

Human Resources
Equal Opportunity



Employment Guidelines for the
Disability Accommodation Process

Office of Equal Opportunity

June 2020



Human Resources
Equal Opportunity

Oklahoma State University

419-A General Academic Building – Stillwater OK 74078 – Phone 405.744.9153 – jackson.landrum@okstate.edu

Guidance on Requests for Disabilities Accommodation in Faculty and Staff Employment

Section 1: Initiate Request

All requests for employment accommodations based on disability should be filed with a faculty or staff member's supervisor. When a supervisor receives a request for disability accommodation(s) from a faculty or staff member, the supervisor is to contact the Director of Equal Opportunity to begin the interactive process. If a faculty or staff member seeks information about accommodations, or verbally requests an accommodation, please take the following steps:

- 1) Provide them access to, or a copy of, this guidance document.
- 2) Have the requesting individual complete the *Employment Accommodation Request Form*
- 3) Request medical documentation using the *ADA Diagnosing Professional's Documentation of Disability Form*
- 4) In conjunction with Affirmative Action, analyze the request, documenting all actions and decisions using the *ADA Discussion Documentation Form*
- 5) Notify the individual of our decision and if applicable, implement accommodations(s).

Section 2: Interactive Process

The Interactive Process is intended to provide departments and employees/applicants the opportunity to discuss and cooperatively determine the most appropriate accommodation. Departmental representatives must communicate directly with the individual in good faith and in a timely manner. It is important that all efforts are made to ensure the process is not delayed or obstructed. The Office of Equal Opportunity will assist in the interactive process and may include the assistance of the Office of Human Resources, and other subject matter experts.

Section 3: Cooperative Process

The Interactive Process expects that each involved party will actively and cooperatively participate to facilitate an appropriate determination within reasonable timeframes. Both parties bear this responsibility; however, the department cannot force an employee/applicant to cooperate in the process requiring medical documentation from the employee/applicant (i.e., a Department may not order an employee/applicant to provide medical documentation for a reasonable accommodation request). Keep in mind, this process is in response to a request for accommodation. If an employee/applicant fails to cooperate in the process by not providing appropriate documentation, this at some point, may lead to a denial of the reasonable accommodation request.

Title I of the ADA requires employers to make "reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee." However, the reasonable accommodation requirement:

- does not require Equal Opportunity in employment
- does not require that employers lower quality or quantity performance standards for essential functions to assist employees with disabilities
- does not require that employers create a job for employees with disabilities, or structure jobs to fit their needs or abilities, except for reallocating marginal job functions.

Reasonable accommodation to an ADA covered disability **may** include:

- making adjustments to the way job functions are performed
- making changes in departmental policies or procedures regarding leave or work hours
- making modifications of equipment used to perform a job
- providing assistive devices
- hiring assistants
- allowing employees to use their own equipment, aids, or services at work
- making modifications to provide a disabled employee with access to the areas where the employee performs essential job functions.

Section 4: Performance Issues

A supervisor is not required to excuse a violation of a uniformly applied conduct rule that is job-related and consistent with business necessity and OSU policy. Additionally, since a reasonable accommodation is prospective, an employer is not required to excuse past misconduct even if the misconduct problem is the result of the disability. Therefore, appropriate disciplinary actions may occur.

Please be aware that during the disciplinary process, an employee may make a connection between a physical or mental condition and the performance or misconduct problem. If the employee makes such a connection, the supervisor should initiate the interactive process including a request for appropriate documentation/verification of disability (see Section 1) as necessary in order to investigate the accommodation to mitigate future performance problems. Whether an effective accommodation is provided, the employee remains responsible for performing the essential job functions and for complying with OSU policies and guidelines. If the employee fails to do so, disciplinary actions may again be appropriate.

An employer should never assume a performance problem an employee faces on the job is related to a disability. It should be viewed and managed as a performance problem unless the employee makes a connection between a physical or mental condition and the performance problem itself.

Section 5: Individual Assessment

All requests for reasonable accommodation must be assessed on a case-by-case basis. The goal of individually assessing each request for accommodation is to conduct an effective interactive process to clarify the employee's/applicant's ability to perform the essential job functions or to complete the employment hiring process with or without accommodation. Additionally, this process encourages discussions with the employee/applicant to explore available options that may enable the employee/applicant to effectively perform the essential functions of the job or to continue in the hiring process.

Section 6: Employer Right to Choose Effective Accommodation

If there is more than one possible accommodation, the employer may choose the less burdensome and/or less expensive accommodation as long as it is effective, thereby providing the individual with an equal opportunity to apply for a position, perform the essential job functions of a position, or to gain equal access to a benefit or privilege of employment. Although, primary consideration should be given to the employee's/applicants requested accommodation, the employer may continue to explore other accommodations until an appropriate and effective accommodation is defined, as deemed by the employer.

