

**Va. Code § 2.2-3905.1**

[Effective 7/1/2021] Reasonable accommodations for persons with disabilities; unlawful discriminatory practice; notice of rights

**A.** As used in this section:

"Employer" means any person, or agent of such person, employing more than five employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

"Person with a disability" means the term as defined in § 51.5-40.1.

"Physical impairment" means the term as defined in § 51.5-40.1.

"Mental impairment" means the term as defined in § 51.5-40.1.

"Otherwise qualified person with a disability" means the term as defined in subsection A of § 51.5-41.

**B.** It shall be an unlawful discriminatory practice for an employer to:

1. Refuse to make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer. In determining whether an accommodation would constitute an undue hardship upon the employer, the following shall be considered:

a. Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's workforce;

b. Size of the facility where employment occurs;

c. The nature and cost of the accommodations needed, taking into account alternative sources of funding or technical assistance included under § 51.5-173;

d. The possibility that the same accommodations may be used by other prospective employees; and

e. Safety and health considerations of the person with a disability, other employees, and the public.

2. Take adverse action against an employee who requests or uses a reasonable accommodation pursuant to this section.

3. Deny employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation for a person with a disability.

4. Require an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the disability.

5. Fail to engage in a timely, good faith interactive process with an employee who has requested an accommodation pursuant to this section to determine if the requested accommodation is reasonable and, if such accommodation is determined not to be reasonable, discuss alternative accommodations that may be provided.

**C.** An employer shall post in a conspicuous location and include in any employee handbook information concerning an employee's rights to reasonable accommodation for disabilities. Such information shall also be directly provided to (i) new employees upon commencement of their employment and (ii) any employee within 10 days of such employee's providing notice to the employer that such employee has a disability.