



I Want a Nicer Boss

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Does the Americans with Disabilities Act really require an employer to give an employee a new and nicer boss as a reasonable accommodation? Most courts say no, but employees continue to request the accommodation nonetheless.

The ADA declares that it is unlawful discrimination for an employer to fail to make "reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability." The ADA goes on to provide that reasonable accommodation may include "reassignment to a vacant position."

An employee who cannot get along with his or her boss or co-workers may demand a transfer to a vacant position with a nicer boss or more agreeable colleagues as a reasonable accommodation, particularly if the employer routinely allows employees to transfer to open vacancies. Most courts to date have not so found, however. They have held either that an employee who is merely stressed out by a demanding supervisor does not qualify as "disabled" under the ADA, or that in any event, a transfer to a nicer boss is not what Congress had in mind when it decided to require employers to reasonably accommodate disabled employees.

Given all the potential problems with transferring employees who complain of a difficult supervisor, as well as the fact that a vast majority of courts that have examined the issue have found no legal obligation to do so, such transfers are not recommended. Employers should not feel compelled to attempt to remove stress from the workplace, as to do so would be to take on an impossible burden.

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