

# MANUFACTURER'S \$100K EEOC SETTLEMENT OFFERS KEY ADA LESSONS FOR ALL EMPLOYERS: TOP TAKEAWAYS AND PRACTICAL TIPS

Insights  
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## Manufacturer's \$100K EEOC Settlement Offers Key ADA Lessons for All Employers: Top Takeaways and Practical Tips

A manufacturer based in Maryland has agreed to pay \$100,000 to settle claims that it violated the Americans with Disabilities Act (ADA) by demoting an employee with complete hearing loss in one ear. According to the Equal Employment Opportunity Commission's (EEOC's) announcement last month, the manufacturer denied the employee's request for hearing protection equipment that would have cost \$1,700. The settlement offers employers important lessons about the ADA and its reasonable accommodation rules. This Insight covers what happened, what your business can learn from it, and practical tips you should consider implementing now.

### Quick Refresher on the ADA

The ADA generally prohibits employers with 15 or more employees from discriminating against a qualified employee or applicant because of a disability when it comes to any aspect of employment, such as hiring, firing, pay, job assignments, promotions, layoff, training, or fringe benefits. In addition, covered employers are required to provide reasonable accommodation to qualified employees or applicants with disabilities, unless doing so would cause undue hardship.

### The EEOC's ADA Claims

### Related People



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The EEOC filed suit in 2024 against Smiths Detection, Inc. (SDI) – a threat detection equipment manufacturer – alleging that it violated the ADA by denying a qualified individual’s request for a disability-related accommodation and demoting her because of her disability and her need for a reasonable accommodation. According to the agency’s complaint:

- SDI demoted Sandra Merson immediately after denying her request for personal protective equipment (PPE) to protect her already limited hearing. She said the equipment would allow her to hear her coworkers while she worked in the facility’s loudest area where explosive detection test strips were manufactured.
- Merson, who was born without any hearing in her left ear, had received the highest possible performance rating from the employer just before her accommodation request for PPE, which the company denied and addressed by demoting her to a lower paid position in a quieter area.
- SDI, which has annual revenue exceeding \$2 billion, cited the cost of the PPE – which would have been \$1,700 – as the reason for denying Merson’s request.
- After Merson filed an EEOC charge, the agency found reasonable cause to support the alleged ADA violations but was unable to reach a conciliation agreement with SDI, resulting in the federal lawsuit in a Maryland district court.

The EEOC asked the court to, among other things, order SDI to provide Merson with backpay and compensation for pecuniary losses (and other losses, such as emotional pain, suffering, and inconvenience) resulting from the alleged unlawful employment practices, as well as punitive damages for the employer’s “callous indifference to her federally protected right to be free from discrimination based on disability.”

### **SDI’s \$100K Settlement With the EEOC**

The EEOC announced on April 17 that SDI agreed to settle the lawsuit by paying \$100,000 and furnishing “significant remedial relief.” The specific terms of the settlement are not publicly available. In the [press release](#), an EEOC director said that an employer violates the ADA “when it uses its leverage to deal out a career setback instead of a reasonable accommodation.”

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## Key Employer Takeaways

This recent EEOC settlement highlights several ADA lessons for employers. Here are your top takeaways:

- **Reassignment is the reasonable accommodation of “last resort.”** While the ADA specifically lists “reassignment to a vacant position” as a potential form of reasonable accommodation, [EEOC guidance](#) provides that employers should first consider accommodations that would allow an employee to remain in their current position (unless the employer and employee voluntarily agree that a transfer is preferable). The guidance further states that reassignment is required only after a determination that:
  - there are no effective accommodations that will enable the employee to perform the essential functions of their current position; **or**
  - all other reasonable accommodations would impose an undue hardship.
- **Required transfers must place the employee in an equivalent position if available.** When reassignment is appropriate and required by the ADA, the employer must transfer the individual to a vacant position that is “equivalent in terms of pay, status, or other relevant factors (e.g., benefits, geographical location) if the employee is qualified for the position,” according to the EEOC guidance. If there is no vacant equivalent position, the employer must transfer the individual to a vacant lower-level position (the one that comes closest to the employee’s current position if there are multiple vacancies, and making this determination may require the employer to consider the employee’s preferences in some situations).
- **A cost-benefit analysis cannot support an undue hardship defense.** An employer can’t deny a reasonable accommodation request based on the cost of it in relation to its perceived benefit to the employer and the employee. “Whether the cost of a reasonable accommodation imposes an undue hardship depends on the employer’s resources, not on the individual’s salary, position, or status (e.g., full-time versus part-time, salary versus hourly wage, permanent versus temporary),” according to the EEOC guidance.

## 5 Practical Tips for Employers

**1. Engage in the interactive process before making employment decisions.** Once an employee requests an accommodation, the employer and employee should engage in a timely and good faith interactive process. Remember that reassignment should be an accommodation of last resort and is subject to certain parameters.

**2. Don't delay.** An employer's unreasonable delay in responding to an employee's request may amount to a failure to provide a reasonable accommodation ([learn more about the legal risks of delaying ADA accommodations](#)).

**3. Conduct an individualized assessment.** Don't assume a particular request is unreasonable. Disability-related accommodation requests should be evaluated in good faith and on a case-by-case basis. Indeed, a good faith effort to reasonably accommodate is a defense to compensatory and punitive damages claims in lawsuits alleging failure to accommodate. Similarly, undue hardship claims should be based on several factors in light of the specific circumstances.

**4. Document the process.** Have employees put their requests in writing and have their treatment providers respond in writing to an inquiry concerning the basis and necessity of the employee's request, as well as alternatives.

**5. Consult an attorney.** Before denying significant accommodation requests, it's a good idea to discuss your options with experienced legal counsel to ensure compliance. Don't forget that many states have their own disability-related workplace laws which may be stricter than federal law, and be sure to review the nuances.

### Conclusion

We will continue to monitor these developments and provide the most up-to-date information directly to your inbox, so make sure you are subscribed to [Fisher Phillips' Insight System](#). If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Employee Leaves and Accommodations Practice Group](#).