

# Getting Alice out of Wonderland: How to Address the Realities of Accommodations Management

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*“Would you tell me, please,  
which way I ought to go from  
here?”, asked Alice.  
“That depends a good deal  
on where you want to get to,”  
said the Cat.*



# What We Will Cover

- The ideal state of accommodations management
- The myth of the ideal state
- Reality-based approaches
- Risks of trying to achieve the ideal state
- Application of a reality-based approach
  - Remote work requests
- Recap of reality-based accommodations management



# The Ideal State of Accommodations Management

- The process is timely, fair and inclusive
- Documentation is clear
  - Reflects a mutual understanding of need, and unequivocally demonstrates a qualifying disability
- Effective collaboration occurs between the employee and the employer
- Health care providers are cooperative and willing to respond to clarification requests
- Circumstances lead to clear-cut decisions
  - No concurrent issues like low performance management, supervisory preparedness or conflict
  - Answers to questions around business impact are clear



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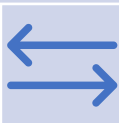
# The Myth of the Ideal State



Does not consider the impact of the psychology or mindset of decision-makers



Overestimates HCPs' willingness to provide detailed clarifications



Minimizes the challenge of aligning the ADA/PWFA's broad standards with the operational realities and expectations of business leaders



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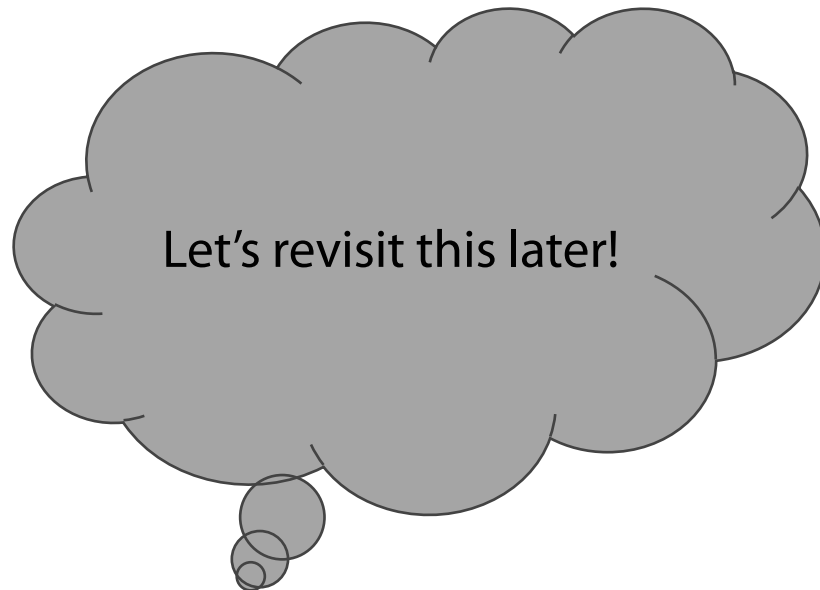
# Tendencies and Behaviors of Decision-Makers



# Decision Avoidance

## 1. Deferral (Kicking the Can)

- Behavior: Postponing decisions without providing clear next steps or a timeline.
- Reason: Often driven by fear of consequences or regret or a desire to avoid accountability or conflict.



# Decision Avoidance

## 2. Delegation Despite Authority

- Behavior: Passing the decision to others despite having decision-making authority and full context or a decision being straightforward or routine.
- Reason: Often a way of shielding oneself from perceived risk or avoiding accountability.

