

UWM REASONABLE ACCOMMODATION POLICY AND PROCEDURES

No: 45.1

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UWM Administration

Date: December 1996

I. STATEMENT OF PURPOSE

It is the policy of the University of Wisconsin-Milwaukee (UWM) to provide reasonable accommodations for qualified disabled individuals who are employees or applicants for employment. UWM will abide by all applicable federal and state laws, regulations, rules, and guidelines regarding the provision of reasonable accommodations required to afford equal employment opportunity to qualified disabled individuals. Such accommodations will be provided in a timely and cost-effective manner. Employment opportunities shall not be denied because of the need to make reasonable accommodations to an individual's disability.

THIS POLICY SHALL BE APPLICABLE TO ALL UWM EMPLOYMENT CLASSIFICATIONS, WHETHER CLASSIFIED OR UNCLASSIFIED.

II. DEFINITIONS

A. An **Individual with a Disability** is one who:

1. Has a physical or mental impairment which substantially limits a major life activity or the capacity to work; or
2. Has a record of such impairment; or
3. Is perceived or regarded as having such an impairment.

B. A **Qualified Individual with a Disability** is one whose experience, education and/or training enable the person, with or without reasonable accommodation, to perform the essential functions of the job.

C. A **Reasonable Accommodation** is an effort on the part of the employer to accommodate an individual's disability by making adjustments to the application process, the job or the work environment which will enable that individual to interview for or perform the essential functions of the job, but which does not involve undue hardship to the employer.

Reasonable accommodations may include, but are not limited to, making facilities accessible, adjusting work schedules, providing assisting devices or equipment, or modifying work sites.

- D. An **Undue Hardship** refers to any accommodation that would be unduly costly, extensive, substantial or disruptive or that would fundamentally alter the nature or operation of the business.
- E. The **Essential Functions** are those job duties which are primary or intrinsic to a given position. They do not include those duties which are marginal or incidental to the position.

NOTE: A reprint of relevant statutory definitions relating to these terms is appended to this policy as Appendix A.

III. PROCEDURES TO REQUEST ACCOMMODATIONS

A. Applicants for Employment

1. All applicants who are invited to interview or to take an employment examination at UWM will be informed, at the time of such invitation, of the UWM policy to provide reasonable accommodations for applicants and employees with disabilities.
 - a. Applicants for **classified** positions who receive a written letter of invitation will have the following paragraph included in the letter:

“It is the policy of UWM to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. If you need assistance or accommodation to interview (or to test) because of a disability, please contact me at (phone number of person signing letter). Employment opportunities will not be denied because of the need to make reasonable accommodations for an individual’s disability.”
 - b. Applicants for **classified** positions who receive invitations by telephone to interview or test will be informed of the foregoing information at the time of invitation.
 - c. Applicants for **unclassified** positions who receive a written letter of invitation to interview will have the following paragraph included in the letter:

“It is the policy of UWM to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. If you need assistance or accommodation to interview because of a disability, please contact me at (phone number of person signing letter). Employment opportunities will not be denied because of a need to make reasonable accommodations for an individual’s disability.”

- d. Applicants for **unclassified** positions who receive invitations by telephone to interview will be informed of the foregoing information at the time of the invitation.
- e. Applicants for either classified or unclassified positions may request accommodations for the interview process orally by contacting the individual responsible for the interview or test. If accommodations are made, the applicant must document the accommodation by filling out a Disability Accommodation Request Form. Copies of the completed Request form shall be forwarded to Human Resources and to the ADA Coordinator.

2. Interviews.

- a. If applicants are to be asked questions regarding their ability to perform specific job duties, all applicants must be asked the same questions. These questions may be prefaced with a statement regarding UWM’s willingness to make reasonable accommodations. **Applicants may not be asked whether they have a disability, or any other questions related to their health, physical condition or disabilities.**
- b. An applicant may be asked about his or her ability to perform job-related functions, such as, “Do you have the ability to perform all the duties of this job?” or, “Is there anything which would prevent your performing all the duties of this job?”
- c. If an applicant indicates in the interview process that he or she has a disability or that he or she does or may need an accommodation, follow-up questions regarding **the job-related impact** of any such disability or accommodation may be asked.

