



**Job Accommodation Network**

Practical Solutions • Workplace Success

# Accommodation and Compliance Series

## Accommodation and Compliance Series: Coronavirus Disease 2019 (COVID-19)

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## **JAN'S Accommodation and Compliance Series**

### **Introduction**

[Coronavirus \(COVID-19\)](#) related workplace issues vary widely. JAN does not provide public health, safety, or legal advice, but does offer Americans with Disabilities Act (ADA) compliance assistance and practical job accommodation strategies for returning individuals with disabilities to work during the COVID-19 pandemic. These strategies can enable workers with disabilities to return to the work environment, work at home, or access leave when other accommodations are not reasonable.

### **JAN COVID-19/General ADA/Interactive Process Resources**

- [Supporting Employees with Long COVID: A Guide for Employers](#)
- [Recognizing an ADA Accommodation Request During the Pandemic](#)
- [Processing Vaccination Accommodation Requests](#)
- [Telework Accommodation Request Flowchart](#)
- [A Practical Approach to Telework as a Reasonable Accommodation During the Pandemic](#)
- [ADA and Accommodation Lessons Learned: COVID-19 Edition](#)
- [FAQ: COVID-19 Vaccination and the Americans with Disabilities Act](#)
- [Long COVID and the Americans with Disabilities Act](#)
- [Requesting and Negotiating Accommodations During the Pandemic](#)
- [The ADA and Managing Reasonable Accommodation Requests from Employees with Disabilities in Response to COVID-19](#)

### **JAN COVID-19 Related Accommodation Resources**

- [Accommodation and Compliance: Long COVID](#)
- [Make Telework Work](#)
- [Supporting Employees with Mental Health and Cognitive Conditions While Teleworking](#)
- [Accommodation Strategies for Returning to the Workplace](#)
- [Accommodating Employees with COVID-19 or Long COVID](#)
- [Masks for COVID-19 Management and ADA Accommodations](#)

- [Coronavirus \(COVID-19\), Stress, and Mental Health Conditions](#)
- [Sighted Assistance in the Age of Social Distancing](#)
- [Accommodations for Educators Who are Deaf or Hard of Hearing](#)
- [Teleconference Accessibility and Hearing — Keeping Deaf and Hard of Hearing Employees in the Loop](#)

Employers should refer to [COVID-19 related technical assistance guidance](#) provided by the [Equal Employment Opportunity Commission \(EEOC\)](#) when making disability-related inquiries or requiring medical examinations, analyzing direct threat and safety issues, and engaging in the interactive process under the ADA, the Rehabilitation Act, the [Pregnancy Discrimination Act \(PDA\)](#), and other relevant federal laws enforced by the EEOC.

## **EEOC Resources**

- [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)
- [Pandemic Preparedness in the Workplace and the ADA](#)
- [COVID-19 “Ask the EEOC” Webinar](#) and accompanying [transcript](#)
- [Federal Laws Protect You Against Employment Discrimination During the COVID-19 Pandemic](#)
- Sample Template: Vaccine Exemption for Religion: [EEOC’s Internal Form](#)
- [COVID-19 and the Definition of Disability Under the ADA/Rehabilitation Act](#)
- [The COVID-19 Pandemic and Caregiver Discrimination Under Federal Employment Discrimination Laws](#)

When addressing safety concerns during the pandemic, employers should make decisions based on facts, what is actually happening, and not speculation. Under the ADA, employers do not have to ignore safety concerns, but they must be real. So, employers should determine what’s really going on. A good starting point regarding workplace safety is guidance from the [Centers for Disease Control and Prevention \(CDC\)](#), state and local public health authorities, and the [Occupational Safety and Health Administration \(OSHA\)](#). These resources offer extensive guidance related to various industries, jobs, and environments, which can be useful when exploring COVID-19 related accommodation solutions for workers with disabilities.

## **Safety-Related Resources**

- [Environmental Protection Agency \(EPA\) Clean Air in Buildings Challenge](#)

- [Office of Science and Technology Policy \(OSTP\): Clean Indoor Air Benefits Everyone](#)
- [OSTP Factsheet: Departments and Agencies Commit to Cleaner Indoor Air Across the Nation](#)
- [Lancet: Proposed Non-infectious Air Delivery Rates \(NADR\) for Reducing Exposure to Airborne Respiratory Infectious Diseases](#)
- [COVID-19 Vaccination and Testing ETS](#)
- [COVID-19 Vaccination and Testing ETS Frequently Asked Questions](#)
- [OSHA Issues COVID-19 Workplace Vaccine and Testing Mandate](#)
- [OSHA COVID-19 Frequently Asked Questions](#)
- [OSHA Standards COVID-19 Related Standards](#)
- [OSHA Guidance on Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#)
- [New OSHA COVID-19 Emergency Safety Standards for Healthcare Settings](#)

Individuals who are unable to work for a reason related to COVID-19 might be able to access leave or unemployment insurance benefits. [Leave](#) might be available as an accommodation under the ADA if a disability prevents an employee from working, if other accommodations cannot be provided, and barring undue hardship. COVID-19 related leave might also be available under other federal laws, like the [Families First Coronavirus Response Act \(FFCRA\)](#) and the [Family and Medical Leave Act \(FMLA\)](#), or under [state](#) and local requirements.

