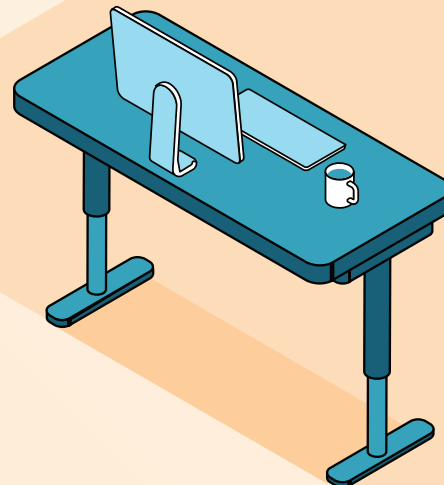


Best Practices for Modern ADA & Accommodation Management

An HR Guide to Improving
Your ADA Interactive Process



Workstation accessibility



AbsenceSoft

Today, **more than 61 million Americans are currently living with a disability**. There are big advantages inviting people with disabilities into your workforce. Companies that actively seek to employ and proactively support people with disabilities see not only **a 90% improvement in employee retention**, but also enjoy higher revenues, net income, and profit margins.

So how can you set your business up to recruit and retain employees from this largely untapped workforce? While there are many parts of becoming a “disability inclusion champion,” one critical piece is making sure your workplace accommodation processes are as supportive and robust as possible.

Using technology to improve your ADA and accommodation management process does more than save time and ensure legal compliance. It also gives your HR team the time and tools to **adopt an intentional approach to accommodating workers with disabilities**.

By centralizing case data, automating reminders, and providing templated checklists, AbsenceSoft **reduces the time spent on administrative tasks by 59%**. Having space in HR’s schedule for longer, more productive conversations sets the entire interactive process up for success. Employees feel heard and valued, and everyone involved has more time to explore options and think through how best to implement each accommodation.

Since 2013, ADA-related lawsuits have **increased by 320%**, and the award amounts can be very high. A 2021 EEOC lawsuit awarded a former employee **\$122.2 million in damages**, all because the employer refused to let her keep a prior schedule where she started 60–90 minutes earlier in the day.



Employers, no matter how large, have an obligation under the law to evaluate the individual circumstances of employees with disabilities when considering requests for reasonable accommodations.”

– EEOC Chicago District Director Julianne Bowman

At AbsenceSoft, we've helped over 200 customers streamline their accommodation management, including the entire ADA interactive process. In this guide, we review what you need to know as an employer about the ADA (and ADAAA). Then we explore best practices for managing each part of the accommodation process, as well as how to leverage technology to avoid common pitfalls and challenges.

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What is the ADA (or ADAAA)?

ADA stands for the Americans with Disabilities Act, and it was signed into law on July 26, 1990. The overall purpose of the law is to make American society more accessible to people with disabilities. The ADA Amendments Act (ADAAA) was passed in 2008, and it broadened the definition of what constitutes a disability.

Title I of the ADA requires covered employers to provide reasonable accommodations for applicants and employees with disabilities and prohibits discrimination on the basis of disability in all aspects of employment. The ADA covers employers with 15 or more employees, including state and local governments. In order to be protected by the ADA, a person with a disability must also be qualified to perform the essential functions of the job with or without reasonable accommodation.

According to the ADA, a person has a disability if:

- They have a physical or mental impairment that substantially limits one or more of their major life activities;
- They have a record of such an impairment; or
- They are regarded as having such an impairment.

Key Terms

Undue hardship

An action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

Essential functions

The basic job duties that an employee must be able to perform, with or without reasonable accommodation.

Reasonable accommodation

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.

A Quick Look at Accommodation Affordability

Many employers believe that providing workplace accommodations is expensive. This couldn't be further from the truth. A 2020 government report showed that **56% of workplace accommodations cost employers absolutely nothing to implement**, with the remaining ones costing an average of just \$500. In reality, accommodating workers with disabilities is an affordable way to enhance productivity and employee well-being.

Accommodation: **Specialized Computer Equipment**

Cost: \$300

An office worker with limitations in using her hands had difficulty manipulating the mouse on her computer.

Her employer purchased a foot mouse, speech to text software and a foot mat. Without this accommodation, the employee may have been reassigned to a position of lesser pay. The accommodation ended up being very effective.

