

Title: #IV-27. Disability Accommodations for Employees and Job Applicants

Date: October 21, 2019

I. Introduction

- A. As set forth in institutional [Policy A-34](#), *Equal Opportunity, Affirmative Action and Nondiscrimination*, West Virginia University at Parkersburg is committed to creating and maintaining a community where all individuals enjoy freedom from discrimination, including discrimination on the basis of disability. WVU at Parkersburg does not discriminate against qualified persons with disabilities in any of its employment decisions.
- B. These procedures for accommodating employees and job applicants with disabilities are provided in accordance with [Policy A-43](#), *Disability Accommodations*.
- C. Definition of Reasonable Accommodations

According to the Equal Employment Opportunity Commission:

Title I of the Americans with Disabilities Act of 1990 (ADA) requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship. In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

There are three categories of reasonable accommodations:

1. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant seeks; or
2. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
3. Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

II. Application for Employment Process

- A. Applicants who require reasonable accommodations with respect to applying, interviewing, or any other aspect of the hiring process should contact the Human Resources Department to make appropriate arrangements. The Human Resources Department will not disclose confidential information regarding the applicant's disability, and will only share information as necessary to implement the request.
- B. Interviews, teaching demonstrations, and/or any other steps in the application process that require an applicant's presence on campus should be held in locations that are accessible to individuals with mobility impairments.
- C. If the applicant has not given timely notice of the need for an accommodation for an interview, the Human Resources Department will reschedule the interview if this does not create an undue hardship with respect to the search process.
- D. Interviewers may not ask questions or make comments related to an applicant's disability. Interviewers may ask if or how applicants can perform the essential functions of a position, with or without reasonable accommodations. If the applicant mentions during the interview that they have a disability that requires accommodation, the interviewer should state that the college provides reasonable accommodations, but should not inquire further as to the applicant's disability.
- E. After a job offer is made to the applicant, the applicant may be required to submit to a medical examination or answer job-related health questions only if such examinations or questions are required for all individuals performing the same job. If the results reveal that the applicant is unable to perform the essential functions of the position with or without reasonable accommodations, the offer may be rescinded only after consultation with the ADA Coordinator.

III. Employee Process

- A. Employees with disabilities who do not require reasonable accommodations are entitled to privacy with respect to their disabilities. Some disabilities do not need accommodation. For example, if an employee has a disability with an associated 10 lb. lifting restriction and the position does not require lifting, there is no need to request or to arrange for an accommodation of this disability.
- B. If a supervisor or manager suspects that an employee's disability might be the cause of work-related or behavioral issues, the employee should not be questioned with respect to a disability or possible disability. Supervisors or managers may ask such employees, in general terms, whether measures could be arranged to assist the employee.
- C. If an employee has a disability and does require an accommodation, WVUP must provide a reasonable accommodation unless the accommodation poses an undue hardship. An

accommodation is not considered to be reasonable if it removes essential functions of the employee's job. (See definition of essential functions in Policy A-43, *Disability Accommodations*.)

- D. An employee who requires a reasonable accommodation for a disability may make a request directly to a supervisor or manager, or may contact the Executive Director, Human Resources to initiate the interactive process. If a supervisor or manager is notified by an employee that a disability and/or medical condition is causing difficulties with attending or performing the job, this should be treated as a request for reasonable accommodations.
- E. A supervisor or manager who receives a direct or indirect request for reasonable accommodations should promptly consult with the Executive Director, Human Resources. The supervisor or manager may not request or review the employee's medical documentation, and must promptly forward to the Executive Director, Human Resources any medical documentation received.
- F. The Executive Director, Human Resources will determine whether confirmation of the disability is required, and, if applicable, will seek medical documentation of the employee's disability. When the employee's disability is visible, obvious, and/or already known, medical documentation may not be necessary.
- G. Upon request, the employee will provide to the Executive Director, Human Resources any appropriate documentation needed to establish the disability, including the functional limitations of the condition and/or a clear explanation of the need for a reasonable accommodation, which may substantiate any recommendations for accommodating the employee.
- H. The Executive Director, Human Resources will review the job description, including the essential functions of the position, the employee's functional limitations, and other relevant information for developing recommendations for reasonable accommodations. The Executive Director may also review an employee's medical documentation, as necessary, to verify the need for related medical leave.
- I. The Executive Director, Human Resources will facilitate the interactive process by holding discussions with the employee and the supervisor to determine whether the employee who otherwise satisfies the requisite skill, experience, education and other job-related requirements is able to perform the essential functions of the position, with or without reasonable accommodation. The interactive process will involve communications with all parties to determine whether there are reasonable accommodations to enable the employee to perform the essential functions of the job, or to meet job-related requirements.
- J. The Executive Director, Human Resources will provide a recommendation as to reasonable accommodations for the employee based upon information provided by both the employee and the supervisor or manager. If a supervisor or manager believes that a recommended accommodation would present an undue hardship, the department may recommend an alternative accommodation to the one requested by an employee if it can