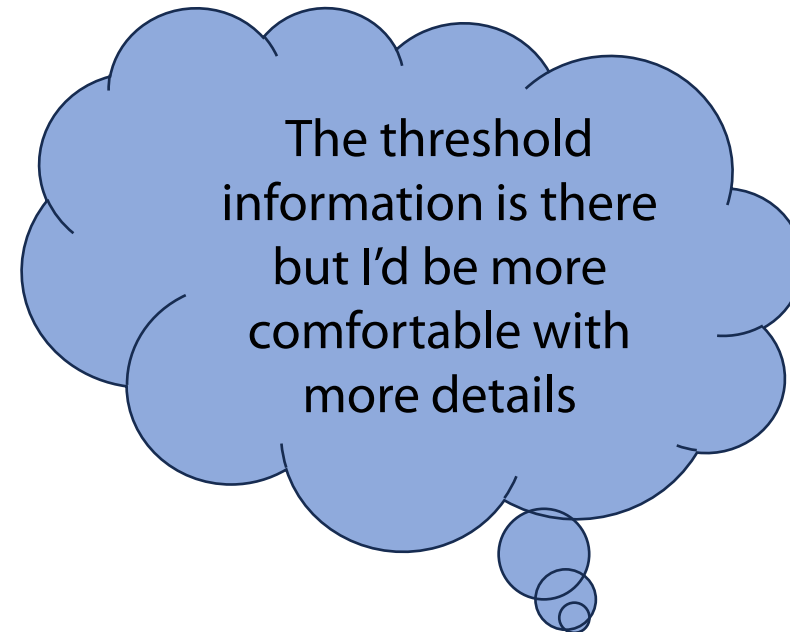




# Decision Avoidance

## 3. Analysis Paralysis

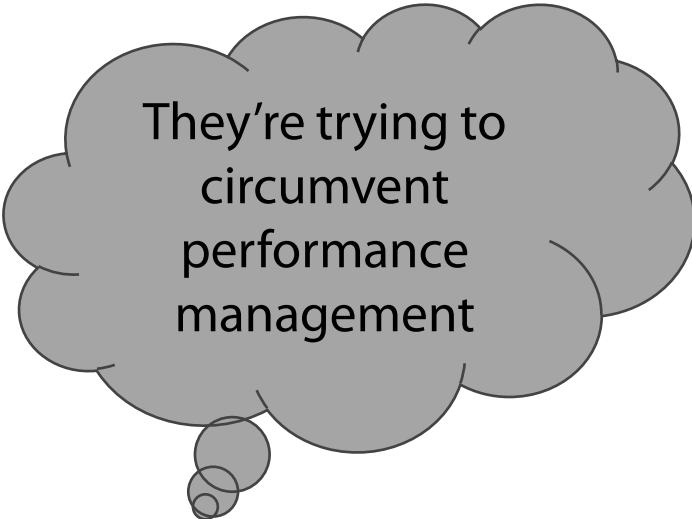
- Behavior: Delaying decisions by demanding excessive information.
- Reason: Linked to perfectionism or risk aversion.




# Decision Avoidance

## 4. Process Overreach as Fraud Prevention


- Behavior: Delaying and/or adding steps due to beliefs that employees are insincere or gaming the system.
- Reason: Rooted in circumstances of known exploitation of the system or frustrations around time spent on bad-faith claims.



They're trying to  
circumvent  
performance  
management



Can we get more  
proof?



We've seen people  
game the system  
before



# Course Correct With a Reality-Based Understanding

Widespread abuse/misuse is not a thing

- Documentation requirements are rigorous and costly (time and money)
- Participation in the interactive process is required
- Leave accommodations are unpaid
- Ethics-based company policies act as deterrents
- Communications and policies can be used to call-out abuse/misuse and consequences
- Performance management can still occur
  - Retroactive application typically unnecessary
  - Can be held to same standards within context of the accommodation need

# Course Correct With a Reality-Based Understanding

Requiring too much paperwork and/or delay creates legal risk, especially:

- Under the PWFA
- The condition/limitation is obvious or permanent
- When interim accommodations should be but aren't provided
  - See *Strife v. Aldine Indep. Sch. Dist.*, No. 24-20269, 2025 WL 2398761 (5th Cir. May 16, 2025) (addressing delay); *Tudor v. Whitehall Cent. Sch. Dist.*, No. 23-665 (2d Cir. Mar. 25, 2025) (insufficient documentation)



# Develop a Framework for Decision-making





# Disability Management Models/Philosophies

*Consider:* Has your company/HR function determined how employees with disabilities will be supported and included?