Accommodation: **HVAC Adjustments and a Heated Scarf**

Cost: \$115

An office worker with cold sensitivity was experiencing pain in the head and neck because of the office temperature.

The employer switched off an air conditioning vent in the employee's cubicle and directed a second vent away from their work area. The employee was also provided with a heated scarf.

Accommodation: **Co-worker Awareness and New Processes**

Cost: \$0

An employee working in a lab environment was finding it hard to communicate with colleagues because of a progressive hearing loss. Co-workers were asked to first ensure he was looking at them before they began to speak. In addition, every verbal communication was followed with a written email. This had an additional benefit as they now had a written record they could refer to at any time.

Accommodation: **Remote Work with Standard Issue Equipment**

Cost: \$0

A county government employee with a kidney disorder requested to work remotely because he needed to take frequent breaks and had difficulty commuting. The employer permitted the employee to work from home and provided computer equipment to set up at home, which was the same equipment they provided to all their employees.

Source: Costs and Benefits of Accommodation, Job Accommodation Network (JAN) for the Department of Labor's Office of Disability Employment Policy, October 2020 (https://askjan.org/topics/costs.cfm?csSearch=2546498_1)

Requesting an Accommodation

Every workplace accommodation request must first be initiated by an employee—employers cannot initiate the process themselves. This is why you should proactively encourage employees to request accommodations they need, and educate them about how to make a request. If you identify an employee who might be in need of an accommodation, it's important to make sure you provide all the information they need to begin the process.

When an employee does reach out, you will need to make sure you collect all the relevant information about the request. This can include:

- Why the employee needs an accommodation
- Any related medical information
- What type of accommodation the employee needs
- Any other information needed to make a decision

Accommodation management technology can be a big help in making sure you can thoroughly and consistently gather the right information for every request. **In one central location, you can pull up the employee's record, and create a new case in minutes.**

Accommodation management software like AbsenceSoft also enables employees to make their own requests online through a mobile-friendly, self-service portal. At any time, both you and your employee can login to review all the details of the initial request.

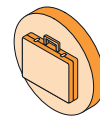
REQUEST NEW CASE



Request New Leave



Request New Accommodation



Update My Cases



Sending the Initial Packet

After the employee has initiated a workplace accommodation request, there are two things to do as soon as possible. First, you need to acknowledge that the request was made. Then, you should send the employee any related forms they might need to fill out, such as medical forms for healthcare providers to complete, or equipment request forms. It's best to consolidate all of this into a single communication from you.

In this part of the process, you want to be clear, informative, and concise in your communications. With the ADA/ADAAA, there isn't a federal requirement to use the USPS for any notifications or communications, so you are free to email, text, or even fax the informational packet.

With an accommodation management system, you can leverage automation to save time and respond to requests faster—and in a more complete, consistent way. In one central location, **you can create and customize a complete packet of information in just minutes.**

Instead of locating forms in shared drives or on your computer and manually attaching them to emails, the system stores all the forms for you and puts them right at your fingertips. You can easily select which forms to send based on the type of accommodation requested, and customize a pre-populated form letter. When the packet is ready, you can send it all one click, via the employee's preferred communication method.

As you go through the process, the accommodation management system will keep an ongoing record of everything. **At any time, you can login to see exactly what was sent and when,** giving you a very accurate "paper trail" of activities to prove compliance.

