



**HR Highlights  
January/February 2024**

**Consideration of Requested Reasonable Accommodations under the ADA**

State agencies are required to provide reasonable accommodation to assist employees with a disability to perform their essential job function(s). Although employees may request a preferred accommodation, or their treating Health Care Provider may provide suggested accommodations for the agency's consideration, agencies are permitted to offer their own accommodation if it is reasonable, and the accommodation allows the employee to perform their essential job functions. The EEOC guidance for reasonable accommodation under the ADA advises employers to consider the requested or suggested accommodations but does not require employers to accept those requested or suggested accommodations. In a recent article by Fiona W. Ong published on January 31, 2024, in Lexology.com, the U.S. Court of Appeals for the 4<sup>th</sup> Circuit offers greater insight into what employers are required to consider specific to these accommodations. The article, [Very Helpful Guidance on the ADA from the Fourth Circuit](#) cites the Court's decision in *Tartaro-McGowan v. Inova Home Health, LLC*. While we encourage you to read the entire post, we will emphasize several key points in identifying reasonable accommodations:

- Reasonable accommodation decisions must consider the situation and the circumstances involved.
- Employers possess the ultimate discretion in determining an appropriate accommodation, which must be reasonable, but necessarily perfect. This means that the employee's requested accommodation may or may not be offered and a reasonable substitute may be provided.

Please reach out to [policy@dhrm.virginia.gov](mailto:policy@dhrm.virginia.gov) for questions related to the ADA and Reasonable Accommodations.