the timeline resumes."

IAW AR 690-12 Dated 12 December 2019; Appendix C-5, a states "The decision-maker should consider providing an **interim accommodation** until medical documentation is received and a final decision is made on a reasonable accommodation

Step 4: Exploring Accommodation Options

Once the decision-maker has identified the employee's disability, medical limitation or religious needs, that is causing a problem and has identified what that problem is, then the decision-maker is ready to explore accommodation options. At this step, decision-makers should be open to new ideas and new ways of doing things.

- Keep an open mind. Accommodations are about doing things differently to help overcome disability-related limitations or religious matters, so keep an open mind when exploring accommodation options.
- Determine the accommodation that will effectively meet the needs of the employee.
- Be flexible – one size doesn't fit all cases.
- Resource – RA Program manager, CPAC LMER Rep, Chain of Command, Legal.

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Step 5: Make a Decision

1. If a decision-maker does not immediately grant the requested accommodation or considering an alternative accommodation, he/she must consult directly with the DPM. The DPM will coordinate, as needed, with the servicing labor counselor/agency attorney before providing the decision-maker with any recommendations.
2. The command or organization must obtain legal reviews for all proposed denials of a reasonable accommodation or before informing the requester of the decision.
 - The decision-maker must provide in writing the following:
 - Any effort made to explore, with the requester, other options for accommodation.
 - The reasons the management believes the offered accommodation would be effective (if applicable or considered).
 - State the specific reason(s) for the denial.
 - Why the requested accommodation would pose an undue hardship.
3. Reassignment is the **accommodation of last resort** and is available only to employees, not applicants. Supervisors/decision-makers will consider a reassignment only if no reasonable accommodations are available to enable the individual to perform the essential functions of his/her current position, or if the only effective accommodation would cause undue hardship.
 - The position must be an open and funded position that the employee meets the requisite skill, experience, education, and other job-related requirements of the position.
 - The employee can perform the essential functions of the new position, with or without reasonable accommodation.
 - The command or organization will not create new positions or displace employees from their jobs.
 - The reassignment should not create an adverse personnel action or adversely impact the employee's career.
 - The same pay grade or band, if not the employee is willing to accept a lower pay.
 - Reassignment is **voluntary**.
 - The servicing CPAC will conduct up to three (3) vacancy search based on the employee's expressed preference and qualification
4. EEO RA office is responsible for drafting the Decision Letter for management (approval or denial)

Step 6: Decision-maker issue the Decision Letter to request

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Step 7: Monitoring the Accommodation

An important but often forgotten part of the RA process is monitoring accommodations after they are in place. In some cases, an accommodation stops being effective for various reasons such as;

- The employee's limitations change
- The job changes
- The workplace itself changes
- The accommodation becomes an undue hardship for the employer

The most important way to monitor accommodations is to encourage ongoing communication.

Undue Hardship

The only statutory limitation on an employer's obligation to provide "reasonable accommodation" is that no such change or modification is required if it would cause "undue hardship" to the employer.

- refers not only to financial difficulty
- unduly extensive
- substantial difficult
- Impact of the accommodation on the operation of the facility
 - Reduces workplace safety
 - Lowers job efficiency
 - Breaks another law
 - Burdensome
 - Poses a direct threat to the safety of the employee or others in the workplace