CASE: _____ REQUESTED ACCOMMODATION: _____

SEND BY: Email Print/Mail Fax TO: _____

CC: _____ SUBJECT: _____

{Company Name}
{Company Address}
{Employee Name}
{Employee Address}

ATTACHMENTS

Accommodation Request Form



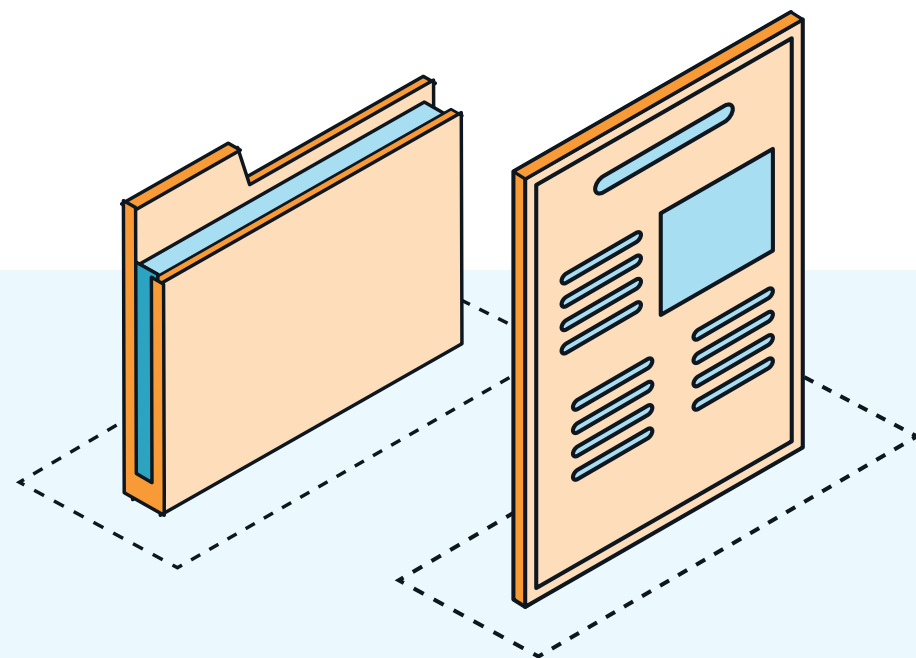
Medical Documentation

For some accommodations requests, a medical evaluation might be needed. For example, an employee might get injured and be unable to lift over a certain amount of weight until they are recovered. In that instance, a good best practice is to request that the employee provide a physical capacities assessment from their healthcare provider. In that assessment, you would want to be sure the provider has quantified the exact amount the employee is able to lift, and for how long.

The example above shows the importance of making sure you gather all the information, including medical facts, that you need to make the best decision. Part of that decision-making process will include comparing what the employee's essential functions are to potentially new restrictions. With all the relevant information at hand, you'll have all the details you need to know to decide if the accommodation is reasonable or not.

It's easy to see how important these medical forms and assessments can become. But the truth is, getting forms back from healthcare providers is often a challenge. With accommodation management technology, **you can send medical forms directly from the system via fax** with a specialized barcode included.

Once you receive the fax back, you just have to scan the barcode to automatically add the forms back into the system and attach them to the right case. You can also create an automated reminder to follow-up with the provider if you don't receive a form back within a certain amount of time.



The ADA Interactive Process

While some HR processes are more clearly defined—either by law or other company policies—the process for making workplace accommodations is much more flexible. Title I of the ADA requires employers and employees to engage in an “interactive process” to discuss, explore, implement, and monitor workplace accommodations.

At AbsenceSoft, we recommend using the following eight steps in your interactive process:



- 1 Recognize an accommodation request
- 2 Gather information
- 3 Search for and explore options
- 4 Ask employee to suggest an accommodation
- 5 Ask employee's health care providers for suggestions
- 6 Choose an accommodation
- 7 Implement the accommodation
- 8 Monitor the progress

At its core, the interactive process is really just a series of conversations. Not only will you need to meet with the employees to understand their situation fully, you may also need to meet with their manager, co-workers, healthcare providers, and others from across your organization. For example, if someone needs specialized computer equipment, you might need to include a representative from IT in the interactive process.

While employers are required to make reasonable accommodations for employees with disabilities, there really aren't strict laws defining exactly what "reasonable" means. This is why the interactive process is so important, because the factors that determine if a request is reasonable change from case to case. It really helps to have the employee themselves suggest an accommodation, because those are the ones that are likely to stick in the long run. You are also allowed to reach out to healthcare providers directly to learn more about the employee's capabilities and limitations, and any suggestions for accommodations they might have.

As you are evaluating options for an accommodation, you want to be sure it doesn't put an undue hardship on the business. While you want to do everything you can to make each employee productive and successful, an accommodation shouldn't be extremely difficult or expensive to implement. There are many ways to accommodate employees with disabilities, from a shift in a work schedule to an inexpensive piece of equipment. Be open to exploring different possibilities and options to find an accommodation that works for both the employee and the business.

