

# JAN

Job Accommodation Network



## EMPLOYERS' PRACTICAL GUIDE: REASONABLE ACCOMMODATION DURING THE HIRING PROCESS

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## INTRODUCTION

Under the Americans with Disabilities Act (ADA), covered employers must provide reasonable accommodations for qualified applicants and candidates with disabilities upon request, unless doing so would create an undue hardship. To help develop effective accommodations for applicants, employers can use the same process they use for employee accommodation requests. However, for a variety of reasons, employers should aim to minimize the amount of confidential medical information received about applicants and candidates. Using the steps in JAN's sample [interactive process](#), this publication provides ideas and resources for providing accommodations quickly during the hiring process. For more suggestions related to the hiring process, see the JAN [Toolkit](#) drawer "Tools for Recruiters and Hiring Managers."

## THE INTERACTIVE PROCESS

To help determine effective accommodations, the Equal Employment Opportunity Commission (EEOC) recommends that employers use an "interactive process," which simply means that employers and individuals with disabilities who request accommodations work together to come up with accommodations.



### Step 1: Requesting an Accommodation

**General Rule:** An employer may tell applicants what the hiring process involves (e.g., an interview, timed written test, or job demonstration) and may ask applicants whether they will need a reasonable accommodation for this process, but the individual with a disability must start the interactive process by requesting an accommodation. Note that the individual does not need to use specific terms such as "disability," "accommodation," or "ADA" to make this request. It is sufficient if they make it known that they need some sort of adjustment to the hiring process because of a physical or mental impairment. Here are some examples:

**Example:** "I am neurodiverse and need interview questions in advance."

**Example:** "I have challenges navigating online information due to a visual condition and my screen reader doesn't work with your online assessment; can I have someone read the questions to me?"

**Example:** "Because of my dyslexia and reading challenges, I need extended time to take the pre-interview online assessment."

**Example:** “I rely on lip reading and find it difficult to understand people when they are wearing a mask; can we do the interview virtually instead of in person or can the interviewers wear clear masks?”

**Example:** “It’s painful for me to walk very far; can all the interviews take place in one location?”

Not all accommodation requests are obvious. The following are examples of requests that may not be perceived as accommodation requests because they do not clearly indicate that the request is being made due to a physical or mental impairment. However, in these types of situations you should [clarify](#) why the request is being made:

**Example:** “I find it difficult to communicate verbally; may I answer the interview questions in writing?”

**Example:** “I am struggling to navigate your career site; can someone assist me?”

**Example:** “I need more time to complete the pre-interview online assessment; is there a way to extend the time?”

**Example:** “I find it difficult to understand people when they are wearing a mask; can we do the interview virtually instead of in person?”

**Example:** “It takes me too long to walk between locations; can all the interviews take place in one location?”

## IDEAS FOR STREAMLINING

### > Reduce the need for applicants and candidates to request accommodations

- Build in as much accessibility as possible
- Update job descriptions

**Discussion:** Some of the same methods employers use to attract applicants with disabilities for affirmative action/diversity outreach can help streamline the accommodation process. Building in [accessibility](#) can serve as a welcome mat for individuals with disabilities and also reduce the need for accommodations. For example, online applications should be as [accessible](#) as possible so people who use assistive technology such as screen readers can access them. Interviews should be held in [accessible](#) locations or using [accessible virtual platforms](#) so people with various types of disabilities can participate without accommodations. Reviewing [job descriptions](#) to make sure they focus on the work to be done rather than how the work is traditionally performed can encourage individuals with disabilities to apply and also reduce their need to ask about possible on-the-job accommodations.

## > Make it easier for applicants and candidates to request accommodations

- Include a clearly noticeable accommodation statement
- Provide multiple contact methods for accommodation requests
- Standardize the interview process
- Notify candidates where and how the interview will be conducted
- Designate a responsible and responsive person to monitor and address requests

**Discussion:** When accommodations are needed, employers should make it easy for applicants and candidates to find out how to request accommodations by including [accommodation statements](#) and contact information on all online postings, application forms, career websites, phone screen scripts, and interview letters. Providing multiple contact methods (e.g., text, phone, email) can make it easier for individuals with communication-related disabilities to request accommodations. Employers should [standardize interviews](#) if possible so they can give candidates information about how the interview will be conducted at least 48 hours in advance of the interview taking place. Candidates will then have time to ask for accommodations before the interview if needed. And perhaps the most important step employers can take is to designate a responsible person to respond to and process accommodation requests in a timely manner and to have a backup plan if that person is not available.



