

RETURNING TO WORK

WITH A VESTIBULAR DISORDER



DEFINITIONS:

What is the ADA?

The Americans with Disability Act is the civil rights law that prevents discrimination based on disability. This includes in the workplace, on public transportation, with public facilities, communications, and within local government and service programs. (1)

What is the FMLA?

The Family and Medical Leave Act is the act that entitles eligible/covered employees to take unpaid job-protected leave for specified family and medical reasons with continuation of group health Insurance coverage under the same terms and conditions as if the employee had not taken leave (2).

What is a Disability?

Disability is a legal term, not a medical term, according to the ADA. Disability is defined by: a person who has a physical or mental impairment that substantially limits one or more major life activities. This includes a record of such impairment even if the disability is not current/present (3).

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THE AMERICANS WITH DISABILITIES ACT

What are Your Rights under the ADA?

- If you are a person with a disability who is qualified to do a job, the ADA protects you against discrimination on the basis of your disability.
- You must have a record of, or be regarded as having a substantial impairment
 - **'Substantial impairment'** is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning, or working.
- First, **you must satisfy the employer's requirements for the job**, such as education, employment experience, skills or licenses.
- Second, **you must be able to perform the essential functions of the job** with or without reasonable accommodation.
 - **Essential functions are** the fundamental job duties that you must be able to perform on your own or with the help of reasonable accommodation. An employer cannot refuse to hire you because your disability prevents you from performing duties that are not essential to the job.
- If you go on medical leave, an **employee should be returned to their original role, and the role should not change**, unless it would have posed a hardship to keep that job open

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THE AMERICANS WITH DISABILITIES ACT

What are Workplace Accommodations?

The ADA protects you against discrimination and can help you to receive reasonable accommodations in the workplace. A reasonable accommodation is any change or adjustment to a work environment that helps or permits the employee to get through the job application process and do the essential functions of the job. The accommodation must be reasonable and cannot place undue hardship on the workplace/company/employee.

What is Reasonable?

A reasonable accommodation is any request that does not cause undue hardship and can be accomplished by the employer without changing the essential functions of the job and/or causing financial hardship to the company.

What is Undue Hardship?

Causing financial issues, changing the nature of the job, changing the operation nature of the business. For example, it would not be possible to work as a restaurant worker from home via telework.

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THE AMERICANS WITH DISABILITIES ACT

What if I am Being Discriminated Against?

The ADA protects you from this. However, you may still find you've been discriminated against. Here's what to do.

- Contact your Human Resources (HR) department to remedy the situation quickly and hopefully more easily than getting others involved. If HR seems 'in on it' this could be more difficult. In that case, you can take it a step further:
- Contact the U.S. Equal Employment Opportunity Commission. A charge of discrimination must be filed within 180 days.

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THE FAMILY MEDICAL LEAVE ACT

Who is a Covered Employee?

To be a covered employee you must: (5)

- work for a covered employer;
- have worked 1,250 hours during the 12 months prior to the start of leave; (special hours of service rules apply to airline flight crew members)
- work at a location where the employer has 50 or more employees within 75 miles; and
- have worked for the employer for 12 months. The 12 months of employment are not required to be consecutive in order for the employee to qualify for FMLA leave. In general, only employment within seven years is counted unless the break in service is (1) due to an employee's fulfillment of military obligations, or (2) governed by a collective bargaining agreement or other written agreement.

Who is a Covered Employer?

FMLA applies to everyone in these categories: (5)

- Public agencies, including local, State, and Federal employers, and local education agencies (schools); and
- Private-sector employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year – including joint employers and successors of covered employers.

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THE FAMILY MEDICAL LEAVE ACT Obligations of a Covered Employee:

You are required to: (5)

- Follow your employer's regular leave policies.
- Provide notice of the medical situation and you need to be gone
- Timing of notice:
 - Foreseeable need: at least 30 days
 - Unforeseeable need: at least 30 days

What If I Don't Qualify for FMLA?

- Employers can offer leave on similar terms
- You can ask for leave under another policy and work out something between you and your employer - it usually benefits them to help you out.

What if 12 weeks Isn't Enough?

- Try to see if there is a reasonable accommodation under the ADA that would help you get back to work.
- Ask for additional leave through the employer.
- Look for the applicable state and family leave laws in your state.

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THE JOB ACCOMMODATION NETWORK

How to request accommodations:

- If you are having trouble asking for an accommodation and think it would be helpful to just fill out a form letter, you can find one here:

https://askjan.org/media/accommrequestltr.cfm?cssearch=3867968_1

Accommodation Search:

JAN has a Searchable Online Accommodation Resource (SOAR) and it can be found here: <https://askjan.org/soar.cfm>

Other JAN Resources:

Live chat & free consultation

[ADA Library](#)

Migraine World Summit Free Work Seminar

[Linked here](#)

FMLA Fact Sheets

[Linked here](#)

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REASONABLE ACCOMODATIONS

Schedule Changes

- Ask for longer breaks between meetings
- Ask to stack meetings to have more free time at one time or another
- Ask for an intern/assistant to decrease busywork

Fluorescent Lighting

- Wear blue light/[Avulux glasses](#) (Code vertigodoc for \$25 off your pair)
- Ask for a darker corner if possible
- Ask them to change the lights if possible
- Ask for a corner with more natural light so you don't have to have the lights on.