Accommodation Interactive Process

<input type="text"/>	Yes	No	N/A	
<input type="text"/>	Yes	No	N/A	
<input type="text"/>	Yes	No	N/A	
<input type="text"/>	Yes	No	N/A	
<input type="text"/>	Yes	No	N/A	

Accommodation management technology provides HR professionals with **a consistent, repeatable way to manage the interactive process for every request.**

The system becomes a centralized location that can document every step in the interactive process—conversation notes, rationale for decisions, every completed form, and more. You end up with a thorough audit trail and record of the entire process you can review at any time.

Automatically generated checklists make sure you complete each part of the process for every case. This is especially helpful if you have multiple interactive processes happening at the same time. You can also set up automated follow-up reminders to yourself and the employee to help keep the process on track.



Approving or Denying an Accommodation

Once the conversations are complete, and details are fully gathered, it's time to let the employee know if the accommodation has been approved or denied. You want to make sure you are clear, consistent, and thorough in your communications about the decision.

Whenever you approve an accommodation, you want to be sure to let the employee and other stakeholders know:

- Specific details about what was approved
- What will be involved in implementing the accommodation
- What responsibilities the employee has
- What timelines might be involved (for example, the length of a trial period)
- If equipment is involved, when the employee can expect the equipment

If the accommodation request ends up denied, you may need to restart the interactive process to find alternatives. In that case, you will want to let the employee know the reason for the decision, and how to make a new request.

The screenshot displays a software interface for managing accommodation requests. The form includes the following fields and options:

- Type:** A horizontal menu with options: Ergonomic Assessment, Job Change, Leave, Other, Schedule Change, Vaccine Exemption, and Equipment or Software (selected).
- Sub-type:** A horizontal menu with options: Sit Stand Desk and Wireless Headset.
- Is it Work Related?:** Radio buttons for Yes and No (No is selected).
- Duration:** Radio buttons for Temporary and Permanent (Permanent is selected).
- Request Dates:** A date input field containing 09/26/2022.
- Approved:** A date input field containing 09/27/2022, followed by a 'to' label and an empty date field.
- Pending:** A date range input field containing 09-26-2022 (permanent), followed by a 'to' label and an empty date field.
- Denied:** A date range input field with 'to' labels and empty date fields.
- Decision Date:** A date input field containing 10/12/2022.
- Resolution:** A text input field containing Implemented.
- Implemented:** Radio buttons for Yes and No (Yes is selected).
- Implemented Date:** A date input field containing 09/27/2022.
- Cost:** A dropdown menu showing 250.
- Cancel Accommodation Request:** An unchecked checkbox.
- Buttons:** Update Accommodation and Cancel.



With accommodation management software like AbsenceSoft, you can **automate your communications for approvals and denials**. With just a few clicks, you can customize a pre-generated letter that includes everything the employee needs to know. The system also stores and tracks what was sent and when for audit purposes.

Accommodation Monitoring

After you've implemented a workplace accommodation, we recommend establishing a regular cadence for checking in with the employee. This can vary a lot depending on what type of accommodation is being made. For example, if someone has a lifting restriction due to an injury, you would need to check in more frequently with both the employee and their healthcare provider throughout their recovery process. Or, if an accommodation is permanent, such as a piece of equipment, you may want to wait to follow up for six months or more.

As you monitor an accommodation, make sure you evaluate how well it is working for the employee. You should also evaluate if it is working well for managers, co-workers, or others that might be impacted by the accommodation. Finally, you should check to see what effects, if any, the accommodation is having on the business as a whole.

With AbsenceSoft, you can **set up automated follow-up reminders for each accommodation**, and customize their frequency. This way you don't have to try to rely on calendar reminders, or worse, end up forgetting to follow up entirely (which happens to the best of us). You can also continue to add notes and documents to the case about how well the accommodation is working.

Accommodation management technology also has robust reporting capabilities, so you can evaluate how well your accommodations are working. You can quickly see how many were successful, how many people ended up returning to work full time, as well as overall costs for accommodations. If an accommodation has an ongoing cost, you can easily track it to make sure it doesn't eventually create an undue hardship for your company.



Ending an Accommodation

Not all accommodations end up being permanent. Some might be approved for only a trial period, or are put in place until an employee's health condition improves. For these types of accommodations, you want to make sure you establish clear timelines with the employee, and track how and why the accommodation ended.