## Social Model – Focuses on:

- Environmental factors and removing barriers
- Influencing societal changes and promoting inclusion

### Characteristics:

- Employer focus on inclusion
- Accommodations are not exceptional – they are a right
- Flexible company policy with a focus on accessibility and assistance; less emphasis on documentation/proof

## Biopsychosocial Model – Focuses on:

- Interaction between biological psychological & social factors
- Providing comprehensive, proactive & personalized support

### Characteristics:

- Considers how personal experiences translate to the workplace
- Employee and employer collaboration and problem-solving
  - Workplace may include ERGs, mental health support, etc.

## Medical Model - Focuses on:

- Fixing the person
  - Their responsibility to adapt through treatment and rehabilitation to achieve “normal” functioning

### Characteristics :

- Diagnosis, documentation and proof are key
- Accommodations are reactive and treated as exceptions

# Why Having a Clear Framework Matters

**Consistency** – Ensures decisions are made using the same criteria, reducing potentially unlawful bias or variability

**Clarity** – Helps decision-makers determine what to prioritize

**Efficiency** – Streamlines the process by guiding what information is needed and from whom

**Empathy** – Conveys company investment in care; depending on the model, results in a more person-centered approach

**Uniformity** – Helps lead to universal approaches despite inconsistency in the law

## **Inconsistencies in the Law (Examples)**

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Commuting-related accommodations when driving is not an essential function of the job

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Competing for open positions/mandatory reassignment

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Impact on job functions

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Whether a request for leave is a request for an accommodation

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Whether failure to accommodate requires adverse action

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Entitlement to accommodations even when job functions are performable without them



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# The Framework May Vary Depending on Roles/Industry

## Medical Model:

- Helpful in settings where safety or physical capabilities are key concerns (e.g., healthcare, manufacturing industries)

## Biopsychosocial Model:

- Helpful in corporate environments and all industries in connection with mental health-related or chronic conditions where both internal and external factors affect functioning

## Social Model:

- Ideal for high trust, trend-forward, or employee experience-oriented corporate cultures or where the approach may serve to cultivate inclusive behaviors, *e.g.*, not-for-profit or educational organizations



# Preventing Decision Avoidance Using a Reality-Based Approach

- Align decision-making requirements to a framework
- Match the process to culture – Consider:
  - Are managers empowered and capable?
  - Do we over-emphasize paperwork?
  - Do we train on process, concepts, and the exercise of discretion?
  - Do we reflect our values in our actions and responses?
- Presume validity instead of fraud
- Focus on enabling vs. reasons to deny
- Consider promoting consistency for positive employee relations, even where geographic differences may allow different results



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# Paperwork Challenges



# Anecdotal and Experiential-Based Considerations\* – Providers:

- Side with patients when the medical need is real
- Are cautious and evidence-based
- Use strategies to avoid completing paperwork
  - Fees
  - Special or additional appointments when forms are required
  - Redirect to other providers
- Possess empathy for those in crisis (mental health, chronic illness)
- (Some) have patients complete what they can or require assistants to position patients to answer questions
- Delegate the paperwork completion responsibility
- Resent form requirements
- Refuse to complete paperwork for unsupported requests
- Are concerned about legal liability so won't lock in to "legal" terminology

\*Not based on scientific studies. Based on experience and feedback and Reddit threads



# Anecdotal and Experiential-Based Considerations – Decision-makers/Administrators



Follow-up with providers is time consuming



Mixed results regarding:

Provider participation  
Materiality



Negative impact on employee relations

Financial burdens  
Loss of trust



Compliance impact

Delay  
Exceeding what is necessary

# Addressing the Need for Clarification Using a Reality-Based Approach

- Obtain clarification from the employee
  - Find out their plans for “as needed” accommodations
  - Obtain an explanation of how their condition affects job performance
  - Hold the employee accountable for necessary clarification that is not forthcoming. See **Appendix, Accommodation Request for Clarification Sample Letter**
- Leverage existing medical documentation:
  - Consider STD as proxy
- Develop and use actionable forms:
  - Checkboxes/short answers v. open-ended
  - Focused (Example: Remote work form)
- Obtain a limited release to speak with the provider
- Document efforts made to obtain clarification



# **The Tension Between Legal Standards and Business Needs**





# Applicable Standards and Thresholds

Low Standard:

- The definition of “disability” is broad and encompassing
  - “Substantially limits” not a demanding standard
  - Extensive analysis not required
  - Some states do not require a “substantial” limitation
  - Includes well-managed, episodic, invisible, and temporary/short-term conditions/impairments
- Reasonable accommodation -- One that seems reasonable on its face, *i.e.*, ordinarily or in the run of cases. See *U.S. Airways, Inc. v. Barnett*, 525 U.S. 391 (2002).