## > Plan for last-minute accommodation requests

- Train interviewers
- Provide the accommodation when possible
- Think about accommodations ahead of time
- Secure vendor relationships with providers
- Be flexible and open minded

**Discussion:** Even when you take action to reduce the need for accommodations and make it easier to request accommodations ahead of time, there will still be candidates who for a variety of reasons do not ask for an accommodation until they show up for a



job interview. Examples of reasons this might occur include stigma associated with disability and concerns about disclosing early in the selection process, lack of experience requesting an accommodation, anxiety associated with the interview process, or not realizing an accommodation was necessary until the interview started.

Interviewers should be trained to recognize an accommodation request and respond appropriately so they do not automatically deny these late requests or cut off the interview process prematurely without checking with whoever processes accommodation requests. When possible, employers should try to provide the accommodation so the interview can go forward. Employers may want to plan for certain common accommodation requests such as alternative format written materials (e.g., Braille or large print), readers, and [sign language interpreters](#) by locating service providers ahead of time. And perhaps the most important thing is to adopt a mindset of flexibility, focusing on the ability to do the job instead of the candidate's skill at interviewing for the job. It is important to remember that unless you are hiring someone to be a recruiter, the ability to interview well is not the primary skill set you are assessing.

## Step 2: Gathering Information

**General Rule:** Whenever an individual requests an accommodation for the hiring process, the employer has the right to ask for [reasonable medical documentation](#) in the same way it is allowed to do so for employee accommodation requests. Reasonable documentation means that the employer may require only the documentation that is needed to establish that a person has an ADA disability, and that the disability necessitates a reasonable accommodation. An employer cannot ask for documentation when: (1) both the disability and the need for reasonable accommodation are obvious, or (2) the individual has already provided the employer with sufficient information to substantiate that they have an ADA disability and need the reasonable accommodation requested.

### IDEAS FOR STREAMLINING

#### > Eliminate or minimize medical documentation when possible

- Consider foregoing medical documentation at the hiring stage
- When possible, approve accommodation requests without medical documentation
- Consider getting medical information informally

**Discussion:** There often is not a lot of time to get accommodations in place for the hiring process, so some employers prefer not to wait for formal medical documentation. As a result, it is a best practice to streamline this step. For example, some employers do not require any medical documentation at the hiring stage. Instead, they just talk

informally with the individual about what is needed and why. When medical documentation is necessary, some employers require less documentation than they would for an employee requesting accommodations on the job. Here are some examples:

**Example:** An applicant shows up for the pre-employment testing and finds out there will be multiple people taking the test in the same room. The applicant discloses that they are a person with ADHD and asks to take the test in a private room. The employer locates a room and provides the accommodation. In the future, the employer decides to describe the testing environment on the appointment invite sent to candidates.

**Example:** A candidate discloses that they use a service animal and would like to bring it to the interview. Rather than requesting medical documentation, the employer decides to just ask the candidate a few questions about where the service animal will be during the interview so the employer can make sure there is appropriate space in the interview room and that there is a service animal relief area relatively close to the interview location. (Note: this may be just a patch of grass or rocky area near the entrance).

**Example:** A candidate discloses that they have autism and requests to have a job coach at the interview. The employer asks what role the job coach will play in the interview and whether they know where to get a job coach. The candidate indicates that the job coach will be helping with social skills and volunteers to bring their own job coach. The employer approves the request without getting medical documentation.

**Example:** A candidate discloses that they will need a sign language interpreter for the interview. The employer treats this as an obvious disability and does not ask for medical documentation. The employer asks if the candidate has a preferred provider of interpreting services they can contact. They do not, so the employer contacts the service provider that their company has a contract with to provide these services.

**Example:** A candidate asks to have interview questions ahead of the interview and to be allowed to write out answers because they have an auditory processing disability. The employer wants to verify that the candidate is telling the truth as otherwise having the questions in advance would give the candidate an unfair advantage. The employer uses a limited medical documentation [form](#) to send to the appropriate professional (which will depend on the disability and may include, among others, a doctor, psychologist, nurse, licensed mental health professional, or physical, occupational, or speech therapist).

## Steps 3, 4, and 5: Exploring, Choosing, and Implementing Accommodations

**General Rules:** Employers can explore and choose among effective accommodation options and do not always have to provide the accommodation requested by the individual with a disability. Once an accommodation is chosen, employers must take whatever steps are needed to effectively implement the accommodation.

