



How To Know When To Grant An ADA Request

News

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Myra Creighton was quoted on *Law360* on August 13, 2015. In the article “How To Know When To Grant An ADA Request” attorneys shared tips to help employers determine when a request can be considered reasonable or an undue hardship under the law.

Most of the time, the negotiation during an interactive process won’t take long, said Myra.

And if the accommodation is easy, she said, employers are likely to provide it — for instance, if someone needs dictation software because they can’t type, or they’re blind and can’t read the screen. Ergonomic office utilities usually aren’t going to be a problem, either.

Even if an employer isn’t opposed in spirit to such accommodations, there is still the potential for the requested concession to cause an undue hardship on the employer trying to abide by the request, Myra said.

Transfers are especially tricky, she said.

Sometimes, a transfer comes up as an accommodation request during the interactive process. A promotion request for a better, quieter office would likely be considered unreasonable and an undue hardship for the employer, but there are other types of transfers that courts could find viable. The question is in how it is approached.

“Let’s say a job is available — it’s been posted,” she said. “Do you basically give a disabled person that job or say he or she needs to compete for that job?”

The EEOC had argued in United’s case it wouldn’t have been an undue hardship to transfer existing, qualified employees to vacant positions to accommodate their disabilities. But for other companies, it could be an undue hardship, and accommodations related to leave or working from home can be too, Myra said.

“I think you’re going to see more affirmative defenses to some of these things,” she said.

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