

# What is reasonable accommodation?

TRINIDAD and Tobago signed the United Nations Convention on the Rights of Persons with Disabilities (UN-CRPD) on September 27, 2007 and it was further ratified into domestic law on June 25, 2015. Even before this convention was ratified, the Equal Opportunity Act (EOA) Chap 22:03 placed a duty on employers to make reasonable adjustments for their staff to assist them in overcoming disadvantages resulting from any impairment.

According to the UNCRPD, reasonable accommodation is defined as "the necessary and appropriate modification or adjustments where needed to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms."

The basis of reasonable accommodation as explained in the EOA can be perceived and conceptualised from the key notions within the UNCRPD's definition of reasonable accommodation. Some examples are as follows:

- Necessity – Reasonable accommodation is not about fulfilling the personal preferences or whims of people with disabilities; it is about providing what is required to ensure that they can join in on an equal basis with others. For example, providing sugar-free meals is a reasonable accommodation for someone who has diabetes, but you need not provide them

**‘The person with a disability seeking prospective employment must ensure that the essential job functions to be qualified for the position can be performed. Essential functions are duties that are fundamental to the post and the main reason that the position exists’**



with smoked salmon or lobster because that is their favourite food.

- Appropriateness – This is not about making changes merely for their own sake; it is about doing what is needed to ensure that people with disabilities can participate equally with others. For instance, constructing a ramp to enable a disabled worker to access the washrooms or cafeteria in the workplace, whereas putting in new windows is not.

- Modification and adjustments – Reasonable accommodation is about tweaking what currently exists. For instance, an organisation that has premises, services, programmes and activities that are equally accessible to people with disabilities and others may not need to provide extra reasonable accommodations. This is un-

doubtedly the best option and can result from disability mainstreaming.

- Disproportionate or undue burden – No person or entity has to provide reasonable accommodations that are unduly extensive, disruptive and causes financial difficulty to the operations of their business. While the above statement is echoed in the EOA, there should be a balance between the accommodations required by the employee versus the capacity of the employer. Interestingly, studies have shown that reasonable accommodations cost little or nothing to most employers, but each matter would need to be reviewed on a case-by-case basis.

- In a particular case – Reasonable accommodation is an individual requirement to enable people to partake fully and

equally in their working life. Accessibility, which is covered under Article 9 of the UN-CRPD, is a general requirement that applies to all workplaces and other environments.

- All human rights and fundamental freedoms – Reasonable accommodation applies to all aspects of the lives of people living with a disability.

Notwithstanding that, employers have a duty to provide such reasonable accommodations as necessary. The EOA states that it would be reasonable for an employer not to hire a person with a disability if the employer could demonstrate that an unreasonable risk of injury to others or a substantial risk of injury to themselves may occur. Further, the person with a disability seeking prospective employment must ensure that the essential job functions to be performed. Essential functions are duties that are fundamental to the post and the main reason that the position exists.

The Equal Opportunity Commission (EOC) continues to receive and review all complaints lodged including those concerned with disability – related illnesses and the denial of reasonable accommodation. If you believe that you have been discriminated against based on your disability, you can lodge a complaint via the EOC's website: <https://equalopportunity.gov.tt/> or send an e-mail to [complaints@eoc.gov.tt](mailto:complaints@eoc.gov.tt)