Section 7: Confidentiality

Unless otherwise authorized or required by law, the request for accommodation and related records will be maintained in a confidential manner. All documentation regarding an employee's disability is to be kept in a file separate from the general (official) personnel file and disclosed for legitimate business needs only. Disability civil rights laws specifically prohibit the disclosure of medical information except in certain situations, including but not limited to:

- Supervisors and managers may be told about necessary restrictions on the work or duties of the employee and about necessary accommodations.
- First aid and safety personnel may be told of the disability in case it might require emergency treatment.
- Government officials investigating compliance with the ADA and/or FEHA must be given relevant information on request.
- Employers may give information to state workers' compensation offices, state second injury funds, or workers' compensation insurance carriers (in the case of the County, the Third-Party Administrator), in accordance with state workers' compensation laws.

Section 8: Record Retention

Departments are required to keep all documentation pertaining to requests for accommodation in accordance with prevailing record retention requirements of three years.

Section 9: Resources

The following resources may be helpful to supervisors and employees in evaluating possible accommodations.

<http://www.askjan.org/soar/index.htm>

http://www.onestops.info/subcategory.php?subcat_id=106

<http://www.dol.gov/odep/archives/ek96/benefits.htm>

Section 10: Steps for a Successful Reasonable Accommodation Process

ADA Compliance Manual for Higher Education recommends the following steps for a successful reasonable accommodation process:

- 1) Determine whether an accommodation issue exists;
- 2) Analyze the essential functions of the job;
- 3) Consult with the individual with a disability;
- 4) Determine specific abilities and functional limitations;
- 5) Research alternative accommodations, identify potential accommodations and determine how effective each would be;
- 6) Consider all types of reasonable accommodations;
- 7) Consider the preference of the individual with a disability;
- 8) Analyze whether any potential accommodations would impose an undue hardship;
- 9) Document decisions to eliminate accommodations from consideration; and
- 10) Reconsider the remaining options;

If appropriate, offer the accommodation to the qualified individual.



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EMPLOYMENT ACCOMODATION REQUEST FORM

Employee Information

Employee Name:	Employee Phone:
Employee CWID:	Employee Email Address:
Department:	Date Requested:
Supervisor:	Supervisor Phone:

This form is the initial step in processing your request for a reasonable accommodation under the University's procedure. An accommodation is a reasonable modification or adjustment to the work environment that enables a qualified individual with a disability to perform the essential functions of a position, and enjoy the same benefits and privileges of employment as enjoyed by non-disabled employees. In order to determine whether you are eligible for an accommodation under the ADA (1990), as amended by ADA Amendment Act of 2008 (ADAAA), the Office of Equal Opportunity may request that you provide documentation of your medical condition.

Having a medical condition alone is not enough to make you eligible for an accommodation under the ADAAA guidelines. Under the ADAAA, an individual with a disability is a person with a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. A substantial limitation is defined as an impairment that prevents the performance of a major life activity that most people in the general population can perform.

The ADAAA requires that the University keep medical information confidential. However, the law allows certain individuals to be informed of your condition as needed. These persons can include your manager(s) or supervisor(s), human resources personnel, first aid and safety personnel, personnel investigating compliance discussing your condition or medical information about yourself.

6) Explain, if applicable, any resources you already have, have access to, or are aware of which would provide the accommodation(s) requested.

7) Will you be able to perform all of the essential functions of your job if you receive the requested accommodations? If not, describe the specific functions you will not be able to perform.

8) If medical documentation is **not** attached, please provide the following information:

Name/Phone/Address of Primary Medical Practitioner/physician	
Name/Phone/Address of Medical Specialist (if applicable)	

9) If no medical documentation exists, please explain why you have not obtained an evaluation or treatment.

10) Please add any comments you feel may be helpful in the consideration of your request.

11) This condition is:

Temporary

Permanent

Expected to last until: _____
(Date)

Release of Information

PLEASE READ THE FOLLOWING CAREFULLY, THEN SIGN AND DATE

I have a disability that I believe has, or may have, an adverse effect on my work performance. In order to minimize or eliminate the effect of the disability on my work performance, I am voluntarily requesting that OSU review my situation for the purpose of considering a reasonable accommodation. I understand that submitting this form is an initial step only. I understand that OSU will not assume based on my submission of this form, that I am disabled or that a change or accommodation in the workplace is required.

I understand that OSU must be able to confirm the existence and the extent of the disability and how it may relate to the duties and responsibilities of the position involved. I understand that this information is necessary so that OSU can respond to this request, and that this form and any attachments I have provided may be shared with the health care providers I have identified, as well as with other health care providers with whom OSU may consult in evaluating this request.

I also understand that appropriate consideration of this request may require disclosure of information about my impairment to supervisors and others at OSU who may have a need to know enough about the impairment to participate effectively in discussions about possible accommodations, and/or in implementing accommodations. I agree to provide any other information needed in order to respond to this request. I hereby authorize the above-listed health care providers and any others who have treated me to release to OSU all medical records concerning the impairment disclosed herein as it may affect my ability to perform the job in question, and to provide any opinions to OSU concerning my ability to perform job-related functions with or without reasonable accommodation.