# Applicable Standards and Thresholds

High Standard:

- Undue hardship is more than a mere inconvenience
  - High legal standard
  - Practically speaking, most accommodations can be expected to result in no or a one-time cost



# Factors Establishing Undue Hardship

- Significant losses in productivity because work is completed by less effective, temporary workers or last-minute substitutes, or overtired, overburdened employees working overtime who may be slower and more susceptible to error
- Increased burden on management staff required to find replacement workers, or readjust workflow or readjust priorities in light of absent employees
- Deferred projects
- The size, nature, and resources of the operation



# Factors Establishing Undue Hardship

- Lower quality and less accountability for quality
- Less responsive client service and increased client dissatisfaction
- Lost sales
- Increased stress on overburdened co-workers
- Lower morale



# Balancing the Interests Using a Reality-Based Approach

- Determine if there is undue hardship:
  - If there is, clarification or addressing doubts of a qualifying disability and similar steps may be unnecessary
  - Use an “even if” approach
  - Treat serial extensions as potential indefinite leave. See Appendix, Serial Extension Letter
- Consider and choose effective alternatives
  - The employee is not entitled to their preferred accommodation
- Don’t forget about reassignment
  - It’s a reasonable accommodation
  - Show’s good faith and a robust interactive process

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## **Reality-Based Approach – Remote Work**



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# Remote Work – Reality Based Approach

- Consider: What is the company's WFH philosophy? How is it being applied?
  - Is in-office work an essential function?
    - Effect of WFH during the Pandemic
    - Is an executive mandate based on the company's belief in the benefits and importance of in-person attendance enough?
    - Geographic exceptions
    - Other exceptions
  - Are disability-based requests being treated differently?
- Are decision-makers aware of leadership's end goal?
- Are forms tailored to address the need and potential alternatives?
- Undue hardship vs. Qualified individual with a disability



# Recap – Final Tips and Takeaways

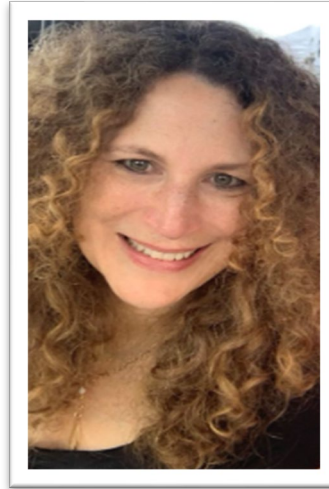
- Know your company's risk tolerance
- Avoid the point of diminishing returns
- Establish clear decision-making authority
- Set and enforce reasonable timeframes
- Hold employees accountable for clarification and participation; use their input
- Train decision-makers on requirements, process, and company culture
- Foster a culture that values judgment and reality over perfection
- Focus on practical solutions; leverage the value of carefully crafted communications and forms
- Promote accountability and psychological safety



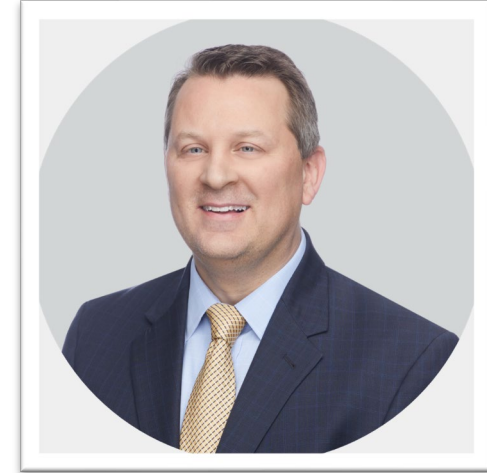
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# Appendix:

Slides 6-17 Resources:

Anderson, C. J. (2003). The Psychology of Doing Nothing: Forms of Decision Avoidance Result from Reason and Emotion. *Psychological Bulletin*, 129(1), 139–167

Iyengar, S. S. & Lepper, M. R. (2000). When Choice is Demotivating: Can one Desire too Much of a Good Thing? *Journal of Personality and Social Psychology*, 79(6), 995–1006.

