

AMERICANS WITH DISABILITIES PROCEDURE DOCUMENT

University of Notre Dame

Disability Accommodation Process for Faculty and Staff

PROCEDURE DOCUMENT STATEMENT/STATEMENT OF PURPOSE

It is the practice of the University of Notre Dame to provide reasonable accommodations for individuals with disabilities who are faculty, staff, students, visitors, or applicants for employment. The University of Notre Dame will adhere to all applicable federal and state laws, regulations, and guidelines with respect to providing reasonable accommodations as required to afford equal employment opportunity to qualified individuals with disabilities. The University will provide reasonable accommodations in a timely manner. Employment opportunities shall not be denied because of the need to make reasonable accommodations.

The University of Notre Dame is committed to the fair and equitable treatment of all members of the University community. Persons with disabilities will be provided equal employment opportunities in accordance with the requirements of the Americans with Disabilities Act of 1990 (ADA), the Rehabilitation Act of 1973, and other applicable state and federal regulations.

Title I of the ADA requires an employer to provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodations would cause an undue hardship to the University. The Office of Institutional Equity at the University of Notre Dame is committed to guiding employees and the departments involved through the accommodation process with great care and attention to the needs of all involved by the outcome.

SCOPE OF PROCEDURE DOCUMENT

1. Faculty and staff members
2. Applicants for employment, requesting a reasonable accommodation(s) to participate in the application/interview process
3. Visitors to campus
4. Student employees, while in function of their job role

Note: Undergraduate and graduate students with academic, housing, or other non-employment accommodation(s) need should refer to Sara Bea Disability Services, disabilityservices.nd.edu.

U.S. BISHOPS' STATEMENT

“It is not enough merely to affirm the rights of people with disabilities. We must actively work to make them real in the fabric of modern society. Recognizing that individuals with disabilities have a claim to our respect because they are persons, because they share in the one redemption of Christ, and because they contribute to our society by their activity within it, the Church must become an advocate for and with them. It must work to increase the public's sensitivity toward the needs of people with disabilities and support their rightful demand for justice.” (Pastoral statement of U.S. Catholic Bishops on People with Disabilities, paragraph 11.)

WEB ADDRESSES FOR THIS PROCEDURE DOCUMENT

- ADA Procedure Document: <http://equity.nd.edu/individuals-with-disabilities/>
- Office of Institutional Equity: <http://equity.nd.edu/individuals-with-disabilities/>

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RELATED RESOURCES

University Policies and Documents

University Policy on Sexual and Discriminatory Harassment Policy:

<http://equity.nd.edu/sexual-harassment-title-ix/>

Human Resources Policy: www.hr.nd.edu

Student Policies and Procedures: disabilityservices.nd.edu/policies

Faculty Handbook: <https://facultyhandbook.nd.edu/>

Worker's Compensation Policy:

<http://hr.nd.edu/nd-faculty-staff/forms-policies/worker-s-compensation/>

Short-Term Income Replacement Policy: <http://hr.nd.edu>

Long-Term Disability Policy: <http://hr.nd.edu/benefits/time-off-leaves/long-term-disability>

External Documentation

American with Disabilities Act of 1990

American with Disabilities Act Amendments Act of 2008

Indiana (DDS): www.in.gov/fssa

Indiana Vocational Rehabilitation Services: www.in.gov/fssa/ddrs

EEOC: www.eeoc.gov

Goodwill: www.goodwill-ni.org

Logan Center: www.logancenter.org

University Forms and Systems

Disability Accommodation Forms: www.equity.nd.edu

Visitor Accommodation Request: www.equity.nd.edu

CONTACTS

Please direct general questions about the University's ADA Procedure Document and the Disability Accommodation Process to the University's ADA Program Manager or to your Human Resources Consultant (HRC).

