



# **University of Oregon**

# **Workplace**

# **Accommodation**

# **Process Guide**

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# **I. University Commitment to Supporting Individuals with Disabilities**

The University of Oregon (“university”) values diversity and is committed to supporting all employees to achieve success in their positions. The university also recognizes that accessibility is an important part of its diversity efforts, and that reasonable accommodations can help ensure access to, and success in, the workplace.

Workplace accommodations are intended to foster access and inclusion for employees with disabilities and qualifying conditions, mitigating the impact of disability-related limitations so that the employee can effectively perform the essential functions of their job and/or otherwise enjoy an equal employment opportunity. Accommodations come in many different forms – such as ergonomic furniture or a modified schedule – and each request requires an individualized assessment.

## **II. Process Guide Scope**

This Process Guide (“Guide”) is intended to provide members of the campus community with helpful information regarding the process for university employees to request workplace accommodations, as well as related considerations such as privacy of medical information, the role of the ADA Coordinator, and the reassignment process. This document does not address other aspects of the university’s disability-related efforts, such as student accommodations, accommodations for qualified applicants, or members of the public. This document is not meant to be contractual in nature or to conflict with or supersede other contracts or collective bargaining agreements.

While this document covers many aspects of the accommodation process, it is not comprehensive. Moreover, due to the evolving landscape of accessibility and disability rights laws, including the Americans with Disabilities Act (1990) and the Americans with Disabilities Act Amendments Act (2008) collectively referred to from here on as the “ADA,” the applicability of certain guidance detailed in this Guide may change over time.

Accordingly, reasonable efforts will be made to update this Guide to ensure the university community has timely and accurate information at its disposal when considering requests for accommodations.

## III. Accommodation Process: Employees

### A. Process Overview

The university seeks to provide a straightforward, transparent process for requesting workplace accommodations. While more detailed information is provided in the subsections below, this process typically includes four (4) steps:

**(1) The employee must initiate a request for an accommodation.**

Employees must submit a request for accommodations with the ADA Coordinator and are encouraged to use the [Accommodation Request Form](#). Absent a request, the university will not presume that an employee with a disability requires an accommodation to effectively perform the functions of their position.

**(2) The university must determine whether the employee is eligible for an accommodation.**

In order to be eligible, the employee must have a medical condition that qualifies as a “disability” as defined under the ADA. The employee is asked to have their healthcare provider (primary care physician, surgeon, therapist, counselor, etc.) complete the [Medical Provider Form](#) and submit it to the ADA Coordinator, or designee, for review. The responses provided therein are typically sufficient for the ADA Coordinator, or designee, to determine whether the medical condition qualifies as a disability. Medical information obtained by the ADA Coordinator is confidential and is maintained in the employee’s ADA file, separate from their personnel file. To the extent necessary, the university will seek information that defines the disability and its impact on the current essential functions of the employee’s position.

**(3) The employee, unit, HR Partner (when applicable), and ADA Coordinator, or designee, shall engage in an interactive, good-faith discussion to identify and implement reasonable, effective accommodations.**

The good-faith discussion, often referred to as “the interactive process,” may be short and straightforward, particularly where the employee and unit are in agreement about what is reasonable and should be effective for the employee’s needs. In other circumstances, this discussion may require the ADA Coordinator, or designee, to meet with the employee and department on several occasions (either separately or as a group) to determine alternative accommodation ideas that may be equally effective but less operationally impactful.

**(4) The ADA Coordinator, or designee, will memorialize the outcome of the employee’s engagement in the accommodation process.**

There are a variety of outcomes that could be communicated including, but not limited to: the agreed upon accommodations, a determination that the employee is not a qualified individual with a disability and is therefore not eligible for an accommodation, or a determination that there are no reasonable accommodations that would enable the employee to effectively perform the essential functions of their position.

The outcome of the employee’s engagement in the accommodation process may be memorialized in an email, letter, or memorandum of understanding, as deemed appropriate by the ADA Coordinator, or designee. The contents of the communication are confidential, should be kept in a file separate from the employee’s personnel file, and should not be shared with others except on a need-to-know basis, as determined by the ADA Coordinator, or designee.

## **B. Requesting an Accommodation**

### **1. General Information**

Generally, an employee initiates the accommodation process by informing a supervisor or the ADA Coordinator, or designee, that because of medical reasons, they would like a change in the work environment or in the way things are customarily done. An individual need not have a particular accommodation in mind when making their needs known.

A request for accommodations can be made verbally or in writing at any time during the course of the individual's employment with the university (NOTE: Applicants may make a request for accommodation via HR during any part of the application/interview process). When making the request, the employee does not need to use the word "accommodation," or any other specific technical language, disclose their specific medical diagnosis, or share medical documentation, or mention the ADA specifically. In some instances, a request for accommodation can be made by an employee's support person with proper authorization – such as a spouse, healthcare professional, or other representative.

