

# Dinsmore & Shohl LLP

ATTORNEYS

## Accommodation Do's and Don'ts

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A great deal of information has been presented about the changes to the Americans With Disabilities Act through the ADA Amendments Act ("ADAAA") as well as what to expect from the implementation of the new regulations expected later this year. However, how do you as an employer deal with everyday issues that arise when attempting to determine whether a reasonable accommodation is required? What should you be saying, or not saying, to employees requesting accommodations? Below is a tip list of do's and don'ts that offers some guidance in these situations.

### **DO'S**

- Update Job Descriptions To Ensure Accuracy As To Essential Functions Of Job
- Review The Job Description With The Employee
- Ask Open-Ended Questions To Identify Accommodations Needed To Perform Essential Functions Of Job
- Inform Employee That You May Need Additional Information From His Or Her Physician
- Encourage Ideas From Employee, Physician And Industry Sources As To Possible Accommodations – This Is An Interactive Process
- Remind Employee Of Responsibilities To Adhere To Company Policies And Performance Expectations
- Provide Information To Others Strictly On A "Need To Know" Basis
- Document Both Sides Of Conversation And Accommodations Offered And Made
- Discuss How Process Works And Provide Timeframe For Responding, Including Who Will Be Involved In Process

### **DONT'S**

- Don't Express Opinions Such As: "You're Not Disabled" Or "This Is Such A Hassle," Or "You're Costing Us A Fortune!" Or "The Company Will Never Pay For That"
- Don't Promise Before You Are Certain
- Don't Give Up Simply Because First Idea Did Not Work
- Don't Store Employee Health Information With Personnel Files
- Don't Provide Supervisors Direct Access To Employee Health Information
- Don't Communicate Directly With Employee's Doctor(s)
- Don't Be Afraid To Document Performance Issues Unrelated To The Disability

Hopefully with these tips, you can open a dialogue with your employee that will lead to a mutually satisfactory solution or, if no solution can be found, at least the employee will feel he or she has been dealt with fairly.