WEBINAR & TELELEARNING SERIES

Negotiating Reasonable Accommodations

February 15, 2017

Presented by:

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What is the law? What are your rights?

- **Title I of the Americans with Disabilities Act of 1990 (the “ADA”)**
  - Requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship.

- **Federal law**
  - Protects you from discrimination and imposes a duty to accommodate

- A covered employer must have at least fifteen employees.

- Some states and cities have enhanced protections.
Given the requirements of the ADA, what is an employer’s duty?

**Unduly burdensome**

- An employer does not need to not provide the exact request if it is “unduly burdensome,” however, it *must* engage in an interactive process/dialogue in order to find a mutually agreeable solution.
What is a reasonable request and what is ‘unduly burdensome’?

A number of variables affect the “reasonableness” of a request, including:

• Size of the employer
• Cost of the request
• Needs of the business
• Essential duties of the position
Key Takeaway:

You must still be capable of performing the ‘essential functions’ of the job with *or* without the accommodation.
The Equal Employment Opportunity Commission (EEOC)

Suggests a number of requests are generally considered reasonable, including:

• Making existing facilities accessible;
• Job restricting;
• Part-time or modified work schedules;
• Acquiring or modifying equipment;
• Changing tests, training materials, or policies;
• Providing qualified readers or interpreters; and
• Reassignment to a vacant position.
Walking through the interactive process of requesting an accommodation
‘Pre-step’: Self-Assessment

Self-assess your limitations and the essential functions necessary to perform the job

Consider:

• Are there accommodations that work?
• What has worked in the past?
• May need to go on disability/unpaid leave as opposed to accommodation
Step 1: Making the Initial Request

How do you request an accommodation?

• In writing (more formal)
• Verbally (more informal)
Step 1: Making the Initial Request cont’d

Who do you contact? Who do you direct your request to?

• The short answer: It depends
Step 2: Share Medical Documentation (where necessary)

How much must be disclosed?

• Short answer: It depends
Step 3: Engage in an Interactive Dialogue

The conversation does not end after the request is made. You should go back and forth with your employer.

This may take the form of:

• E-mails exchanges
• Phone calls
• Meetings
Step 3: Engage in an Interactive Dialogue

What is the length of this ‘dialogue’?

• Short answer: It depends
Step 4: Memorializing an Accommodation

Should you get your accommodation in writing?

- Short answer: Yes
What’s next?

• Follow up
• Updated documentation from your doctor
• Interactive dialogue may be initiated again if accommodations were initially set as temporary
Questions/Comments

Nina T. Martinez

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Thank you.
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