

## Procedure for Accommodating Individuals with Disabilities

### Procedure Definitions Purpose

It is the policy of the University of Maine System to provide reasonable accommodations for qualified individuals with disabilities. Federal law (the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990) and state law (the Maine Human Rights Act) establish the rights of individuals with disabilities. These laws provide that recipients of federal funds, employers, and places of public accommodation shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified person with a disability. Refusal to provide reasonable accommodation constitutes illegal disability discrimination and creates legal liability for the University. An accommodation is not reasonable, however, if it imposes an undue hardship.

Universities shall comply with all applicable federal and state laws and regulations regarding reasonable accommodations needed to provide equal opportunity to qualified individuals with disabilities. A qualified individual with a disability is a person who, with or without reasonable accommodation, can perform the essential functions of a job or meet essential program or course requirements. The University is required to make courses, programs, activities, and services that are offered at any university or off-university location accessible to qualified individuals with disabilities unless to do so would create an undue burden or cause a fundamental alteration of the program. The University is also required not to discriminate in employment on the basis of disability unless accommodation would impose an undue hardship on the University. Reasonable accommodation shall be provided in a timely, cost-effective manner. The essential functions of a job or essential requirements of an academic course or program need not be modified to accommodate an individual with a disability.

University faculty and staff bear a special responsibility for responding to the needs of individuals with disabilities. The attitude and responsiveness of faculty and staff with whom individuals with disabilities interact often determine, even more than physical barriers, the degree of access they feel they have to University programs, services, and employment. The actions of faculty, staff, and supervisors in responding to accommodation requests also raise legal implications for the University.

The following procedure should be used in responding to requests for accommodation of an individual with a disability.

A list of resources for accommodation requests at each University is available [here](#).

### Procedure

1. Each university has designated one or more staff who are responsible for providing information and services and for monitoring university compliance related to individuals with disabilities. The last page of this procedure lists the contacts at each university. A supervisor, administrator, or faculty member should contact the appropriate university staff person when a request is received to accommodate an individual with a disability if:
  - a. There are questions or concerns about services, means of accommodating someone with a disability, verification of a disability, or responsibility for responding to the needs of a person with a disability; and /or
  - b. Accommodation would or might alter the essential functions of a job or the essential requirements of an academic course or program.
2. Requests for accommodation may be initiated by an individual who needs an accommodation; a supervisor, faculty member, or other staff member in whose area an accommodation is requested; or the Equal Opportunity Officer, Services for Disabled Students Counselor, 504 or ADA Coordinator, or other staff person who has been assigned responsibility for providing services or monitoring compliance related to individuals with disabilities.

For an employee or job applicant, a request can be made during the search process or at any time after hiring. For a student or applicant for admission, a request can be made during the application process or at any time after admission.

Students and employees with disabilities are encouraged to speak directly to faculty or their supervisor regarding accommodation needs within classes or the workplace. Faculty and supervisors are encouraged to consult with their department chair, director, or other appropriate administrator and with the appropriate university resource person for help in exploring possible accommodations.

All requests should be documented and processed as expeditiously as possible. Note: Accommodations are the responsibility of the university which has administrative responsibility for the location, center, or site.

3. Once a qualified individual with a disability has requested an accommodation, the University will take steps to determine an appropriate accommodation. The appropriate reasonable accommodation is best determined through a flexible, interactive process that involves both the individual with a disability and the faculty member or supervisor to whom the request is directed, and may include the designated university contact who can serve as a resource. **Early consultation with the designated university contact is essential whenever questions of compliance or funding for an accommodation are involved.** The interactive process to determine a reasonable accommodation involves the following steps:
  1. Analyze the job, course, or program involved to determine its purpose and essential functions or requirements;
  2. Talk with the individual with a disability to identify the precise job-related or education-related limitations imposed by the person's disability and how these limitations could be overcome with a reasonable accommodation;
  3. Involve the individual with a disability in identifying a range of potential accommodations and assessing the effectiveness each would have in enabling the individual to perform the essential functions of the position or to meet essential program or course requirements; and
  4. Considering the preference of the individual, select and implement an effective accommodation that is most appropriate for the individual and the University.

Final responsibility for selection of the most appropriate accommodation rests with the University.

An individual with a disability will be expected to meet job performance standards or course or program standards whether or not an accommodation is needed. However, an individual with a disability who can meet these standards in a different way than is customary will be provided with a reasonable accommodation to enable the individual to do so.

