



Obtaining Assistive Technology through Your Employer

October 2015, Pub. #5580.01

1. What is assistive technology?

The term “assistive technology” means technology used in an assistive technology device or assistive technology service for increasing, maintaining, or improving the functional capabilities of individuals with disabilities. 29 U.S.C. Sec 3002(3)(4)(5)

2. What laws allow me to ask my employer for assistive technology?

There are several laws that require employers to accommodate and provide assistive technology as a reasonable accommodation, including the Americans with Disability Act, Section 504 of the Rehabilitation Act, and California Laws.

For more detailed information about the American with Disabilities Act and other laws that protect people with disabilities in their place of employment see Disability Rights California’s publication *Employment Rights under the Americans with Disabilities Act*, available at: <http://www.disabilityrightsca.org/pubs/PublicationsEmployment.htm>.

3. I am a qualified person with a disability under the ADA. I need assistive technology to do my job. May I ask my employer to provide it?

Yes. The ADA says that one of the ways your employer can provide a reasonable accommodation to you is by providing new equipment or modifying existing office equipment or assistive technology to perform the essential functions of your job (core duties). 29 C.F.R. § 1630.2(o)(2)(ii). On the other hand, tasks that are marginal (non-essential functions) to the work you do not require that your employer provide you with a reasonable accommodation. 29 C.F.R. 1630(n)(1). Your request must not impose an undue hardship on the employer. 29 C.F.R. §§ 1630.2(p), 1630.15(d).

4. When can I ask for an assistive device?

Your right to assistive technology is available at all stages of a job including application and employment. 29 C.F.R. § 1630.2(o)(1).

5. What types of assistive technology can I ask for?

The ADA does not limit the type of equipment you can ask for. Anything that helps you do your work may be a reasonable accommodation. It may be a simple tool such as a one-handed typewriter for a person who can only use one hand or a high-tech device such as specially manufactured communication equipment that allows a person with a speech impairment to communicate.

To give you an idea of the range of equipment your employer may be expected to provide under the ADA, here is a list of examples the Equal Employment Opportunities Commission (EEOC) has said are reasonable accommodations in its *Technical Assistance Manual, The Reasonable Accommodation Obligation, Section III, 3.10, 6.*

(<https://askjan.org/links/ADAtam1.html>):

- TDDs (Telecommunication Devices for the Deaf) make it possible for people with hearing and/or speech impairments to communicate over the telephone.
- Telephone amplifiers are useful for people with hearing impairments.

- Special software for standard computers and other equipment can enlarge print or convert print documents to spoken words for people with vision and/or reading disabilities.
- Tactile markings on equipment in Brailled or raised print are helpful to people with visual impairments.
- Telephone headsets and adaptive light switches can be used by people with cerebral palsy or other manual disabilities.
- Talking calculators can be used by people with visual or reading disabilities. Speaker phones may be effective for people who are amputees or have other mobility impairments. The following list shows additional examples of assistive devices and their cost:
 - A timer with an indicator light allowed a medical technician who was deaf to perform laboratory tests – cost \$27.00.
 - A clerk with limited use of her hands was provided a “lazy susan” file holder that enabled her to reach all materials needed for her job – cost \$85.00.
 - A groundskeeper who had limited use of one arm was provided a detachable extension arm for a rake. This enabled him to grasp the handle on the extension with the impaired hand and control the rake with the functional arm – cost \$20.00.
 - A telephone amplifier designed to work with a hearing aid allowed a plant worker to retain his job and avoid transfer to a lower paid job – cost \$24.00.
 - A blind receptionist was provided a light probe, which allowed her to determine which lines on the switchboard were ringing, on hold, or in use. A light-probe gives an audible signal when held over an illuminated source – cost \$50.00 to \$100.00.
 - A person who had use of only one hand, working in a food service position could perform all tasks except opening cans. She was provided with a one-handed can opener – cost \$35.00.
 - Purchase of a lightweight mop and a smaller broom enabled an employee with Down syndrome and congenital heart problems to do his job with minimal strain – cost under \$40.
 - A truck driver had carpal tunnel syndrome, which limited his wrist movement and caused extreme discomfort in cold weather. A special wrist splint used with a glove designed for skin divers made it possible for him to drive even in extreme weather conditions – cost \$55.00.

- A phone headset allowed an insurance salesman with cerebral palsy to write while talking to clients – rental cost \$6.00 per month.
- A simple cardboard form, called a “jig,” made it possible for a person with mental retardation to properly fold jeans as a stock clerk in a retail store – cost \$0.

6. What do I need to do to get the right assistive device for work?

The process begins with letting your employer know that you have a disability and need an assistive technology to do your work. Next, you should ask for a meeting to discuss your specific needs. If you or your employer know enough about assistive technology, you can agree upon what meets your needs. You should document the contents of your discussion and the terms of your agreement.

Your employer is not required to purchase the most expensive or the most recently developed equipment. In fact, your employer does not have to purchase anything if your needs can be met some other way. Your employer cannot rely on the cost of an item as a reason to do nothing unless there are no other alternatives and the employer can show the cost will be an undue hardship. Instead, when one option is ruled out, the employer should consider other reasonable alternatives. If there is no reasonable choice because devices are all too costly for example, you should be given the chance to provide it yourself.

7. Can my employer require me to obtain a letter from my doctor stating what kind of assistive technology I need?

No. In most instances, a physician does not have adequate knowledge to recommend assistive technology. If you don't know enough or cannot agree on the same device, your employer should seek an assessment by an evaluator who can recommend an effective option. See Appendix to 29 C.F.R. § 1630.9 under *Process of Determining the Appropriate Reasonable Accommodation*.

There are professionals who assess the assistive technology needs. Some of these professionals work in rehabilitation units of hospitals. Others can be found in disability organizations. There are also durable

equipment vendors that do assistive technology evaluations. A counselor at the Department of Rehabilitation (DOR), a specialist at an independent living center, or a case manager at a regional center should be able to refer you to one. The assessment should tell you what assistive technology you need.

8. What can my employer get from my doctor?

Your employer is only entitled to know the physical and mental limitation you experience because of your disability. A doctor's note should describe the disability and why it affects your ability to perform your job's essential functions. Your doctor should not provide other medical or psychological information that is not relevant. If you can provide this information through other reliable documentation, there is no need for your doctor to be involved.

9. What can I do if my employer denies my request for assistive technology?

You may file a complaint with an agency and a lawsuit in court. In most situations you must file a complaint first before you can go to court. For more information please see our publication, *Employment Rights under the Americans with Disabilities Act*, available at:

<http://www.disabilityrightsca.org/pubs/PublicationsEmployment.htm>.

10. Are there any funding sources that allow me to obtain my own assistive technology?

Yes. A PASS plan would allow you to shelter Social Security benefits to save for an assistive technology device. The Department of Rehabilitation can also fund assistive technology. For more information, please see our publications on these topics:

<http://www.disabilityrightsca.org/pubs/PublicationsAssistiveTechnology.htm> and

<http://www.disabilityrightsca.org/pubs/PublicationsClientAssistanceProgram.htm>

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.