



Reasonable Accommodations Under the Americans with Disabilities Act Policy, Requests, Appeals, and FAQs

Policy

The Americans with Disabilities Act of 1990 (ADA) is designed to remove barriers which prevent qualified individuals with disabilities from enjoying the same employment opportunities that are available to persons without disabilities. The ADA does not guarantee equal results, establish quotas, or require preferences favoring individuals with disabilities over those without disabilities. Instead, it establishes a process where the employer assesses a disabled individual's ability to perform the essential functions of the specific job held or desired. The ADA does not relieve a disabled employee or job applicant from the obligation to perform the essential functions of the job. MCPR Section 8 and MCGEO Appendix VIII defines this policy in further detail.

When an individual's functional limitation impedes such job performance, the employer must take steps to reasonably accommodate the individual, unless to do so would impose an undue hardship. These accommodations may be adjustments to the way a job customarily is performed or to the work environment itself. This process should be flexible, and should involve both the employer and the individual with a disability. The determination of whether an individual is qualified for a particular position must necessarily be made on a case-by-case basis. No specific form of accommodation is guaranteed for all individuals with a particular disability.

An individual with a disability under the ADA is a person 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.

Reasonable accommodation is defined as:

- A Modification or adjustment to a job, the work environment, or the way things are usually done that enables a qualified individual with a disability to enjoy an opportunity to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to an average similarly situated employee without a disability.

ADA requires reasonable accommodation in three aspects of employment:

- To ensure equal opportunity in the application process;
- To enable a qualified individual with a disability to perform the essential functions of a job; and
- To enable an employee with a disability to enjoy equal benefits and privileges of employment.

Requests for Reasonable Accommodations

To make a request for a reasonable accommodation, employees and job applicants should follow the steps below.

STEP 1

There are different processes for employees and job applicants to request a reasonable accommodation:

- **Employees** can make a request for reasonable accommodation at any point during the course of employment with the County by speaking to their supervisor, contacting the County's Disability Program Manager, or completing the [Employee Reasonable Accommodation Request Form](#).
- **Job applicants** can indicate that they need an accommodation at two phases of the process. At either point, a determination will be made whether the request can be granted, or will be denied:
 - a) **At the pre-employment job offer phase:** Once contacted by an Office of Human Resources Recruiter and informed of the opportunity to participate in a job interview, the job applicant can request a reasonable accommodation; the accommodation type does not need to be specified at that time. The Recruiter will then contact the County's Disability Program Manager for assistance. Here are some examples of when this applies during the pre-employment job offer phase:
 - An applicant is called for an interview and needs assistance in effectively responding during the interview by utilizing a sign language interpreter.
 - An applicant requests that any written materials be provided in Braille.
 - An applicant requests that the interview be in an accessible location.
 - b) **At the post-conditional job offer phase:** Once the position has been offered, an applicant can request a reasonable accommodation to effectively perform the job. This request can be made on either a Medical History Form or at the completion of a physical examination.

STEP 2

Once the request is made, the individual with the disability is contacted by the Disability Program Manager to engage in the "interactive process." This is the point at which the Disability Program Manager and individual discuss the request and identify what types of reasonable accommodations may be effective in removing the workplace barriers of a particular job.

STEP 3

The Disability Program Manager reviews the individual's particular job classification specification to capture the essential functions. The essential functions are then paired with the limitations of the individual's disability.

STEP 4

The specific request is considered for "reasonableness" by the employer. If the request is "reasonable" and effectively removes the workplace barriers, the employee or job applicant's preferred request can be approved. If, however, the request is not reasonable or effective, the Disability Program Manager determines the type of reasonable accommodation to be applied as the accommodation.

STEP 5

Once the appropriate reasonable accommodation has been identified, a recommendation in the form of a Health Status Report (HSR) or memorandum from the OMS/FROMS clinical staff and the Disability Program Manager is sent to the hiring or employing department for implementation.

Appeals for Reasonable Accommodations

Montgomery County Government allows an appeal to the OHR Director through the County's Office of Human Resources, and ultimately to the County's Chief Administrative Officer, if a job applicant or an employee is denied a request for a reasonable accommodation.

A letter of appeal to the OHR Director should include the:

- Type of reasonable accommodation requested; and,
- Rationale for the request.

The OHR Director, in consultation with the Disability Program Manager, will discuss and review the elements of the request in order to render an equitable decision that fairly balances both the rights as a job applicant or employee and the County's position as the employer. After review and discussion, the OHR Director will issue a decision on the appeal.

If job applicants or employees want to appeal the OHR Director's decision, they may write a letter of appeal to the County's Chief Administrative Officer (CAO).

A letter of appeal to the CAO should include the:

- Reason for disagreeing with the OHR Director's decision regarding the appeal for a reasonable accommodation;
- Type of reasonable accommodation being requested; and,
- Rationale for the request for a reasonable accommodation.

The CAO will make a final decision on the appeal and will provide the decision to the job applicant or employee in a memorandum format.

FAQs

What are some examples of Reasonable Accommodation?

- Restructuring a job by reallocating or redistributing marginal job functions
- Changing when or how an essential job function is performed
- Obtaining or modifying equipment or devices
- Modifying examinations, training materials or policies
- Providing qualified readers and interpreters
- Reassigning an employee to a vacant position
- Allowing an employee to provide equipment or devices that an employer is not required to provide

What difference does it make if the disability is obvious or not?

It makes a big difference. Individuals with an obvious disability may not be required to show medical documentation of their condition, whereas individuals with a chronic, non-obvious medical condition will need to make their disability known to their employer, through medical documentation, if they are requesting a reasonable accommodation.

Some examples of obvious disabilities:

- Amputee
- Autism
- Blindness
- Deafness
- Down Syndrome
- Paralysis

Some examples of chronic non-obvious disabilities:

- Bi-polar disorder
- Cancer
- Diabetes
- Sickle cell disease

Who pays for a reasonable accommodation?

An augmentative or adaptive device like voice-activated software may have to be purchased before implementation. Depending on the type of reasonable accommodation, the hiring or employing department pays up to \$500 of the cost and the Office of Human Resources may pay for the remaining portion.

What if the accommodation offered is not what the job applicant or employee requested?

The law does not require that the job applicant or employee receive the specific accommodation requested but rather an accommodation that is effective and reasonable.

Can a reasonable accommodation be denied?

The ADA requires that an employer may deny a reasonable accommodation if providing such an accommodation would create “undue hardship” to the employer. An undue hardship is action that requires a significant difficulty or expense in relation to the size of the employer, the resources available and the nature of the operation. An undue hardship is defined by the ADA is an action that is:

- Unduly costly,
- Extensive,
- Substantial,
- Disruptive, or
- Fundamentally alters the nature or operation of the business.

Resources

If you have questions about reasonable accommodation requests, please contact:

Disability Program Manager
Office of Human Resources
dpm@montgomerycountymd.gov
240-777-5176