



University Procedure: Procedure for Disability and Accessibility Accommodations for Faculty & Staff

Policy Category: Personnel

Subject: Commitment to providing workplace free from discrimination for individuals with disabilities and process for requesting reasonable workplace accommodations.

Responsible Executive: VP People and External Affairs

Office(s) Responsible for Review of this Procedure: Office of Human Resources

Supplemental Documents: Accommodation Request Form

Related University Policies: Discrimination and Non-Title IX Sexual Misconduct Policy, Health and Safety Directives

I. SCOPE

This policy applies to all university employees including full-time and part-time staff, full-time and adjunct faculty, graduate assistants, other student staff and qualified applicants for employment.

II. POLICY STATEMENT

The Americans with Disabilities Act Policy affirms American University's commitment to providing and maintaining an inclusive and accessible work environment and to treating all qualified applicants and employees in accordance with the requirements of the Americans with Disabilities Act (ADA), Americans with Disabilities Act Amendments Act (ADAAA), and the Rehabilitation Act of 1973.

The ADA, ADAAA, and Rehabilitation Act are federal laws that require employers to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

It is the policy of American University to comply with all federal and local laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC) and the Office of Civil Rights (OCR). Furthermore, it is the university's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

III. DEFINITIONS

As used in this ADA procedure, the following terms have the indicated meaning:

- Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
- Major life activities: Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
- Major bodily functions: Term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness and specific learning disabilities.
- Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.
- Direct threat: A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
- Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- Reasonable accommodation: Includes any changes to the work environment and may include making existing workplace readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- Undue hardship: An action requiring significant difficulty or expense by the university. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:
 - The nature and cost of the accommodation.
 - The overall financial resources involved in the provision of the reasonable accommodation, the number of persons employed, the effect on expenses and resources, or the impact of such accommodation on the operation.
 - The overall financial resources of the university; the size, number, type and location.
 - University operations, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation.
- Essential functions of the job: Term refers to those job activities that are determined by the university to be essential or core to performing the job; these functions cannot be modified.

IV. DISABILITY ACCOMMODATION REQUEST PROCEDURES

When an individual with a disability requests an accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, they will be given the same consideration for employment as any other employee or qualified applicant.

The university will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to American University.

Human Resources is responsible for implementing this procedure, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues

In addition, the Office of Equity is responsible for the *Discrimination and Non-Title IX Sexual Misconduct Policy*. Any employee or applicant who believes that they may have been discriminated against based on their disability should refer to this policy and may make a complaint with the University Equity Office.

Procedures

1. Employees and applicants who wish to request a reasonable accommodation should make a request to the Office of Human Resources. The request should include a description of the nature, extent and duration of the disability, the accommodations needed to perform the essential functions of the job, the name, address, email and telephone of the employee's health care provider. The provider may receive a request from the university's third-party disability administrator for information regarding an employee's impairment/disability and recommendations for accommodations. Medical certification or other information may be requested at the time of the initial request or at any time thereafter, for the purpose of determining whether the individual meets the definition of a disabled person or whether an accommodation is necessary.
2. The university will determine whether the employee with the disability is qualified. The term "qualified" with respect to an individual with a disability means that the individual satisfies the requisite skills, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.
3. Upon learning of the possible need for a reasonable accommodation under the ADA, the university will engage in a process in which the employee, health care provider and Human Resources each share information about the nature of the disability and the limitations that may affect the employee's ability to perform the essential job duties. This process is referred to as the interactive process and involves a good-faith effort by the university and the employee to discuss the limitations or performance issues the employee's disability may pose. The purpose of this discussion is to determine what (if any) accommodations may be needed.
4. The university, through its third-party disability administrator, will assess if the employee has a disability under the ADA and determine what accommodations, if any, are necessary to help the employee meet the essential functions of their job. An accommodation can be a change or modification to the workplace, allowing the employee with a disability to perform their essential job duties or enjoy the benefits and privileges of employment. Human Resources will engage in the interactive process until we find the accommodation(s) that meets the needs of the employee and does not create an undue hardship on the university. Human Resources will seek input from the employee's supervisor, who has knowledge about the duties of the position and the worksite, to help determine the feasibility and what may be a "reasonable" accommodation.

5. Human Resources, or the university's third-party disability administrator, will notify the employee in writing that their requested accommodation has been approved or denied. Details of the accommodation and the anticipated start date shall be included.
6. Human Resources will maintain all copies of accommodation requests, supporting medical information and documentation, including denials, in a file separate from the employee personnel file, consistent with the confidentiality requirements of the ADA.
7. The accommodation process is not set in stone and may need to be reviewed, especially if an employee's disability changes or the needs of the department change.

Employees may request a review of their accommodation decision directly to the Assistant Vice President of Human Resources.

VI. RESPONSIBILITIES

Human Resources is responsible for implementing this procedure including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

Department heads, their designees and supervisors are responsible for being familiar with this procedure, referring employees to Human Resources when an accommodation is indicated and engaging with Human Resources to help determine the feasibility of an accommodation request and what may be a "reasonable" accommodation.

VII. EFFECTIVE DATE AND REVISIONS:

This Procedure is effective 7/26/1990.

This Procedure was revised 7/15/2021.