If you have questions about specific issues, please contact the following:

| Subject | Contact | Telephone | Email | Website |
|---|--|------------------|----------------------------|---|
| Requesting ADA Accommodations | Office of Institutional Equity | 574-631-0444 | equity@nd.edu | equity.nd.edu |
| General ADA Inquiries | Human Resources Consultant (HRC) | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| FMLA | askHR | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| Long Term Disability | askHR | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| Social Security Disability | askHR | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| Short-Term Income Replacement | askHR | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| The Hartford (Return to Work) | askHR | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| Leave of Absence | askHR | 574-631-5900 | askhr@nd.edu | hr.nd.edu |
| LifeWorks (Employment Assistance Program) | askHR can provide the login and password | 888-267-8126 | N/A | lifeworks.com |
| Health Advocate | askHR | 866-695-8622 | answers@HealthAdvocate.com | healthadvocate.com |
| Student ADA Accommodations | Scott Howland - Sara Bea Disability Services | 574-631-7157 | showland@nd.edu | disabilityservices.nd.edu |
| Ergonomic Assessment Request | Risk Management | 574- 631-5037 | riskman@nd.edu | http://riskmanagement.nd.edu/workplace |
| Health Care | Wellness Center | 574-634-9355 | N/A | wellnesscenter.nd.edu |
| Student Health Care | UHS - St. Liam's | 574-631-7497 | N/A | uhs.nd.edu |

DEFINITIONS

Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) is a federal anti-discrimination statute which provides civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. The ADA was designed to remove barriers which prevent qualified individuals with disabilities from enjoying the same opportunities that are available to persons without disabilities. Similar protections are provided by Section 504 of the Rehabilitation Act of 1973. The ADA ensures that no qualified individual with a disability shall, on the basis of a disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the University of Notre Dame.

Person with a Disability

Under the ADA, an individual with a disability is a person who has: a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or is regarded as having such an impairment. Temporary, non-chronic impairments that do not last for a long time and that have little or no long term impact usually are not disabilities. The determination of whether an impairment is a disability is made on a case-by-case basis.

Major Life Activity

To be considered a person with a disability under the ADA, the impairment must substantially limit one or more major life activities. Examples of major life activities include walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself and working.

Qualified

To be protected by the ADA, a person must not only be an individual with a disability, but must be qualified. For University employees, a qualified individual with a disability is a person who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position and who, with or without a reasonable accommodations, can perform the essential functions of a position. A qualified individual with a disability is a person who, with or without reasonable modifications to rules, policies or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids or services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the University.

Undue Hardship

Undue hardship includes any action that is unduly costly, extensive, or disruptive. An employer is not required to make an accommodation if it would impose an undue hardship.

Interactive Process

An informal problem-solving process between the employer and the employee or applicant to identify the precise work-related limitations resulting from the disability, the circumstance that is generating the request and the potential reasonable accommodation(s) that may be effective.

Reasonable Accommodation

A reasonable accommodation is any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy an equal employment opportunity. The University shall provide a reasonable accommodation to the known disability of a qualified applicant or employee with a disability unless the accommodation would impose an undue hardship. Examples of reasonable accommodations include, but are not limited to:

- job restructuring
- modified work schedules
- obtaining or modifying equipment or devices
- modifying examinations, training materials, or policies
- providing qualified readers and interpreters
- making facilities readily accessible to and usable by individuals with disabilities
- reassignment to a vacant position

Per the Equal Employment Opportunity Commission (EEOC), the governing agency for the ADA, a modification or adjustment is "reasonable" if it "seems reasonable on its face, i.e., ordinarily or in the run of cases;" this means it is "reasonable" if it appears to be "feasible" or "plausible." The University is obligated to make a reasonable accommodation only to the known disability of an otherwise qualified employee. In general, it is the responsibility of the employee to make their disability status and subsequent need for an accommodations known to the appropriate University official.

Once a request has been made, it is the responsibility of the University official and the individual with a disability to engage in an interactive process to identify possible accommodations and assess the reasonableness and effectiveness of each potential accommodation. Determinations regarding accommodations on campus will be made on a case-by-case basis.

