

University of the Pacific

ADA Reasonable Accommodation Request Process

Faculty, Staff and Applicants

Introduction

The following are definitions, guidelines and steps for requesting a reasonable accommodation under the Americans with Disabilities Act, its subsequent amendments and the Fair Employment Housing Act of California.

ADA and FEHA Definitions. The Americans with Disabilities Act and the Fair Employment Housing Act include specific definitions regarding individuals with disabilities:

Qualified Individual with a Disability means an individual with a disability who can perform the "essential functions" of the position with or without reasonable accommodation.

Essential Functions are the fundamental job duties of the position the individual with a disability holds or seeks. "Essential functions" do not include "marginal functions," which are those duties incidental to the performance of the fundamental job duties. Criteria used to determine if a particular duty is an "essential function" may include:

- a) The function may be essential because the reason the position exists is to perform the function;
- b) The function may be essential because of the limited number of employees available among whom the performance of that job can be distributed; and/or,
- c) The function may be highly specialized so that the incumbent is hired for his or her expertise or ability to perform the particular function.

Covered Disability means a physical or mental impairment that limits one or more major life activities; or, a record of such an impairment; is regarded by the employer as having such an impairment; is regarded or treated by the employer as having a condition that is not presently disabling but may become a physical disability; or has any health impairment that requires special education or related services.

Reasonable Accommodation means modifications or adjustments to a job application process that enable a qualified applicant with a disability to compete for the desired position; or modifications or adjustments to the work environment or to the manner or circumstances under which the position held or desired is customarily performed that enables a qualified individual with a disability to perform the essential functions of the position; or modifications or adjustments that enables the employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Undue Hardship means that providing the accommodation would result in "significant difficulty or expense." The financial impact of an accommodation is a significant factor; however, any

accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business or program may be an undue hardship.

Reasonable Accommodations

If there are several effective and reasonable accommodations that would provide an equal employment opportunity, or if the employee or applicant with a disability prefers to provide his or her own accommodation, the employee's or applicant's preference will be given first consideration. However, the ADA permits the University to choose among effective and reasonable accommodations, and it may choose one that is less expensive or easier to provide, even though it might not be the employee's or applicant's preferred accommodation

Institutional Responsibility

FEHA states that an employer must engage in the interactive process "in response to a request for a reasonable accommodation by an employee" but it also requires an employer to start the process when the employer becomes aware of the need for an accommodation. A supervisor should call HR if he or she suspects or becomes aware of the possible need for a reasonable accommodation.

The fact that an individual is willing to provide his or her own accommodation does not relieve the University of its duty to provide this or another reasonable accommodation should the individual be unable or unwilling to continue to provide his or her own accommodation.

Job Applicants Needing Assistance

Applicants needing assistance or a reasonable accommodation in the application or interviewing process should call HR in Stockton at (209) 946-2124.

Steps to Request a Reasonable Accommodation in Employment

There are two forms for the employee to find on the HR website or request from HR. The employee should:

1. Complete the *Reasonable [Accommodation Employment Request Form](#)*.
2. Print their job description to take to the doctor.
3. Find the *[Health Care Professional's Documentation of a Disability Form](#)* and complete and sign the second page of the form called *Request to Release Information from the Health Care Provider*.
4. Get that form and job description to the doctor and encourage them to complete the form as soon as possible and return it to the employee.
5. Deliver all the forms to Human Resources once complete.

They can be faxed to 209 932 4067 or emailed to employee_benefits@pacific.edu. Both are confidential.

Steps after HR Gets the Documentation

- 1) HR reviews the forms and the essential functions of the job.
- 2) HR typically starts the interactive process by consulting with the applicant or employee to determine his or her view regarding the precise job-related limitations imposed by the disability and how those limitations may be overcome with various reasonable accommodations.
- 3) HR reviews the applicant's or employee's suggestions for reasonable accommodation with the department head or responsible unit administrator. This process may go back and forth multiple times.
- 4) If there are alternate or several effective accommodations that would provide an equal employment opportunity, the university will consider the employee's preference and select the reasonable accommodation that best serves the needs of both the applicant/employee and the university. If the initial accommodation request(s) is not the most practical, HR will discuss reasonable alternatives with the applicant or employee and the department.
- 5) After the interactive process, HR makes the final determination for which, if any, reasonable accommodation(s) are necessary. HR will send the employee and supervisor a letter outlining the decision.
- 6) HR will periodically review the status of the accommodation to ensure that it continues to meet the needs of both employee and university.

Complaint Procedure for the Denial of Requested Accommodation

If an employee disagrees with the reasonable accommodation decision, he or she may file a complaint using the Complaint and Grievance Policy. This is the internal complaint procedure. At any time, an employee has the right to file a complaint with the appropriate external state or federal agency.

Review of Accommodations Requiring Structural Modifications

An individual request for a structural modification follows this same procedure. HR will work with Support Services as the representative department most likely to fulfill such requests.

Information and/or Questions Regarding Disability Accommodations

Individuals having questions about qualifying disabilities or reasonable accommodations are encouraged to consult with the assistant vice president for Human Resources or designee who serves as the university's reasonable accommodation specialist. Contact HR in Stockton at (209) 932-3274.

Forms

Forms for requesting reasonable accommodations in employment and for obtaining the necessary medical certification of disability are available at [HR website under Employee Resources/ADA Reasonable Accommodation](#) or upon request from HR at 3601 Pacific Avenue, Stockton CA, 95211 or by calling (209) 932-3274. HR has staff available to help provide assistance to complete required forms.

Student Requests for Reasonable Accommodation

All student requests should be directed to Daniel Nuss, Director of Services for Students with Disabilities 209-946-3221 or ssd@pacific.edu. Faculty or staff identifying the possible need to provide an accommodation to a student should also contact [Daniel Nuss](#).

Medical Information and Confidentiality

Human Resources maintains all medical records and information in separate and secure files. HR will not discuss an employee's disability with the supervisor or anyone that does not have a legitimate business need to know. During the interactive process, the only information a supervisor receives is confirmation to engage in the interactive process and any information related to the specific or possible accommodations.

Non Retaliation

The University strongly prohibits retaliation based on an individual's disability or their option to exercise their legal rights such as requesting a reasonable accommodation. Any complaint of retaliation will be taken seriously.

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