3. Offers.

a. A qualified individual with a disability who is an applicant for a position will not be denied employment solely on the basis of a need to provide reasonable accommodation. Nevertheless, the employment may be offered conditioned upon the employer's ability to reasonably accommodate.

b. If a qualified individual with a disability has been given an offer conditioned on the employer's ability to accommodate and such accommodation is being investigated, the notice to the selected candidate may state:

“It is the policy of UWM to comply with state and federal law regarding employees and applicants for employment with disabilities. A physical or mental disability does not constitute an automatic bar to employment and will be considered only as it relates to your ability to perform the job in question. Employment opportunities will not be denied because of the need to make reasonable accommodations.”

c. An applicant may be rejected due to disability **only if**:

- 1) He or she is unable to perform the job functions even with a reasonable accommodation; OR
- 2) He or she can perform the job functions but it is highly probably that the disabling condition will be hazardous to others or will cause further injury to him- or herself.

B. Employees.

1. Employees will receive notice of their right to request reasonable accommodations through the notification of the biennial self-identification process.
2. **All requests for workplace accommodations must be made in writing** using a Disability Accommodation Request Form, even if the employee provides for his or her own accommodation. The requirement applied to both employees and applicants who have received offers.

IV. THE DECISION-MAKING PROCESS

A. The Process.

1. An employee requesting an accommodation must fill out a Disability Accommodation Request Form and submit it to the Dean, Division head (or his or her designee) of a school/college/division or Director (or his or her designee) of an administrative department.
2. The Dean, Division head, Director or designee will review the request, consulting with the employee, the Personnel Representative for the school/college/division, the Unit Business Representative for the school/college/division, the Department of Human Resources, the employee's supervisor, and/or anyone else with knowledge or information regarding the request referred to in item 4 below.
3. If the Dean, Division head, Director or designee agrees to grant the request, a record of such determination shall be submitted for approval to the campus ADA Coordinator prior to implementation. If the Dean, Division head, Director or designee is contemplating denial of the request or does not have appropriate funding to grant it, the request shall be submitted to the campus ADA Coordinator for further consideration.
4. The following factors must be considered in determining the feasibility and reasonableness of any request for accommodation:
 - a. Is medical verification of the disability appropriate?
 - b. Are the job functions for which the accommodation is requested essential?
 - c. Is the applicant or employee otherwise qualified to perform the essential job functions?
 - d. Does the requested accommodation achieve the desired result of allowing the individual to perform the essential job functions?
 - e. Will the accommodation adversely affect the productivity or work environment of other employees?
 - f. Is the cost feasible within the budget of UWM? If not, can funding be obtained from another source?

- g. Are there other cost-effective options which will allow the individual to perform the essential functions of the job?
 - h. Is the request for equipment which will principally benefit job performance, or is it primarily something of a personal nature that an individual could be expected to provide?
 - i. If an employee has developed or acquired a disability and the employer cannot make the present job possible with reasonable accommodation, is there alternative placement either within UWM or elsewhere within the UW System?
- 5. The employee will be informed of the decision regarding the accommodation request in writing within 30 days unless the time limit is waived by mutual agreement.
- 6. Employees may be given the opportunity to provide for their own accommodations. A Disability Accommodation Request Form must be filed.
- 7. In all cases, the Disability Accommodation Request Form will be distributed with copies to the employee, the ADA Coordinator, an agency confidential file, and the DER/DAA. Copies of the Form are not to be included in the employee's official Personnel file (P-file).
- 8. A list of technical resources for identifying the most appropriate accommodation is appended to this policy as Appendix B.
- 9. Once an accommodation is made, the individual school/college/division or department shall monitor such accommodation periodically to determine if it is still the most reasonable and effective. Such monitoring shall be done on not less than an annual basis.

5. THE APPEAL PROCESS

- A. This process applies only to employees.
- B. If an employee is dissatisfied with the determination made by his or her school/college/division, he or she may appeal that determination for either formal or informal resolution under the UWM Discriminatory Conduct Policy, No. S-47. Such complaints should be brought to the Office of Equity/Diversity Services. The procedures contained in that policy are appended hereto, or are available from

Equity/Diversity Services, Mitchell Hall 359, or a representative of the Office of Equity/Diversity Services will arrange to meet with the complainant at an accessible location.