Once on notice of an employee's request for accommodations, the supervisor or HR Partner is encouraged to contact the ADA Coordinator, or designee, to seek consultation about the situation and discuss appropriate next steps. Generally, under these types of circumstances the supervisor or HR Partner should send the employee a brief email recapping their conversation, identifying what accommodation was requested (if any), and directing them to the [Interactive Disability Accommodation Process webpage](#) to locate the request form and to locate the contact information for the ADA Coordinator to engage the accommodation process. A copy of this email should also be sent to the ADA Coordinator, or designee.

In the event that the unit would approve the request as a work adjustment – irrespective of whether the employee has a disability – then the unit may provide an adjustment and shall document their efforts without need to refer to the ADA Coordinator.



This is often the case with ergonomic furniture or office equipment that would be readily available to all employees.

While the university is required to engage in the interactive process once a request has been made, such engagement does not guarantee that the employee is eligible for accommodations or that the requested accommodations would be determined to be reasonable. Furthermore, if an employee chooses not to contact the ADA Coordinator or submit an Accommodation Request Form then the university is not obligated to provide an accommodation, and it will not be presumed that one is required for the employee to effectively perform the functions of their position or otherwise enjoy an equal employment opportunity.

The outcome of this stage of the process will be documented accordingly in the ADA office.

## **2. Accommodation Request Form**

An employee who would like to request an accommodation should complete the Accommodation Request Form. The [Accommodation Request Form](#) is available on the Human Resources website. The supervisor or HR partner can help the employee print the [PDF request form](#) if needed. Assistance completing this form is also provided by the ADA Coordinator at the request of the employee.

An employee completing the Accommodation Request Form should be as specific as possible with respect to how they identify with their disability, how their medical condition impacts their ability to perform the functions of their job, and what accommodations they believe would be effective. The requested accommodation identified in the Accommodation Request Form is used as a starting point for the good-faith discussion, a key component of the interactive process. As explained in more detail below, depending upon the request, the department and/or ADA Coordinator, or designee, may propose alternative, equally effective, reasonable accommodations.

Upon receipt of a completed Accommodation Request Form, the ADA Coordinator, or designee, will typically contact the employee to discuss the request. The initial meeting, commonly referred to as an Information Session, may be by phone, virtual meeting, or in-person meeting (NOTE: This meeting is on the clock and normally held during scheduled work hours). During this meeting, should the employee choose to move forward in the accommodation process, the ADA Coordinator or designee will formally notify the appropriate departmental contact (often the supervisor and/or HR Partner) of the employee's decision to engage the accommodation process and advise the department of the next steps.

If an employee (or their support person) refuses to complete an Accommodation Request Form, or participate in the interactive process, then the ADA Coordinator, or designee, may determine that the employee has chosen not to engage in the accommodation process and is therefore not entitled to an accommodation. In such instances, the ADA Coordinator will close the request via a closure email to the employee and note this status in the ADA record (NOTE: An employee may reengage the process at any time).

### **3. Types of Accommodations (and Limitations)**

While the university assesses each request on an individual basis (and not every accommodation is reasonable in every circumstance), there are many different types of accommodations, including but not limited to:

- Ergonomic furniture or other equipment;
- Modifications to the work environment (lighting, acoustics, etc.);
- Assistive software/technology;
- Modifications to how work is performed, procedures, or policies;
- Reassignment of marginal job functions;
- Travel-related needs;
- Parking and transportation;

- Leave of absence; or,
- Reassignment or transfer (in limited circumstances).

Certain accommodations are generally outside the scope of what is reasonable and therefore, cannot be accommodated by the university. Those include, but are not limited to:

- An indefinite leave of absence;
- Permanently excusing performance of essential job functions (also known as “light duty”);
- Purchase of personal care devices (wheelchairs, hearing aids, etc.);
- Funding of personal care attendants;
- A permanent reduction in FTE; or
- Reassignment to a new supervisor.

## **C. Eligibility for Workplace Accommodations**

### **1. Disability Determination**

To be eligible for workplace accommodations an employee must have a disability.

Consistent with the ADA, “disability” is defined as a medical condition that substantially limits one or more major life activities, or having a record of such a disability (See, [29 CFR 1630.2\(g\)](#)). An employee who is “regarded as” disabled, but who does not have a substantially limiting medical condition (or record of such a disability), is not typically eligible for workplace accommodations. An employee who requests an accommodation may be asked to have their healthcare provider complete the university’s Medical Provider Form and submit it to the ADA Coordinator, or designee. The Medical Provider Form is narrowly tailored to help ensure receipt of information necessary to assess an employee’s eligibility for workplace accommodations. The university does not seek or require a complete medical history, or any more medical information than is required to effectively analyze the request for accommodations. The [Medical Provider Form](#) is available from the

Human Resources website. The supervisor or HR partner can help the employee print the provider form if needed.

In addition to providing information necessary about the employee's medical condition, the Medical Provider Form also serves as an opportunity for the healthcare provider to recommend accommodations they believe would help the employee perform the essential functions of their position. While the provider's recommendations are often helpful and are considered, the university will make a final determination regarding reasonable accommodations.

Upon receipt of a completed Medical Provider Form, the ADA Coordinator, or designee, will review the responses and determine whether the information establishes that the employee's medical condition qualifies as a disability. If the information received does not establish that the medical condition qualifies as a disability then the ADA Coordinator, or designee, may hold a follow-up meeting with the employee to discuss needed information and will subsequently inform the employee of that conclusion in writing.

