

The American With Disabilities Act (ADA) & Reasonable Accommodations

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JAN - the Job Accommodation Network is, without doubt, the absolute best resource and link for anyone who is disabled, who is facing becoming disabled, and who is still working! The purposes of this article are:

to describe what this Resource is;

to give you an example of what types of information it can provide for you;

to give you an example (from my own experience) of how you can trigger the ADA (Americans with Disability Act) to continue working as your company provides you with "reasonable accommodations";

and, to give you a link to this very valuable website.

OK, let's say that you have just been told by your Neurologist that the series of conditions that have been making you miserable for over the past 35 years really are the result of Multiple Sclerosis (MS). My first reaction was, OH DARN!!!

At this point in time, I was struggling to keep 2 kids in college, and was working in the best job that I had ever had! I was the Vice President of Human Resources for a Ship Repair Yard. My staff and I provided Human Resources services to over 2,500 employees in 11 crafts (Unions) running a 24 (hour)/7 (days) week operations. (Note: you can see more about me by going to the "About Us" section of the www.disabilitykey.com website.)

My next reaction, since I am an ingrained "control freak", I decided to become an Expert Patient, even though I would not discover that phrase until over a decade later. If I was to become a Chronic Disease Self-Manager (again, I would not discover that phrase until over a decade later) I needed to know all about Multiple Sclerosis, its symptoms, and, for whatever symptoms I had, their explicit impact on me. For, you see, my wonderful Doctor and I had been practicing Patient-centered health care (another yet-to-be-discovered concept) for years up to that point.

AND, since I still had bills to pay, two kids to keep in college (and those of you who have experienced this, you KNOW how expensive college is these days) I needed to keep working. But, my job skills were becoming increasingly more impacted by my MS symptoms. I knew that I must research, in addition to the disease, the concept of working while disabled.

Here, in a nutshell, is what I discovered. (By the way - I very much wish that there had been information like this for me to access when I needed it; that's one of the reasons that I am so passionate about providing the information to y'all, so that you can use it in your own unique situations.)

I learned that there was a federal law called "ADA". (OK, truth time; I already knew about this law as a Human Resources professional; what I mean to say, is that now I knew about the law as a DISABLED PERSON. Believe you me, the two "knowings" are as different as are night from day! One is academic, the other is experiential. It is the very nature of my experiential knowledge about disability and other "stuff" that fires me up to share the information with you so you don't have to recreate the wheel.) Here is how the JAN describes WHAT the patterns and practices of a Company's employment nondiscrimination policies are under the ADA: " The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities."

This is how the JAN describes WHO is covered by the ADA: "Employment discrimination is prohibited against "qualified individuals with disabilities." This includes applicants for employment and employees. An individual is considered to have a "disability" if s/he 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. Persons discriminated against because they have a known association or relationship with an individual with a disability also are protected."

Please note the sentence in red ink, and particularly the words in bold that are larger. It is very important that you understand that you need not just "have" a physical or mental impairment, that/those impairment(s) must substantially limit one or more major of life's activities, and, furthermore, you must have documentation of that impairment (and/or "be regarded as having such an impairment", which basically means that the impairment and it's limitations must be documented).

It is this information in red ink that made me realize the great truth about working and disability: I had to do the work myself to determine what my impairments were, and what activities they impacted; I had to become that Expert Patient who was also an Expert Disabled Worker! Here's how the JAN describes a "qualified individual with disabilities":

"A qualified individual with a disability is a person who meets legitimate skill, experience, education, or other

requirements of an employment position that s/he holds or seeks, and who can perform the "essential functions" of the position with or without reasonable accommodation. Requiring the ability to perform "essential" functions assures that an individual with a disability will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation. If a written job description has been prepared in advance of advertising or interviewing applicants for a job, this will be considered as evidence, although not conclusive evidence, of the essential functions of the job."

Next step, get a copy of the Job Description for your job. The job description should detail what is called "the Essential Duties (or Functions) of the Job". (Note: a copy of a Job Description that has such essential duties described, and the process of how to get one from your company's Human Resource department can be found at the www.disabilitykey.com website in the Disabilitykey Workbook. This Workbook is an "e-book" of over 100 pages with How-To's and lots of forms and examples. It can be purchased for a minimum cost.)

OK, you know your symptoms and their impacts upon you, and you have detailed them (once again, how to do this is covered in the Disabilitykey Workbook). Now you have to look at the Job Description for your own Job, and decide what you can and can't do.

OK, this is really hard stuff to do. That's where the JAN comes in that is so helpful! It has a link on the left hand column called "Accommodation Toolbox". If you click on this box, it will take you to a page with a wealth of information. Scroll down about an 15% of the page and you will find a section entitled "Accommodation Ideas". When you click on this section, you will find an index of illnesses/conditions, with some great information for you. You will need to understand accommodation ideas to

Here's what the JAN has to say about "Reasonable Accommodations", and about some accommodations applicants and employees may/can need.

"Q. What is "reasonable accommodation"?"

A. Reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

Q. What are some of the accommodations applicants and employees may need?

A. Examples of reasonable accommodation include making existing facilities used by employees readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs.

Reasonable accommodation also may include reassigning a current employee to a vacant position for which the individual is qualified, if the person is unable to do the original job because of a disability even with an accommodation. However, there is no obligation to find a position for an applicant who is not qualified for the position sought. Employers are not required to lower quality or quantity standards as an accommodation; nor are they obligated to provide personal use items such as glasses or hearing aids.

The decision as to the appropriate accommodation must be based on the particular facts of each case. In selecting the particular type of reasonable accommodation to provide, the principal test is that of effectiveness, i.e., whether the accommodation will provide an opportunity for a person with a disability to achieve the same level of performance and to enjoy benefits equal to those of an average, similarly situated person without a disability. However, the accommodation does not have to ensure equal results or provide exactly the same benefits."

So, I now know my symptoms and their impacts; I know about the ADA, and about something called "reasonable accommodations". I have a copy of my Job Description, and am now trying to compare "ME" to the job's Essential Duties. About Disabilitykey.com & Carolyn Magura:

Disabilitykey.com is a website designed to assist each person in his/her own unique quest to navigate through the difficult and often conflicting and misleading information about coping with disabilities.

Carolyn Magura, noted disability / ADA expert, has written an e-Book documenting the process that allowed her to:

- a) continue to work and receive her "full salary" while on Long Term Disability; and
- b) become the first person in her State to qualify for Social Security Disability the FIRST TIME, in UNDER 30 DAYS.

Click here to receive Carolyn 's easy-to-read, easy-to-follow direct guide through this difficult, trying process. If you are disabled, don't let this disabling process disable you. Read Carolyn's Disability Key Blog.