4. Faculty and supervisors may approve requested accommodations if cost of the accommodation to the University is minimal and will be paid from the departmental budget, and if there is no effect on departmental or University schedule of operations or the assignments of other employees or students.
5. If a mutually acceptable accommodation cannot be found or if requested accommodations involve more than a minimal cost or affect the schedule of operations or the assignments of other individuals, faculty and supervisors should consult with their supervisor and must contact the designated university staff person responsible for providing services, managing the university accommodations budget, and/or monitoring compliance (see list on last page). *No request should be denied prior to review by the designated university staff person.*
6. The designated university staff person will determine whether the requested accommodation is

reasonable based on relevant laws and regulations. It may be necessary to request a statement from the individual's health care provider identifying the specific condition, limitations or restrictions, and suggested accommodations. In compliance with Federal law, health care providers are informed not to provide genetic information. The University reserves the right to require a second medical opinion if additional information is needed to evaluate the requested accommodation.

7. The individual with a disability will be notified about the response to the request as promptly as possible. If the request is approved, the accommodation will be provided as promptly as possible. If the decision is that the request should be denied on the basis that accommodation would impose an undue financial hardship on the institution, the request will be forwarded to the ADA Coordinator in the System Office for review by the appropriate members of the System ADA Committee before the individual is notified.
8. Departments that offer programs or events which are open to the public are strongly encouraged to invite participants with disabilities to request in advance any accommodations needed to allow them to participate. Public events and programs include, for example, non-credit courses, public lectures and cultural events, graduation, and athletic competitions. Brochures, registration forms, press releases, and posters announcing public programs and events should include a statement such as: "Any person with a disability who needs accommodations for this program should consult the [Resource Guide](#) to discuss their needs." Registration forms may state: "If you are a person with a disability and will need any accommodations for the program, please check this box and a representative of the sponsoring department will contact you to discuss your accommodation needs." Each university may establish and publicize a policy regarding how long in advance of a public program or event requests for accommodation must be made. The amount of lead time required must be reasonable and should be no longer than needed to arrange the accommodation.
9. Anytime that non-reappointment or other adverse action involving an employee is being considered, a review should be conducted to determine whether the employee may have a disability that is affecting job performance. If the supervisor has reason to believe that a disability may be involved, the supervisor should ask the employee if an accommodation is needed. If no disability exists or if it is not affecting job performance, the University may proceed with the disciplinary or non-reappointment process. If an employee's disability is affecting the performance of marginal functions of the job, a reasonable accommodation should be made to enable the employee to perform these functions, or the functions should be eliminated from the job. If a disability makes an employee unable to perform essential functions of the job even after all possible accommodations have been considered, the University must reassign the employee to a vacant position if the employee is qualified for the job and the job is available within a reasonable amount of time. If no job is available for which the employee is qualified, the University may proceed with the termination or non-reappointment process.

## Definitions

### Individual with a Disability

Any person who has a physical or mental impairment, has a record of such impairment, or is regarded as having an impairment, that:

- Substantially limits a major life activity such as seeing, walking, or working; or
- Significantly impairs physical or mental health for six months or more; or
- Requires special education, vocational rehabilitation, or related services; or
- Is on a list of health conditions established by Maine law.

### **Qualified Individual with a Disability**

An individual with a disability whose experience, education and/or training enable the person, with or without reasonable accommodation, to perform the essential functions of the job or fulfill the essential requirements of an academic course or program.

### **Reasonable Accommodation**

Any change in the work or educational environment or in the way things are customarily done that enables an individual with a disability to have equal employment or educational opportunities. This term may include:

1. making existing facilities and programs used by employees or students readily accessible to and usable by individuals with disabilities; and
2. for employees: for example, job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of training materials or policies, providing qualified readers or interpreters;
3. for students: for example, relocating classes, developing alternate testing procedures, providing educational auxiliary aids, readers, or interpreters.

### **Undue Burden, Undue Hardship**

(not identical but very similar terms) - An action that requires significant difficulty or expense or that would fundamentally alter the nature or operation of a job or program. Determining whether an accommodation is "reasonable" or would impose an undue burden or undue hardship requires some subjective judgment. Factors to be considered include:

- the nature and cost of the accommodation needed;
- the overall financial resources of the university in providing reasonable accommodation; the number of employees at the university;
- the effect on expenses, resources, or other operations of the accommodation;
- the overall financial resources of the University System; the number of employees of the System; the number, type, and location of its facilities;
- the impact of the accommodation on university operations, including the impact on the ability of other employees to perform their duties and the impact on the university's ability to conduct business.

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