

Memo to: All UH-Downtown/PS Holders
From: Antonio D. Tillis, Interim President
Subject: The Americans with Disabilities Act Policy

UH-Downtown/PS 02.B.10
Issue No. 4
Effective Date: 02/15/2021
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1. PURPOSE

The American with Disabilities Act prohibits discrimination in employment against qualified individuals with disabilities.

- 1.1 The purpose of this policy is to provide guidance pursuant to [Title I of the Americans with Disabilities Act Amendments \(ADA\)](#), the [Americans with Disabilities Amendments Act of 2008 \(ADAA\)](#) and Section [504 of the Rehabilitation Act of 1973, as amended](#), and to establish procedures for reasonable accommodation under ADA.
- 1.2 This policy applies to all employees at the University of Houston-Downtown (UHD) and applicants for vacant positions.

2. DEFINITIONS

- 2.1 Disability: A physical or mental impairment that substantially limits one or more of the major life activities of an individual.
- 2.2 Qualified individual with a disability: An individual with a disability who, with or without reasonable accommodation, can perform essential functions of the employment position that such individual holds or desires, or has a record of such impairment, or is regarded as having such an impairment.
- 2.3 Essential job functions: Those functions actually performed in the job, the removal of which would fundamentally alter the position.
 - 2.3.1 Whether a function is essential also depends on the content of the written job description, the time spent performing the particular function, and the consequences of failing to require the employee to perform the function.
 - 2.3.2 To determine whether a function is essential, it must be determined whether the position exists to perform that function and whether there are other employees available to share that function, as well as the degree of expertise required to perform the function.
- 2.4 Reasonable accommodation: A modification or adjustment to a job, the work environment, or the way things are done that enables a qualified individual with a disability to perform the essential job functions.

- 2.4.1 Such accommodation is required unless it poses an undue hardship on the employer.
- 2.4.2 The determination of what accommodation is reasonable in a particular situation involves a process in which the ADA Coordinator, department and the employee identify the precise limitations imposed by the disability and explore potential accommodations that would overcome those limitations.
- 2.4.3 The term reasonable accommodation may include job restructuring, part-time or modified work schedules, 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.
- 2.5 Undue hardship: Any accommodation that is substantial or disruptive or would be very costly to the university or that would fundamentally alter the nature or operation of the unit.
- 2.6 Major life activities: Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive.
- 2.7 Genetic information - An individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member; or an embryo lawfully held by an individual or family member receiving assistive reproductive services.
- 2.8 Substantial limitation - An impairment or restriction whereby an individual cannot perform one or more Major Life Activity (ies), or is hindered as to the condition, manner, or duration under which an individual can perform one or more Major Life Activity (ies), as compared to the average individual in the general performance of the affected activity or activities.

3. POLICY

- 3.1 It is the policy of the University of Houston-Downtown (UHD) to not discriminate against qualified individuals with disabilities. It is the policy of the university to provide reasonable accommodation when necessary for persons qualified under the ADA.
- 3.2 It is the responsibility of individual employees or applicants to identify themselves as an individual with a disability when seeking an accommodation.

- 3.2.1 UHD employment personnel, interviewers, and hiring supervisors will not initiate any discussion of disabilities or perceived disabilities with applicants for employment.
- 3.2.2 Discussions of disabilities and accommodation for disabilities may be pursued only if such discussions are initiated by the applicant or employee.
- 3.2.3 The individual employees or applicants must document their disability (from an appropriately licensed professional) and demonstrate how the disability limits their ability to complete the essential functions of the job or limits participation in programs or services of the university.
- 3.2.4 Medical documentation will be kept confidential and will be maintained by the ADA Coordinator.
- 3.3 Employees must maintain institutional standards of performance, attendance, and conduct as specified by the department or unit.
- 3.4 Individuals or managers must work through the ADA Coordinator regarding employment accommodations for persons with disabilities under ADAA.
- 3.5 University programs, whether conducted on or off-campus, shall be designed and conducted so as to be accessible to persons with disabilities.
- 3.6 Individuals who believe they have been treated in a discriminatory manner in violation of this policy should contact the [Office of Title IX/Equity & Diversity](#). The Office of Title IX/Equity & Diversity is charged with the processing and investigating complaints regarding protected classes.
 - 3.6.1 This policy does not preclude anyone from pursuing a complaint of discrimination with external agencies. Additional avenues for filing a complaint at any time before, during or after use of the University's policy regarding employment discrimination and/or harassment, but within the time limits required by law, may include, but are not necessarily limited to, the Equal Employment Opportunity Commission and the Texas Workforce Commission.
- 3.7 Responsibilities
 - 3.7.1 The ADA Coordinator is responsible for the coordination and implementation of this policy and these procedures. Each dean, director, department chair, and/or administrative officer of an operational unit will assist the ADA Coordinator in the implementation and dissemination of this policy. Such officials are responsible for reviewing their unit's recruitment, interviewing, selection, and employment practices and for implementing changes as necessary to assure compliance with this policy. It is the obligation of all faculty and staff members of the university to adhere to this policy in their areas of responsibility.

4. PROCEDURES

- 4.1 A person may request an accommodation to perform the essential functions of a position. This may be for the person's current position or a position for which the person is applying.
- 4.2 To receive an accommodation under the ADA, employees and applicants for employment must complete a [Request for Workplace Accommodation Form](#) and [Medical Inquiry Form](#), if applicable. The [Medical Inquiry form](#) will instruct the employee's Licensed Health Care Practitioner to refrain from providing any genetic information, as defined in this policy, when completing the form. These forms must be submitted to the ADA Coordinator.

The ADA Coordinator will notify the employee in writing if the ADA Coordinator does not receive the required documentation and information from the employee within 28 calendar days of being informed of a disability by the employee. The request for accommodation will be cancelled for lack of necessary information.

- 4.3 During the initial meeting with the ADA Coordinator two things will be accomplished:
 - 4.3.1 The ADA Coordinator will determine what documentation from a licensed professional is needed to support the employee's request for accommodation
 - 4.3.2 Clarify the responsibilities of the university and the employee.
- 4.4 The ADA Coordinator may seek advice from third-party experts when necessary.
 - 4.4.1 All medical documentation will be maintained in a separate confidential file.
 - 4.4.2 Such information will only be shared on a need-to-know basis.
 - 4.4.3 The failure of an employee to cooperate in obtaining such independent medical opinion will result in the cancellation of the request for accommodation.
- 4.5 The ADA Coordinator will review the marginal and essential functions of the job, the functional limitations of the disability, and the reasonableness of an accommodation.
- 4.6 The ADA Coordinator and the employee's supervisor will review the forms to continue with the interactive reasonable workplace accommodation process. The ADA Coordinator and the employee's supervisor will engage in an interactive review to determine whether the workplace accommodation requested by the employee is reasonable and, if so, whether it should be approved and implemented. The ADA Coordinator will work with the employee and the department to resolve disagreements regarding recommended accommodations.

- 4.7 After reviewing the documentation and the facts of each request, the ADA Coordinator will determine if the employee is eligible for accommodations according to this policy.
- 4.8 Once a determination has been reached regarding the request, a Workplace Accommodation Response form will be completed and signed by the requesting employee, the requesting employee's supervisor, and the ADA Coordinator.
- 4.9 Any approved reasonable workplace accommodation shall be implemented in a timely fashion. The employee is responsible for contacting the ADA Coordinator if reasonable accommodation is not implemented in an effective and timely manner or if the accommodation is not adequate.
- 4.10 In the event an accommodation is requested but denied, the employing or hiring department is responsible for providing written justification to the ADA Coordinator detailing:
 - a. the disability to be accommodated
 - b. the accommodation considered
 - c. the reason(s) the accommodation is denied
- 4.11 If the accommodation is denied, the employee will be given an opportunity to appeal the decision of the ADA Coordinator by submitting additional documentation for consideration directly to the Vice President for Employment Services and Operations within ten (10) working days of the date on the Workplace Accommodation Response form. The Vice President shall review all the documentation within twenty (20) working days of the date of the appeal, determine whether the ADA Coordinator's Workplace Accommodation Response should be upheld. The Vice President's decision is final and not appealable. The Vice President's decision is not subject to the complaint provisions below.
- 4.12 An approved accommodation plan can be reviewed for possible modification at the request of the employee, the employee's supervisor, or the ADA Coordinator. The person requesting the review or modification must notify the ADA Coordinator that a modification is necessary as soon as possible, and specifically state the reason for the request. Modifications will be handled the same way as original requests for accommodation, except that if the modification is not based on a change in job requirements or health condition, additional medical documentation may not be required.
- 4.13 Accommodations will not be granted retroactively.
- 4.14 The filing of a complaint of harassment, discrimination, or retaliation under this Policy will not stop or delay any disciplinary action related to the Complainant who has been found to not be performing up to acceptable standards or who has violated University rules, policies, or procedures.

5. EXHIBITS

There are no exhibits associated with this policy.

6. REVIEW PROCESS

Responsible Party (Reviewer): Vice President for Employment Services and Operations

Review: Every three years on or before September 1st.

Signed original on file in Employment Services and Operations.

7. POLICY HISTORY

Issue #1: 10/20/04

Issue #2: 09/20/06

Issue #3: 11/15/10

8. REFERENCES

There are no references associated with this policy.