APPENDIX A
STATUTORY REFERENCES FOR DEFINITIONS

The Wisconsin Fair Employment Act, 111.31 et. Seq. Wis. Stats. defines a “handicapped individual” as follows;

- 111.32 (8) “Individual with a disability” means an individual who:*
- (a) Has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work;*
 - (b) Has a record of such impairment; or*
 - (c) Is perceived as having such an impairment.*

Section 3, sub. (2) of the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) defines disability as follows;

- (2) DISABILITY.- - The term “disability” means, with respect to an individual - -*
- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;*
 - (B) a record of such impairment; or*
 - (C) being regarded as having such an impairment.*

The Rehabilitation Act of 1973, 29 USC sec. 701 et seq. 504 defines a handicapped person to be someone who:

- (1) has a mental or physical impairment which substantially limits one or more of such person’s major life activities;*
- (2) has a record of such impairment; or*
- (3) is regarded as having such an impairment.*

Section 101, sub. (8) of the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) defines qualified individual with a disability as follows;

- (8) QUALIFIED INDIVIDUAL WITH A DISABILITY.- - The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.*

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Section 101, sub. (9) of the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) defines reasonable accommodation as follows;

(9) REASONABLE ACCOMMODATION.- - The term “reasonable accommodation” may include- -

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Sec. 101, sub. (10) of the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) defines undue hardship as follows;

(10) UNDUE HARDSHIP

(A) IN GENERAL.-- The term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED. -- In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered includeB

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

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The proposed rules to the Americans with Disabilities Act of 1990 define essential functions as follows;

(n) Essential functions. -- (1) In general. The term "essential functions" means primary job duties that are intrinsic to the employment position the individual holds or desires. The term "essential functions" does not include the marginal or peripheral functions of the position that are incidental to the performance of the primary job functions.

(2) A job function may be considered essential for any of several reasons, including but not limited to the following:

(i) The function may be essential because the reason the position exists is to perform that function;

(ii) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or

(iii) The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(3) Evidence that may be considered in determining whether a particular function is essential includes but is not limited to:

(i) The employer's judgment as to which functions are essential;

(ii) Written job descriptions prepared before advertising or interviewing applicants for the job;

(iii) The amount of time spent on the job performing the function;

(iv) The consequences of not requiring the incumbent to perform the function;

(v) The work experience of past incumbents in the job; and/or

(vi) The current work experience of incumbents in similar jobs.

**APPENDIX B
TECHNICAL ASSISTANCE RESOURCES**

1. The employee and his or her physician should be the first resource when an accommodation is under consideration.
2. The UWM Office of Equity/Diversity Services, Mitchell Hall 395. (414) 229-5923.
3. The UWM Office of the ADA Coordinator. (414) 229-5419.
4. State of Wisconsin, Department of Administration, Disabled Services Coordinator, 101 East Wilson, 8th Floor, Madison, WI 53702. (608) 267-0509.
5. State of Wisconsin, Division of Vocational Rehabilitation. The following are the offices of the field office supervisors for the Milwaukee area:

555 West Layton Avenue
Suite 430
Milwaukee, WI 53207
Ph 414/769-5700
TTY 414/769-5704
Fax 414/769-5725

9401 West Beloit Road
Milwaukee, WI 53227
Ph 414/546-8340
TTY 414/546-8354
Fax 414/546-8362

429 West North Avenue
Milwaukee, WI 53212
Ph 414/267-2270
TTY 414/267-2277
Fax 414/267-2288

6830 West Villard
Milwaukee, WI 53218
Ph 414/438-4860
TTY 414/438-4869
Fax 414/438-4885

Statewide information and referral. 800/442-3477

6. Easter Seal Society of Wisconsin. Assistance for persons with physical disabilities.

101 Nob Hill Road, Ste 301
Madison, WI 53713
Ph 608/277-8288
TTY 608/277-8031
Fax 608/227-8333
Toll Free 800/422-2324

7. Job Accommodation Network (JAN). Computerized database of accommodation information relating to employment.

West Virginia University
PO Box 6080
Morgantown, WV 26506
800/526-7234
website: janweb.icdi.wvu.edu

8. US Department of Health and Human Services

Susan Krohn (Acting Director)
Region V
233 North Michigan Avenue
Suite 1300
Chicago, IL 60601
Ph 312/353-5160 or 312/353-5132
Fax 312/353-4144