

[DATE]

Contact Name  
Address  
Address 2  
City, State, ZIP

### **Sample Authoritative Letter on the ADA**

Dear [NAME]:

The staff at [SPECIFY] are writing to remind you of the agency/administration's responsibility to consider and comply with the Americans with Disabilities Act<sup>1</sup> ("ADA"), especially as it relates to all aspects of our state/agency/ reopening plan and its future implementation. The COVID-19 pandemic has been an unprecedentedly difficult time for our members, and we hope that we can work together with you to create a plan that is not only ADA-compliant, but one that prioritizes the safety and well-being of ALL our staff, and the public we serve.

The ADA, as you know, protects qualified individuals<sup>2</sup> from job discrimination on the basis of their disabilities. Within the context of COVID-19, disabilities include the underlying medical conditions outlined in CDC guidance<sup>3</sup> that are associated with higher risks of life-threatening complications arising from COVID-19. These include, but are not limited, to: chronic kidney disease, asthma, Type 1 and 2 diabetes, high blood pressure, and asthma.

We remind you that many of our staff have underlying conditions themselves and that, under the ADA, they must be provided reasonable accommodations to protect them in their employment as the pandemic continues.<sup>4</sup> We would also remind you that we still have a lot to still learn about this pandemic, and qualification for a reasonable accommodation will evolve as public health researchers and officials learn more about the virus.

The ADA anticipates and requires interactive dialogue between the administration and any staff member that requests a reasonable accommodation. There is no one-size-fits-all reasonable accommodation. However, certain accommodations that may be considered, particularly since many normal modes of public service delivery have already been changed due to COVID-19,

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<sup>1</sup> 42 U.S.C. 12101

<sup>2</sup> Defined by the ADA (42 U.S.C. 12111(8)) as those individuals who can perform the essential functions of their jobs with or without reasonable accommodation.

<sup>3</sup> [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html) (See the updated list here)

<sup>4</sup> Assuming the reasonable accommodation does not cause an undue burden on the employer.

include modified schedules, telework<sup>5</sup>, and leaves of absence. Above all, we ask that the administration be adaptable and understanding when working with our members who request reasonable accommodations.

Finally, we would like to remind the employer that ADA medical inquiries, while allowed under certain circumstances<sup>6</sup>, must remain strictly confidential and that all collected medical information must be stored separately from regular personnel files. A request for an accommodation is protected activity under federal law, and interference with an employee exercising their rights under the ADA is unlawful. Interference or retaliatory actions against faculty and staff will not go unchallenged.

We appreciate your consideration of these important issues. Compliance with the ADA is the minimum we expect of you. We expect to face other situations that may call for additional accommodations to keep staff and the public safe. We have full confidence that you will work with us to create a flexible and safe plan to reopen our community and public agencies this year.

Sincerely yours,

[ORGANIZATION NAME]

[PHONE NUMBER]

[EMAIL]

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<sup>5</sup> See *Robert v. Board of County Commissioners of Brown County*, 691 F.3d 1211 (10th Cir. 2012) for a discussion of teleworking becoming a more viable reasonable accommodation as technology improves.

<sup>6</sup> Only when the reason for an accommodation is not obvious or already known, according to current EEOC guidelines (see [here/ https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws](https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws))