

Augusta University

Policy Library

Accommodating Employeess with Disabilities Policy

Policy Owner: Academic Planning and Strategic Initiatives

POLICY STATEMENT

It is the policy of Augusta University (AU) to comply with all federal and state laws concerning the employment of persons with disabilities and act in accordance with guidance issued by the Equal Employment Opportunity Commission (EEOC). Augusta University ensures that all persons with disabilities who are current employees of the institution or applicants for employment are afforded equal opportunity in maintaining their present position and/or being considered for a position. This policy includes all aspects of employment: hiring, promotion, demotion or transfer, recruitment, advertising, layoff or termination, salary and other compensation, training, or other terms, conditions and privileges of employment.

Augusta University will not make employment decisions or discriminate against any qualified employee or applicant on the basis of the individual's disability or perceived disability. Augusta University will reasonably accommodate qualified individuals with a disability as defined by the Americans with Disabilities Amendment Act (ADA) 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 and/or if the accommodation creates an undue hardship. Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job should contact the Office of Employment Equity (ADA Officer). Augusta University encourages individuals with disabilities to come forward and request reasonable accommodation.

No presumptions are, or should be, made that the existence of a physical or mental impairment will necessarily cause any limitations in an employee's ability to perform his or her job. In fact, in most instances, absent a specific notification by an employee of the existence of specific limitations caused by a disability, it shall be presumed that a disabled or impaired employee is not limited in his or her ability to perform his or her job. Any accommodation request will be evaluated against the prevailing legal standards of the ADAAA and Section 504.

When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation may not be hired.

AFFECTED STAKEHOLDERS

Indicate all entities and persons within the Enterprise that are affected by this policy:

Office of Compliance and Enterprise Risk Management Use Only

Policy No.: 515

Policy Sponsor: Type the title of the Executive Leader of the department.

Originally Issued: Not Set

Last Revision: 06/08/2017

Last Review: 06/08/2017

- Alumni Faculty Graduate Students Health Professional Students
 Staff Undergraduate Students Vendors/Contractors Visitors
 Other:

DEFINITIONS

Terms used in the policy:

Disability means 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 include the following, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

The ADAAA also includes the term “**major bodily functions**,” which may include 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: 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, but are not limited to, 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 also is considered a disability under ADA regulations.

Direct threat means 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 means 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 facilities 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, additional unpaid leave, and other similar accommodations for individuals with disabilities.

Undue hardship means an action requiring significant difficulty or expense by Augusta University. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include, but are not limited to:

- The nature and cost of the accommodation.
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources; or the impact of such accommodation upon the operation of the department.
- The overall financial resources of the employer; the size, number, type and location of facilities.
- The type of operations of the institution, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the institution.
- The impact of the accommodation on the operation of the department.

Essential functions of the job refer to those job activities that are determined by the institution to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

PROCESS & PROCEDURES

Individuals who are currently using illegal drugs are excluded from coverage under the company ADA policy. The ADA Officer is responsible for working with management to properly implement this policy, including resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

Requesting Reasonable Accommodation

Generally, an applicant or employee must notify Augusta University that an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment for a reason related to a medical condition is needed. An applicant or employee may request a reasonable accommodation at any time, orally or in writing.

The reasonable accommodation process begins as soon as the oral or written request for accommodation is made to any manager in an employee’s chain of command, so it is imperative that the request be forwarded to the ADA Officer as soon as possible.

A request does not have to include any special words, such as “reasonable accommodation,” “disability,” or “Rehabilitation Act.” A request is any communication in which an individual asks or states that she needs AU provide or to change something because of a medical condition. A supervisor, manager, or the ADA Officer should ask an individual whether she is requesting a reasonable accommodation if the nature of the initial communication is unclear.

Request for Accommodation

Except with respect to employees or applicants with visible and obvious health or mental impairment(s), it is the responsibility of the employee or applicant to inform Augusta University of the existence of a disability that limits his or her ability to perform his or her job. The employee must provide the ADA Officer with documentation provided by an appropriate health care professional:

- a. Diagnosing the existence of a physical or mental impairment that substantially limits one or more major life activities; and
- b. Identifying the accommodations which will allow the employee to meet all of the essential functions of the employee’s job.

Documentation is insufficient if it does not specify the existence of an ADA disability and explain the need for reasonable accommodation. Documentation also might be insufficient where, for example:

- a. the health care professional does not have the expertise to give an opinion about the employee's medical condition and the limitations imposed by it;
- b. the information does not specify the functional limitations due to the disability; or,
- c. other factors indicate that the information provided is not credible or is fraudulent.

If an employee provides insufficient documentation, Augusta University will provide reasonable accommodation until sufficient documentation is provided.

Consideration of a Request for an Accommodation

The ADA Officer will review the medical documentation regarding the existence of a disability and the requested accommodation with the employee, and if authorized by the employee, with his or her medical professional. In weighing the requested accommodation, the ADA Officer will determine first whether the employee will be able to meet all of the essential functions of the job, as determined by a job analysis.

The Interactive Process

After a request for accommodation has been made, the next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation, employee supervision, and the ADA Officer must communicate with each other about the request, how a workplace impairment is prompting a need for an accommodation, what essential function(s) of the position is affected, and alternative accommodations that may be effective in meeting an individual’s needs.

Communication is a priority throughout the entire process, but particularly where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different forms of reasonable accommodation. Both the individual making the request and the decision maker should work together to identify effective accommodations.

Denial of Requested Accommodation

Augusta University may deny a requested accommodation if:

- a. It is determined that even with the requested accommodation, the employee will not be able to perform all of the essential functions of the job, as defined in the job description, and by the supervisor;
- a. The medical documentation does not establish the existence of a disability within the terms of the ADA or Section 504: or
- b. The ADA Officer determines that the employee, with or without an accommodation, poses a risk of harm to him/herself or to employees, students or members of the public with whom he or she may come in contact.
- c. Any other basis provided by the ADA, Section 504, or other law.

Resolution of the Reasonable Accommodation Request

If Augusta University grants a request for accommodation, the employee’s supervisor will document the agreement in writing and copy the ADA Officer. A decision to provide an accommodation other than the one specifically requested will be considered a decision to grant an accommodation. The documentation will explain both the reasons for the denial of the individual’s specific requested accommodation and why Augusta University believes that the chosen accommodation will be effective.

If Augusta University denies a request for accommodation, the ADA Officer and supervisor will meet with the employee to discuss the reason(s) for the denial. When completing the documentation, the explanation for the denial will clearly state the specific reason(s) for the denial. This means that EEOC cannot simply state that a requested accommodation is denied because of “undue hardship” or because it would be “ineffective.” Rather, the form will state and the DPM will explain specifically why the accommodation would result in undue hardship or why it would be ineffective.

Form for undue hardship ***

If there is a legitimate reason to deny the specific reasonable accommodation requested (e.g., the accommodation poses an undue hardship or is not required by the Rehabilitation Act), the DPM will explore with the individual whether another accommodation would be possible. The fact that one accommodation proves ineffective or would cause undue hardship does not necessarily mean that this would be true of another accommodation. Similarly, if an employee requests removal of an essential function or some other action that is not required by law, the

DPM will explore whether there is a reasonable accommodation that will meet the employee's needs.

If the DPM offers an accommodation other than the one requested, but the alternative accommodation is not accepted, the DPM will record the individual's rejection of the alternative accommodation on the "Resolution" form.

Confidentiality of Medical Documentation

All medical records and information pertaining to an employment-related medical examination, employee's disability, or requested accommodation shall be deemed confidential.

Information pertaining to job-related limitations shall be released on a need-to-know basis only. Supervisors or other Augusta University employees who are included in the accommodation review process shall ensure that any documentation or other information provided by an employee or applicant shall be kept confidential, in accordance with this policy.

E. Confidentiality Requirements

Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information that EEOC obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. This includes the fact that an accommodation has been requested or approved and information about functional limitations. It also means that any EEOC employee who obtains or receives such information is strictly bound by these confidentiality requirements.

The DPM may share certain information with an employee's supervisor or other agency official(s) as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the DPM will inform the recipients about these confidentiality requirements. The information disclosed will be no more than is necessary to process the request. In certain situations, the DPM will not necessarily need to reveal the name of the requestor and/or the office in which the requestor works, or even the name of the disability.

EXAMPLE

The Office of Information Technology (OIT) generally will be consulted in connection with requests for assistive technology for computers. While OIT needs to know the employee's functional limitations, it typically has no need to know the employee's specific disability.

In addition to disclosures of information needed to process a request for accommodation, other disclosures of medical information are permitted as follows:

supervisors and managers are entitled to whatever information is necessary to implement restrictions on the work or duties of the employee or to provide a reasonable accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or assistance in evacuation; and

government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act.

REFERENCES & SUPPORTING DOCUMENTS

Accommodation Request Guidelines: <http://www.gru.edu/diversity/oe/accommodation.php>

RELATED POLICIES

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APPROVED BY:

President, Augusta University and CEO, AU Health System Date: 06/08/2017