Students requesting academic or housing accommodations should contact the Sara Bea Disabilities Services office at 574-631-7157, disabilityservices.nd.edu.

Confidentiality

Access to confidential medical information is restricted under the ADA. Only the ADA Program Manager is authorized to manage confidential medical information in each school, college, and division. Confidential medical information includes written and verbal information from any source regarding an employee or applicant's medical condition or disability. Information related to an employee or applicant's accommodation(s) will remain confidential. All medical information and the completed [Disability Accommodation Request Form](#) (available on the Institutional Equity website at <http://www.equity.nd.edu>) will be kept by the ADA Program Manager in the division's confidential medical file separate from the personnel file. The ADA Program Manager will only share medical information on a need-to-know basis with others.

FORMAL PROCEDURES TO REQUEST ACCOMMODATIONS

Requesting Accommodations: Faculty and Staff

University Responsibilities

The University is obligated to make reasonable accommodations to the known disability of an otherwise qualified employee. In general, it is the responsibility of the employee to make their disability status and subsequent need for an accommodation known to the appropriate University official. Once on notice of the need for accommodations, it is the responsibility of the University official and the individual with a disability to engage in the Interactive Process to identify possible reasonable workplace accommodations and the effectiveness of each potential workplace accommodation.

Determinations regarding accommodations on campus will be made on a case-by-case basis through an interactive process involving the employee, the supervisor/manager, department chair, Human Resources Consultant (HRC), ADA Program Manager in the Office of Institutional Equity, and health care provider. In general, each case must be tailored to address the nature of the disability, the needs of the employee within the context of the position description, and the operational needs of the employee's department.

The University will make a good faith effort to complete the accommodation request within a reasonable time.

Outline of the Procedures

The procedures for requesting an accommodation(s) consist of three (3) steps:

1. The employee may request an accommodation(s) with an appropriate university official (e.g. supervisor/manager, department head, department chair, HRC, or directly with the ADA Program Manager). Medical verification of the disability will be required.
2. The appropriate University official evaluates the request through an interactive process with the employee and others, as necessary.
3. A response will be communicated to the employee requesting the accommodation(s). If the accommodation is granted, it will be implemented in a reasonable amount of time. If the accommodation is denied, an explanation will be given to the employee. Procedures for appealing the decision will be included in the explanation.

Initiating the ADA Interactive Process

Three Starting Point Options

An employee may choose to request an accommodation(s) from one of three (3) starting points:

1. with the employee's immediate supervisor / manager / department chair,
2. with the employee's Human Resources Consultant (HRC), or
3. directly with the ADA Program Manager

Please note that the specific medical condition related to the request is confidential and *only* needs to be disclosed to the ADA Program Manager. Regardless of the option chosen, the employee will be required to complete the provided medical release to the ADA Program Manager to allow permission to correspond with the employee's health care provider to support the request for a reasonable accommodation(s).

Starting Point One: Contacting an Immediate Supervisor / Manager / Department Chair

To request an accommodation(s) through a manager/supervisor or department chair, an employee discusses the need for potential reasonable accommodation(s) related to the functions of the employee's position description. The supervisor/manager, or department chair will then notify the ADA Program Manager of the request and the need for potential reasonable accommodation(s). A meeting between the employee and the ADA Program Manager will then be scheduled to discuss the employee's medical condition and potential reasonable accommodation(s).

Starting Point Two: Contacting a Human Resources Consultant (HRC)

To request an accommodation(s) through an HRC, an employee will contact the appropriate HRC concerning the need for potential reasonable accommodation(s) related to the functions of the employee's position description. The HRC will then notify the ADA Program Manager and employee's supervisor/manager, of the request and the need for potential reasonable accommodation(s). A meeting between the employee and the ADA Program Manager will then be scheduled to discuss the employee's relevant medical condition and potential reasonable accommodation(s).

