



Practical Solutions • Workplace Success

Accommodation and Compliance Series

Personal Assistance Services (PAS) in the Workplace

Job Accommodation Network
PO Box 6080
Morgantown, WV 26506-6080
(800)526-7234 (V)
(877)781-9403 (TTY)
jan@askjan.org
askjan.org



Preface

The Job Accommodation Network (JAN) is a service of the Office of Disability Employment Policy of the U.S. Department of Labor. JAN makes documents available with the understanding that the information be used solely for educational purposes. The information is not intended to be legal or medical advice. If legal or medical advice is needed, appropriate legal or medical services should be contacted.

JAN does not endorse or recommend any products or services mentioned in this publication. Although every effort is made to update resources, JAN encourages contacting product manufacturers/vendors and service providers directly to ensure that they meet the intended purposes. This guarantees that the most up-to-date information is obtained.

The following document is not copyrighted and reproduction is encouraged. Section 105 of the Copyright Law provides that no copyright protection is available for works created by the U.S. Government. Therefore, all works created by JAN fall under this provision. While individuals may use such work with impunity, individuals may not claim copyright in the original government work, only in the original material added.

Individuals may access the full text of the law from the U.S. Copyright Office <http://www.loc.gov/copyright>. Please note that specific information cited by JAN may be copyrighted from other sources. Citing secondary sources from a JAN publication may violate another organization's or individual's copyright. Permission must be obtained from these sources on a case-by-case basis. When using JAN materials, JAN asks that the materials not be reproduced for profit, that the tone and substance of the information are not altered, and that proper credit is given to JAN as the source of the information. For further information regarding this or any other document provided by JAN, please contact JAN.

Authored by Linda Carter Batiste. Updated 04/13/17.

JAN'S ACCOMMODATION AND COMPLIANCE SERIES

PERSONAL ASSISTANCE SERVICES (PAS) ON THE JOB

The Job Accommodation Network (JAN) receives many questions regarding personal assistance services (PAS) from employees with disabilities and their employers. This has been a difficult issue for employees who rely on PAS because employers generally are not required to provide accommodations related to services for personal needs. Employees with disabilities therefore must try to obtain these services themselves. It can be difficult for them to hire someone to come into the office a few times a day to help with personal needs or to pay for someone to come in on a full-time basis. The end result has often been no employment or loss of employment.

Recognizing that the absence of PAS as an employment support can be a significant barrier to employment within the Federal workforce, the Equal Employment Opportunity Commission (EEOC) determined that updated regulations “were needed to enhance the employment, retention, and promotion of qualified individuals with disabilities....” On January 3, 2017, the EEOC issued updated [regulations](#) for Section 501 of the Rehabilitation Act of 1973. Section 501 prohibits federal agencies from discriminating against job applicants and employees based on disability and requires agencies to engage in affirmative action for individuals with disabilities. One of the provisions of the updated Section 501 regulations requires federal agencies to provide PAS to certain employees with disabilities. The following questions and answers discuss this requirement along with general information about PAS in both the public and private sectors.

1. What does PAS mean?

For purposes of this document, PAS means assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including, but not limited to, assistance with removing and putting on clothing, eating, and using the restroom. Such services do not include medical care. This definition is from the Section 501 regulations.

According to the EEOC, PAS is not the same as services that help employees perform job-related tasks, such as sign language interpreters for employees who are deaf or readers for employees who are blind or have learning disabilities. These services are already required as reasonable accommodations under the part of Section 501 that requires reasonable accommodations.

2. Are employers required to provide PAS?

Neither the Americans with Disabilities Act (ADA) nor Section 501 requires PAS as a reasonable accommodation, except when needed for work-related travel. However, effective January 3, 2018, the Section 501 regulations require federal agencies to provide PAS on the job as part of their affirmative action requirements. This requirement

is in addition to existing requirements for non-discrimination and reasonable accommodation.

3. What federal employees are entitled to PAS on the job?

Only employees with targeted disabilities are entitled to PAS and then only when providing PAS (along with any accommodations that are needed) enables the employee to perform the essential functions of his or her position. The term targeted disability means a disability that is designated as a “targeted disability or health condition” on the Office of Personnel Management’s [Standard Form 256](#).

However, federal agencies as well as other employers are free to provide PAS to other employees with disabilities if they choose and many employers, both public and private, see the benefits of doing so. Typically, it does not cost much for employers to provide PAS and enables them to hire or retain qualified employees with disabilities. See question 9.

4. Where can employers find PAS providers?

In many cases, the employee who needs PAS will be able to recommend a provider. Employers may also be able to get a referral from a local [center for independent living](#) or a state [vocational rehabilitation agency](#).

Some federal agencies, such as the EEOC, the Department of Labor, the Department of Transportation, and the Department of Justice’s Civil Rights Division, already have been voluntarily providing PAS in the workplace. For federal employers who are new to providing PAS, they may be able to tap into providers used by these other agencies.

5. Who chooses the PAS provider?

The employer ultimately chooses the provider, but the Section 501 regulations state that when selecting someone who will provide personal assistance services to a single individual, federal agencies must give primary consideration to the individual’s preferences to the extent permitted by law. Because of the private nature of PAS, other employers who provide PAS may want to take the same approach.

6. Can a coworker provide PAS?

Under the Section 501 regulations, the term personal assistance service provider means an employee or independent contractor whose primary job functions include provision of personal assistance services. A co-worker therefore can provide PAS if doing so is the employee’s primary job function. Otherwise, there are no specific certifications or credentials currently required for PAS providers. In general, the training or skill that a PAS provider should have will depend on the specific services needed by the employee.

7. Can the PAS provider be given other work duties?

Yes, but only to the extent that doing so does not result in failure to provide PAS in a timely manner.

8. Are teleworkers entitled to PAS?

Under the Section 501 regulations, federal agencies are required to provide PAS during work hours and for job-related travel. Work hours include time that an employee is teleworking, whether the telework is part of an agency telework program available to all employees or is being provided as a reasonable accommodation.

9. How much does PAS cost?

The cost of PAS will vary depending on the location as well as how much assistance an employee needs, but in the Section 501 regulations the EEOC indicated that PAS providers earn, on average, an amount per hour that is approximately equal to the federal minimum wage and an amount per year that is significantly lower than the annual salary of a GS-5 level employee.

10. What if providing PAS causes an undue hardship?

Federal agencies have the right to deny PAS when provision of the services would pose an undue hardship. The undue hardship standard for denying PAS is the same as for reasonable accommodations, which considers the nature, extent, and cost of an accommodation or PAS in relation to an agency's overall resources and the impact of the accommodation or PAS on the operation of the agency's business. Because the typical cost of PAS is minimal, undue hardship based on cost should rarely be an issue.

RESOURCES

Job Accommodation Network

West Virginia University
PO Box 6080
Morgantown, WV 26506-6080
Toll Free: (800)526-7234
TTY: (877)781-9403
Fax: (304)293-5407
jan@AskJAN.org
<http://AskJAN.org>

Office of Disability Employment Policy

200 Constitution Avenue, NW, Room S-1303
Washington, DC 20210
Toll Free: (866)633-7365
TTY: (877)889-5627
Fax: (202)693-7888
<http://www.dol.gov/odep/>

This document was developed by the Job Accommodation Network, funded by a contract from the U.S. Department of Labor, Office of Disability Employment Policy (#1605DC-17-C-0038). The opinions expressed herein do not necessarily reflect the position or policy of the U.S. Department of Labor. Nor does mention of tradenames, commercial products, or organizations imply endorsement by the U.S. Department of Labor.