

JAN

Job Accommodation Network

Practical Solutions • Workplace Success

Accommodation and Compliance Series

Employees with Respiratory Impairments

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A service of the U.S. Department of Labor's Office of Disability Employment Policy

Preface

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JAN'S ACCOMMODATION AND COMPLIANCE SERIES

Introduction

JAN's Accommodation and Compliance Series is designed to help employers determine effective accommodations and comply with Title I of the Americans with Disabilities Act (ADA). Each publication in the series addresses a specific medical condition and provides information about the condition, ADA information, accommodation ideas, and resources for additional information.

The Accommodation and Compliance Series is a starting point in the accommodation process and may not address every situation. Accommodations should be made on a case by case basis, considering each employee's individual limitations and accommodation needs. Employers are encouraged to contact JAN to discuss specific situations in more detail.

For information on assistive technology and other accommodation ideas, visit JAN's Searchable Online Accommodation Resource (SOAR) at <http://askjan.org/soar>.

Information about Respiratory Impairments

What is a respiratory impairment?

Respiratory impairment is a generic term that refers to a number of medical conditions that can affect the respiratory system and may result in limitations such as labored breathing or asthma attacks, fatigue and difficulty with mobility, heightened sensitivity to ordinary substances and chemicals, and compromised immunity to infection.

What causes respiratory impairments?

The following is a non-comprehensive list of many of the medical conditions that may result in respiratory impairments: Allergies, Asthma, Chemical Sensitivity (MCS), Chronic Obstructive Pulmonary Disease, Cystic Fibrosis, Environmental Illness (EI), Fragrance Sensitivity, Lung Cancer, Pulmonary Sarcoidosis, Tuberculosis, Emphysema, Pulmonary Hypertension, Latex Allergy, and AIDS Related Lung Disease.

For more detailed information, see Appendix A at the end of this document.

How are respiratory impairments treated?

Treatment of respiratory impairments depends on many factors, such as the type and stage of impairment; family history; and the individual's medical history, health, and age. Any of the following may be used for treating respiratory impairments: Inhalers or nebulizers containing bronchodilators or corticosteroids, expectorants, antibiotics, oxygen therapy, chemotherapy, lung transplantation, lung reduction surgery, natural treatments such as N-Acetyl Cysteine and Carnitine, and complementary/integrative therapies and treatments (About.com, 2006).

Respiratory Impairments and the Americans with Disabilities Act

Are respiratory impairments disabilities under the ADA?

The ADA does not contain a list of medical conditions that constitute disabilities. Instead, the ADA has a general definition of disability that each person must meet (EEOC, 1992). Therefore, some people with respiratory impairments will have a disability under the ADA and some will not.

A person has a disability if he/she has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or is regarded as having such an impairment (EEOC, 1992). For more information about how to determine whether a person has a disability under the ADA, visit <http://askjan.org/corner/vol02iss04.htm>.

Has there been any ADA cases involving people with respiratory impairments?

Yes, there have been several ADA cases involving people with respiratory impairments. The following are examples of those cases:

Kelly v. Metallics West, Inc., 10th Circuit, 2005 (Pulmonary embolism)

Buckles v. First Data Resources Inc., 8th Circuit, 1999 (Rhinosinusitis)

Homeyer v. Stanley Tulchin Associates, 7th Circuit, 1996 (Severe allergies)

Accommodating Employees with Respiratory Impairments

(Note: People with respiratory impairments may develop some of the limitations discussed below, but seldom develop all of them. Also, the degree of limitation will vary among individuals. Be aware that not all people with respiratory impairments will need accommodations to perform their jobs and many others may only need a few accommodations. The following is only a sample of the possibilities available. Numerous other accommodation solutions may exist.)

Questions to Consider:

1. What limitations is the employee with respiratory impairment experiencing?
2. How do these limitations affect the employee and the employee's job performance?
3. What specific job tasks are problematic as a result of these limitations?
4. What accommodations are available to reduce or eliminate these problems? Are all possible resources being used to determine possible accommodations?
5. Has the employee with respiratory impairment been consulted regarding possible accommodations?
6. Once accommodations are in place, would it be useful to meet with the employee with respiratory impairment to evaluate the effectiveness of the accommodations and to determine whether additional accommodations are needed?
7. Do supervisory personnel and employees need training regarding respiratory impairments?