Starting Point Three: Contacting the ADA Program Manager

A request for reasonable accommodation(s) can be made directly to the ADA Program Manager.

The Process

1. A meeting between the employee and the ADA Program Manager will then be scheduled to discuss the employee's relevant medical condition and potential reasonable accommodation(s). Before or at the meeting the employee will complete the [Reasonable Accommodation Request Form](#), available on the Institutional Equity website at <http://hr.nd.edu/ada/>. The employee will be required to complete a medical release which will provide the ADA Program Manager permission to correspond with the employee's health care provider(s) to verify the conditions related to the accommodation(s) requested. The University will bear any costs associated with the medical documentation

request. If the University requires a second opinion to verify the conditions related to the accommodation(s) requested, the University will bear the cost.

2. The ADA Program Manager will then notify the appropriate supervisor/manager/chair that a request for an accommodation(s) has been made by the employee.
3. The ADA Program Manager will then send the identified health care provider(s) an ADA questionnaire and/or a letter requesting information related to the employee's relevant medical condition(s) and recommendations for potential accommodation(s) based on the employee's position description.
4. Upon receipt of the completed documentation, the ADA Program Manager will review the documentation. A meeting with the employee will then be scheduled, if necessary.
5. A meeting between the ADA Program Manager, employee's supervisor/manager/chair, and HRC, will then be scheduled to discuss both the employee's requested accommodation(s) and the health care provider(s') recommended accommodation(s). A determination of the reasonableness of the accommodation(s) will be made based on the business operations of the employee's department and employee's position.
6. A final decision will then be determined by the ADA Program Manager.
7. A meeting between the employee, ADA Program Manager, and HRC will then be scheduled to discuss the employee's relevant medical documentation and the accommodation(s) request determination.
 - If the request is approved, the employee will receive written notification of the decision. The employee's supervisor will also be notified of the decision in writing, which will include a plan for implementing the accommodation(s). A copy of the final decision will be kept in both the ADA Program Manager's files and the department's confidential file, separate from the employee's personnel file. Any approved accommodations will be evaluated periodically.
 - If the request is denied, the employee will receive written notification and a copy of the appeal process (see below). A copy of the decision will be placed in the employee's confidential medical records file within the Office of Institutional Equity. The employee's supervisor will also be notified in writing of the decision, and a copy of this notification will be included in the department's confidential files.

Additional Information

If modifications to the accommodation are needed, they should be requested using the formal procedures outlined in this policy.

In the event of an employee's transfer to a different department/position within the university, the employee will re-engage in the interactive process, as needed.

FORMAL ACCOMMODATION APPEAL PROCEDURES

If an employee would like to appeal the recommended ADA accommodation, the employee must fill out and submit an appeals request to the Office of Institutional Equity.

In order to properly process the appeal, the employee must provide the following information in an email to equity@nd.edu:

- Name
- Job Title
- Department
- Supervisor
- Date Accommodation was Granted or Denied
- Nature of Accommodation Requested
- Reason for Appeal
- Phone Number
- Email Address
- Additional Comments

The Office of Institutional Equity will review the accommodation appeal request. Upon gathering all proper documentation and information, the Director of the Office of Institutional Equity will work in collaboration with the Director of Human Resource Consulting and the Associate General Counsel for faculty and staff matters to make a determination regarding the appeal. Should the appeal be denied, the current decision will remain in place. Should the appeal be granted, the employee will re-engage in the ADA Interactive Process for a new accommodation to be implemented.

If there are questions regarding the appeal process, please contact the Director of the [Office of Institutional Equity](#).

FORMAL ACCOMMODATIONS: REASSIGNMENT PROCEDURES

When an employee cannot be reasonably accommodated in his or her current position, federal and state laws require a non-competitive transfer to a vacant position be considered, 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). The essential functions of the position are generally duties included in the position description for the vacancy. A review of the position description may be required in order to incorporate all current duties. These regulations also require consideration of a voluntary demotion and/or a part-time position.

