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UCC Certified UNIVERSITY of HOUSTON
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Human Resources
AREA: Employee Relations

Number: 02.07.02

SUBJECT: Reasonable Workplace Accommodations for Employees With Disabilities ~~(Interim)~~

I. PURPOSE AND SCOPE

The University of Houston (the "University") adheres to the mandates of the Rehabilitation Act of 1973 (the "Rehabilitation Act"), the Americans with Disabilities Act of 1990 (the "ADA"), [the ADA Amendments Act of 2008 \("ADAAA"\)](#), and the Texas Commission on Human Rights Act (the "TCHR Act"), as applicable. The University has developed the following policy and procedures for supervisors and qualified individuals with disabilities to assist with the submission and processing of workplace accommodation requests.

This policy applies to employees of the University who have a disability as defined by this policy as well as federal and state law.

II. POLICY

It is the policy of the University that all qualified employees with disabilities are afforded equal employment opportunity in compliance with federal and state laws. The University, in keeping with its values and goals, provides reasonable workplace accommodations to employees with disabilities.

III. DEFINITIONS

- A. ADA Coordinator - The University's ADA Coordinator is the Assistant Vice Chancellor/Assistant Vice President of the Office of Equal Opportunity Services ("EOS") or the individual holding a comparable position in the EOS or his/her designee. The ADA Coordinator can be reached by telephone at (713) 743-8835, by e-mail at aeeee@uh.edu or eosinfo@uh.edu, or by visiting 153 Student Service Center 2.
- B. Person with a Disability - An employee with a physical or mental impairment who, as a result of such impairment, is substantially limited in performing one or more major life activities. This includes employees who not only have the impairment, but also employees who have a "record of" such an impairment ~~or have been "regarded as" having such an impairment.~~ This also includes employees who have been "regarded as" having such an impairment; however, an individual who is considered a person with a disability solely on the basis of being "regarded as" having a disability is not entitled to a reasonable accommodation.
- C. Qualified Person with a Disability - An employee who meets the definition of a Person with a Disability and who also possesses the skills, experience, knowledge, and educational, licensing and other job requirements of a position s/he presently holds or will hold and who, with or without a reasonable workplace accommodation, can perform the essential functions of that position.

- D. Essential functions - Job tasks that are fundamental, not marginal, to the performance of the position.
- E. 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.
- F. Reasonable accommodation - A reasonable adjustment or modification in the work environment or in the manner a job or position held is customarily performed, that enables a qualified person with a disability to perform the essential functions of that position, so long as it does not create an undue hardship ~~or burden~~ to the University. An individual who is considered a person with a disability solely on the basis of being regarded as having a disability is not entitled to a reasonable accommodation.
- G. Major life activity - An activity that is considered important for living and that the average individual can perform with little or no difficulty. Major life activities include, but are not limited to, the following: walking, talking, eating, sleeping, seeing, hearing, breathing, learning, working, sitting, standing, lifting, bending, reading, concentrating, thinking, communicating, reaching, caring for oneself, or the operation of a major bodily function (including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions).
- H. 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.
- I. Licensed Health Care Practitioner - An individual who has successfully completed a prescribed program of study in a health field and who has obtained a license or certificate indicating his or her competence to practice in that field.

IV. SUPPORTING POLICY INFORMATION

Confidentiality - Records or information obtained by the ADA Coordinator as part of the accommodation request process that reflect diagnosis, evaluation, or treatment of an employee's medical or mental health condition are confidential and shall be maintained by the EOS in a separate file. Such records or information shall be shared with only those University employees who the ADA Coordinator and/or the University General Counsel or his/her designee determines have a "need to know" such information and/or the content of such records in order to implement the workplace accommodation process, and shall not otherwise be released to anyone except as required by law.

Information obtained by the ADA Coordinator during the accommodation request process is not obtained as part of psychological counseling services and is not subject to the confidentiality regulations applicable to such counseling services.