Under some circumstances, the ADA Coordinator, or designee, may rely upon information contained in a letter from the employee's healthcare provider in lieu of a completed Medical Provider Form, so long as the information is sufficient to substantiate the existence of a disability and/or need for reasonable accommodation. The ADA Coordinator, or designee, will make such determinations on a case-by-case basis.

An employee with a disability that constitutes an "obvious disability" (e.g., an employee who is deaf) is not required to submit medical documentation establishing their eligibility for workplace accommodations. Similarly, documentation may not be required where the university already knows about the employee's disability (e.g., there is documentation on file from an earlier request) and the individual's medical condition has not changed.

If an employee refuses to provide supporting medical information, the ADA Coordinator may determine that the employee has not engaged the process in good faith and will close the request via a closure email to the employee and note this status in the ADA record. Employees are therefore encouraged to reengage in the process during any time in their employment.

## **2. Privacy of Medical Information**

Any medical information an employee chooses to disclose to their supervisor, HR Partner, or the ADA Coordinator, or designee, is confidential. Accordingly, this information will not be shared with other university employees except on a need-to-know basis as determined by the ADA Coordinator, or designee, or with expressed written permission from the employee to release information.<sup>1</sup>

Similarly, any information the ADA Coordinator, or designee, receives from an employee's healthcare provider regarding a medical diagnosis (whether included in a Medical Provider Form or supplemental information) is confidential and will not be shared with the employee's colleagues, supervisor, or others, except on a need-to-know basis as

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<sup>1</sup> NOTE: The terms "confidential" and "confidentiality" are understood as set forth in the EEOC Enforcement Guidance regarding Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (7/27/2000):

The ADA requires employers to treat any medical information obtained from a disability-related inquiry or medical examination (including medical information from voluntary health or wellness programs), as well as any medical information voluntarily disclosed by an employee, as a confidential medical record. Employers may share such information only in limited circumstances with supervisors, managers, first aid and safety personnel, and government officials investigating compliance with the ADA.

determined by the ADA Coordinator, or pursuant to the employee's written consent or as required by law.

This confidentiality requirement does not preclude the ADA Coordinator, or designee, from sharing limited information about the functional impact of an employee's medical condition on their ability to perform the functions of their position in order to identify possible accommodations or assess whether the employee is qualified to effectively perform the functions of their position with or without reasonable accommodations. For example: the ADA Coordinator, or designee, may inform an employee's supervisor that the medical condition restricts the employee from lifting more than 10 pounds or requires that an employee take necessary breaks throughout the workday.

Please note that under university policy, the ADA Coordinator also is required to report certain conduct, including reports of sexual harassment and other forms of prohibited discrimination under the [Prohibited Discrimination and Retaliation Policy](#), and fraud, waste, and abuse pursuant to the [Fraud, Waste, and Abuse Reporting policy](#).

Employees who wish to consult with a confidential resource who does not have reporting obligations should contact the [Ombuds Program](#) or the [Employee Assistance Program](#).

## **D. Engaging in the Interactive Accommodation Process**

### **1. Generally**

Once an individual's eligibility for accommodations is established, the ADA Coordinator is responsible for engaging the employee and unit in a continuing good-faith interactive discussion for the purpose of identifying, implementing, and maintaining reasonable, effective accommodations for the employee.

The specific approach utilized for conducting the interactive process will vary depending upon the situation. In some circumstances, the ADA Coordinator will have

separate conversations with the employee and department about the request for accommodation. In other instances, the ADA Coordinator, or designee, will schedule a meeting with the employee and department to engage in a collaborative discussion of possible accommodation ideas as well as to proactively identify any challenges associated with implementing the request. While the ADA Coordinator, or designee, maintains discretion to determine the appropriate approach, employees and supervisors are encouraged to collaborate with the ADA Coordinator to establish the preferred means of conducting the discussion.

At the outset of the interactive process, employees requesting the purchase of an accommodation (e.g., ergonomic furniture, noise cancelling devices, air filters, or full-spectrum lights) are encouraged to conduct some initial research into the options available – either independently or in conversation with their provider – in order to determine what may be effective for their specific circumstances. While there are many online resources that can provide ideas, the [Job Accommodation Network](#) has an extensive database that may be a good place to start. As noted in subsection E below, the department may choose to provide a less expensive alternative when it is deemed equally effective.

It is the university's intention to address requests for accommodation in a timely fashion. The precise timeline may vary depending upon several factors, including without limitation, when provider form information is received, the urgency of the accommodation or change of condition circumstances, the complexity of the request, and the ADA Coordinator's workload. Generally, the ADA Coordinator, or designee, will provide updates at key steps; however, employees may also request a status update at any time. The university strongly encourages employees with time-sensitive needs to let them be known at the time the Accommodation Request Form is submitted.

## **2. Good-Faith Effort and Shared Understanding and Expectations**

Participants in the accommodation process, including but not limited to the ADA Coordinator, or designee, the employee, supervisor/department, and HR Partner, are

expected to engage in good faith. This good-faith effort requires active participation that is often accomplished through compassionate listening and willingness to collaborate to develop possible solutions. Communication is a priority throughout the entire process, but particularly where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious or, where the parties are considering different forms of reasonable accommodation.

In support of the university's commitment to inclusion and diversity, participants in the interactive process should acknowledge that:

- Recognizing individuals with disabilities is an important part of the intersectionality of diversity and inclusion;
- Workplace accommodations help enhance diversity by ensuring that employees with disabilities are able to enjoy equal employment opportunities;
- Everyone involved is expected to collaborate to define and understand the need for accommodations, discuss constraints (operational, cost, etc.), and propose solutions that may be effective;
- The accommodation process will require ongoing communication and collaboration in order to identify an effective solution; and,
- There are limits to what the university can provide as a reasonable accommodation and in some circumstances, the university may not be able to effectively accommodate someone in their current position.

### **3. Interim Accommodations during the Interactive Process**

In some circumstances the ADA Coordinator, or designee, may encourage the supervisor/department to provide one or more of the requested accommodations on an "interim" basis while the employee engages the accommodation process. An interim basis is one that is situation specific and time limited. The use of an interim accommodation will be assessed on a case-by-case basis and may include consideration of factors such as the operational impact of the requested accommodation and/or the likelihood that the disclosed medical condition qualifies as a disability.



As with all accommodations, if concerns about the operational impact of an interim accommodation arises after it has been agreed to then the ADA Coordinator, or designee, may review and reconsider whether continuing to provide the interim accommodation is reasonable. If the ADA Coordinator determines that the interim accommodation is not reasonable, then the parties are expected to reengage to determine what options may be available to the employee during the evaluative process.

## **E. Departmental/Unit Right to Choose the Accommodation Provided**

In the event that there is more than one reasonable accommodation that could be effective for the employee's needs, the ADA Coordinator will consult with the department to determine the best option. For example, if the employee requests a specific sit/stand desk, the department may choose to provide an alternative so long as it is equally effective for the employee's disability-related needs.

If, after a reasonable trial period, the employee believes that the accommodation provided is not effective then they should inform the ADA Coordinator, or designee, and reengage the accommodation process.

## **F. Reconsideration of Approved Accommodations**

In some circumstances, identifying an effective, and operationally manageable, accommodation may require some trial and error. For that reason, if an approved accommodation is proving operationally challenging then a department/unit may request the ADA Coordinator's review and reconsideration.

If, upon review, the ADA Coordinator, or designee, determines that the approved accommodation is an undue hardship then the parties should reengage in the interactive process to determine whether there are alternative accommodations that are reasonable and would effectively meet the individual's needs.

A supervisor who has reason to believe that an employee may no longer need a reasonable accommodation should contact the ADA Coordinator, or designee. The ADA

Coordinator, or designee, will decide if it would be appropriate to contact the employee to discuss whether they have a continuing need for the approved accommodation.

## **G. Accommodation Funding**

In most circumstances, the department/unit is expected to cover the cost of any approved workplace accommodation. For that reason, departments are encouraged to budget for possible accommodation needs on an annual basis. In the event that the department/unit budget will not cover the necessary accommodation then the department should seek funding from appropriate sources within the organizational hierarchy. The ADA Coordinator, or designee, is willing to assist the department in its efforts to seek funds within the organization.

## **H. Discretion to Act**

Some actions, such as permanently reducing an employee's FTE or removing an essential function from their position, are generally not required to comply with the ADA. However, under certain circumstances, the university may take action (solely at its discretion) that is not required by the ADA. The decision to take such steps is not precedential and is not evidence of whether what is provided would be reasonable or an undue hardship in other circumstances. Any discretionary actions taken which exceed the institution's obligations under the ADA may also be reconsidered and reversed.

## **I. Responsibilities of the ADA Coordinator, or designee, in the Accommodation Process**

### **1. Collaborate Regarding Accommodation Ideas**

The ADA Coordinator is committed to working with employees and departments to identify and implement reasonable and effective accommodations. As part of the interactive process, the ADA Coordinator will ask questions, conduct research, and offer input for accommodations that are currently accepted as best practice or most effective based on the known facts about the employee's disability or condition and their work duties and work environment.

In order to provide this support, it is important for the employee to explain how their disability or condition impacts their work and what they believe would be effective for addressing those challenges. Similarly, the department is asked to provide a copy of the position description (when requested), explain the responsibilities of the position in relation to the larger mission of the office, share expectations for the employee, and identify any concerns they may have with respect to the requested accommodation.

Together, this collaboration provides for a robust interactive process that leads to the most successful long-term outcomes specific to an employee's accommodation.

## **2. Supplemental Requests for Medical Information**

In some circumstances the university may need to request supplemental information from the employee's healthcare provider. The scope of any such inquiry would be narrowly tailored, focusing on the disability or condition(s) as they may apply in the workplace.

Without limitation, the ADA Coordinator's request may include the following:

- Clarification regarding the scope and anticipated duration of an employee's disability or condition and any limitations that may apply in the workplace;
- Clarification regarding the impact of an employee's medical condition and their ability to perform essential functions of a position;
- Information necessary to ensure that the employee is able to safely perform the functions of their job; or,
- Any other information deemed appropriate and necessary by the ADA Coordinator, or designee.

