



**A GUIDE FOR WORKERS
WITH SUBSTANCE USE
DISORDER: WHAT YOU
SHOULD KNOW**

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INTRODUCTION

Workers with substance use disorder (SUD) account for a substantial part of the workforce. In 2022, an estimated [30.1 million people](#) with SUD worked across various sectors, industries, and sizes of employers. If you are a worker with SUD, you may worry that disclosing or asking for help could put you at risk for discipline, discrimination, or even termination. You could also be considering whether to ask for work-related benefits, services, and protections that can help you keep and thrive at your job. This document guides you and other workers with SUD on how to navigate employment situations as a person with a disability.

What is SUD?

[SUD is a health condition](#) that refers to the recurrent use of alcohol and/or drugs that “causes clinically significant impairment,” including related health conditions or failure to meet responsibilities at work, home, or school. [SUD](#) is a “treatable condition that affects a person’s brain and behavior, leading to their inability to control their use of substances like legal or illegal drugs, alcohol, or medications.” When SUD progresses to addiction, [it is defined](#) (PDF) as a “chronic condition that can be treated but generally not cured, like diabetes or heart disease.” Commonly known types of SUD are [opioid use disorder \(OUD\)](#) and [alcohol use disorder \(AUD\)](#).

WORKING WITH SUD

If you are a person with SUD, you may be protected from discrimination on the basis of [disability](#) under federal civil rights law. The **type of employer** you work for determines whether the [Americans with Disabilities Act \(ADA\) of 1990](#) and the [Rehabilitation Act of 1973 \(Rehab Act\)](#) applies to you:

- ADA
 - [Title I](#) applies to **private employers with 15 or more employees, state and local governments, employment agencies, and labor unions.**
 - [Title II](#) applies to **public entities**, regardless of workforce size.
- Rehab Act
 - [Section 501](#) applies to **federal agencies.**
 - [Section 503](#) applies to **federal contractors and subcontractors.**

What is a reasonable accommodation?

A [reasonable accommodation](#) is an adjustment to a job or work environment that makes it possible for a qualified person with a disability to perform their job duties. Accommodations enable a person with a disability to have an equal opportunity not only to get a job but to successfully perform their job tasks to the same extent as people without disabilities.

How do I ask for an accommodation from my employer?

As an employee, it is your responsibility to let your employer know that an accommodation is needed. The following are suggestions about how you can request and negotiate an accommodation in the workplace:

1. Decide how you are going to make your accommodation request.

You can make your initial accommodation request any way you choose, for example, in a face-to-face meeting, by e-mail, or in a formal letter to your employer. There are no official forms for

making a request under the ADA. However, some employers have forms and may ask you to complete them after your initial request. Even if your employer does not ask you to put your request in writing, some employees find it helpful to have a written record of their request, so they choose to write a formal [request letter](#).

2. Decide who you are going to ask.

You can initially let anyone in management know that you need an accommodation. If a specific person oversees accommodations, your request may be forwarded to that person. If you make a written request and think it might be useful, you can give a copy of your request to more than one person. For example, if you need a schedule change as an accommodation and company policy requires you to go to Human Resources (HR) for any schedule changes, you may have to address your accommodation request to HR. If you have a good relationship with your supervisor, you might choose to also let them know about the request.

3. Explain why you need an accommodation and share your accommodation ideas.

When you make your accommodation request, let your employer know you need it because of a disability. Otherwise, your employer may not know that you are requesting an accommodation under the ADA. Discuss your limitations and how they are impacting your performance at work. If you know what accommodations you need, let the employer know, and prepare to work with your employer to consider various options.

4. Follow-up as needed.

If you [do not receive a response](#) to your request in a reasonable time, you should check with your employer to resolve the delay. If your employer [denies your request](#), you should try to find out why. You may need to clarify your request, provide additional information or medical [documentation](#), or consider other accommodation options.

5. Monitor the accommodation.

Once an accommodation is in place, it is your responsibility to let the employer know if it does not work and you need a new, updated, or different accommodation.

Do people with SUD work successfully with accommodations?

Although you may not need accommodations for SUD at work, they are often helpful. Below are accommodation success stories of workers with SUD.¹

Meet Aisha. Aisha is a production worker for a manufacturing company. They went to their Human Resources Business Partner (HRBP) to request a schedule change for SUD-related treatment. Aisha asked for a transfer from the night shift to the day shift to attend counseling with her sponsor, who is only available in the evening. The HRBP worked with Aisha's manager to change their shift and remove the mandatory overtime requirement on days when attending counseling.