Reassignment is the reasonable accommodation of *last resort* and is required only after it has been determined that:

1. There are no effective, reasonable accommodations that will enable the employee to perform the essential functions of their current position.
2. All other reasonable accommodations would impose an undue hardship on the department.

Per the EEOC, the ADA specifically lists "reassignment to a vacant position" as a form of reasonable accommodation. "Vacant" means the position is available when the employee asks for a reasonable accommodation(s), or the employer knows that it will become available within a reasonable amount of time. A "reasonable amount of time" should be determined on a case-by-case basis considering relevant facts, such as whether the employer, based on experience, can anticipate that an appropriate position will become vacant within a short period of time. A position is considered vacant even if an employer has posted a notice or announcement seeking applications for that position. Employers do not have to remove an employee from a job in order to create a vacancy; nor do they have to create a new position. A position is considered vacant even if an employer has posted a notice or job posting on jobs.nd.edu.

An employee must be "qualified" for the new position. An employee is "qualified" for a position if they:

1. satisfy the requisite skill, experience, education, and other job-related requirements of the position, and
2. can perform the essential functions of the new position, with or without reasonable accommodation(s). The employee does not need to be the best qualified individual for the position in order to obtain it as a reassignment. There is no obligation for the employer to assist the individual to become qualified, such as providing training to the employee.

Reassignment Procedures

1. In the initial meeting, the ADA Program Manager will meet with the employee when it has been determined reassignment is the best accommodation for the employee due to the inability to identify a reasonable accommodation to enable the employee to perform the essential functions of their current role.
 - a. The ADA Program Manager will inform the employee of the career stream and level implications of the reassignment process, which may include modifications to any or all of the following: title, pay, and full-time/part-time status. The employee may be subject to a lateral move or demotion, in terms of pay and title. If an employee is interested in a promotional job opportunity, they must adhere to the standard hiring process.
2. The ADA Program Manager, the employee, and the HRC will meet to review the reassignment as an accommodation. They will review the employee's work experience, and other qualifications (knowledge, education, skills, abilities, training, etc.). They will also discuss the employee's identified job interests and any other pertinent information.
3. If a vacancy is identified, the ADA Program Manager will meet with the potential department to determine if the employee is qualified for the vacancy and will also determine if the employee can perform the essential functions of the position, with or without reasonable accommodation(s).
4. The ADA Program Manager will discuss with the employee the minimum qualifications of the position of interest to determine if the employee would like to accept the position. If so, the standard transfer procedures will be followed.
5. If the employee declines a position for which they are qualified, with or without reasonable accommodation(s), the search will continue.

Please contact the [ADA Program Manager](#) regarding any further information.

FORMAL PROCEDURES TO REQUEST ACCOMMODATIONS

Applicants for Employment

Notice

All applicants who are invited for interviews will be informed of the University's policy to provide reasonable accommodations for applicants, faculty, and staff with disabilities. The notification will pertain to any type of interview, such as an in-person, telephone, or web interview. Applicants will be informed that they can request accommodation(s) for interviews and how to make the request.

After being informed of the hiring process, applicants may be asked whether they will need a reasonable accommodation(s) during the hiring process.

An applicant for a position at the University who may require an accommodation(s) for a disability in order to participate in the application and/or interview process, may contact the ADA Program Manager in the Office of Institutional Equity at equity@nd.edu or 574-631-0444.

The Interview process

Applicants may be asked whether they can perform essential job functions, with or without reasonable accommodation(s). Applicants should not be asked if they have a disability and should not be asked other questions that are likely to elicit information about, or that are closely related to, a disability.

If an applicant has a known disability (either because it is visually obvious or because the applicant has voluntarily disclosed a disability), and that known disability is relevant to the job functions, they may be asked to describe or demonstrate how they would perform the job function(s), even if other applicants have not been asked to do the same.

