



# **WHAT IS DISABILITY DISCRIMINATION UNDER WASHINGTON STATE LAW?**

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# What Is Disability Discrimination under Washington State Law?

In Washington State, disability-based discrimination in employment is a violation of the Americans with Disabilities Act and Chapter 49.60 RCW. An employer may also violate the law if it fails to reasonably accommodate employees' disabilities.

## What Is a Disability?

Under the Washington Law Against Discrimination (WLAD), a disability is defined as “a sensory, mental or physical impairment that: (i) is medically cognizable or diagnosable; or (ii) exists as a record or history; or (iii) is perceived to exist whether or not it exists in fact.” Further, a disability is recognized regardless of whether it is permanent or temporary, uncommon or common, unmitigated or mitigated, or whether or not it limits the employee's ability to work.<sup>1</sup>

## What Are Reasonable Workplace Accommodations?

A reasonable workplace accommodation is change, modification, or adjustment to a job or work environment that enables an employee with a disability to continue performing their work duties. The employer and

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<sup>1</sup> RCW 49.60.040(7)(a)-(b).



employee need to work together to come up with a solution that works for both parties. The accommodation must not cause undue hardship on the employer.

Examples of reasonable accommodations could include a schedule change, ergonomic furniture, computer software or hardware, a stool to sit on, alternating break times, or any other feasible solution. Medical leave may also amount to a reasonable accommodation where it is the most necessary solution.

## **What Does the Interactive Process for Requesting an Accommodation Involve?**

If you require a disability-related workplace accommodation, you will need to request it from your employer. This can be done either verbally, in writing, or through a note from your doctor.

The employer and employee must then enter into an interactive process that entails both parties discussing the request and all possible accommodations. The employer has the right to request that the employee take a physical capacities examination or request additional information from the employee's doctor.



## **Signs of Discrimination and How to Know You are Being Discriminated Against**

Any of the following actions and treatments may be an indication that one is being discriminated against based on disability:

- Being denied promotion due to disability
- Not being hired solely because you are disabled
- Termination due to disability
- An employer taking adverse employment action against you because of your disability
- Retaliation because of requesting a disability accommodation or for receiving such accommodation

Discrimination can happen during the application process, during the hiring process, when being considered for a promotion, when discussing wages, when being awarded benefits, or during discharge/termination.

## **How Is Disability Discrimination Different from Medical Leave Retaliation?**

Disability discrimination may occur when an employer, such as a direct supervisor or manager or other employees, treat you unfairly due to your

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disability. Medical leave retaliation, on the other hand, may occur when an employer punishes you for taking FMLA leave.

Medical leave retaliation can happen in many ways such as being denied leave, withholding earned bonuses, docking or lowering pay for taking leave, being demoted, being denied promotion for taking leave, and being fired for taking leave.

If you or someone you know has been subjected to disability discrimination, call Athan Law today at (509) 215-4679 to protect your rights.

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