



Reasonable Accommodation: Cancer

Frequently asked questions about cancer and accommodation excerpted from the Equal Employment Opportunity Commission Enforcement Guidance. (www.eeoc.gov)

When is cancer a disability under the ADA?

Cancer is a disability under the ADA when it or its side effects limit(s) one or more of a person's major life activities. Even when the cancer itself does not limit any major life activity (such as when it is diagnosed and treated early), it can lead to the occurrence of other impairments that may be disabilities. For example, sometimes depression may develop as a result of the cancer, the treatment for it, or both. Where the condition lasts long enough (*i.e.*, for more than several months) and limits a major life activity, such as interacting with others, sleeping, or eating, it is a disability within the meaning of the ADA. Finally, cancer is a disability when it does not affect a person's major life activities, but the employer treats the individual as if it does.

How does an employee with cancer request a reasonable accommodation?

There are no "magic words" that a person has to use when requesting a reasonable accommodation. A person simply has to tell the employer that she needs an adjustment or change at work because of her cancer. A request for reasonable accommodation also can come from a family member, friend, health professional, or other representative on behalf of a person with cancer.

What types of reasonable accommodations may employees with cancer need?

Some employees with cancer may need one or more of the following accommodations:

- leave for doctors' appointments and/or to seek or recuperate from treatment
- periodic breaks or a private area to rest or to take medication
- adjustments to a work schedule
- modification of office temperature
- permission to use work telephone to call doctors
- reallocation or redistribution of marginal tasks to another employee

If an employee has lost a lot of weight or appears fatigued, may an employer explain to co-workers that the employee has cancer?

No. Although the employee's co-workers and others in the workplace may be concerned about the employee's health, an employer may not reveal that the employee has cancer.

May an employer request documentation when an employee who has cancer needs a reasonable accommodation?

Yes. An employer may request reasonable documentation where a disability or the need for reasonable accommodation is not obvious. An employer, however, is entitled only to documentation sufficient to establish that the employee's cancer is a disability and that explains why an accommodation is needed.

*Integrated Disability Management coordinates reasonable accommodation, stay at work/return to work, absence management, FMLA leaves, and Workers' Compensation. For more information on these programs or a copy of this document in an alternative format: Email: disabilitymanagement@lausd.net
Website: <http://reasonableaccommodation.lausd.net>*



A request for an employee's entire medical record, for example, would be inappropriate, as it likely would include information about conditions other than the employee's cancer.

May an employer explain to other employees that their co-worker is allowed to do something that generally is not permitted (such as work at home or take periodic rest breaks) because she has cancer?

No. Telling co-workers that an employee is receiving a reasonable accommodation amounts to a disclosure of the employee's disability. Rather than disclosing that the employee is receiving a reasonable accommodation, the employer should focus on the importance of maintaining the privacy of all employees and emphasize that its policy is to refrain from discussing the work situation of any employee with co-workers.

Does an employer have to grant every request for a reasonable accommodation?

No. An employer does not have to provide an accommodation that would result in "undue hardship." Undue hardship means that providing the reasonable accommodation would result in significant difficulty or expense. However, if a requested accommodation is too difficult or expensive, an employer should determine whether there is another easier or less costly accommodation that would meet the employee's needs. An employer also is not required to provide the reasonable accommodation that an individual wants but, rather, may choose among reasonable accommodations as long as the chosen accommodation is effective. If more than one accommodation is effective, the employee's preference should be given primary consideration.

May an employer be required to provide more than one accommodation for the same employee with cancer?

Yes. The duty to provide a reasonable accommodation is an ongoing one. Although some employees with cancer may require only one reasonable accommodation, others may need more than one. For example, an employee with cancer may require leave for surgery and subsequent recovery but may be able to return to work on a part-time or modified schedule while receiving chemotherapy. An employer must consider each request for a reasonable accommodation and determine whether it would be effective and whether providing it would pose an undue hardship.

Is an employer required to remove one or more of a job's essential functions to accommodate an employee with cancer?

No. An employer never has to reallocate essential functions as a reasonable accommodation but can do so if it wishes.

* California does not recognize the Federal standard of "substantial" limitation.

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