Employment Decision

Qualified applicants cannot be denied employment solely on the basis of the need to provide a reasonable accommodation(s) to the applicant.

An applicant who has received a formal job offer and who needs an accommodation(s) should request the accommodation(s) by submitting a [Reasonable Accommodation Request Form](#), available on the Institutional Equity website at <http://hr.nd.edu/ada/>, or contacting the ADA Program Manager in the Office of Institutional Equity at 574-631-0444.

FORMAL PROCEDURES TO REQUEST ACCOMMODATIONS

Visitors to Campus

The University welcomes thousands of visitors to campus each year. Whether the visitor is a prospective student (or a friend or family member) on campus to attend a Notre Dame sponsored meeting, conference, cultural or sports event, the University hopes to make the visit as enjoyable as possible.

Reasonable accommodations will be made available if needed to members of the public who attend events sponsored by the University of Notre Dame. The sponsoring department in conjunction with the Office of Institutional Equity is responsible for accommodating the needs of visitors. This means conducting events in accessible locations and may entail providing sign-language interpreters, printed material in Braille, or alternative formats such as audio recordings, if requested in advance.

Accommodation Requests for Visitors and Applicants

Visitors to campus in need of an accommodation(s), must contact the ADA Program Manager at least five (5) business days prior to their visit. The University may not be able to accommodate requests received less than five (5) business days prior to the campus visit.

When making a request, the following information must be provided in an email to the ADA Program Manager:

- Name
- Date of Visit
- Location on Campus
- Nature of Visit
- Type of Accommodation(s) Requested
- Phone Number
- Email Address

For additional information, please contact the Office of Institutional Equity at equity@nd.edu or 574-631-0444.

If a visitor anticipates needing a reasonable accommodation(s) for an event on campus and is unable to contact the Office of Institutional Equity, they should contact the event sponsor, in advance of the visit.

WORKPLACE RESTRICTIONS

Employees with workplace restrictions must provide medical documentation from their healthcare provider detailing the restriction(s) and the underlying medical reasons. Workplace restrictions must be reviewed and updated:

- every three years; or
- if the department is having difficulty accommodating restrictions that have become more severe or drastically different than the original restriction(s) submitted by the employee's healthcare provider.

If any employee has questions regarding workplace restrictions, please contact the ADA Program Manager or your Human Resources Consultant (HRC).

Modified Duty

In some cases, temporary modification of duties can be made for an employee that would allow them to return to work in a limited capacity, subject to their medical restrictions. Such temporary modifications are called "light duty, limited duty, or modified duty" assignments. This may include modification of essential or marginal functions of the job, limitation of working hours, changes in working conditions, or physical modification(s) of the work place. If the department is unable to modify job tasks temporarily, an employee may be advised to remain off work until the employee's next medical appointment or until the employee receives revised medical documentation, verifying a change in work restrictions. The ability to accommodate modified duty will be determined by the employee's job functions and the operational needs of the department. Our goal is to provide accommodations whenever possible based on the business function of the department during a temporary recovery period due to work restrictions.

Temporary restrictions are restrictions that will be in effect for a specific period of time. Typically, these will change as an employee receives medical treatment and their condition improves.

Permanent restrictions are restrictions in effect for the duration of a person's working life or as long as an employee remains disabled. The health care provider assesses these restrictions after the employee has reached maximum medical improvement. Maximum medical improvement is the point at which the physician believes the employee's condition(s) will not improve any further.

SHORT-TERM INCOME REPLACEMENT

Faculty & Staff

The University offers salary continuation to provide continued income when a faculty or staff's personal illness or injury necessitates absence from work. The policy can be referenced at <http://hr.nd.edu>.

The University also provides Long Term Disability Insurance to faculty and staff who are unable to work for more than six months. The policy can be referenced at <http://hr.nd.edu/LTD>.