Before making a supplemental request for information, the ADA Coordinator, or designee, will ask the employee to sign a [Release of Medical Information Form](#) authorizing the ADA Coordinator, or designee, to contact their healthcare provider.

Supplemental requests for information are completed in writing and may be made directly by the ADA Coordinator or by providing the employee with a copy of the letter to give the healthcare provider. It is the employee's responsibility to ensure their healthcare

provider responds to the request for information. If an employee refuses to permit the ADA Coordinator to request supplemental medical information, or the employee does not provide the requested supplemental information, the university may decide that it cannot move forward with addressing their request for accommodations. In such instances, the employee request will be closed because of incomplete medical information. The employee may reopen their request should supplemental information be obtained and submitted by the employee that is acceptable to the university.

### **3. Independent Medical Examination**

In limited circumstances, an employee may be asked to undergo an independent medical examination if the ADA Coordinator has reason to believe the medical documentation provided is insufficient. As stated in applicable guidance from the Equal Employment Opportunity Commission (EEOC):

Documentation is insufficient if it does not specify the existence of an ADA disability and explain the need for reasonable accommodation. Documentation also might be insufficient where, for example: (1) the health care professional does not have the expertise to give an opinion about the employee's medical condition and the limitations imposed by it; (2) the information does not specify the functional limitations due to the disability; or, (3) other factors indicate that the information provided is not credible or is fraudulent. If an employee provides insufficient documentation, an employer does not have to provide reasonable accommodation until sufficient documentation is provided. (See, [EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the ADA.](#))

Under such circumstances, the ADA Coordinator will provide the employee with notice of the basis for believing the information is insufficient and – in most circumstances – provide the employee with a reasonable opportunity to provide sufficient documentation (thirty (30) calendar days, barring unforeseeable or unavoidable circumstances such as a

university closure or a specialist protracted appointment schedule outside of the employee's control).

The university will assume responsibility for paying for the cost of any independent medical examination needed in these circumstances. The ADA Coordinator will seek to ensure that the scope for such an examination is appropriately limited in the event that an independent medical examination is necessary. Any medical information obtained in connection with an independent medical examination will be kept confidential, and only shared with those on a need-to-know basis as determined by the ADA Coordinator.

In addition to the reasons set forth above, the university may request an employee undergo an independent medical examination for other reasons that are outside the scope of the accommodation process (e.g., fitness for duty, concern of potential "direct threat" to health and/or safety).

#### **4. Undue Hardship Analysis**

The ADA Coordinator, or designee, is responsible for assessing whether a requested accommodation is reasonable or an undue hardship. The university is not required to provide an accommodation that constitutes an undue hardship.

In accordance with applicable guidance, "undue hardship" means that an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the business (See, [29 CFR 1630.2\(p\)](#)). Most undue hardship assessments at the university involve non-financial considerations, such as the timely performance of job duties, the impact on other employees' ability to perform the essential functions of their job, and the ability to effectively serve applicable stakeholders (e.g., students, other departments on campus, alumni and donors, members of the public). Undue hardship assessments can also include financial considerations.

Each request for accommodation is assessed on a case-by-case basis. What is reasonable in one position may constitute an undue hardship in another. For example, the ability to effectively accommodate an employee's lifting restriction may be different in an

office than in a non-office setting. Conversely, the ability to effectively accommodate an employee's condition that impacts their ability to use a computer may be different in an office than in a non-office setting.

When a requested accommodation is determined to be an undue hardship the ADA Coordinator, or designee, will try to identify alternative, reasonable accommodations that would be equally effective. In the event that there are no reasonable accommodations that would enable an employee to effectively perform the functions of a position, it may be determined that the employee is no longer qualified for the position and a resulting assessment for reassignment under ADA may be initiated, as set forth in Section IV below.

## **5. Analysis of Job Functions**

The ADA Coordinator, or designee, is responsible for determining whether an employee's job responsibilities are "essential" or "marginal" functions of their position, as per the stated position description and via consultation with the supervisor/department, appropriate HR Partner, central Human Resources, and the employee.

In accordance with applicable guidance (See, [29 CFR 1630.2\(n\)](#)), factors to consider in determining if a function is essential include:

- whether the reason the position exists is to perform that function;
- the number of other employees available to perform the function or among whom the performance of the function can be distributed; and,
- the degree of expertise or skill required to perform the function.

When assessing whether a job function is essential, the ADA Coordinator may request a copy of the employee's position description, and collect other information as appropriate, regarding:

- the actual work experience of present or past employees in the job;
- the time spent performing a function;
- the consequences of not requiring that an employee perform a function; and,

- the terms of a collective bargaining agreement.

## **6. “Qualified” Analysis**

An employee with a disability is qualified for a position if they: (1) satisfy the requisite skill, experience, and other job-related requirements; and (2) are able to perform the essential functions with or without reasonable accommodation.

When questions arise regarding the impact of an employee’s limitations on their ability to perform the functions of their job, with or without reasonable accommodations, the ADA Coordinator, or designee, is responsible for determining whether the university is able to effectively accommodate that employee in their current position. When an employee is unable to perform the functions of their job, with or without reasonable accommodations, they will be provided with an opportunity to pursue reassignment to an open and available position as set forth in Section IV, below.

## **7. Maintaining Accommodation Records**

The ADA Coordinator, or designee, is responsible for maintaining the university’s records related to requests for disability-related accommodations. These records include: (1) accommodation request forms submitted to the university; (2) medical documentation and supporting documentation received by the university; (3) relevant communications received or sent by the ADA Coordinator, or designee or university; (4) the Accommodation Agreement signed and in effect as well as all previous copies of any drafts or enacted Accommodation Agreements; and, (5) case notes or activity logs related to the employee’s request and ongoing university case management efforts with the employee.

An individual may make a written request to the ADA Coordinator, or designee, for a copy of the aforementioned records at any time during or after their engagement in the accommodation process. Documents related to an employee’s request for accommodation are retained in accordance with the applicable provisions of the university’s document retention schedule, the ADA, and any other applicable state or federal law.

## **J. Work Adjustments**

At times units or departments may provide work adjustments, such as flexible work agreements, to support employees separate from the formal accommodation process. A department should not request the employee provide medical documentation in support of a request for a work adjustment, and if an employee is not satisfied with work adjustments they should contact the ADA Coordinator. Supervisors are encouraged to consult with the ADA Coordinator and the unit-level HR Partner before enacting any work adjustment that might be better documented as an accommodation through the formal interactive process. While a department may provide work adjustments, that decision does not preclude the department from subsequently referring the employee to the ADA Coordinator, or designee, under the formal accommodation process, as outlined in Section III, subsection B, above.

Work adjustments are not workplace accommodations under the ADA and do not follow the same processes or protections. Work adjustments are non-precedential and, if consulted, the ADA Coordinator may determine that under the ADA, the adjustment could constitute an undue hardship. If the ADA Coordinator determines that a work adjustment could possibly constitute an undue hardship, then the employee and department are expected to engage in the formal accommodation process to determine the reasonability of the existing work adjustment and whether there are reasonable alternative accommodations that would be equally effective.

## **IV. Reassignment Process**

### **A. Generally**

A qualified employee in good standing will be offered the opportunity to pursue reassignment if the ADA Coordinator, or designee, determines:



- (1) there are no accommodations that would effectively enable the individual to perform the essential functions of their position (e.g., they are not “qualified” for their current position); or
- (2) the only effective accommodation would cause an undue hardship.

Reassignment is considered the university’s accommodation of last resort. As a result, the university will always seek to identify reasonable, effective accommodations in an employee’s current position before considering reassignment.

In addition to reassignment, there may be times when an employee can be voluntarily transferred to a different position if both the employee and receiving department agree to the transfer. A voluntary transfer can be used even where an employee can effectively perform the essential functions of their existing position in order to best accommodate them.

## **B. Eligibility for Reassignment as an Accommodation**

Consistent with federal law, an employee must be “qualified” in order to be eligible for reassignment. An employee is qualified if they:

- (1) have the requisite skill, experience, and meet the other job-related requirements of the position; and,
- (2) can perform the essential functions of the open and available position either with or without reasonable accommodation.

If an employee is unwilling to participate in the reassignment process, or if a position is unavailable by the end of the reassignment process, the ADA Coordinator will refer the employee case to Human Resources, where the process for separation of employment for medical reasons will occur. Similarly, in the event that the ADA Coordinator, or designee, determines that an employee is not qualified for reassignment (and cannot be accommodated in their current position), they will inform the employee of that decision and request that Human Resources process the separation of their employment for

medical reasons. These determinations are not subject to review or reconsideration pursuant to Section V, below.

An employee who requires an indefinite leave of absence is not typically eligible for reassignment because it would not be an effective accommodation.

### **C. Written Notice of Opportunity to Pursue Reassignment**

The decision to offer reassignment to an employee and thus begin the reassignment process will be made in consultation with the Senior Director of Employee and Labor Relations, or designee, and is not subject to review or reconsideration pursuant to Section V, below. The ADA Coordinator, or designee, will provide the employee with a written explanation of the basis for that decision.

Once an employee is moved into the reassignment process, the position they vacated will become open and the department may choose to take any action they deem appropriate (e.g., initiate the hiring process, or restructure, or end the position).

### **D. Timeline for Reassignment and Review of Open Positions**

When an employee agrees to participate in the reassignment process, the ADA Coordinator, or designee, and the employee in partnership will undertake a good-faith effort for a reasonable period of time that generally lasts ninety (90) days to identify a suitable position for their reassignment.

The work experience, skills, and qualifications set forth in the employee's résumé will be used as a starting point to identify potentially suitable vacant positions. For that reason, employees who engage in the reassignment process must provide the ADA Coordinator, or designee, with an electronic or hard copy of their résumé as soon as possible.

The ADA Coordinator, or designee, will review open positions that are equivalent – in terms of responsibility, pay, etc. – to the employee's current job and engage in ongoing discussion about any positions identified. In the event there are no comparable positions

suitable for reassignment then the ADA Coordinator, or designee, will also look for lower-level positions as a reassignment opportunity in a lower salary range and/or with fewer responsibilities.

