

JAN

Job Accommodation Network

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Accommodation and Compliance Series

Accommodation and Compliance: Recordkeeping Requirements and the ADA

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Introduction

The federal Americans with Disabilities Act (ADA) requires employers to store all information collected as a result of disability-related inquiries, examinations, and the interactive accommodation process as a [confidential medical record](#), regardless of how it was obtained. For example, this information might be obtained in response to a post-offer medical inquiry or examination, as a voluntary self-identification of disability or disability disclosure, or as part of the interactive accommodation process. The ADA rules require that disability-related information be collected on separate forms, kept in a medical record that is separate from general personnel information, and stored in a location that is accessible only to authorized personnel who have a legitimate business need to access the information, such as designated human resources personnel.

Employers may keep and maintain employee information as hard copy and/or electronic records. If electronic records are kept, employers must comply with applicable federal, state, and local laws governing the electronic storage of employment records. Information technology, human resources, and cyber security professionals should work collaboratively to implement adequate controls to limit access to and ensure the integrity, accuracy, and availability of electronic records.

Sometimes employers ask JAN about the required duration for retaining employment records that contain ADA-related information. Generally, employment recordkeeping requirements vary based on the type of employer and the information obtained and stored. Disability-related information used for ADA purposes, such as written requests for accommodation, medical information obtained to substantiate an employee's disability, and other information gathered as part of the interactive process, must be kept in compliance with the recordkeeping regulations imposed on ADA-covered entities under [29 CFR Part 1602](#). These recordkeeping and reporting regulations are enforced by the federal Equal Employment Opportunity Commission (EEOC).

29 CFR Part 1602 states that all personnel and employment records made or used by private employers – including requests for reasonable accommodation – must be preserved for one year from the date of making the record or the personnel action involved, whichever occurs later. When an employee is involuntarily terminated, the employer must retain the terminated employee's personnel or employment records for one year from the date of termination. The duration of the recordkeeping rule is extended to two years for educational institutions and state and local governments. If a charge of discrimination is filed under the ADA, the employer must retain all records related to the charge or action until final disposition of the charge or action. For more detailed information about recordkeeping requirements and the ADA, see the following resources:

- [Summary of Selected Recordkeeping Obligations in 29 CFR Part 1602 \(EEOC\)](#)

- [Title 29: Labor, PART 1602—RECORDKEEPING AND REPORTING REQUIREMENTS UNDER TITLE VII, THE ADA AND GINA, Subpart C—Recordkeeping by Employers](#)

Situations and Solutions:

The following situations and solutions are real-life examples of accommodations that were made by JAN customers. Because accommodations are made on a case-by-case basis, these examples may not be effective for every workplace but give you an idea about the types of accommodations that are possible.

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