V. PROCEDURE FOR WORKPLACE ACCOMMODATION

- A. Request

A request for a reasonable workplace accommodation should begin with the employee. The employee should contact the ADA Coordinator to obtain and thereafter complete the [Request for Workplace Accommodation form](#) and then submit a copy of the completed form to his/her supervisor, and the original of the completed form to the ADA Coordinator. [Supervisors who receive a request for an accommodation from an employee shall immediately notify the ADA Coordinator.](#)

B. [Medical Certification/Documentation of Disability](#)

1. [Documentation of a disability will be required when a disability and/or need for a workplace accommodation is not obvious. Unless the disability and/or need for a workplace accommodation is obvious,](#) The ADA Coordinator shall provide the employee with a copy of his/her job description and a [Medical Certification form to be completed by the employee's Licensed Health Care Practitioner](#). The [Medical Certification form](#), to be completed by the employee's Licensed Health Care Practitioner, must contain a diagnosis, prognosis, description of the specific impairment(s), the life functions or activities affected by the impairment(s), the restrictions related to the employee's essential job functions, and suggestions or recommendations for any reasonable workplace accommodation, if any.
2. The [Medical Certification form](#) will instruct the employee's Licensed Health Care Practitioner to refrain from providing any Genetic Information, as defined in this policy, in completing the form.
3. The employee shall submit the [Medical Certification form](#) to the ADA Coordinator. The ADA Coordinator and the employee's supervisor will review the forms to continue with the interactive reasonable workplace accommodation process. The employee's [Request for Workplace Accommodation](#), [Medical Certification form](#) and other related documents shall be housed with the EOS.

C. Non-receipt of Documentation

1. If the ADA Coordinator does not receive the required documentation and information from the employee within four (4) weeks of being informed of a disability by the employee, the ADA Coordinator will notify the employee in writing and request that the employee submit the required documentation, including the [Request for Workplace Accommodation form](#) and the [Medical Certification form](#), to the ADA Coordinator within ten (10) working days.
2. If the ADA Coordinator does not receive the required information within ten (10) working days of this notification to the employee, the request for accommodation will be cancelled for lack of necessary information.
3. The employee will not be barred from filing another request for a reasonable workplace accommodation, or restarting the reasonable workplace accommodation process, if he or she so chooses. However, the ADA Coordinator cannot proceed with the reasonable workplace accommodation process absent the receipt of the above-referenced documentation.

D. Independent Medical Opinion

1. The University has the authority to obtain, at University expense, an independent medical opinion concerning the impairment for which an employee seeks an

accommodation, including additional suggestions or recommendations regarding reasonable workplace accommodations, yet excluding Genetic Information.

2. The failure of an employee to cooperate in obtaining such independent medical opinion will result in the cancellation of the request for accommodation.

E. Interactive Reasonable Workplace Accommodation Review

1. Once all required documentation has been provided to and/or obtained by the ADA Coordinator, the ADA Coordinator shall determine if the employee is a "Qualified Person with a Disability." If the requesting employee is a "Qualified Person with a Disability," 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. As a part of this interactive review, the ADA Coordinator and the employee's supervisor will take the following steps:

- a. Analyze the particular job involved and determine its purpose and essential functions.

- b. Consult with the employee to ascertain the precise job-related limitations imposed by the individual's disability and how those limitation could be overcome with a reasonable accommodation.

- c. In consultation with the employee, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and

4. d. Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the University.

2. If the ADA Coordinator and the employee's supervisor do not agree that the employee's request for workplace accommodation is reasonable or for any other reason(s) do not agree that it should be made, the employee, the ADA Coordinator, and the employee's supervisor will make reasonable efforts to work together to determine what other alternatives may be considered if, and as, appropriate.
3. After engaging in this interactive process, the ADA Coordinator shall make a final recommendation as to an appropriate workplace accommodation, if any, to the employee's supervisor.
4. The ADA Coordinator will issue a final recommendation within ten (10) business days of receiving the required documentation. Any approved reasonable workplace accommodation shall be implemented in a timely fashion.
5. If the employee's supervisor rejects the ADA Coordinator's final recommendation, the employee's supervisor must provide the ADA Coordinator a written justification for the rejection. In such instances, the requesting employee may utilize the appeal procedure outlined in Section VI of this policy.