While the ADA Coordinator, or designee, will bring potentially suitable positions to the individual's attention, the employee is also expected to regularly review the university's jobs website and inform the ADA Coordinator, or designee, immediately if they see any open positions they believe they are qualified and able to perform with or without reasonable accommodation.

If a potentially suitable position is identified then the employee may be asked to send the ADA Coordinator, or designee, a Word Document with answers to any supplemental questions asked of all applicants. This will help assess whether the employee is qualified. At the same time, the ADA Coordinator, or designee, will contact the department to request an opportunity to meet with the supervisor and other appropriate stakeholders to discuss the requirements of the position and review the employee's résumé (the employee's name and other identifying information will be redacted). Following that meeting, if the ADA Coordinator, or designee determines that the position may be suitable for reassignment then they will schedule an opportunity for the employee to meet with the department for an informational interview that may lead to reassignment with the confirmation of all.

Reassignment is not a competitive hiring process. Therefore, if the ADA Coordinator determines after consultation with the supervisor, department head, HR Partner, HR Talent Acquisition team, and/or administrator that the employee is qualified for a particular vacancy, it may be offered to the employee as an accommodation. Should the employee refuse the offered position, the university has no further obligation under the reassignment process and will notify the employee and move forward with the separation of the employee from the university for medical reasons. If no suitable reassignment opportunity is identified during the ninety (90) day reassignment period, then the university will notify the employee and move forward with the separation of the individual's employment for

medical reasons. Medical separation is not a for-cause termination, and it would not preclude the employee from applying competitively for open and available university positions in the future.

## **E. Limits of Reassignment**

While the university will seek to find a suitable opportunity for the employee's reassignment, it is not obligated to create a new position or bump a qualified employee from a position currently occupied in order to effectuate a reassignment.

The ADA Coordinator, or designee, will not consider a promotional opportunity in reassignment; however, the employee can apply for an open position that affords a promotional opportunity while in the reassignment process. Therefore, employees in the accommodation process are encouraged to apply competitively for any promotional opportunities they believe they are qualified to perform either with or without reasonable accommodation.

## **F. Medical Status and Requests for Documentation**

If the employee's medical condition changes during the reassignment period, then they are encouraged to have their provider submit an updated ADA Medical Provider Form to the ADA Coordinator, or designee, for consideration.

Depending upon the requirements of the position, the ADA Coordinator, or designee, may request additional information from the employee's provider in order to assess whether the employee would now be able to effectively perform the essential functions of the position with or without reasonable accommodations.

Updated medical documentation may, in rare cases, alter the decision to move forward in the reassignment process. Generally, however, updated medical information could impact the type of positions considered for reassignment.

## **G. Leave Status, Pay, and Benefits during the Reassignment Process**

An employee in the reassignment process is on a protected leave of absence. This leave may be protected by accrued leave, FMLA/OFLA/PFML, or as an unpaid ADA-protected leave (if the employee has exhausted, or is not eligible for, FMLA/OFLA/PFML).

An employee will remain on pay status for a portion, or the entirety, of the reassignment period if they have accrued paid leave (sick or vacation), advanced unearned sick leave (where applicable), short or long-term disability benefits, or hardship leave (where applicable). For administrative convenience, the department the employee worked in prior to reassignment is responsible for processing any timesheets for paid leave the employee may submit during the reassignment period.

Employees who are engaged in the reassignment process may be eligible for continuing health benefits. For information about eligibility for health benefits, employees should contact Human Resources, Benefits, (541) 346-3159.

## **H. Right to Waive Opportunity to Pursue Reassignment**

Employees may waive the opportunity to pursue reassignment as an accommodation. If an employee chooses to do so, then Human Resources will move forward with processing the medical separation of their employment effective immediately.

The university will also move forward with processing the medical separation of an individual's employment if they fail to respond to the offer to engage in the reassignment process within the time period mentioned in the letter informing them of the opportunity to pursue reassignment (typically one week from the date of the letter).

## **V. Request for Review**

### **A. Reconsideration by the ADA Coordinator**

If the ADA Coordinator chooses not to propose a plan of action, or if the employee does not agree with the recommendation, or if the plan of action is not successful (as determined by

either the employee or the ADA Coordinator), an employee may request reconsideration by the ADA Coordinator.

Usually requests for reconsideration must be accompanied by information that (1) the ADA Coordinator, or designee, overlooked relevant information that would have changed the decision; (2) the ADA Coordinator, or designee, failed to follow these guidelines and the failure to do so substantively changed the outcome of the decision; or (3) the ADA Coordinator's, or designee's, decision was not supported by the information available.

Requests for reconsideration must be submitted to the ADA Coordinator within thirty (30) days of the underlying decision. Upon receipt of the reconsideration request, the ADA Coordinator will review the file and consult with the Senior Director of Employee and Labor Relations prior to issuing a reconsideration decision.

## **B. Other Appeal and Grievance Options**

Employees who are not satisfied with the outcome of their engagement in the accommodation process, may also have grievance rights under their collective bargaining agreement or the employee grievance policy. Employees should consult those policies for applicable deadlines, grievable issues, and instructions for submitting the grievance.

