

ADA Policy & Procedures for Employees

INTRODUCTION

The American with Disabilities Act, as amended, (ADAAA) prohibits employment discrimination on the basis of disability and requires employers to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants of employment. The Equal Employment Opportunity Commission (the Commission responsible for enforcement of title I of the ADA) issued its final revised Americans with Disabilities Act (ADA) regulations and accompanying interpretive guidance in order to implement the ADA Amendments Act of 2008.

POLICY

Eastern Michigan University (EMU) will provide a collaborative, welcoming and supportive work environment where differing ideas, behaviors and backgrounds contribute to the educational experience that includes a global and multicultural perspective enhancing the individual, society, and the world. It is EMU's policy to fully comply with the American with Disabilities Act and its rules regarding reasonable accommodations. This policy/procedure sets forth the process that will be followed when considering the provision of reasonable accommodations to employees and applicants with disabilities.

EMU seeks to fairly and consistently accommodate employees with disabilities as provided in the Americans with Disabilities Act. Any information obtained for these purposes will be used only for the purpose outlined and will be kept confidential.

SCOPE

The provisions of this policy and procedures apply to all Eastern Michigan University sites, including all EMU employees and individuals (applicants) seeking employment with EMU.

CONFIDENTIALITY AND RECORD RETENTION POLICY & PROCEDURE

- University Human Resources, Benefits Office and all supervisors and managers will only disclose confidential information regarding the employee's or applicant's disability as necessary to implement the request.
- Reasonable accommodation requests and supporting documentation are stored in individual files separate from the employment file. These files are destroyed in accordance with the University Record Retention Procedure.

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DEFINITIONS (as defined by the ADA)

Disability: An impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.

Major Life Activities: Basic activities that the average person in the general population can perform with little or no difficulty such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and major bodily functions, such as functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.

Essential Function: These are the job duties that are fundamental to the position. Performance of these functions is the reason that the job exists. The function requires specialized skills or expertise and the person is hired for that expertise. There are only a limited number of employees to perform the function.

Interactive Process: The method by which an employee and employer explore whether reasonable accommodations can enable the employee to perform the essential functions of a position. The interactive process should involve open dialogue that allows full participation by both employer and employee.

Qualified Individual: An individual who satisfies the requisite skill, 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.

Undue Hardship: Significant difficulty or expense with focuses on the resources and circumstances in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. Determination of undue hardship is assessed on a case-by-case basis.

Reasonable accommodation:

A) Any reasonable change in the work environment or in the way things are customarily done that enables an individual with a disability to perform the essential functions of their job in order to remove barriers to equal employment opportunity. No such change or modification is required if it would cause "undue hardship" to the employer. There are three categories of "reasonable accommodations":

- I. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- II. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- III. Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

B) There are accommodation requests that may not be considered forms of reasonable accommodation; including, but not limited to, eliminating an essential function, lowering production standards, providing personal use items needed in accomplishing daily activities both on and off the job or providing personal use amenities.

C) The ADAAA does not entitle a qualified individual with a disability to an accommodation of choice, but rather to an effective accommodation.

D) The ADAAA requires employers to provide reasonable accommodations so that employees with disabilities can enjoy the "benefits and privileges of employment" equal to those enjoyed by similarly-situated employees without disabilities. Benefits and privileges of employment include, but are not limited to, employer-sponsored: (1) training, (2) services (e.g., employee assistance programs (EAP's), credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation), and (3) parties or other social functions.

ROLES & RESPONSIBILITIES

Employees:

Provide timely notification when a reasonable accommodation is required by initiating request for any desired disability workplace accommodation by contacting University Human Resources Benefits Office verbally or in writing.

Manager/Supervisor:

- A) Immediately notify the ADA Coordinator in University Human Resources for any staff accommodation request brought to their attention.
- B) Implement any reasonable accommodation that is approved by University Human Resources.
- C) Keep the accommodation request confidential.
- D) Monitor your interaction with the requesting individual to ensure that your interactions can not be construed as retaliatory.

University Human Resources:

- A) Inform applicants and employees of disability accommodation request process.
- B) Coordinate requests for reasonable disability accommodations.
- C) Involve appropriate offices for assistance in evaluating and fulfilling requests.
- D) Oversee the disability accommodation process for employment-related requests.
- E) Provide advice, guidance, and assistance in ADA accommodation requests, including determining what type of medical documentation is necessary.
- F) In consultation with employee, other appropriate offices, and other resources as needed, decide if requested accommodations are reasonable, appropriate, and effective.