Meet Bryer. Bryer is a package handler for a distribution company. Bryer is in recovery from SUD and experiences anxiety in face-to-face discussions. This prompted Bryer to request a change in management style from their operations manager when providing performance-related feedback. Bryer now receives a written performance review with the option to have a discussion later.

Meet Kiran. Kiran is a substance use counselor with a history of OUD and a mental health condition who approached their supervisor to request an accommodation. Kiran expressed that their disability is

¹ These examples were created from aggregated JAN data. They do not represent any specific person or organization.

exacerbated during specific time periods, e.g., holidays, anniversaries of traumatic events, etc. After working with Kiran to develop their work schedule, the supervisor modified Kiran's attendance agreement to give them leave during the times requested. Kiran also has the flexibility to request unscheduled leave if needed.

Meet Riddhi. Riddhi is a sales representative with AUD who faced termination for violating a workplace policy against being under the influence of alcohol when working. As part of a ["fair chance offer"](#) (PDF) of continued employment, Riddhi agreed to seek treatment and undergo periodic alcohol testing for several months after returning to work.

If you are looking for accommodation ideas, contact the [Job Accommodation Network](#) (JAN) for information. JAN provides confidential technical assistance on workplace accommodations and related disability employment issues at no cost, which includes offering [accommodation ideas](#) for people with SUD).

QUESTIONS AND ANSWERS

Could I be automatically disqualified for a job because I use drugs, or because I used drugs in the past?

Employers can take employment actions, including discipline and termination, against you based on the illegal use of drugs, even if you do not have performance or safety problems. Employers can also disqualify you from a job if another federal law requires them to do so. Suppose you are not disqualified by federal law, and you are using drugs legally. In that case, an employer cannot automatically disqualify you because of drug use without considering if there is a way for you to do the job safely and effectively, including providing accommodations ([EEOC, Question 1](#)).

Additionally, if you have a valid prescription – for example, you are taking an opioid medication as directed in a medication-assisted treatment (MAT) program – then your use of the medication is legal. Under the ADA ([Department of Justice, Question 3](#)), you cannot be denied a job or fired from a job because you are in a MAT program unless you cannot do the job safely and effectively, or you are disqualified under another federal law.

Can I be denied employment because my employer thinks I am a threat to safety?

An employer may not deny employment to a disabled person merely because of assumed risk. The ADA prohibits covered employers from excluding people with disabilities from the workplace for health or safety reasons unless they pose a direct threat. A [direct threat](#) is a significant risk of substantial harm to the health or safety of the person or others that cannot be eliminated or reduced by accommodation. An employer must evaluate several factors to determine whether a person would pose a direct threat.

What accommodations can I ask for?

There is not an exhaustive list of what accommodations you can ask for under the ADA, but there are general categories, such as:

- Job restructuring
- Part-time or modified work schedules
- Reassignment to a vacant position
- Adjusting or modifying examinations, training materials, or policies

Employers do not have to remove essential job functions, lower production standards, provide personal need items such as hearing aids and wheelchairs, or provide any accommodation that creates an undue

hardship ([EEOC, Undue Hardship Issues](#)). Employers are not required to provide an employee's preferred accommodation as long as the employer provides an effective accommodation ([EEOC, Question 9](#)).

What types of accommodations might be effective for me?

Accommodations vary depending on your limitations, job duties, work environment, and workplace resources. Examples of accommodations that are often effective for employees with SUD include:

- Providing a flexible schedule to attend meetings and receive ongoing treatment
- Minimizing exposure to stress and other potential relapse triggers
- Reducing distractions to help with concentration
- Lessening physical exertion to help with fatigue

What type of information can my employer request when I ask for an accommodation?

When your disability or the need for your accommodation is not known or obvious, your employer can ask for reasonable documentation about your disability and the need for accommodation ([EEOC, Question 7](#)). Your employer can also ask questions to help clarify why you need an accommodation and to explore alternative accommodations. Your employer cannot ask for documentation unrelated to determining the existence of a disability and the necessity for an accommodation. In most situations, your employer cannot ask you about other medical conditions you might have or request your complete medical records because they are likely to contain information unrelated to your request for accommodation ([EEOC, Question 10](#)). With limited exceptions, medical information must be kept confidential.

What is the best way to explain that I need accommodations to avoid stress?

Because stress is subjective, stress management starts with identifying what is causing the specific employee stress. Once you identify the source of stress, the next step is to determine whether there are accommodations to reduce or eliminate the stress. Accommodations that prove effective in helping employees with [mental health conditions](#) can also help reduce stress. Examples include [flexible workplaces](#), modified schedules, leave, and modifications to reduce noise, light, and distractions.

Can I request a flexible schedule to attend meetings as a part of my rehabilitation program?

Engaging in an interactive process is crucial to determining an accommodation that works for employees and employers. When you request a flexible schedule to attend meetings following treatment for SUD, your employer may discuss whether you can attend meetings before or after work rather than modify your schedule. When requesting the accommodation, let your employer know why you need to attend meetings at a specific time. For example, you have established a support system or can attend with your sponsor only at specific times. For more information on this topic, see [Modified Schedules to Attend Alcoholics Anonymous/Narcotics Anonymous Meetings](#).

Can my employer have and enforce rules about the use of alcohol and the illegal use of drugs in the workplace?

The ADA expressly permits employers to prohibit the use of alcohol or the illegal use of drugs in the workplace. Consequently, if you violate such policies, even if the conduct stems from SUD, you may face the same discipline as any other employee. The ADA also permits employers to require that employees not be under the influence of alcohol or the illegal use of drugs in the workplace ([EEOC, Question 26](#)).

As a part of our safety program, can I be tested for alcohol and drug use?

The ADA does not prohibit, require, or encourage drug tests. Because drug tests are not considered medical examinations, an applicant can usually be required to take a drug test before a conditional offer of employment has been made ([EEOC, In General](#)). In most situations, an employee can also be required to take a drug test, regardless of whether such a test is job-related and necessary for the business. A test to determine an individual's blood alcohol level, however, would be a "medical examination" and could only be required by an employer in conformity with the ADA ([EEOC, Section 8.9](#)).

Can my employer explore alternatives to discipline or termination for violating our substance use policy?

As an alternative to termination or other disciplinary actions, employers can make a "[fair chance offer](#)" (PDF) of continued employment (formerly referred to as last chance or firm choice agreement) that includes requirements such as screening, assessment, and treatment by a designated substance use professional or organization. In addition, the offer might consist of a return-to-work plan with requirements such as drug testing and ongoing treatment. For additional guidance see Appendix 7 from this [Recovery-Ready Workplace Toolkit](#) (PDF).

Does my employer have to hold my job for me when I take leave for substance use treatment?

There are a few options that you can explore. These include intermittent leave under the [Family and Medical Leave Act \(FMLA\)](#), company policy, or as an ADA-related accommodation. If you are receiving an accommodation of leave under the ADA, your employer must hold your job unless it results in an undue hardship. If you prefer to work instead of taking leave, you can work with your employer to determine whether there are other effective accommodations.

Are there hiring programs for people with SUD that can help me find a job?

There are several [job seeker resources](#) that can assist with your job search. [Schedule A](#) or [other hiring authorities](#) (PDF) may be helpful if you are interested in federal employment. The [Schedule A hiring authority](#) allows candidates with disabilities, including those with SUD, to apply for federal appointments through a noncompetitive hiring process. If you meet the eligibility status of the appointment and the minimum qualifications for a position, you may be hired for the position without competing with members of the general public. If you have obtained all the necessary documentation, contact the [Selective Placement Program Coordinator \(SPPC\)](#) at the agency where you would like to work. Instead of going through the standard application process, you will apply for the position through the SPPC.

Where can I refer my employer for more information?

Because employers are uniquely positioned to address SUD in a way that benefits them and the nation's economy, a [National Drug Control Strategy](#) (PDF) was created to promote and support [recovery-ready workplace \(RRW\) policies](#) across the public, private, and federal sectors. The RRW Toolkit supports employers in developing RRW policies and provides information to help them address substance use in their workforce. An additional companion publication, [Supporting Employees with Substance Use Disorder: A Guide for Employers](#), provides information and resources to educate employers on how to support employees with SUD.

Where can I find additional information?

Resources for Requesting Accommodations

- [Accommodating Substance Use Disorder](#)
- [Accommodation and Compliance: Mental Health Conditions](#)
- [Depression, PTSD, & Other Mental Health Conditions in the Workplace: Your Legal Rights](#)
- [DOL's Mental Health at Work Initiative: Resources for Workers](#)
- [Employee's Practical Guide to Requesting and Negotiating Reasonable Accommodation under the ADA](#)
- [JAN Role-Play Training Series: Accommodating Opioid Use Disorder \(Video\)](#)
- [Use of Codeine, Oxycodone, and Other Opioids: Information for Employees](#)

Resources for Job Seeking

- [Finding a Job That is Right for You: A Practical Approach to Looking for a Job as a Person with a Disability](#)
- [Frequently Asked Questions About the Schedule A Excepted Service Hiring Authority for People with Disabilities](#)
- [Job Seeker Resources](#)