be determined that the alternative accommodation effectively allows the employee to perform the essential functions of his/her position, and provides the same privileges and benefits as those enjoyed by other employees.

- K. If an accommodation is reasonable and agreed upon, the respective parties (employee, supervisor) will be advised, and accommodation will take effect. The accommodations will be documented and communicated in writing to the employee and supervisor by the Executive Director, Human Resources.
- L. Complaints, disagreements, or issues concerning the provision or denial of accommodations should be brought to the attention of the ADA Coordinator. An employee who has been denied an accommodation may file a discrimination complaint with the ADA Coordinator in accordance with Answer Book #IV-21, *Procedures Regarding Harassment and Discrimination Complaints*.

IV. Confidentiality

- A. Under the Rehabilitation Act, information obtained in connection with the reasonable accommodation process must be kept confidential. Any details of an accommodation request, whether it has been approved, and information about functional limitations, all must remain confidential. This includes all medical information that is obtained in connection with a request for reasonable accommodation, which must be kept by the Executive Director, Human Resources in a file separate from an employee's personnel file. Whether this information is kept in a paper or digital format, it must be stored so that only the Executive Director, Human Resources or a designee has direct access to it.
- B. Any medical documentation that someone other than the Executive Director, Human Resources receives as part of the reasonable accommodation process (for example, a letter from a health care provider to a supervisor), must be forwarded to the Executive Director, Human Resources to become part of the file on this request. Only the Human Resources Office, and not supervisors or others, should retain copies of this documentation.
- C. The Executive Director, Human Resources may share certain information with an employee's supervisor or other college staff, as necessary, to make appropriate determinations on an employee's reasonable accommodation request. If at any time it becomes necessary to reveal the name of the individual requesting reasonable accommodation, the Executive Director, Human Resources will inform the recipient about these confidentiality requirements.

D. Disclosures, Including Medical Information

In addition to disclosures of information needed to process a request for accommodation, disclosures that may include medical information are permitted as follows:

1. first aid and safety personnel may be told *if* the disability might require emergency treatment or assistance in evacuation;

2. worker's compensation officials may receive medical information in order to process or evaluate claims for this benefit;
3. the college ADA Coordinator and external government officials may be given information necessary to investigate the college's compliance with the Rehabilitation Act;
4. otherwise, in all other instances, medical documentation will not be shared without permission from the employee.

V. Complaints

- A. If an employee or applicant for employment believes they have been denied a reasonable accommodation or discriminated against on the basis of their disability, they may file a complaint with the ADA Coordinator:

Debbie Richards, ADA Coordinator
Room 1010
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
E-mail: Debbie.Richards@wvup.edu
Telephone: (304) 424-8201
FAX: (304) 424-8302

- B. Individuals also have the right to file a charge of discrimination with the appropriate state or federal enforcement agency, subject to applicable time limitations, or to consult an attorney at their own expense. It is not necessary to pursue college complaint procedures before filing an external complaint. State and federal enforcement agencies include:

West Virginia Human Rights Commission
1321 Plaza East – Room 108
Charleston, WV 25301
Telephone: 304-558-2616
Toll Free: 888-676-5546
FAX: 304-558-0085
Website: <https://hrc.wv.gov/>

United States Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 866-408-8075
Fax: 215-440-2606
TTY: 800-669-6820
Website: <http://www.eeoc.gov/>

Responsible Administrator: Executive Director, Human Resources, 304-424-8212