### IDEAS FOR STREAMLINING

#### > Minimize steps 3, 4, and 5

- Choose the individual's preferred accommodation when possible
- Ask the individual for other ideas when the preferred accommodation cannot be provided
- Ask the individual for information, including their sources (e.g., preferred providers) for accommodations if needed
- Follow ADA confidentiality rules but inform those who need to know

**Discussion:** Choosing the individual's preferred accommodation allows employers to quickly go through steps 3 and 4. In addition, implementing the accommodation should also be faster – if the individual is already familiar with the accommodation, they may be able to provide suggestions for getting the accommodation in place and they will not have to learn a new way of doing things in time to complete the hiring process. Individuals may also be able to tell you where to find an appropriate vendor. For example, not all sign language interpreters provide communications support the same way. People who are deaf may have preferred providers that understand how they are best able to exchange information, whether that is using American Sign Language, a different primary language such as Spanish or Mandarin, and/or voice for the person when they sign their responses during the interview. Having a provider that knows the candidate's communication requirements can make a big difference in how smoothly the interview goes.

Under the ADA, employers must keep all medical information [confidential](#), but can inform supervisors and managers about accommodations on a need-to-know basis. The hiring managers and interviewers involved in the hiring process may need to know about the accommodation to implement it. That does not mean they necessarily need to know the individual's disability/diagnosis or details about their medical condition; they should only be provided with the information that is necessary to effectively accommodate the applicant or candidate.

## Step 6: Monitoring the Accommodation

**General Rule:** Employers must monitor accommodations to make sure they remain effective and must consider modifying an accommodation that no longer works.

### IDEAS FOR STREAMLINING

#### > Have a process for making quick adjustments when needed

- Train recruiters, hiring managers, and interviewers
- Involve accommodation decisionmakers
- Ask the candidate whether an adjustment to the accommodation would be helpful if they appear to be struggling

**Discussion:** In most cases, it will be up to recruiters, hiring managers, or interviewers to monitor accommodations during pre-placement assessments, testing, and job interviews. They should be trained what to do if an accommodation is not effective, a new request is made, the candidate appears to be struggling, or something changes that affects the accommodation. They should also know who to contact if something happens that they cannot handle, and an accommodation decisionmaker should be available and responsive.

### ONBOARDING

Once a candidate is chosen and has accepted a job, some employers consider onboarding to be the final step in the hiring process. The purpose of onboarding is to welcome new employees and smoothly integrate them in their positions and company culture. Accommodations need to be in place as soon as possible so onboarding can be as equitable and comfortable for new hires with disabilities as it is for new hires who do not identify as living with a disability.

**General Rule:** Employers have a duty to provide reasonable accommodations to qualified individuals with disabilities during onboarding, upon request, unless doing so would create an undue hardship.



### IDEAS FOR STREAMLINING

- Build in accessibility with all materials provided such as benefits and new hire orientation materials (e.g., have videos captioned and audio described)
- Have an agreement in place with available services such as sign language interpreters or readers



- Identify obvious accommodation needs, (e.g., accessible parking, restroom, entrance, cafeteria, office location)
- Use what you learned in the hiring process and when [appropriate](#), ask the new employee as soon as the job offer is accepted whether they need an accommodation for the onboarding process (e.g., if a candidate needed a job coach for the job interview, the same might be needed for onboarding)
- Ask the new employee if they have preferred providers for accommodations
- Let the new employee know what to expect their first week of employment including, depending on the circumstances, office location, schedule, who they will meet with, who to ask about navigating the building, where accessible egress is, the virtual platform used for remote work, etc.
- Notify security if a new employee has a service animal and whether they will need to assist with opening the front door, getting a badge, setting up a relief area, etc.
- Notify IT if the new employee may need assistance setting up equipment and any associated assistive devices
- Consider identifying a new employee “buddy” in the work group to assist with general questions
- If there is a new accommodation request, start researching options early

## SOFTWARE, ALGORITHMS, ARTIFICIAL INTELLIGENCE

Some employers have started using computer-based tools to help streamline the process of assessing and selecting job applicants and candidates. However, according to the Equal Employment Opportunity Commission (EEOC) the use of these tools can sometimes place individuals with disabilities at a disadvantage, which for employers can create the risk of violating federal Equal Employment Opportunity (EEO) laws that protect individuals with disabilities.