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- Talk to management and your bosses about a schedule that's part-time working toward full-time.
- Ask for an accommodation that's part-time remote work and part-time in-person work

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REASONABLE ACCOMODATIONS

Computer Work

- Ask for a [non-flicker screen](#) to a [matted](#) screen protector, a matte tablet or something like a [ReMarkable tablet](#)
- Use an [E-ink computer monitor](#)
- Change the settings on your computer to black and white instead of colors that are bright and irritating
- [Install Iris](#) to remind you to take breaks and use the 20-20-20 rule
- [Use an anti-glare screen cover](#)
- Make sure you have a good desk setup (see next page for ergonomic setup)
- Take movement breaks throughout the day

For In-Person Jobs

- Ask for a cubicle in a darker and quieter corner
- Ask for noise-canceling headphones
- Ask for a noise machine
- Ask for an office in a brighter corner so you'll not have as much fluorescent lighting/can close the shades

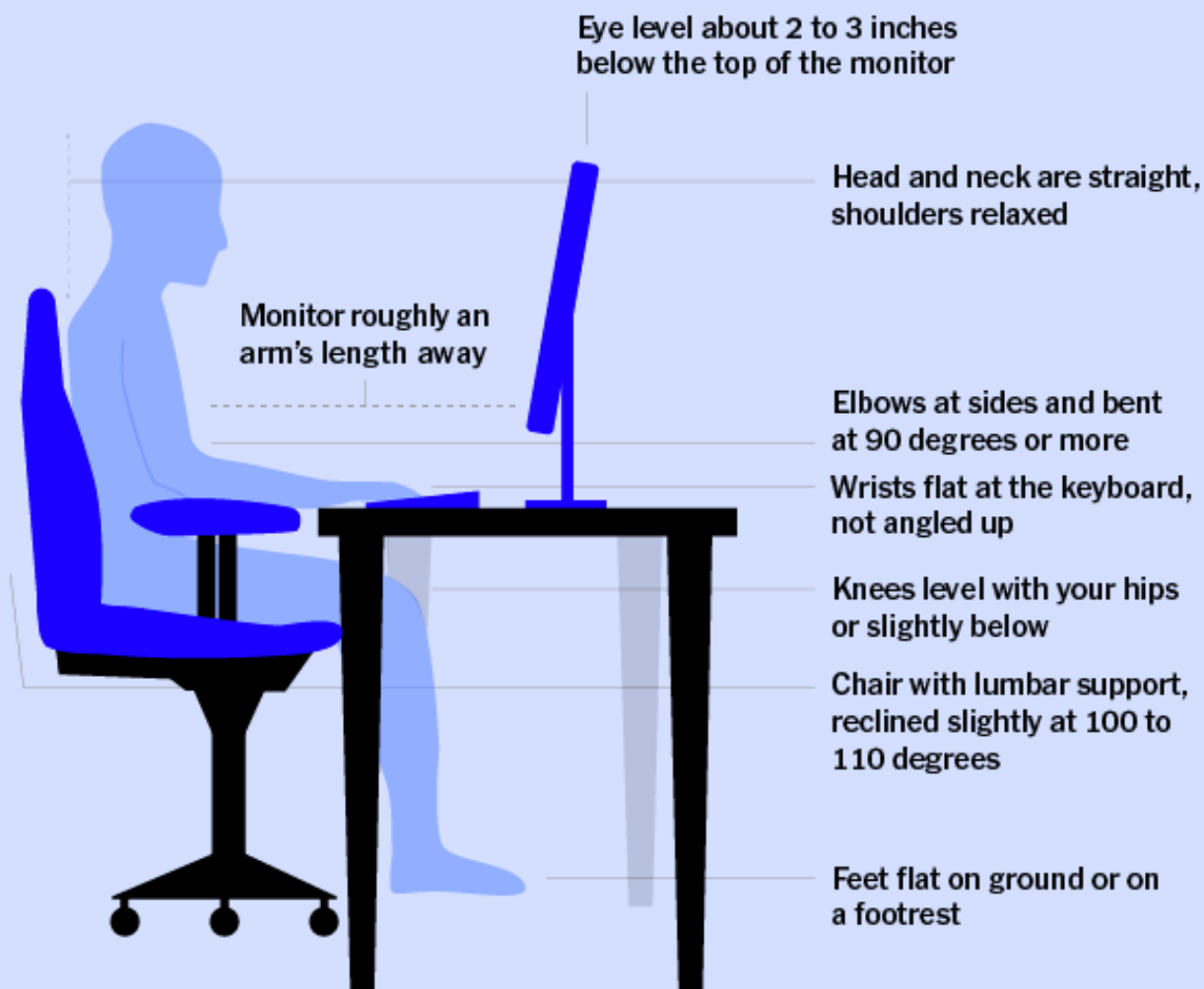
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ERGONOMIC DESK SET-UP (6)

Ergonomic workstation setup



PDF Sources

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- (3) ADA National Network. <https://adata.org/faq/what-definition-disability-under-ada>
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