Accommodation Ideas:

Avoiding Environmental Triggers:

Some respiratory impairments are aggravated by environmental triggers. It may be helpful to:

- Maintain a clean and healthy work environment
- Provide air purification
- Condition, heat, dehumidify, or add moisture to the air as appropriate
- Provide additional rest breaks for the individual to get fresh air or take medication
- Create a smoke and fragrance-free work environment
- Consider an alternative work arrangement such as work from home
- Allow for alternative work arrangements when construction is taking place
- Use alternative pest management practices
- Implement a flexible leave policy

- Allow for alternative means of communication such as telephone, e-mail, instant messaging, fax, or memos

Accessibility Accommodations:

An individual who experiences respiratory limitations may have difficulty performing activities that require gross motor movement, such as walking long distances, or performing activities that require excessive physical activity. It may be necessary to address access concerns for an individual who has difficulty approaching the work facility, moving around the facility, getting to work, or traveling as an essential job function.

- Modify the work-site to make it accessible
- Provide an accessible parking space with an unobstructed and easily traveled path into the workplace
- Provide an entrance free of steps with doors that open automatically or that have a maximum opening force of five pounds
- Provide an accessible route of travel to and from work areas used by the individual throughout the work environment
- Consider providing a scooter or motorized cart for the employee to use for long distances if the employee does not already use a mobility aid
- Move the individual's workstation closer to equipment, materials, and rooms the individual uses frequently
- Modify the workstation to accommodate a wheelchair, scooter, or the use of oxygen therapy equipment
- Arrange the workstation so materials and equipment are within reach range
- Provide restrooms that are easily accessed from the individual's workstation
- Review emergency evacuation procedures

Modify Policies:

Due to the unpredictable nature of the onset of respiratory limitations, an individual may have difficulty maintaining regular attendance or a regular schedule. It may be necessary to:

- Modify the location where work is performed
- Modify the attendance policy
- Provide leave as an accommodation
- Provide a modified or part-time work schedule
- Provide breaks

Maintain Air Quality:

The U.S. Environmental Protection Agency (EPA) provides suggestions for improving indoor air quality in its article, An Office Building Occupant's Guide to Indoor Air Quality found at <http://www.epa.gov/iaq/pubs/occupgd.html>. Employers should keep indoor air

quality concerns in mind for employees with and without respiratory impairments. Good IAQ can improve worker productivity for everyone. To maintain air quality, it may be necessary to:

- Provide an office or workspace that has working windows
- Maintain the heating, ventilation, and air conditioning (HVAC) system
- Test indoor air quality
- Use air purification systems throughout the building or in personal workstations
- Reduce workplace pollutants
- Provide a mask
- Adjust indoor temperature to meet the individual's needs
- Institute a fragrance-free workplace
- Provide pre-notification of construction and cleaning in the workplace
- Use non-toxic building materials, furnishings, supplies, and flooring
- Use non-toxic solvents, primers, stains, paints, etc.

Situations and Solutions:

A teacher diagnosed with sick building syndrome was required to attend weekly faculty meetings in the school building. She usually taught class from a portable classroom outside of the building and could not be in the school building for extended time. JAN suggested that she use either a speakerphone or PA system from her classroom to listen in and participate in the meetings, be provided with meeting minutes, or attend the meetings and wear a respirator mask if she felt comfortable doing so.

An office worker with fragrance sensitivity was having difficulty because of the cleaning products used in the employee restroom. JAN provided information about non-toxic cleaning products.

An employee with bronchial asthma could not work in hot environments. JAN discussed air-conditioning, including a window unit for the employee's office if the employer could not install central air.

A hospital worker with COPD had difficulty walking from the employee lot to the work-site. The parking lot was very large and employees parked on a first-come, first-serve basis. JAN suggested providing a reserved parking space close to the work-site.

Products:

There are numerous products that can be used to accommodate people with limitations. JAN's Searchable Online Accommodation Resource at <http://askjan.org/soar> is designed to let users explore various accommodation options. Many product vendor lists are accessible through this system; however, JAN provides these lists and many more that are not available on the Web site upon request. Contact JAN directly if you have specific accommodation situations, are looking for products, need vendor information, or are seeking a referral.

Resources

Job Accommodation Network

West Virginia University
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Morgantown, WV 26506-6080
Toll Free: (800)526-7234
TTY: (877)781-9403
Fax: (304)293-5407
jan@askjan.org
<http://askjan.org>

The Job Accommodation Network (JAN) is a free consulting service that provides information about job accommodations, the Americans with Disabilities Act (ADA), and the employability of people with disabilities.

Office of Disability Employment Policy

200 Constitution Avenue, NW, Room S-1303
Washington, DC 20210
Toll Free: (866)633-7635
TTY: (877)889-5627
Fax: (202)693-7888
<http://www.dol.gov/odep/>

The Office of Disability Employment Policy (ODEP) is an agency within the U.S. Department of Labor. ODEP provides national leadership to increase employment opportunities for adults and youth with disabilities while striving to eliminate barriers to employment.

