



# Disability Law Center's Self-Advocacy Materials

Updated November 2017

## Employment

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

617-723-8455  
800-872-9992  
mail@dlc-ma.org

### Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit:

<http://www.dlc-ma.org/about/funding/>

## Employment Law And Reasonable Accommodation

### You Will Learn About:

- Employment Laws
- Reasonable Accommodations
- Other Resources

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

---

# Employment Laws

## What Laws Apply to Employment Discrimination Based on Disability?

- Americans with Disabilities Act (ADA) Title I – employers with 15 or more employees
- Mass. General Laws chapter 151B – employers with 6 or more employees
- Rehabilitation Act of 1973 – federal employees, and employees of federal contractors

## Who Is Protected?

An **individual with a disability**. This is defined as a person with a **physical or mental impairment** that causes a **substantial limitation** of one or more **major life activities**.

- You are also protected if you have a **record of** such an impairment, or if your employer **regards you (incorrectly)** as having such an impairment.
- ‘Major life activities’ is a **very broad term**. It includes specific activities such as seeing, hearing and walking. It also includes the operation of major bodily functions like the immune system, normal cell growth and brain functions.

## Do A Job Applicant Or Employee Have To Disclose That They Have A Disability?

**NO.** Disclosure is only required if an applicant or employee needs a reasonable accommodation.

- During an interview, an employer **cannot** ask you if you have a disability. But they **can** ask if you can perform the essential functions of the job with or without a reasonable accommodation.

## What Type Of Conduct Is Prohibited?

These laws prohibit **discrimination in all employment practices**. This includes job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. Also, refusing to provide a **reasonable accommodation** is illegal.

---

# Reasonable Accommodations

## What Is A Reasonable Accommodation?

Employers are required to provide reasonable accommodations for individuals with disabilities. A **reasonable accommodation** is a change or adjustment to a job or a work environment that enables a person with a disability to **participate in the job application process** or to **perform the essential functions of the job**.

- Reasonable accommodation issues are decided on a case-by-case basis. The most important factor to consider is whether or not the accommodation is **effective**.

- There is no list of things that are reasonable accommodations. But there are **examples**, like restructuring a job, making workspaces accessible, or modifying a work schedule. Also, providing qualified readers or interpreters, acquiring or modifying equipment or devices, modifying training programs, allowing a short leave of absence, telecommuting, or reassigning an employee to an open position that they are qualified for.

## How Do I Get A Reasonable Accommodation If I Need One?

**First**, make a request. If you do not make a request, your employer does not need to provide you with an accommodation. Make the request to human resources if your employer has an HR department. Otherwise, make the request to your supervisor. Do it in writing and keep a copy.

**Second**, be prepared to answer your employer's questions. Your employer can ask you for limited medical verification. This means medical proof that you have a disability-related need for the accommodation you have requested. You may want to get this first and submit it with your request for the accommodation to save time.

**Third**, be prepared to discuss your request with your employer. This is called an interactive process. The purpose of the interactive process is to determine what accommodation the employer will provide for you.

## Does An Employer Have To Provide The Exact Accommodation That I Asked For?

**No.** Employers only need to provide an accommodation that is **effective**. That means one that enables the employee to perform the essential functions of the job. It does not have to be the exact accommodation that the employee requested.

- Work with your employer during the interactive process to find an accommodation that works for both you and the employer.
- Don't quickly reject a suggestion from your employer for a different type of accommodation than you asked for. Give serious thought to whether or not it will be effective. If you can, try it out first. If it's not working, go back to your employer and reopen the interactive process.
- Employers **do not** have to lower production standards or ignore poor work quality as a reasonable accommodation. They also do not need to remove essential functions of a person's job.
- Employers **do not** have to provide accommodations which amount to an **undue hardship** or that would pose a **significant health or safety risk to the employee or others**. These issues are determined on a case-by-case basis.

---

## Other Resources

### How Do I File A Discrimination Complaint?

**Within 300 days** of the act of discrimination, file a complaint with either the Equal Employment Opportunity Commission or the Massachusetts Commission Against Discrimination.

## Where Can I Find More Information On These Laws?

- Equal Employment Opportunity Commission - <https://www.eeoc.gov/laws/types/disability.cfm>
- Massachusetts Commission Against Discrimination - <https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>
- Job Accommodation Network - <https://askjan.org/>