General Information

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Qualified Individual with a Disability

Definition: Employers must provide reasonable accommodation to a qualified person with a covered disability. A qualified person is one who, with or without reasonable accommodation, can perform the essential functions of a job.
A qualified person meets the following criteria:

Individual satisfies minimum qualifications established for the position, including:

- Education and Training
- Academic Degrees
- Licenses or Certifications
- Employment Experience
- Specific Job Skills
- Professional Affiliations

Individual has a known mental or physical disability covered by the Americans with Disability Act (ADA) and can perform the essential functions of the job with or without a reasonable accommodation.

Reasonable Accommodation

Definition: A modification or adjustment required by Title I of the ADA which enables a qualified individual with a disability to apply for a job, or to perform the essential functions of a job that does not result in "undue hardship" to the employer given the size of business, type of operation, nature and cost of accommodation. Generally, 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.

What **is** a reasonable accommodation?

- Change in existing facilities to make them accessible and usable.
- Acquisition or modification of equipment or devices

- Part time or modified work schedule
- Job restructuring
- Adjustments or modifications or training materials or policies

What **is not** a reasonable accommodation?

- Alteration of essential nature of job
- Reassignment of person to permanent "light duty" position
- Supply of personal benefit items such as hearing aide or glasses

Process: Reasonable accommodations are determined on a case-by-case basis following the University's reasonable accommodation process. For more information, contact the University EO/Disability Specialist – Carol Wagner, 588-7813 (voice), 588-7963 (TTD), cwagner@kumc.edu

"Effective" Reasonable Accommodation

A modification or adjustment satisfies the reasonable accommodation obligation if it is "effective." In the context of job performance, this means that a reasonable accommodation enables the individual to perform the essential functions of the position. Similarly, an effective accommodation will enable an applicant with a disability to have an equal opportunity to participate in the application process and to be considered for a job. Finally, a reasonable accommodation will be effective if it allows an employee with a disability an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy.

Example: An employee with a hearing disability must be able to periodically contact the public by telephone. The employee proposes that he use a TTY to call a relay service operator who can then place the telephone call and relay the conversation between the parties. This is a reasonable accommodation because it is effective. It enables the employee to communicate with the public.

Example: A cashier easily becomes fatigued because of lupus and, as a result, has difficulty making it through her shift. The employee requests a stool because sitting greatly reduces the fatigue. This reasonable accommodation is effective because it removes a workplace barrier "being required to stand" and thus gives the employee the opportunity to perform as well as any other cashier.

Relationship between Reasonable Accommodation and Essential Duties

- When applicant/employee with a disability requests an accommodation, the essential duties, physical and mental/cognitive requirements of the position are reviewed.
- Consider how the individual's condition impacts their ability to perform the job. Then determine if an effective reasonable accommodation is possible.

- Reasonable accommodation does not require eliminating essential duties.
- Reasonable accommodation does not require reassigning an essential duty to other employees.
- There is no obligation to provide an accommodation that is not effective in enabling applicants/employees to perform essential duties.
- Quality and quantity of work standards should not be lowered.

Undue Hardship Issues

Undue hardship refers not only to financial difficulty, but also to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. To determine if the requested accommodation would create an undue hardship, the resources and circumstances of the particular employer are evaluated in relationship to the cost or difficulty of providing a specific accommodation. An employer must assess on a case-by-case basis whether a particular reasonable accommodation would cause undue hardship.

An employer does not have to provide a reasonable accommodation that would cause an "undue hardship" to the employer. Generalized conclusions will not suffice to support a claim of undue hardship. Instead, undue hardship must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including:

- the nature and cost of the accommodation needed;
- the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility;
- the overall financial resources, size number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity);
- the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer; and
- the impact of the accommodation on the operation of the facility.

Essential Functions

Definition: Duties which the applicant or employee must be able to perform, with or without an accommodation, in order to be considered qualified for the job. Typically, an essential function meets the following tests:

- is a primary, fundamental purpose of the job

- is actually performed
- if removed, would fundamentally alter the job
- usually occupies a large percentage of an employee's time
- can require special expertise or skills

Examples:

- **Receptionist**: communicating with callers and visitors, providing information
- **Computer Programmer**: developing software using COBOL and C language
- **Clinical Faculty**: providing training by demonstrating clinical activities, observing and evaluating trainee performance
- **Academic Faculty**: teaching and evaluating students, undertaking scholarly activities, participating in community service
- **Utility Worker (Mover)**: moving furniture, heavy equipment, chemicals, construction materials; completing daily paperwork regarding work performed and job status
- **Supervisor**: providing day-to-day direction and work review, appraising performance and organizing work schedules for one or more subordinates

Marginal Functions

Definition: Duties which are secondary to the purpose of the position. Individuals who cannot perform these functions, with or without an accommodation, can still be considered qualified for the job. Generally, marginal functions meet the following tests:

- are secondary and less significant than essential functions
- may or may not actually be performed
- if removed, would not significantly alter the position
- usually occupy a small percentage of an employee's time
- generally do not require special expertise or skills
- may be easily reassigned or modified (This element is generally unit-specific. Answering the phone may be essential for a secretarial position in a small office because the duty cannot be reassigned; in larger offices with multiple secretarial positions, answering the phone might not be essential for each position.)

Examples:

- **Receptionist**: caring for plants, arranging refreshments for meetings, ordering business cards for new employees
- **Computer Programmer**: reviewing technical publications for new software products
- **Faculty**: grading multiple choice exams
- **Utility Worker (Mover)**: disassembling and reassembling furniture, crates, modular equipment
- **Supervisor**: serving as back up receptionist, ordering supplies

Equal Opportunity Office
University of Kansas Medical Center
1040 Wescoe Pavilion
3901 Rainbow Boulevard
Kansas City, KS 66160
913-588-1206 (voice)
913-588-7963 (TDD)
913-588-1224 (fax)