CareLearning(2024) What is the Social Model vs. Medical Model of Disability, at [What is the Social Model vs Medical Model of Disability? – Care Learning](#) (last accessed 7/13/2025)

Tate & Siveira (2023) Easing the Tension between Medical and Social Models of Disability: The Biopsychosocial Model of Disability, [Easing-the-Tension-between-Medical-and-Social-Models-of-Disability-The-Biopsychosocial-Model-of-Disability-Dec-23.pdf](#) (last accessed 7/13/2025)

JAN (Updated 2024) Costs and Benefits of Accommodations, [https://askjan.org/topics/costs.cfm?csSearch=2546498\\_1](https://askjan.org/topics/costs.cfm?csSearch=2546498_1) (last accessed 7/13/2024)





# Appendix: Sample, not legal advice

## Accommodation Request – Request for Clarification

Dear [Employee Name],

We are writing in response to your recent request for a workplace accommodation under the [Americans with Disabilities Act (ADA) or Pregnant Workers Fairness Act (PWFA)] and similar laws. After reviewing the documentation provided in support of your request, we have determined that the information is currently insufficient to proceed.

Specifically, the documentation does not [provide specifics relating to the following overarching considerations: does not adequately explain the nature of your condition, the functional limitations it imposes, or how the requested accommodation would address those limitations.] This information is necessary for us to determine whether you are entitled to a reasonable accommodation under the ADA and to identify an effective accommodation.

To move forward, we ask that you either:

1. Submit additional documentation from a qualified healthcare provider that clearly [list what applies: outlines your condition, the limitations your impairment causes, and the need for the requested accommodation]. Refer to questions X – X in the Accommodation Substantiation Form; or
2. [If not already done] Sign the enclosed authorization form allowing us to contact your healthcare provider directly to obtain the necessary clarification.

Please provide the requested clarification or signed authorization within [X] business days from the date of this letter. If we do not receive a response within this timeframe, we will consider this a lack of participation in the interactive process and/or assume you are no longer interested in pursuing your accommodation request, and your request for accommodation may be denied.

If you have any questions or need assistance, please contact [HR Representative Name] at [Contact Information].

Sincerely,

[Your Name]  
[Your Title]  
[Company Name]



# Appendix: Sample, not leave advice

## Accommodation Request – Serial Extension

[Your Company Letterhead]

[Date]

**Employee Name]**

[Employee Address]

[City, State, ZIP Code]

**Subject: Ongoing Leave of Absence and ADA Accommodation Status**

Dear [Employee Name],

As you know, [Company Name] has been committed to supporting you during your leave and has granted [number] extensions as a reasonable accommodation under the Americans with Disabilities Act (ADA) and similar laws.

To date, however, we have not received a definite return-to-work date or confirmation that you will be able to resume your essential job duties, with or without accommodation, in the reasonably foreseeable future. While we understand that medical situations can be fluid, the absence of a clear timeline is compromising our ability to meet business needs.

If we are mistaken and you have a return-to-work date that is in the reasonably foreseeable future, or if there is other relevant information we should consider, please let us know as soon as possible. We are open to reviewing any updated medical

documentation or discussing alternative accommodations that may support your return.

If we do not receive confirmation of your ability to return to work within [X] calendar days from the date of this letter, we will proceed with separating your employment, as we are unable to accommodate an indefinite leave.

Please feel free to contact [HR Contact Name] at [HR Contact Email/Phone Number] if you have any questions or would like to discuss this matter further.

Sincerely,

**[Your Name]**

[Your Title]

[Company Name]

[Contact Information]

