

JAN

Job Accommodation Network

Practical Solutions • Workplace Success

Accommodation and Compliance Series

Light Duty

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JAN'S Accommodation and Compliance Series

JAN often receives questions about the Americans with Disabilities Act (ADA) and light duty. These questions involve: what is light duty, whether an individual with a workers' compensation injury is protected under the ADA, whether light duty is required as a reasonable accommodation, whether an employee has to be 100% to return to work, whether an employer has to remove functions from an individual's position as an accommodation, and what types of accommodations may be possible for returning an employee to work after an injury or illness.

What is light duty?

The term "light duty" has a number of different meanings in the employment setting. Generally, "light duty" refers to temporary or permanent work that is physically or mentally less demanding than normal job duties ([EEOC, 1996](#)).

Is an individual with a workers' compensation injury protected under the ADA?

An individual with an injury covered under workers' compensation may be protected by the ADA, but is not automatically protected. To be protected by the ADA, the employee must meet the definition of disability. The ADA does not require an employer to provide a reasonable accommodation for an employee with an occupational injury who does not have a disability as defined by the ADA ([EEOC, 1996](#)).

The term disability means: (1) a person who has a physical or mental impairment that substantially limits one or more major life activities, (2) a person with a record of a physical or mental impairment that substantially limits one or more major life activities, and (3) a person who is regarded as having a physical or mental impairment that substantially limits one or more major life activities.

Is light duty required as a reasonable accommodation?

Reassigning an employee with a disability to a light duty job might be required as a reasonable accommodation, depending on how an employer's light duty program is designed. If an employer reserves certain jobs for light duty, rather than creating light duty jobs as needed, the employer must reassign the employee to a vacant, reserved light duty position as a reasonable accommodation if (1) the employee cannot perform his current position because of his disability, with or without a reasonable accommodation; (2) the employee can perform the light duty job, with or without a reasonable accommodation; and (3) the reassignment would not impose an undue hardship. This is because reassignment to a vacant position and appropriate modification of an employer's policy are forms of reasonable accommodation required by the ADA, absent undue hardship ([EEOC, 1996](#)). There is, however, no requirement to create a light duty position or any other position under the ADA ([EEOC, 2002](#)).

Does an employee have to be 100% in order to return to work?

According to informal guidance from the EEOC, 100% policies may violate the ADA. Some courts have characterized "100% healed" policies as per se violations of the ADA, but most courts have held that such policies only violate the ADA when applied to an employee who meets the definition of disability. One of the ways an employee can meet the definition of disability is to show that the employer "regarded" him as having a disability. In some cases, employees have proved that their employer regarded them as having a disability by showing that the employer would not let them return to work until 100% healed.

Does an employer have to remove functions from an individual's job as a reasonable accommodation?

Under the ADA, employers have to consider job restructuring as a reasonable accommodation. Job restructuring includes modifications such as: reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability; and altering when and/or how a function, essential or marginal, is performed ([EEOC, 2002](#)). There is no requirement under the ADA to remove essential functions as a form of reasonable accommodation. However, an employer can do so if it chooses.

What types of accommodations may be possible for returning an employee to work after an injury or illness?

For a summary of job accommodations for return to work, see [JAN's Effective Accommodation Practices Series: Job Accommodations for Return-to-Work](#).

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 bus driver recently diagnosed with sleep apnea asked for a light duty position.

The employer contacted JAN asking for other options. JAN suggested a flexible schedule, temporary reassignment to shorter bus runs, and time off for treatment.

An individual with Guillain-Barré Syndrome was released to return to work following an extensive recovery period.

The employee asked to work light duty. In lieu of this the employer provided a modified schedule and job restructuring while allowing a transition work arrangement. With this type of arrangement the employee gradually increased their hours and work duties over a short period of time and was able to eventually work a typical schedule.

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