



POLICY 06:40:00
AMERICANS WITH DISABILITIES
ACT AMENDMENTS ACT
(ADAAA)

I. Introduction

The Americans with Disabilities Act Amendments Act (ADAAA) was enacted in 2008. The Act “emphasizes that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADAAA and generally shall not require extensive analysis.” The Act prohibits discrimination in employment (both employees and applicants for employment) against qualified persons with a disability.

II. Definition of a Disability

Under the ADAAA, an individual with a disability is a person who:

- A. has a physical or mental impairment that substantially limits one or more major life activities;
- B. has a record of such an impairment; or
- C. is regarded as having such an impairment.

III. Qualified Individual with a Disability

An individual with a disability must also be qualified to perform the essential functions or duties of the job, with or without reasonable accommodation, in order to be protected under the ADAAA. The applicant or employee must satisfy all job requirements (education, experience, skills, licenses, etc.) and must be able to perform the essential functions of the job, with or without a reasonable accommodation.

IV. Reasonable Accommodation

- A. Per the Equal Employment Opportunity Commissions (EEOC), *A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.*
- B. The obligation to provide a reasonable accommodation applies to all aspects of employment, is ongoing, and may arise any time that a person’s disability or job changes.
- C. The College cannot deny an employment opportunity to a qualified applicant or employee because of the need to provide a reasonable accommodation, unless it would cause an undue hardship.
- D. The College does not have to provide an accommodation for an individual who is not otherwise qualified for a position.
- E. Generally, it is the obligation of the individual with a disability to request a reasonable accommodation. However, any time an employee indicates he/she is having an issue related to a medical or other disabling condition, the supervisor should consider whether or not the problem appears to be related to a medical or other disabling condition. The supervisor should ask the employee to clarify, and if applicable, refer the employee to the director of Human Resources for discussion. An interactive process with relevant parties (employee, supervisor, and Human Resources) will be used to determine a suitable accommodation, when needed.
- F. A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the accommodation, he/she may not be qualified for the job.

- G. In rare situations where the cost of an accommodation would impose an undue hardship on the College, the individual should be given the option of providing the accommodation or paying that portion of the cost which would constitute an undue hardship.

V. Undue Hardship

Undue hardship means that the accommodation would require significant difficulty or expense. Among the factors considered in determining whether an accommodation is an undue hardship are the nature and cost of the accommodation, the College's size, financial resources, type and location of facilities of the employer, and the nature and structure of its operation. If a particular accommodation would be an undue hardship, the College must try to identify another accommodation that will not pose such a hardship.

VI. Nondiscrimination

The ADAAA does not interfere with the College's right to hire the best-qualified candidate or impose any affirmative action obligations. The ADAAA simply prohibits discrimination against a qualified applicant or employee because of his or her disability.

VII. Procedures for Requesting an Accommodation

- A. To the extent possible, all information and documentation will be kept confidential.
- B. The employee must submit current documentation of a disabling condition(s) from a licensed professional who is considered qualified to diagnose the type of disability disclosed by the employee. The documentation should address the functional limitations of the disabling condition(s) within the employee's work environment.
- C. Once completed, the licensed professional must return the form to the director of Human Resources for review.
- D. The director of Human Resources, in consultation with the supervisor(s), will evaluate the request in relation to the impact on the operation of the department and the cost to the College.
- E. After evaluation, the director of Human Resources will write a memo to the President outlining the request and the possible accommodation(s). A copy will be sent to the supervisor(s).
- F. If the President approves the request, the memo will be sent to the employee for acceptance/refusal. If the employee refuses the accommodation, the employee may be considered not qualified for the position.
- G. All documentation must be submitted to the director of Human Resources (not the supervisor) and will be kept in the employee's confidential medical file.

Approved: President Allen G. Edwards, November 1, 2004

Approved: President Allen G. Edwards, January 31, 2005

Editorial Changes, May 15, 2009

Reviewed/Recommended: President's Staff, June 1, 2009

Approved: President Allen G. Edwards, June 1, 2009

Reviewed/Recommended, President's Council, August 25, 2014

Approved President L. Anthony Wise Jr., August 25, 2014