American Cancer Society

250 Williams Street
Atlanta, GA 30303
Toll Free: (800)227-2345
Direct: (404)315-1123
Fax: (404)315-9348
<http://www.cancer.org>

The American Cancer Society is the nationwide community-based voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives, and diminishing suffering from cancer, through research, education, advocacy, and service.

American Lung Association

61 Broadway, 6th Floor
New York, NY 10006
Direct: (212)315-8700
<http://www.lungusa.org/>

Conducts educational programs, sponsors conferences, publications, fellowships and research grants.

Asthma and Allergy Foundation of America

1233 20th Street, NW, Suite 402
Washington, DC 20036
Direct: (202)466-7643
Fax: (202)466-8940
<http://www.aafa.org/>

The Asthma and Allergy Foundation of America (AAFA) is the premier patient organization dedicated to improving the quality of life for people with asthma and allergies and their caregivers, through education, advocacy and research. AAFA, a not-for-profit organization founded in 1953, provides practical information, community based services, support and referrals through a national network of chapters and educational support groups. AAFA also sponsors research toward better treatments and a cure for asthma and allergic diseases.

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Appendix A

The following is a non-comprehensive summary of many of the medical conditions that may result in respiratory limitations. For more detailed information, contact an appropriate medical professional or the resources listed at the end of this document.

Allergies: According to the Asthma and Allergy Foundation of America (AAFA), an estimated 50 to 60 million Americans are affected by allergies. In fact, allergies are the sixth leading cause of chronic disease in the United States (AAFA, n.d.). It is common for an individual to be sensitive to more than one particular irritant. A substance that may normally not affect the average person may produce nasal congestion, itchy, watery eye, or an asthma attack for someone who is allergic. Allergic symptoms may occur due to dust, mold, mildew, pollen, foods, and insects among any number of other substances.

Asthma: According to the American Lung Association (ALA), asthma is a chronic lung disease that can be life threatening (ALA, 2008d). Asthma causes breathing problems known as asthma attacks or episodes of asthma. A person with asthma might get an asthma attack when they have a cold or some other kind of respiratory infection or when they breathe something that bothers the lungs such as cigarette smoke or dust. Asthma symptoms are often triggered by changes in weather (cold or hot), emotional distress and exercise. Asthma attacks may start suddenly or may take an extended period of time, even days, to develop. Attacks can be severe, moderate or mild and can require a period of recuperation.

Chemical Sensitivity (MCS), Environmental Illness (EI), and Fragrance Sensitivity: Chemical sensitivity, or MCS, is characterized by such symptoms as headaches, dizziness, nausea, breathing difficulties, tightening of the throat, chronic laryngitis, difficulty concentrating, memory loss, learning disorders, eczema, arthritis-like sensations, and muscle pain (About.com, 2006). A person who experiences limitations due to MCS or EI *may* have any of the above mentioned symptoms when exposed to such irritants as fragrances, cleaning agents, smoke, pesticides, molds, fumes from office machines, car exhaust, paint, new carpeting, solvents and other irritants.

For more specific information regarding MCS/EI, see JAN's Accommodation and Compliance Series: Employees with Chemical Sensitivity or Environmental Illness at <http://askjan.org/media/MCS.html>.

For more specific information regarding fragrance sensitivity, see JAN's Accommodation and Compliance Series: Employees with Fragrance Sensitivity at <http://askjan.org/media/fragrance.html>.

Chronic Obstructive Pulmonary Disease (COPD): The American Lung Association indicates that COPD is the fourth leading cause of death in America. Approximately 16.4 million Americans are diagnosed with COPD. COPD includes diseases that are characterized by obstruction to airflow such as emphysema or chronic bronchitis. It does not include other obstructive diseases such as asthma. Chronic bronchitis is an

inflammation and eventual scarring of the lining of the bronchial tubes and is evidenced by a chronic cough, increased mucus, frequent clearing of the throat and shortness of breath. Emphysema causes irreversible lung damage and is evidenced by cough, shortness of breath and limited exercise tolerance (ALA, 2002a).

Lung Cancer: According to the American Cancer Society's Lung Cancer Resource Center, it is estimated that there will be 169,400 new cases of lung cancer in the United States in 2002. Statistics show that lung cancer is the leading cause of cancer death among both men and women. More people die of lung cancer than of colon, breast, and prostate cancers combined (ACS, n.d.a).

Lung cancer generally develops over a period of years and typically affects people over the age of 50. The American Lung Association's, *Facts About Lung Cancer*, describes cancers that begin in the lungs. Lung related cancers are divided into two major types, non-small cell lung cancer and small cell lung cancer. Non-small cell lung cancer generally spreads to distant organs more slowly than small cell lung cancer. Squamous cell carcinoma, adenocarcinoma, and large cell carcinoma are three types of non-small cell lung cancer (ACS, n.d.a).

