



Montana Human Rights Bureau

P.O. Box 1728
Helena, MT 59624-1728

Phone (406) 444-2884 or
1-800-542-0807

Fax (406) 443-3234

Relay Service 711

For more information, please
visit our website at:

www.montanadiscrimination.com

The Department of Labor & Industry is committed to making its services available to people with disabilities. Persons with disabilities requiring accommodation to take advantage of the department's services should contact the Human Rights Bureau.

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The Rights of Persons with Disabilities in Employment



Montana Human Rights Bureau



What Does the Human Rights Bureau Do?

The Montana Human Rights Bureau receives and investigates complaints of unlawful discrimination. The Human Rights Bureau is the agency responsible for enforcing the Montana Human Rights Act and the Governmental Code of Fair Practices, along with certain federal anti-discrimination statutes. The Bureau is committed to providing quality education and training opportunities to employers, employees, housing providers, tenants, and all Montana residents. It is important to understand that we serve Montana as a neutral entity; we do not provide any type of advocacy service.



Rights of Persons With Disabilities in Employment

The Montana Human Rights Act and the Americans with Disabilities (ADA) prohibit discrimination in employment to an applicant or

employee because of a physical or mental disability. An employer may have additional obligations under the federal Family Medical Leave Act. For information regarding this law, see the U.S. Department of Labor website at www.dol.gov or call 1-866-487-9243.

Employment Rights

Qualified persons with physical and mental disabilities:

- May not be terminated or discharged because of their disability
- Have the right to a reasonable accommodation which would allow them to perform the essential functions of their position

Who is Covered?

To be protected under the Montana Human Rights Act and the ADA, an applicant or employee with a disability must:

- Have a physical or mental impairment that substantially limits one or more major life activities; or
- Have a record of such an impairment; or
- Be regarded or perceived as having such an impairment

Employees and applicants must be able to perform the essential functions of the position with or without a reasonable accommodation.



Requests for Reasonable Accommodation

When a person is or becomes disabled, he or she may need a reasonable accommodation in order to remain active in the workforce. With an effective reasonable accommodation, an employee with a disability can perform the essential functions of the job and enjoy the same benefits and privileges of other non-disabled employees. Montana's employers and employees need to be aware of their rights and responsibilities when it comes to the provision of reasonable accommodations. But, how do you figure out the right reasonable accommodation? The answer lies in a meaningful interactive dialogue. An "interactive dialogue" or "interactive process" is an opportunity for the employer and the employee to have a discussion. The parties can discuss the essential functions of the job and take a look at how a person's

disability may impact their ability to perform those functions. With this in mind, they can begin to look at different ways to address the problem. In some cases, both the disability and the type of accommodation required will be obvious. If so, an in-depth dialogue will not be necessary. In other situations, the employer may need to gather more information concerning the nature of the disability and the individual's functional limitations in order for the parties to identify an effective accommodation. Fortunately, there are extensive resources out there to assist such as the Job Accommodation Network and the Americans with Disabilities National Network.



"Reasonable" Accommodation

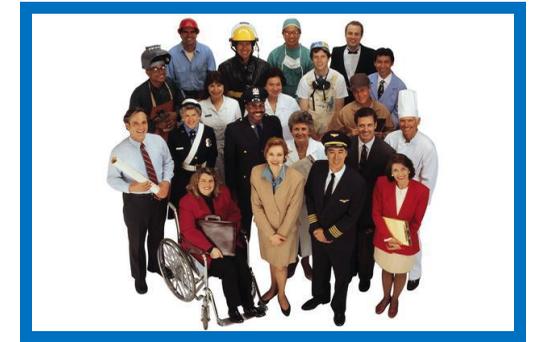
Whether or not a suggested accommodation is "reasonable" will depend on factors such as cost, availability, necessity and whether a less expensive or more convenient accommodation is available.

An accommodation is not reasonable if after an independent assessment, it endangers any employee's health or safety and/or it presents an undue hardship.

Examples of Reasonable Accommodation

- Making all application processes accessible to persons with disabilities;
- Making existing facilities used by employees readily accessible to and usable by employees with disabilities;
- Restructuring the job; offering part-time or modified work schedules;
- Reassigning the employee to vacant positions they are qualified to hold;
- Acquiring or modifying equipment or devices;
- Adjusting or modifying examinations or training materials or policies as appropriate;
- Providing qualified readers or interpreters.

Employees should notify the employer if they need an accommodation and tell the employer what modifications are needed to perform the job.



Perceived Disability

People who are "perceived" as having disabilities are protected from employment discrimination based on stereotypes, fears, or misconceptions about disability. This protection applies to decisions based on unsubstantiated concerns about productivity, safety, insurance, liability, attendance, and the costs of accommodation, accessibility, workers' compensation costs or acceptance by co-workers and customers.

Resources

Job Accommodation Network
www.askjan.org
1-800-526-7234 (voice)
1-800-781-9403 (TTY)

Americans with Disabilities National Network
www.adata.org
1-800-949-4232 (voice or TTY)

U.S. Department of Justice
www.dol.gov
1-866-487-9243