


ADA PROCEDURE AND PRACTICE GUIDE


The University's ADA Coordinators (Dr. Jennifer Maedgen/Stephanie Myers) are charged with coordinating the University's compliance with the employment provisions of the Americans with Disabilities Act, as amended (ADA). University employees with a qualifying condition are evaluated for workplace accommodations under Title I of the ADA.

Having a medical condition alone is not enough to make someone eligible for accommodation under the ADA. Under the ADA, an individual with a disability is someone with a physical or mental impairment that substantially limits one or more major life activities of such individual, has a record of such an impairment, or is regarded as having such an impairment. The impairment may be permanent, chronic, or progressive. An impairment that is episodic or in remission is considered a disability under the ADA if the condition would substantially limit a major life activity when active.

Initiating the Accommodation Process





Employees interested in a workplace accommodation can call or email the Office for Inclusion and Equity (OIE) to request the paperwork to start the accommodation process.

 To contact OIE by phone: 512-471-1849

 To contact OIE via email: equity@utexas.edu

Paperwork

In order to determine whether an employee is eligible for accommodations under the ADA, he or she will need to provide written documentation from their licensed health care provider concerning their disability. Below is a list of the paperwork employees will need to complete to begin the accommodation process:

-  Employee Accommodation Request Form (*employee must complete and return to OIE*)
-  Authorization for Medical Release (*employee must complete and return to OIE*)
-  Licensed Healthcare Provider Cover Letter (*employee provides a copy to their health care provider*)
-  Medical Certification Form (*employee provides a copy to their licensed health care provider who completes it on their behalf. Either the employee or their provider can return the form to OIE*)

Interactive Process

The accommodation process is a collaborative and interactive process between the ADA Coordinators, the employee seeking accommodations, the employee's supervisor, and/or other appropriate personnel (including Human Resource personnel and Benefits).

Once an employee has submitted his or her completed ADA paperwork, the ADA Coordinators will reach out to schedule a time to meet with him or her in person. After meeting with an employee, the ADA Coordinators will reach out to the employee's supervisor to discuss the accommodations being requested and to explore the feasibility of their implementation.

The ADA Coordinators work collaboratively with both the employee and the supervisor to identify a mutually agreeable accommodation that will provide the employee with the opportunity to be successful. Finding an accommodation that has the support of both the employee and his or her supervisor helps to ensure a successful and sustainable outcome. When necessary, the ADA Coordinators have the latitude to implement an accommodation they deem reasonable and/or to modify workplace/departmental policies to provide an employee with a reasonable accommodation.

What is Reasonable?

The decision as to the appropriate (reasonable) accommodation is made on a case-by-case basis. The principal test is that of effectiveness; whether the accommodation will provide an opportunity for a person with a disability to achieve the same level of performance and to enjoy benefits equal to those of an average similar-situated person without a disability.

Actions that are not required or reasonable include:

- ⊗ Lowering production or performance standards
- ⊗ Excusing violations of conduct rules that are job-related and consistent with business necessity
- ⊗ Removing an essential function
- ⊗ Monitoring an employee's use of medication
- ⊗ Actions that would result in undue hardship (i.e. significant difficulty or expense)
- ⊗ Restructuring working hours so they fall far outside the obligations of an employee's unit and/or position. Some positions require employees to be on campus at all times and/or at certain hours and may not have as much flexibility to accommodate requests for changes
- ⊗ Requests that will disrupt the University's mission to achieve excellence in the interrelated areas of undergraduate education, graduate education, research and public service

Determination

After meeting with both the employee and their supervisor, separately. The ADA Coordinators will make a determination as to whether the employee is a qualified individual with a disability and whether the requested accommodation(s) is reasonable. The next step is to draft a letter of accommodation for the employee. The letter of accommodation will:

- ✓ Outline the accommodation(s) being provided
- ✓ List expectations related to the implementation of the accommodation(s)
- ✓ Timeframe for when the accommodations will be reviewed to determine their effectiveness
- ✓ List the names of those who were party to the accommodation process and are involved in the implementation of the approved accommodations (including supervisors, Human Resource personnel, & Benefits)

There may be instances where there is no reasonable accommodation that enables the employee to perform the essential functions of their job. Although there is a requirement to facilitate the interactive process and explore whether there is a reasonable accommodation, there is no requirement to provide the exact accommodation requested by the individual or remove an essential function of the position.

Confidentiality

Any records or information obtained by the ADA Coordinators as a part of the accommodation process that reflect diagnosis, evaluation, or treatment of an employee's medical or mental health condition are considered confidential and maintained by OIE. Such records shall be shared with only those University employees who

have a need to know in order to implement the accommodation process; and shall not be released except as required by law. ADA related files are kept separate and apart from the location of personnel files and access is limited to the ADA Coordinators and OIE personnel.

The ADA Coordinators and personnel involved in evaluating an accommodation request are not covered entities as defined in the HIPAA rules. With certain exceptions, the ADA Coordinators will not disclose the diagnostic or treatment information (including the ADA file) of employees participating in the accommodation process. There are, however, instances when the aforementioned information is shared with certain individuals such as human resource personnel, first aid and safety personnel, or University personnel investigating compliance with the ADA (including OIE, Compliance, & Legal).

Knowledge that an employee has an approved workplace accommodation is limited to those involved in the accommodation process. Supervisors and staff involved should take care to maintain confidentiality. Faculty with accommodations related to their building assignment need to be aware that the ADA Coordinators will also inform their department's course scheduler and the Registrar's Office of the approved accommodation.

Hearing Aids, Scooters, Etc.

The scope of the ADA does not charge employers with the obligation to provide employees with items such as hearing aids, wheelchairs, scooters, eyeglasses, etc. Hearing aids and the like, fall into a category called personal-use items, which the University *does not* provide for its employees.

Service Animals

University employees interested in bringing a Service Animal to their workplace as a reasonable accommodation under Title I of the ADA are required to consult with the ADA Coordinators. *If the need for the Animal is obvious (e.g. Guide Dog) a consultation is not required.*

Employees who use Service Animals need to be able to communicate that the animal is needed for disability-related reasons (when the need *is not* obvious) and disclose that the animal is trained to be in a work environment without disrupting the workplace or otherwise behaving inappropriately. After the initial consult, if the disability *is not* obvious and/or the reason the Service Animal is needed *is unclear*, the ADA Coordinators will request documentation to establish the existence of a disability and how the Service Animal helps the employee perform his or her job.

If your licensed healthcare provider recommended the Service Animal, then your provider should be able to verify that you need the Service Animal for disability-related reasons. This practice is allowable under Title I of the ADA as employers have the right to request reasonable documentation that an accommodation is needed because of an employee's disability. Refer to the University's [Handbook of Operating Procedures \(HOP\) 3-3010, Disability Accommodation for Applicants and Employees](#) and [HOP 3-3011, Animals on Campus](#).

To access and print the ADA paperwork, review additional information about the accommodation process, or learn about parking options for people with disabilities, please visit the following web address: <http://equity.utexas.edu/employee-accommodations/>

To learn more about the employment provisions under Title I of the ADA, please visit the following web address: <https://www.eeoc.gov/laws/statutes/ada.cfm>

Questions about your rights as an employee/individual with a disability?

 Disability Rights Texas: <https://www.disabilityrightstx.org/>

 Texas Workforce Commission: <http://www.twc.state.tx.us/>

 *Equal Employment Opportunity Commission: <https://www.eeoc.gov/>*