Pulmonary Sarcoidosis: Pulmonary sarcoidosis affects lung volume decreasing the amount of air the lungs can hold. The American Lung Association describes the disease as being characterized by the presence of granulomas, small areas of inflamed cells. They can appear on the walls of the alveoli (small air sacs in the lungs), or on the walls of the bronchioles (breathing tubes in the lungs), or in the lymph nodes surrounding the lungs. Symptoms include a dry cough, shortness of breath, or mild chest pain. Additionally, the person may experience fatigue, weakness, and weight loss. In cases where symptoms do appear outside the lung, they can include a scaly rash, red bumps on the legs, fever, soreness of the eyes, and pain and swelling of the ankles (ALA, 2008b).

Tuberculosis (TB): TB is an infection that primarily affects the lungs but can also affect other organs and tissues in the body. The infection is spread by airborne TB bacteria. A person may have *TB infection* or *TB disease*. If a person has TB infection they are essentially a carrier of the bacteria but are not affected by the bacteria. A person infected with TB disease, however, is ill and requires treatment. A person with TB disease can spread the disease. Symptoms of TB disease include excessive coughing (including coughing blood), repeated night sweats, unexplained weight loss, loss of appetite, fever, chills, and general lethargy. According to the American Lung Association, the rate of reported tuberculosis dropped 45 percent between 1992 and 2000. The decrease in reported TB has been attributed to improved TB control programs (ALA, 2008f).

Emphysema: According to the American Lung Association, emphysema ranks 15th among chronic conditions that contribute to activity limitations. An estimated 44 percent of individuals with emphysema report that daily activities have been limited by the disease. Emphysema develops gradually, usually from exposure to cigarette smoke. Some individuals are born with a deficiency of a protein known as alpha 1-antitrypsin

(AAT) which can lead to an inherited form of emphysema called alpha 1-antitrypsin (AAT) deficiency-related emphysema. For individuals with emphysema, the air sacs in the lungs become damaged and less able to transfer oxygen to the bloodstream. The individual then becomes short of breath and has difficulty exhaling because the lungs also lose their elasticity (ALA, 2008a).

Pulmonary Hypertension (PH): There are two forms of pulmonary hypertension, primary (PPH) and secondary (SPH). According to the American Lung Association, it is estimated that there are 300 new cases of PPH per year. PPH is defined as a rare disease of unknown cause that results in the progressive narrowing of the blood vessels of the lungs, causing high blood pressure in these blood vessels which eventually leads to heart failure. Secondary pulmonary hypertension (SPH) results from other types of lung disease, abnormal breathing processes, or heart disease (ALA, 2002h). According to the Mayo Clinic, symptoms and limitations of PPH include shortness of breath with exertion and general fatigue, passing-out spells, dizziness, ankle or leg swelling, and chest pain or pressure (ALA, 2008a).

Latex Allergy: The Occupational Safety and Health Administration (OSHA) states the following about latex allergy, "Allergy to latex was first recognized in the late 1970s. Since then, it has become a major health concern as an increasing number of people in the work place have been affected. Health care workers exposed to latex gloves or medical products containing latex are especially at risk. It is estimated that 8-12% of health care workers are latex sensitive. Between 1988 and 1992, the Federal Drug Administration (FDA) received more than 1,000 reports of adverse health effects from exposure to latex, including 15 deaths due to such exposure" (OSHA, n.d).

Latex allergy reactions can range from mild to very severe. Typically, the allergy begins with an irritant contact dermatitis and can develop into an immediate allergic reaction with respiratory symptoms. An individual with a latex allergy can be affected after coming into physical contact with products like latex gloves, elastic from waist bands, rubber bands, or medical equipment, by inhaling proteins from powdered latex gloves or balloons or by ingesting food products that have been prepared by workers using latex products.

For more specific information regarding latex allergy, see JAN's Accommodation and Compliance Series: Employees who are Allergic to Natural Rubber Latex at <http://askjan.org/media/LATEX.html>.

AIDS Related Lung Disease: A person with AIDS may experience any number of lung infections. Most common are pneumocystis carinii pneumonia (PCP), which is caused by a fungus, and tuberculosis and mycobacterium avium complex (MAC) which are caused by bacterium. AIDS also predisposes an individual to a variety of other lung infections from bacteria and molds (ACS, n.d.b). It is important for an individual with a compromised immune system to make an effort to avoid exposure to viruses and bacteria to stay healthy.

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