

## UNIVERSITY OPERATING PROCEDURE

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### **Title:**       Procedural Guidelines for Disability Accommodation for Employees and Applicants for Employment

#### Overview

Through the use of these Procedural Guidelines, the University will provide reasonable and effective accommodations and auxiliary services to Qualified Individuals with Disabilities in order for them to fully participate in the application process, perform their job, and enjoy equal benefits and privileges of employment at the University.

#### Applicability of the Procedure

These Procedural Guidelines apply to employees of the University, including student employees, as well as applicants for employment.

#### Definitions

**Disability:**               A physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. A person may have a disability even if the effects of the disability are episodic or in remission. Temporary conditions may also be substantially limiting.

**Qualified Individual with a Disability:**   An individual with a disability who meets legitimate skill, experience, education, or other requirements of an employment position that they hold or seek, and who can perform the essential functions of the position with or without reasonable accommodation.

**Reasonable Accommodation**   Reasonable accommodation involves removal of workplace barriers. It is any change or adjustment to a job or work environment that permits an employee with a disability to perform their job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. When an employee cannot be reasonably accommodated in their current position, the University may require a non-competitive transfer to a vacant position, barring undue hardship. Prior to transfer or reassignment to a vacancy, it must be determined that the employee is qualified for the position and can perform the essential functions of the position, with or without reasonable accommodation(s).

Reasonable Accommodations cannot include:

- Accommodations that pose an undue administrative or financial burden on the University
- Accommodations that pose a direct threat to the health or safety of the employee or other individuals
- Removal of essential functions, creation of new jobs, or lower standards

Regarded as Disabled: An individual is regarded as disabled if the individual establishes that they have been subjected to an action prohibited under the ADAAA because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. Regarded as disabled does not apply to impairments that are transitory and minor.

Transitory Impairment: An impairment with an actual or expected duration of six months or less.

Vacant Position: A position that is available when an employee asks for a reasonable accommodation or that the employer knows will become available within a reasonable amount of time, which is determined on a case-by-case basis.

## Procedures

The University utilizes an interactive process in order to determine Reasonable Accommodation(s) for employees and applicants for employment. This process involves four steps:

- 1) Determining if the Qualified Individual is a person with a Disability per ADAAA definitions
- 2) Identifying the accommodation(s) the individual is requesting in order to perform the essential functions of their job, apply for employment, or access the benefits and privileges of their employment
- 3) Conducting an analysis of the individual's essential job functions and collaborating with key personnel to determine if the accommodations requested are reasonable per ADAAA guidelines
- 4) Facilitating the implementation of Reasonable Accommodation(s)

Outlined below are the details of each step in the interactive process.

### Step One: Determining if the Qualified Individual is a person with a Disability

A qualified employee or applicant for employment who requires an accommodation to participate in the application process, to perform their job, or to enjoy equal benefits and privileges of employment must establish with the University that they are a person with a Disability as defined by the ADAAA. In order to do so:

- 1) Contact the ADA/504 Coordinator.
- 2) The ADA/504 Coordinator will determine if medical documentation is required from the individual's health care provider to establish that they are a person with a Disability.
- 3) If medical documentation is required, the ADA/504 Coordinator will obtain necessary releases of information from the individual to communicate with their provider(s) and inform the individual of the type of documentation that is needed. This documentation will also be utilized in the process of determining Reasonable Accommodation(s).

Please note that all medical documentation must be from an appropriately licensed health care professional who has an established relationship with the individual sufficient to understand and assess their Disability and related needs.

If documentation provided by an individual is insufficient to establish that they have a Disability and/or to determine Reasonable Accommodation(s), the ADA/504 Coordinator or their designee reserves the right to request additional medical documentation from a health care provider.

The University may also request an independent medical evaluation if, based on the information provided by the individual's health care provider, the University cannot determine whether the individual has a Disability, or whether the requested accommodations directly mitigate their Disability-related needs.

Documentation of Disability furnished by the individual will be kept separate from their personnel file. The ADA/504 Coordinator will share pertinent information regarding the Disability with University personnel as appropriate, and in accordance with applicable law and policy. Information will be disclosed to the supervisor and/or other University officials only to the extent necessary to determine and implement appropriate, Reasonable Accommodation(s).

#### Step Two: Identification of accommodations being requested

After it is established that the individual has a Disability, the ADA/504 Coordinator will work with the individual to determine what accommodations they are requesting. Accommodations must be related to participation in the application process, carrying out job functions, or enjoying equal benefits and privileges of employment and have a clear nexus to the Disability.

#### Step Three: Determining if requested accommodations are reasonable

The ADA/504 Coordinator will engage in a discussion with the individual, along with appropriate management personnel, to identify the essential functions of the individual's job, the administrative needs of the involved department, and any other pertinent information related to the University and the individual's accommodation request.

An accommodation is deemed unreasonable if it:

- 1) Poses an undue hardship on the University;
- 2) Poses a direct threat to the health or safety of the employee or other individuals;
- 3) Removes essential job functions, involves creation of new jobs, or lowers standards; or
- 4) Is unrelated to the individual's Disability.

The University must provide accommodations that are effective, but is not required to provide the exact accommodation that is requested.

#### Step Four: Implementing Reasonable Accommodations

Once Reasonable Accommodation(s) are agreed upon, the ADA/504 Coordinator will document the accommodations and plan for implementation in a letter that is sent to the individual along with University personnel involved in the implementation.