In addition, employees may file a complaint with the Office of Investigations and Civil Rights Compliance if they believe the university has discriminated against them or otherwise failed to comply with its legal obligations to engage in good faith in the interactive process.

Current and former employees may also seek the assistance of outside agencies. The contact information for several relevant agencies – including the EEOC and BOLI – are listed in Section VI, below.

## VI. Additional Resources

### A. Internal Resources

#### 1. UO ADA Process E-Learning

MyTrack E-Learning: [The ADA Accommodation Process at UO](#)

MyTrack E-Learning: [ADA Fundamentals for Supervisors](#)

#### 2. UO Human Resources

Website for [UO Human Resources](#)

Phone Number: (541) 346-3159

Email: [hrinfo@uoregon.edu](mailto:hrinfo@uoregon.edu)

Facsimile: (541) 346-2548

#### 3. UO Human Resources, Employee Leaves

Website for [UO Human Resources, Employee Leaves](#)

Phone Number: (541) 346-3085

Email: [hrleaves@uoregon.edu](mailto:hrleaves@uoregon.edu)

#### 4. UO Safety and Risk Services Ergonomics

Address: 171 Franklin St. Suite 2A, Eugene, OR 97403

Website for [UO Ergonomics](#)

Email: [safety@uoregon.edu](mailto:safety@uoregon.edu)

#### 5. UO Office of Investigations and Civil Rights Compliance

Website for [UO Office of Investigations and Civil Rights Compliance](#)

Phone Number: (541) 346-3123

Email: [oiarc@uoregon.edu](mailto:oiarc@uoregon.edu)

#### 6. UO Ombuds Program

Address: 1685 E. 17th Ave. Eugene, OR 97403

Website for [UO Ombuds Program](#)

Phone Number: (541) 346-6400

Email: [ombuds@uoregon.edu](mailto:ombuds@uoregon.edu)

## **7. Canopy Employee Assistance Program**

Website for [Canopy](#)

Phone Number: (800) 433-2320

Email: [info@canopywell.com](mailto:info@canopywell.com)

## **8. UO Accessibility Resources**

Website for [UO Accessibility](#)

## **9. Digital Accessibility at UO**

Website for [Digital Accessibility @ UO](#)

Email: [ictaccess@uoregon.edu](mailto:ictaccess@uoregon.edu)

## **10. UO Accessible Education Center (AEC)**

Website for [UO Accessible Education Center](#)

Phone Number: (541) 346-1155

Email: [uoaec@uoregon.edu](mailto:uoaec@uoregon.edu)

## **11. UO Center on Human Development (CHD)**

Website for [UO Center on Human Development](#)

Phone Number: (541) 346-3591

Email: [ucedd@uoregon.edu](mailto:ucedd@uoregon.edu)

Facsimile: (541) 346-2594

## **12. Employee Grievance Policies**

- [United Academics \(UA\)](#)
- [Graduate Teaching Fellows Federation \(GTFF\)](#)
- [Service Employee International Union \(SEIU\)](#)
- [University of Oregon Police Association \(UOPA\)](#)



- [Officers of Administration \(OA\)](#)
- [Other unrepresented employees](#)

## **B. External Resources**

### **1. Job Accommodation Network (JAN)**

Website for the [Job Accommodation Network \(AskJAN\)](#)

Email: [JAN@askJAN.org](mailto:JAN@askJAN.org)

### **2. Bureau of Labor and Industries (BOLI)**

Address: 800 NE Oregon Street, Suite 1045, Portland, OR 97232

Website for [Oregon Bureau of Labor and Industries](#)

Phone Number: (971) 673-0761

Email: [boli\\_help@boli.oregon.gov](mailto:boli_help@boli.oregon.gov)

### **3. Equal Employment Opportunity Commission (EEOC)**

Website for [US Equal Employment Opportunity Commission](#)

Phone Number: (800) 669-4000

Email: [info@eeoc.gov](mailto:info@eeoc.gov)

### **4. Lane Independent Living Alliance (LILA)**

Address: 20 E. 13<sup>th</sup> Ave, Eugene, OR 97401

Website for [LILA](#)

Phone Number: (541) 607-7020

Email: [lila@lilaoregon.org](mailto:lila@lilaoregon.org)

### **5. Oregon Commission for the Blind (OCB)**

Address: 535 SE 12<sup>th</sup> Ave, Portland, OR 97214

Website for [Oregon Commission for the Blind](#)

Phone Number: (971) 673-1588

Email: [ocb.mail@ocb.oregon.gov](mailto:ocb.mail@ocb.oregon.gov)

## 6. Northwest ADA Center (ADANW)

Website for the [Northwest ADA Center](#)

Phone Number: (800) 949-4232

Email: [nwadactr@uw.edu](mailto:nwadactr@uw.edu)

## 7. Other ADA Resources

[ADA in Employment Resource List and Guide](#)

# VII. Forms

- [Accommodation Request Form](#)
- [Medical Provider Form](#)
- [Release of Medical Information Authorization Form](#)
- [Support Person Form](#)