I certify that I have read and reviewed the job description for my position, and/or have been informed of what the University considers the essential functions of this position. I further certify that the foregoing statements are complete, accurate, and true to the best of my knowledge. I also understand that OSU may require me to undergo testing or evaluation by medical personnel retained by the University for the purpose of establishing the existence and extent of my disability, and my ability to perform job-related functions with or without reasonable accommodations.

Signature of Employee

Date

IN ADDITION TO PROVIDING THIS FORM TO YOUR SUPERVISOR, PLEASE SUBMIT A COPY OF THE COMPLETED FORM TO THE OFFICE OF AFFIRMATIVE ACTION BY ONE OF THE FOLLOWING METHODS:

Email to: jackson.landrum@okstate.edu	Campus or Inter-office Mail: Jackson Landrum Director, Equal Opportunity 419-A General Academic Building	U.S. Mail: Jackson Landrum Director, Equal Opportunity Oklahoma State University 419-A General Academic Building
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For supervisor's use only:

Date received: _____

Received by: _____

Form is: Complete/Incomplete

(Supervisor's signature)

(Circle one)



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Americans with Disabilities Act (ADA) Diagnosing Professional’s Documentation of Disability Form

As part of the accommodation process, documentation that an employee has a qualifying disability is required. The ADA defines a qualifying disability as one that fits into one of these categories:

- A physical or mental impairment that substantially limits one or more major life activities;
- A record of impairment; or
- Regarded as having an impairment.

This form is designed to provide a method for compliance with this mandate for documentation and should be completed by the employee’s diagnosing professional.

Section 1: Questions to Help Determine Whether an Employee has a Disability

For reasonable accommodation under the ADA, an employee has a disability if he or she has an impairment that substantially limits one or more major life activities or a record of such impairment. The following questions may help determine whether an employee has a disability:

Does the employee have a physical or mental impairment? Yes No

If *yes*, what is the impairment?

Is the impairment long-term or permanent? Yes No

If *not* permanent, how long will the impairment likely last?

Answer the following questions based on what limitations the employee has when his or her condition is in an active state and what limitations the employee would have if no mitigating measures were used. Mitigating measures include things such as medication, medical supplies, equipment, hearing aids, mobility devices, the use of assistive technology, reasonable accommodations or auxiliary aids or services, prosthetics, and learned behavioral or adaptive neurological modifications. Mitigating measures do not include ordinary eyeglasses or contact lenses.

Does the impairment substantially limit a major life activity?
Note: Does not need to significantly or severely restrict to meet this standard. Yes No

If *yes*, what major life activity(s) is/are affected?

Caring For Self	Walking	Hearing	Lifting	Other: (describe)
Interacting With Others	Standing	Seeing	Sleeping	
Performing Manual Tasks	Reaching	Speaking	Concentrating	
Breathing	Thinking	Learning	Reproduction	
Working	Toileting	Sitting		

Does the impairment substantially limit the operation of a major bodily function?
Note: Does not need to significantly or severely restrict to meet this standard. Yes No

If *yes*, what bodily function is affected?

Immune Normal Cell Growth Digestive Bowel Bladder Genitourinary	Hemic Special Sense Organs and Skin Lymphatic Neurological Brain Respiratory	Circulatory Endocrine Reproductive Musculoskeletal Special Sense Cardiovascular	Other: (describe)
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Section 2: Questions to Help Determine Whether an Accommodation is Needed

What limitation(s) is interfering with job performance?

What job function(s) is the employee having trouble performing because of the limitation(s)?

How does the employee's limitation(s) interfere with his/her ability to perform the job function(s)?

Section 3: Questions to Help Determine Effective Accommodation Options

Do you have any suggestions regarding possible accommodations to improve job performance?

If so, what are they?

How would your suggestions improve the employee's job performance?

Section 4: Additional Comments

Please provide us with any additional information or comments.

Print Professional's Name :

Date Form Completed:

Office Phone #:

Professional's signature:

Professional's License #:

Office Fax #:



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Accommodation Discussion Documentation

To be completed by immediate supervisor (and additional managers, if applicable)

1) Interactive Discussion Date:

2) Job Functions Discussed:

Essential Job Functions	Marginal Job Functions

3) Employee's Suggested Accommodation:

4) Alternative Accommodations Offered during Discussion:

5) Results of Interactive Discussion:

6) Accommodation(s) Agreed upon:

7) Costs Associated with the Reasonable Accommodation:

8) Did Documentation come with the Request? Yes No

9) Is more Documentation Necessary? Yes No

10) Effective Date of Accommodation:

11) Duration Period of Accommodation:

12) Document reason denying request for any suggested reasonable accommodation:

Immediate Supervisor's Signature

Date

Dean/ Vice President/ Associate Vice President

Date

Equal Opportunity Officer

Date

CC: Employee and Director of Equal Opportunity

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