For more information about when and why computer-based screening tools might violate federal EEO laws and suggestions for reducing the risk of such violations, see:

- EEOC resource: [The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees](#)
- United States Department of Justice resource: [Algorithms, Artificial Intelligence, and Disability Discrimination in Hiring](#).

## ADDITIONAL ADA INFORMATION RELATED TO THE HIRING PROCESS

The following information is from [Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act](#):

### **Does an employer have to provide a reasonable accommodation to an applicant with a disability even if it believes that it will be unable to provide this individual with a reasonable accommodation on the job?**

Yes. An employer must provide a reasonable accommodation to a qualified applicant with a disability that will enable the individual to have an equal opportunity to participate in the application process and to be considered for a job (unless it can show undue hardship). Thus, individuals with disabilities who meet initial requirements to be considered for a job should not be excluded from the application process because the employer speculates, based on a request for reasonable accommodation for the application process, that it will be unable to provide the individual with reasonable accommodation to perform the job. In many instances, employers will be unable to determine whether an individual needs reasonable accommodation to perform a job based solely on a request for accommodation during the application process. And even if an individual will need reasonable accommodation to perform the job, it may not be the same type or degree of accommodation that is needed for the application process. Thus, an employer should assess the need for accommodations for the application process separately from those that may be needed to perform the job.

The following information is from [Preemployment Disability-Related Questions and Medical Examinations](#):

### **May an employer ask applicants whether they will need reasonable accommodation for the hiring process?**

Yes. An employer may tell applicants what the hiring process involves (for example, an interview, timed written test, or job demonstration), and may ask applicants whether they will need a reasonable accommodation for this process.

The following information is from [Preemployment Disability-Related Questions and Medical Examinations](#):

### **May an employer ask applicants whether they will need reasonable accommodation to perform the functions of the job?**

In general, an employer may not ask questions on an application or in an interview about whether an applicant will need reasonable accommodation for a

job. This is because these questions are likely to elicit whether the applicant has a disability (generally, only people who have disabilities will need reasonable accommodations).

However, when an employer could reasonably believe that an applicant will need reasonable accommodation to perform the functions of the job, the employer may ask that applicant certain limited questions. Specifically, the employer may ask whether the applicant needs reasonable accommodation and what type of reasonable accommodation would be needed to perform the functions of the job. The employer could ask these questions if:

- The employer reasonably believes the applicant will need reasonable accommodation because of an obvious disability;
- The employer reasonably believes the applicant will need reasonable accommodation because of a hidden disability that the applicant has voluntarily disclosed to the employer; or
- An applicant has voluntarily disclosed to the employer that they need reasonable accommodation to perform the job.

## RESOURCES

- [Accommodation Scenarios for the Interviewing Process](#)
- [Employment Testing and the ADA](#)
- [Finding an Interpreter for an Interview](#)
- [Hiring Process Reasonable Accommodation Flowchart](#)
- [Incorporate Reasonable Accommodation Practices into your Onboarding Process](#)
- [Job Application/Interview Stage Dos and Don'ts](#)
- [Online Application Systems: Sample Language for Accommodation Statements](#)
- [Sample Medical Inquiry Form in Response to an Accommodation Request for the Hiring Process](#)
- [Sample Reasonable Accommodation Request Form for the Hiring Process](#)
- [Sample Reasonable Accommodation Statements for the Hiring Process](#)
- [Streamlining the Interactive Process When Accommodating Job Applicants](#)
- [Testing Accommodations](#)

# JAN

## Job Accommodation Network

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Practical Solutions • Workplace Success

### ASK JAN – WE CAN HELP

The Job Accommodation Network (JAN) is the leading source of free, expert, and confidential guidance on job accommodations and disability employment issues. Serving customers across the United States for more than 35 years, JAN provides free one-on-one practical guidance and technical assistance on job accommodation solutions and Title I of the Americans with Disabilities Act (ADA) and related legislation.

JAN provides individualized consultation to assist:

Employers and their representatives seeking guidance on practical ways to engage in the interactive process, provide job accommodation solutions, and comply with Title I of the ADA;

Individuals with medical conditions and disabilities seeking information about job accommodation solutions, employment rights under the ADA; and

Family members and rehabilitation, medical, educational, and other professionals in their effort to support successful employment outcomes for individuals with medical conditions and disabilities.

Learn more at [AskJAN.org](https://www.AskJAN.org).

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