The ADA/504 Coordinator will work with the individual, the supervisor, and other necessary University officials to implement the accommodation(s) expeditiously and remain available for consultation regarding the efficacy of the accommodations.

Based on the details of an individual's Disability and determined accommodation(s), follow-up may be required to ascertain whether accommodation(s) that are implemented continue to be necessary and effective. Such follow-up may require new or additional documentation and re-engagement in the interactive process, at the discretion of the ADA/504 Coordinator.

## Reassignment

When an employee cannot be reasonably accommodated in their current position, the University may require a non-competitive transfer to a Vacant Position, barring undue hardship. Prior to reassignment to a vacancy, it must be determined that the employee is a Qualified Individual for the position and can perform the essential functions of the position, with or without reasonable accommodation(s).

Reassignment is the Reasonable Accommodation of last resort and may be considered for an employee after it has been determined that:

- 1) There are no effective Reasonable Accommodation(s) that will enable the employee to perform the essential functions of their current position.
- 2) All other Reasonable Accommodation(s) would pose an undue hardship on the University.

Reassignment will involve consideration of all Vacant Positions within the University. A position can be considered a Vacant Position even if it has been posted. The University is not obliged to remove an employee to create a vacancy, restructure available positions, or create new positions. The Vacant Position that an employee is reassigned to may involve a voluntary demotion or change in schedule. An employee is subject to any applicable probationary periods in their reassigned position.

The following procedures will be adhered to during the process of reassignment:

- 1) The ADA/504 Coordinator facilitates the interactive process to determine reasonable accommodations. If it is determined during this process that the employee meets criteria for reassignment, the ADA/504 Coordinator will brief and obtain feedback from the University Labor and Employee Relations Director and the Associate Chief Human Resources Officer to assure that reassignment is the appropriate next step. The ADA/504 Coordinator will then discuss the option of reassignment with the employee and provide information regarding implications as it relates to possible voluntary change to job title, pay, benefits, and schedule.
- 2) If the employee is interested in pursuing reassignment, the ADA/504 Coordinator will meet with the Labor and Employee Relations Director and the Associate Chief Human Resources Officer to review the employee's qualifications and job interests. This group will also review potential Vacant Positions that the employee is minimally qualified for.
- 3) If Vacant Positions are identified, the ADA/504 Coordinator will meet with the associated department(s) to fully understand the essential functions of the Vacant Position and determine if the employee is a Qualified Individual for the vacancy.
- 4) Once it is determined that a Vacant Position is available, which the employee is minimally qualified for, the ADA/504 Coordinator will discuss with the employee the qualifications and essential functions of the position. If the employee chooses to accept the position, they will inform the ADA/504 Coordinator, who will coordinate the reassignment. The decision to reassign the employee to a Vacant Position rests in the sole discretion of the ADA/504 Coordinator, in consultation with the Labor and Employee Relations Director and Associate Chief Human Resource's Officer.
  - a. If the employee declines reassignment to a Vacant Position, they may be separated from employment due to no longer being a Qualified Individual for the position they remain in. This will be addressed on a case-by-case basis.

## Supervisors

Supervisors who are approached by an employee (Faculty or Staff) regarding any difficulty or barrier in their work due to a physical or mental condition should refer the employee to the ADA/504 Coordinator. The ADA/504 Coordinator will guide the interactive process described above.

Supervisors will remain an active participant in the interactive process for determining Reasonable Accommodation(s) for the employee.

### Modifications to Accommodations

If, following the provision of accommodations under this procedure, the employee wishes to request a modified accommodation, this request must be made to the ADA/504 Coordinator, and will be considered using the procedure outlined above.

It is the responsibility of the individual to contact the ADA/504 Coordinator if modifications to accommodations are needed.

### Unresolved Accommodation Requests

Any disagreements about implementing agreed upon accommodations should be brought to the attention of the ADA/504 Coordinator.

An employee who has been denied an accommodation(s) that they believe is reasonable should first work with the ADA/504 Coordinator to reach consensus with involved University personnel in accordance with these procedures. In the event they are unable to do so, they may file a complaint with the Office of Equal Opportunity. The Office of Equal Opportunity will assess whether the denial of the requested accommodation(s) was discriminatory.

### Contacts

Questions concerning the daily operational interpretation of this UOP should be directed to the following:	
Title(s)/Department(s):	Contact Information:
ADA/504 Coordinator	University of Vermont A-170 Living Learning Center Burlington, VT 05405 (802) 656-8610
Director, Office of Equal Opportunity	University of Vermont 428 Waterman Building Burlington, VT 05405 (802) 656-3368

### Forms/Flowcharts/Diagrams

- None

### Related Documents/Policies

- [Accessibility Policy](#)

### Training/Education

Training will be provided on an as-needed basis as determined by the Approval Authority or the Responsible Official.

## About This Procedure

<b>Responsible Official:</b>	Chief Human Resource Officer	<b>Approval Authority:</b>	Chief Human Resource Officer
<b>Affiliated Policy Number(s):</b>	V. 7.14.1	<b>Effective Date:</b>	April 18, 2019
<b>Revision History:</b>	<ul style="list-style-type: none"><li>• Responsible official officially changed from the Vice President for Human Resources, Diversity and Multicultural Affairs to the Vice President for Finance and Treasurer on May 1, 2020</li><li>• Reaffirmed September 7, 2022</li><li>• Responsible official officially changed from the Vice President for Finance and Administration to the Chief Human Resource Officer October 3, 2022</li></ul>		

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