PROCEDURE

Employee Accommodations Process

Requests

- A) An employee in need of an accommodation is responsible for requesting a workplace accommodation. There are many situations where these requests may be handled informally without the disclosure of a disability by the employee. For example, if an employee requests an ergonomically enhanced keyboard, the manager may be able to provide this accommodation without further inquiry.
- B) If the supervisor or manager receives a request for an accommodation that may not be granted informally or where such request will require additional discussion/analysis, the supervisor should immediately contact University Human Resources. If the supervisor or manager suspects that an employee's disability might be the cause of work-related or behavioral issues, the employee should not be questioned with respect to the disability or possible disability. Supervisors or managers may ask such employee, in general terms, whether measures could be taken to assist the employee. Supervisors or managers may inform the employee of University Human Resources as an avenue of support and assistance.

Discussion

- A) Following the receipt of a reasonable accommodation request, University Human Resources will contact the employee to acknowledge the request and explain the interactive process. The employee will be provided with the Medical Inquiry form (to be completed by a licensed practitioner) and the Reasonable Accommodation Request form, as appropriate. The following will be considered:
 - The nature/extent of the employee's limitations;
 - Whether any major life functions are affected;
 - The job functions the employee is having difficulty performing;
 - The employment benefit that the employee is having difficulty accessing;
 - The limitation/barrier(s) interfering with the employee's ability to perform the essential functions of their job;
 - The specific accommodation being requested

PROCEDURE *(continued)*

- B) Once the forms are completed and submitted, University Human Resources shall provide the employee with written notification of the determination within a reasonable period of time (generally within 7 business days). The complexity of an employee's situation, the nature of the request, or the need for additional information may necessitate additional time for a response.

Accommodation Implementation:

If the accommodation is approved, University Human Resources will contact any other appropriate departments to engage in implementation. University Human Resources will contact the employee and re-engage in the interactive process in which the employee will be provided with an estimated date of completion of the accommodation. Due to the variances in requested accommodations, the barriers which are being removed, and the limitations individuals experience due to a disability; the amount of time implementing an accommodation will vary. However, the University is committed to acting in an expeditious manner in carrying out this process.

Application for Employment Process

- A) Applicants who require reasonable accommodations with respect to applying, interviewing or any other aspect of the hiring process should contact University Human Resources to make appropriate arrangements.
- B) Interviews, testing, and/or any other steps in the application process that require an applicant's presence on campus should be held in locations that are accessible to individuals with mobility impairments.
- C) If interviews are scheduled in a location that is not accessible to an applicant with a disability, the search committee will relocate the interview to a location that can be accessed by the applicant. If the applicant

has not given timely notice of the need for an accommodation for an interview, the search committee will reschedule the interview if this does not create an undue hardship with respect to the search process.

- D) Interviewers may not ask questions or make comments related to an applicant's disability. Interviewers may ask if or how applicants can perform the essential functions of a position, with or without reasonable accommodations. If the applicant mentions during the interview that he or she has a disability that requires an accommodation, the interviewer should state that the University provides reasonable accommodations, but should not inquire further as to the applicant's disability.

FITNESS FOR DUTY (FFD)

Where job related and consistent with University business necessity, the University may require that an employee support their fitness for duty via the appropriate examination consistent with the Americans with Disabilities Act. Such an examination will be justified where objective evidence of physical or mental limitations exists; and such evidence strongly suggests that an employee may not reasonably be able to perform the essential functions of their job or where an employee poses a direct threat of safety to themselves or the campus community. Examinations required for FFD will be narrowly tailored to address the specific job related concern(s). The results of the FFD examination may be used to determine whether an employee may continue to perform the essential functions of their job with or without reasonable accommodation. A University request to have an employee submit to a FFD examination must be approved by the Chief Human Resources Officer. Procedures in Collective Bargaining Agreements related to FFD may supersede this section.

APPEALS & COMPLAINTS

- A) Reasonable accommodation under the ADA is an ongoing process. At any point in time, the individual receiving the reasonable accommodation may request a reevaluation of their request from University Human Resources. Human Resources will engage the individual in an interactive process to consider the reasonableness of any new requests and/or revisions to the initial requests.
- B) Individuals who believe that there is a violation of this policy or who believe they have been treated in a discriminatory manner may file a complaint pursuant to the University's [Discrimination Complaint Procedure](#).

ADDITIONAL INFORMATION & FORMS

EMU Reasonable Accommodation Request Form

https://www.emich.edu/hr/forms/benefits/ada_accommodation-request-employee.pdf

Medical Inquiry Form

<https://www.emich.edu/hr/forms/benefits/ada-documentation-medical-form.pdf>

University Human Resources Staff Search Policy

<https://www.emich.edu/hr/documents/policies/staff-search-guide.pdf>

University Policy: Equal Employment Opportunity / Affirmative Action

<http://www.emich.edu/policies/policy.php?id=42>

University Complaint Procedure

<http://www.emich.edu/hr/documents/policies/complaint-investigation-procedure.pdf>

Notice of Equal Employment Opportunity Rights in the Workplace

<https://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf>