

Title: Reasonable Accommodations in Employment

Purpose: The University of North Carolina at Asheville (UNC Asheville) will comply with the provisions of the Americans with Disabilities Act of 1990 (ADA), and other relevant local, state, or federal laws protecting the rights of persons with disabilities. This policy also prohibits retaliation against employees requesting reasonable accommodation.

Scope: This policy applies to all UNC Asheville employees. Thus, it covers employees who are subject to the State Personnel Act (SPA) as well as EPA Non-Faculty positions. Additionally, this policy covers applicants to vacant positions at UNC Asheville. Applicants who desire an accommodation in the application process should contact the University's ADA Coordinator.

Policy: The University's intent is to ensure that applicants and employees requesting accommodations under the Americans with Disabilities Act (ADA) or the Rehabilitation Act are promptly and properly advised of the accommodation process, and to provide equal employment opportunities and reasonable accommodation for qualified individuals with disabilities unless the accommodation would impose an undue hardship for the institution. The University is committed to following the requirements of the ADA and appropriate federal and/or state laws, rules and regulations. The University will not tolerate unlawful discrimination of any kind.

Definitions:

- **Disability:** A physical or mental impairment that substantially limits one or more major life activity.
- **Major life activities:** Functions such as caring for oneself, performing manual tasks, walking, sitting, standing, lifting, reaching, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive.
- **Essential Job Functions:** Job tasks that are fundamental and primary to the position. Essential functions are the primary job tasks in the position. Deciding what is an essential function will be determined by reviewing an employee's job description and actual duties performed. A partial list of factors that can be considered in determining if particular function is essential includes:
  - a supervisor's judgment as to which functions are essential;
  - written job descriptions and specifications prepared before advertising or interviewing applicants for a job;
  - the amount of time spent performing the function;
  - the consequences of not requiring an incumbent to perform the function;
  - the work experiences of past incumbents in the job; and
  - the current work experience of incumbents in similar jobs.
- **Marginal Job Function:** A job function that would be considered a secondary job task. Although important and necessary to the position, a marginal job function could be reassigned to others and/or are performed a lesser percentage of time as compared to the essential functions. Marginal job functions would be non-critical tasks.
- **Qualified Individual with a Disability:** A person who satisfies the pre-requisites of a position desired or held and can perform the essential functions of the position, with or without an accommodation.

- **Reasonable Accommodation:** A modification or adjustment to a job or the work environment that makes it possible for a qualified individual with a disability, to enjoy equal employment opportunities.
- **Undue Hardship:** An action that would result in significant difficulty or expense when considered in light of other factors, such as the size of the employer, financial resources, and the nature and structure of its operation.
- **Substantially limits:** an impairment is substantially limiting if it significantly restricts the duration, manner, or condition under which an individual can perform a particular major life activity as compared to the ability of the average person in the general population to perform that same major life activity.
- **ADA Coordinator:** Coordinates University policies and procedures relating to persons with disabilities to assure compliance with the ADA and other federal and state laws and regulations pertaining to persons with disabilities. The Director of Employee Relations serves as UNC Asheville's ADA Coordinator for employees and applicants.

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Procedure:

**I. An Employee Request for Accommodation(s)**

The ADA Coordinator has the responsibility of engaging in a deliberative process for determining whether an employee is a qualified individual with a disability for purposes of providing reasonable accommodation.

**A. Employee Responsibilities**

1. An employee should request a review of accommodations if he/she becomes unable to perform the essential elements of the job. To request a review, the employee must submit an Accommodation Request Form to the ADA Coordinator. Employees seeking information about reasonable accommodation(s) under the ADA should contact the ADA Coordinator.
2. If the employee receives considerations during the period the request is under review, these considerations will be for the purpose of creating an environment where the employee can perform the essential requirements of the job while the eligibility review is pending. These considerations do not affect the eligibility decision that will come from the ADA Coordinator.
3. The employee must have his/her diagnostician complete and submit the *Documentation of Disability Form* directly to the ADA Coordinator. The ADA Coordinator may require additional documentation from the diagnostician to make an eligibility determination.
4. If determined eligible, the employee will interact with the ADA Coordinator and the supervisor to determine possible reasonable accommodations.
5. Medical costs associated with the reasonable accommodation request may be the responsibility of the employee in certain circumstances. Contact the ADA Coordinator for further information.

B. University Responsibilities

1. **ADA Coordinator Responsibilities** - The ADA Coordinator is responsible for determining whether an individual is a qualified individual under applicable disability law for purposes of considering a reasonable accommodation in employment. The ADA Coordinator will:
  - a. Work with the employee to obtain technical assistance, as needed, in filing the accommodation request.
  - b. Notify both the employee and the supervisor of the determination on the employee's eligibility determination;
  - c. Establish an interactive process between the employee and the supervisor to identify possible reasonable and effective accommodations that will allow the employee to perform the essential job functions of his/her particular job;
  - d. Provide the employee with a written decision on the requested accommodation(s) within a reasonable amount of time, not to exceed 30 days from the date the employee's eligibility was determined.
  
2. **Supervisor Responsibilities** – Once the ADA Coordinator has determined that an employee is a qualified individual with a disability and an employee has submitted a request for an accommodation in employment, the supervisor will make a decision regarding what, if any, workplace accommodations will be implemented. In consultation with the ADA Coordinator, the supervisor should follow these steps in making the determination:
  - a. Analyze the employee's particular job to determine its essential functions;
  - b. Consult with the individual to determine how the disability limits the employee's functioning in the job and whether such limitations can be overcome by accommodations;
  - c. Assess potential accommodations and the effectiveness each would have in allowing the employee to perform the essential functions of the job, and whether the accommodations pose an undue hardship on the university; and
  - d. Select the most appropriate accommodation, if feasible, for the individual and the University. While an employee's preference will be given consideration, the employer is free to choose among reasonably effective accommodations and may choose the one that is less expensive or easier to provide.
  
3. **Possible Accommodations** – Determined on a case-by-case basis, possible accommodations may include, but are not limited to:
  - a. Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
  - b. Job restructuring, modifying work schedules, reassignment to a vacant position; or
  - c. Acquiring or modifying equipment or devices, or
  - d. Providing auxiliary aids or services.

While supervisors and the ADA Coordinator will know the functional limitations of an employee and the ADA Coordinator will have access to medical documentation

regarding an employee's diagnosis, the information will be kept confidential and revealed to others on a "need to know" basis.

## **II. Grievances/Appeals**

The University is committed to resolving disagreements at the early stage. Individuals who believe they have been treated in a discriminatory manner in violation of this policy are encouraged to contact the Office of Human Resources/ADA Coordinator. If an employee believes that a determination under this regulation (regarding eligibility for a reasonable accommodation or provision of a reasonable accommodation) has been reached improperly or unfairly, that employee may file a formal grievance through the established grievance procedures applicable to that classification of employees (i.e. SPA and EPA Non-Faculty).

Employees or applicants may also file charges of discrimination directly with the Equal Employment Opportunity Commission (EEOC), or, in the case of SPA employees or applicants to SPA positions, they may appeal directly to the State Personnel Commission by filing a petition for contested case hearing with the Office of Administrative Hearings no later than 30 calendar days from receipt of the decision(s).

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