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**The ADA Interactive Process As It Pertains to the Public**

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This information herein is intended solely as informational guidance and is neither a determination of legal rights or responsibilities under the ADA or any other law, nor binding on any agency with enforcement responsibility under the ADA or any other law.

**The Interactive Process**

The interactive process is a requirement found under the Americans with Disabilities Act (ADA) Title I Employment. However, case law leads to the need for Title II entities (state and local government services to the public) and Title III entities (businesses and nonprofits access obligations) to pursue the interactive process with their clients/consumers/customers who have disabilities. The interactive process is an informal and flexible conversation(s) to facilitate understanding of what disability related barrier(s) the individual is facing and how to remove the barrier(s). Solutions involving an accommodation/modification to remove the barrier(s) should enable the person, as much as possible, to fully participate in the program or service.

**Triggering the Interactive Process**

All the customer has to do is indicate in some manner (no specific wording is required) that they may or are experiencing disability related difficulties in participating in the program or service. The request triggers the interactive process. A third party can ask on behalf of the individual, but the entity should include the individual in the interactive process as much as possible.

**Consequence of Not Participating In the Interactive Process**

The party who refuses to participate in or impedes the interactive process could be held accountable. Courts often rule in favor of the party who tried to engage in this process in good faith and against the party who did not.

**Obtaining Documentation**

Depending on how complex, involved or extensive the service or program is, the entity is allowed to obtain a reasonable amount of documentation that must be directly related to justifying the request. Don’t ask for unrelated medical/disability documentation.

**NOTE:** The interactive process does not pertain in deciding if an **ADA define service animal** should be allowed. Under the Department of Justice’s (DOJ) ADA regulations these service animals are allowed to go anywhere the handler is allowed to go pending a few narrow exceptions. For more information go to the DOJ’s ADA website at [www.ada.gov](http://www.ada.gov).

The following excerpt is from William Goren’s April 4,2019 Blog

“***Do’s and Don’ts of the Interactive Process***”

[www.williamgoren.com/blog/2019/04/04/dos-and-donts-interactive-process/](http://www.williamgoren.com/blog/2019/04/04/dos-and-donts-interactive-process/)

**What NOT to Do with the Interactive Process**

1. Fail to act on a reasonable accommodation request unless it is explicit as magic words are not required.
2. Once getting a reasonable accommodation request, immediately call a vendor or other third-party instead of talking to the person making the reasonable accommodation request.
3. Make clear to the person with the disability that you don’t want to accommodate them but you have to.
4. Make clear that the process will be adversarial and not collaborative.
5. Ignore suggestions from the person with the disability as to what works and/or make it clear that you don’t care what works as your organization is primary.

**What TO DO with the Interactive Process**

1. Value the individual with a disability making the reasonable accommodation request as an individual.
2. Make clear that you are interested in a collaborative and not adversarial process.
3. If you get stuck as to what might work, call the [*Job Accommodation Network*](https://askjan.org/).
4. Involve the person with a disability in the process immediately and keep him or her posted throughout.
5. Remember you will have to make the accommodation unless you can show an undue hardship (title I), undue burden (title II, III), or fundamental alteration (title II, title III, and arguably title I), all of which, as readers of this blog already know, are terms of art and are not easy to show.
6. Remember, if effective communication is involved, the rule for title II (preferred communication to be given primary consideration by the governmental entity), and for title III (give-and-take of the interactive process with the place of public accommodation getting final call), of the ADA are different.
7. Remember, think of a reasonable accommodation/modification as whatever gets the person with a disability to the same starting line as someone without a disability.

**NOTE:** The **Job Accommodation Network** provides free guidance on workplace accommodations, but they can also be helpful in finding possible solutions in other settings. Check out their extensive helpful website at [www.askjan.org](http://www.askjan.org).