6. 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.

F. Expectations of Accommodated Employees

Employees who have been granted a reasonable workplace accommodation must maintain the University's standards of performance, attendance, and conduct as specified by the accommodated employee's department or unit.

VI. APPEAL OF ADA COORDINATOR'S WORKPLACE ACCOMMODATION RESPONSE

- A. An employee who believes that his or her request for a workplace accommodation has been unreasonably denied or otherwise disagrees with the ADA Coordinator's Workplace Accommodation Response may file a written appeal with the appropriate Vice President to whom the employee ultimately reports within ten (10) working days of the date on the [Workplace Accommodation Response form](#). In the event that the employee holds a position with reporting lines of authority under different Vice Presidents, the Vice Presidents will jointly agree which one shall consider the appeal.
- B. The appropriate Vice President shall review the [Request for Workplace Accommodation](#), [Medical Certification](#), and the [Workplace Accommodation Response](#) forms, along with any other records or information submitted to the ADA Coordinator during the initial workplace accommodation review and, within twenty (20) working days of the date of the appeal, determine whether the ADA Coordinator's Workplace Accommodation Response should be upheld.
- C. If the appropriate Vice President determines that the ADA Coordinator's Workplace Accommodation Response should not be upheld, the appropriate Vice President in consultation with the ADA Coordinator and the employee's supervisor shall determine an alternative reasonable workplace accommodation.
- D. The Vice President's decision is final and not appealable. The Vice President's decision is not subject to the complaint provisions below (see Section VII.A of this policy).

VII. COMPLAINT

A. Pursuance of Complaints Within the University

An employee who believes that he or she has been discriminated against on the basis of a disability, or retaliated against due to a request for an accommodation made pursuant to this policy, may contact the EOS and, if appropriate, assert a complaint pursuant to the University's [MAPP 02.07.01](#) – Academic or Employment Discrimination and/or Harassment Policy. This does not include complaints against the EOS regarding a decision made pursuant to this policy. Those decisions cannot be grieved pursuant to [MAPP 02.07.01](#) - Academic or Employment Discrimination and/or Harassment Policy.

B. Pursuance of Complaints Outside the University

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 [MAPP 02.07.01](#) - Academic or Employment Discrimination and/or Harassment Policy, 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.

VIII. REVIEW AND RESPONSIBILITY

Responsible Party: Vice President for Legal Affairs and General Counsel

Review: Every three years on or before February 1

IX. APPROVAL

~~Dona Cornell~~

Vice President for Legal Affairs and General Counsel

~~Carl Carlucci~~

Executive Vice President for Administration and Finance

~~Renu Khator~~

President

Date of President's Approval: April 15, 2011

VIII. REFERENCES

[UH MAPP 02.07.01 – Academic or Employment Discrimination and/or Harassment Policy](#)
[Rehabilitation Act of 1973](#)
[Americans with Disabilities Act of 1990, as amended, 42 U.S.C §12101](#)
[Genetic Information Nondiscrimination Act of 2008, 42 U.S.C §2000ff](#)
[Texas Commission on Human Rights Act \(TCHRA\)](#)

REVISION LOG

Revision Number	Approved Date	Description of Changes
Interim	04/15/2011	Initial version
<u>1</u>	<u>TBD</u>	Added the ADA Amendments Act of 2008 to Section I. Changed the e-mail address of the ADA Coordinator in Section III.A. Updated the definition of Person with a Disability and Reasonable Accommodation per 29 CFR 1630 (Appendix). Updated the Major Life Activity definition per 42 USC 12102. In Section V.A, the supervisors must notify the ADA Coordination when receiving a request for accommodation from an employee. Updated Section V.B.1 per 29 CFR 1630 (Appendix). In Section V.E.1, added the steps for the interactive review between ADA

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		Coordinator and employee's supervisor per 29 CFR 1630 (Appendix)
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