

BRIDGING THE APP: APPS THAT AID INDIVIDUALS WITH DISABILITIES ENTER THE WORKPLACE

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Over the past 20 years, the number of individuals with disabilities in the workforce has increased due in part to the Americans with Disabilities Act (ADA). Contemporary technological developments could help increase this number to an even greater extent over the next several years. A growing number of phone and computer apps, available for purchase with a simple tap, are specifically designed with access needs in mind.

The latest apps can help with activities far more fundamental than navigating your way around town with Uber or listening to your favorite song on Spotify. Some apps help people type, “hear” colors and light levels using sound variation, speak using a tailored human voice, and create and use custom keyboards.

Other apps translate unintelligible pronunciation, read transcripts of real-time phone calls, read labels and signs using remote volunteers, amplify sounds, and provide image-based scheduling for those who benefit from visual support. The proliferation of such apps is sure to have an impact on requests for reasonable accommodations under the ADA.

ADA Basics: A Refresher Course

To be protected under the ADA, an employee must be a qualified individual with a disability, meaning that the employee must have a disability as defined by the ADA. Under the ADA, an employee has a disability if she has a physical or mental impairment that substantially limits a major life activity such as hearing, seeing, speaking,

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thinking, walking, breathing, or performing manual tasks. The employee must also be able to perform the job they were hired to do, with or without reasonable accommodation.

Currently, although individuals with disabilities are legally protected from workplace discrimination under the ADA, they are underrepresented in the workforce. According to the U.S. Bureau of Labor Statistics, only 17.1% of individuals with disabilities were employed in 2014. This statistic, while inclusive of many factors, is certainly impacted by the fact that some may need specialized equipment to safely and successfully perform their jobs.

The ADA doesn't just protect individuals with disabilities from discrimination. It also imposes a duty on employers to provide reasonable accommodations in the workplace. A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

For example, reasonable accommodations may include acquiring or modifying equipment or devices, job restructuring, part-time or modified work schedules, adjusting or modifying examinations, training materials or policies, providing readers and interpreters, and making the workplace readily accessible.

An employer's duty to accommodate, however, stops short of the employer experiencing undue hardship. There are multiple factors that courts look at to determine whether a requested accommodation is reasonable: the nature and net cost of the accommodation, the company's financial resources, and the impact of the accommodation on the employer's operations.

Apps Could Soon Revolutionize The Accommodation Process

So how do apps fit into your duty to provide reasonable accommodations? Apps like the ones described above could soon replace the expensive equipment, programming, and interpreters that have traditionally been used to accommodate employees with disabilities. An accommodation that may have cost an employer thousands of dollars might now be drastically less expensive. Installing

an app on an employee's phone may also take much less time and have a negligible impact on workplace facilities.

While the use of apps in the workplace could certainly reduce the cost of accommodation, you may face more requests for accommodations that would have once caused undue hardship. For example, where hiring a reader or interpreter may have once caused undue financial hardship for a small employer, the use of an app that can read or speak for an employee may now be financially feasible.

New apps may also allow employees with disabilities to obtain jobs that would have once been unavailable. An employee who may not have been able to perform the essential functions of a job involving intrapersonal communication may now qualify for the same job by utilizing apps that interpret unintelligible speech.

The bottom line is that you should anticipate receiving an increased number of requests for reasonable accommodations under the ADA. Developments in mobile technology will be a powerful tool for employers to use to make accommodations for those employees and applicants with disabilities.

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