## **Leave and Unemployment Related Resources**

- [U.S. Department of Labor, Wage & Hour Division COVID-19 and the Workplace – Essential Protections](#)
- [Families First Coronavirus Response Act \(FFCRA Leave Requirements Expired Dec. 31, 2020\)](#)
- [COVID-19 and the Family and Medical Leave Act Questions and Answers](#)
- [COVID-19 and the Fair Labor Standards Act: Questions and Answers](#)
- [COVID-19 and the Service Contract Act: Questions and Answers](#)
- Each state administers a separate unemployment insurance program, but all states follow the same guidelines established by the [Employment and Training Administration](#). Contact your [state unemployment insurance program](#) regarding the rules in your state.

Individuals with disabilities who own a small business or are self-employed might be impacted by the COVID-19 pandemic. [JAN offers self-employment and small business development expertise](#) on a case-by-case basis.

## **Small Business and Self-Employment Resources**

- [U.S. Small Business Administration \(SBA\) COVID-19 Relief Options](#)
- [SCORE - Small Business Resilience Hub](#)
- [U.S. Department of Treasury - The CARES Act Provides Assistance to Small Businesses](#)
- [Association of Women Business Centers and America's Small Business Development Centers \(SBDCs\) Federal Resources for U.S. Small Businesses](#)

## **Other Resources**

- [Disability Management Employer Coalition \(DMEC\) Long COVID: Assessing and Managing Workforce Impact](#)
- [Office of Disability Employment Policy \(ODEP\) Coronavirus Resources: COVID-19 and Long COVID-19](#)
- [COVID-19: Federal Disability-Specific and Other Related Guidance](#)
- [Safer Federal Workforce Guidance Related to Vaccination Requirements and Exemptions](#)
- [Sample Template for Vaccine Exemption Based on Medical Condition](#)
- [Sample Template for Vaccine Exemption Based on Religion](#)
- [CDC COVID-19 Vaccines for People with Underlying Medical Conditions Considerations](#)
- [CDC COVID-19 Vaccines for People with Allergies](#)
- [U.S. Department of Health and Human Services \(HHS\) HIPAA, COVID-19 Vaccination, and the Workplace](#)
- [Employer Assistance and Resource Network on Disability Inclusion \(EARN\) Inclusive COVID-19 Workplace Health and Safety Plans](#)
- [EARN COVID-19 and Job Applicants and Employees with Disabilities](#)
- EARN COVID-19 Employer Response Stories: [CVS Health](#), [EY](#), and [Merck](#)
- [CDC People with Certain Medical Conditions](#)

- [CDC Your Guide to Masks](#)
- [CDC Guidance for Handlers of Service and Therapy Animals](#)
- [HHS and U.S. Department of Justice \(DOJ\) Guidance on “Long COVID” as a Disability Under the ADA \(titles II and III\), Section 504, and Section 1557](#)
- [Office of Science and Technology Policy \(OSTP\), Let’s Clear the Air on COVID](#)

As COVID-19 related workplace issues evolve, JAN will continue to develop practical guidance and resources. For one-on-one guidance on job accommodations and ADA technical assistance, please [contact JAN](#).

## 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.

### **A local government employee requested to reduce direct contact with people and to wear a mask in order to limit possible exposure to the coronavirus.**

The employee has an underlying impairment and takes medication that suppresses their immune system. The employer contacted JAN to ask if this request would need to be considered as an accommodation under the ADA. If the individual has a disability under the ADA that may put them at high risk for complications of pandemic coronavirus, the employer must treat the request as an accommodation request under the ADA and determine if the accommodation is reasonable.

### **A university received a request from an employee in her seventies whose spouse is older and has diabetes.**

The employee requested to telework due to concerns about being exposed to coronavirus in the workplace, and in-turn, exposing the spouse. The university employee does not have a reported disability. Because the employee does not have a disability, it was suggested that the employer discuss the request with an appropriate legal professional to determine the best approach for handling situations involving 1) at-risk aging employees who want to take measures to avoid exposure, and 2) accommodation requests from caregivers of individuals with disabilities who may be at-risk during the current public health situation. It was suggested that the employer also contact the Occupational Safety and Health Administration (OSHA) for guidance on the duty to protect employees and prevent occupational exposure during a pandemic public health situation.

### **An energy company wanted to take proactive steps to ensure that its employees with known medical impairments can receive telework as a form of accommodation during the coronavirus pandemic.**

The employer was aware of several employees with impairments who could be considered at-risk for developing complications if exposed to the coronavirus. The employer contacted JAN to learn if the ADA disability-related inquiry rules would allow the employer to ask these employees with disabilities if they will need to telework as an accommodation. According to the Equal Employment Opportunity Commission (EEOC), an employer may ask an employee with a known disability whether they need an accommodation when the employer has a reasonable belief that accommodation is needed. If this standard is met, the employer may reach-out to employees, on a case-by-case basis, to inform them of the opportunity to request accommodation in response to the current coronavirus pandemic.

### **A financial institution with a bank teller employee who is pregnant contacted JAN to ask if it would be acceptable to move the teller from direct client contact to**

**working as a teller in the drive-through.**

The employer wanted to help reduce the risk of the employee's exposure to customers who could have the coronavirus, or flu-like symptoms. It was suggested that the employer discuss the opportunity of the alternative workstation with the employee, rather than automatically moving the employee solely on the basis of the employer's concerns. Through this interactive process, both parties can then determine the best course of action.

**In the weeks leading-up to the coronavirus outbreak, a university employee traveled abroad to an affected region.**

The employer contacted JAN to learn if it would be possible to ask if the employee to self-quarantine by working at home for fourteen days upon their return to the country. When public health authorities or state or local public health officials recommend that people who visit specified locations remain at home for several days until it is clear they do not have pandemic symptoms, an employer may ask whether employees are returning from these locations, and encourage employees to telework.



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