

Reasonable accommodation:

# Role of the employer

IN OUR past publications we addressed reasonable accommodation and the process of requesting accommodation in the workplace. The question you may be thinking is, "What happens next?"

If an employee has verbally made a request for reasonable accommodation, it is best practice for the employer to draft a letter, memorandum, or e-mail confirming the request. It may also be beneficial to have the employee submit the request in writing or complete a required form and submit it to human resources.

It is pragmatic to have a paper trail of this information if a dispute arises as to whether or when the request was made. Should the grievance escalate to litigation before a court or tribunal, these documents may be entered into evidence during the legal proceedings.

The request is the initial step to allow both the employer and the employee to engage in open discussion regarding the employee's disability and determine how the disability has or will affect their duties daily.

The employer may then request that the employee furnish a medical certificate from a board-certified doctor highlighting and explaining the type and nature of the disability, stating the recommendations deemed fit to assist the employee in executing their work responsibilities.

After this, the employer can better understand the employee's needs. Bear in mind that while the employee may be entitled to reasonable accommodation, what is given may not necessarily be their preferred means.

The employer need not provide the employee with their specific request but



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should ensure that effective accommodation is provided.

The employer gets to choose which means of accommodation to implement.

However, there are limitations on the onus of an employer to provide accommodation to an employee with a disability.

Under the Equal Opportunity Act, the employer may not be required to provide any accommodation if it imposes an undue financial hardship on the organisation.

Undue financial hardship refers to any "significant difficulty or expense" when

contemplated in tandem with several factors.

These include the nature of the benefit or detriment likely to accrue or be suffered by any person concerned; the effect of the disability of a person concerned; and the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship. Other factors include the size, resources, nature and structure of the employer's enterprise.

Undue hardship is dependent on a case-by-case basis. Predominantly, a larger organisation with more substantial resources would be expected to make accommodations compelling a more tremendous effort or expense than a smaller employer with fewer or limited resources.

If an employer is faced with a request that subjects the organisation to undue hardship, they ought to attempt to identify and render other means of accommodation that will not pose such a hardship.

Another consideration, if undue hardship exists, is the option for the person with the disability to finance a portion of the expenditures and disbursements for the provision of the accommodation.

If you believe you have been unfairly denied reasonable accommodation in the workplace, whether it is due to your employer not acknowledging your request, your employer offered you an accommodation that was ineffectual, or your employer made claims that no accommodation was available without undue hardship, you can lodge a complaint with the commission by visiting our website at [www.equalopportunity.gov.tt](http://www.equalopportunity.gov.tt).