Ending an accommodation might also include the return of equipment, or going back to a normal working schedule. In those cases, you want to be sure to let the employee know what will be expected of them and when.

For health-related accommodations, sometimes the employee's health conditions don't improve as quickly as anticipated. In these situations, you can restart the interactive process to gather new medical information, or try out a new accommodation. You should always be sure to evaluate every available option to make a reasonable accommodation.

With accommodation management technology like AbsenceSoft, you can easily add the reasons for ending an accommodation to a case. To communicate the end of an accommodation, AbsenceSoft can prepopulate a customizable letter, and include any attachments, in one screen.

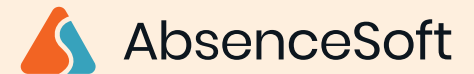
In just a few clicks, you can send everything via email, mail, or fax, and then close the case. The software then serves as a centralized system of record, providing you with a complete file on every workplace accommodation you've made.



Conclusion

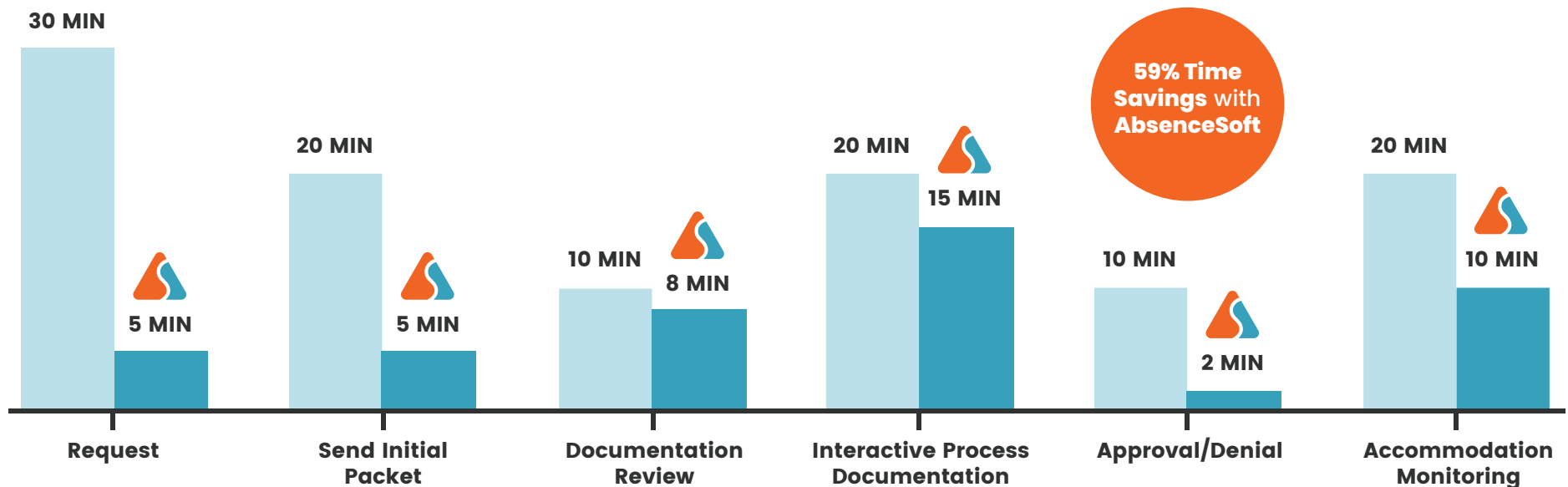
Without accommodation management systems like AbsenceSoft, HR professionals can easily spend more time on administrative tasks than they do interacting with their employees. From tracking down forms, to creating disparate calendar reminders, or even mail-merging one-off letters, all these tasks take up valuable HR time. Time you could be spending on making your process as interactive as possible.

The more time you have to engage with each employee, the more successful the outcomes of each accommodation are likely to be. **When you spend 59% less time on administrative tasks, you can take the time you need to have more productive conversations during the interactive process.** You have more time to evaluate and uncover options to try. When this happens, the employees you care for will feel well-supported, and ultimately, be more engaged and productive.



To learn how software can transform the way you manage workplace accommodations, we invite you to schedule a demo of AbsenceSoft at:

absencesoft.com



■ = Manual Accommodation Management | Total time 110 minutes

■ = AbsenceSoft | Total time 45 minutes