



## Policy

Title:	Disabilities Accommodations for Employees
Effective Date:	June 1, 2016
Approved By:	President's Council
Responsible Party:	Vice-President of Human Resources
History:	
Related Documents: Faculty Grievance Procedures; Time Away from Work Policy (Excluding Academic and Bargaining Unit Staff) ; Collective Bargaining Agreements (for bargaining unit employees); Disability Accommodation Request Form; Americans with Disabilities Act of 1990; Americans with Disabilities Act Amendments of 2008 ; Rehabilitation Act of 1973 (Section 504)	

### I. PURPOSE

Salus University is committed to diversity and nondiscrimination. In accordance with that commitment, the University strives to provide an environment that is free from all discrimination, including discrimination on the basis of disability for all employees.

(Student disability accommodations are handled by the Office of Academic Success.)

### II. DEFINITIONS

**Note:** *These definitions are taken from applicable federal and state law.*

**Accommodation Request:** The process of requesting a reasonable accommodation based on a qualified disability.

**Disability:** As defined by the Americans with Disabilities Act (ADA): A physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

**Note:** To qualify as a disability under the ADA, the impairment must be permanent or of extended duration.

**Essential Function:** (Defined by the ADA) A fundamental job duty of an employment position held or sought by a person with a disability (the term "essential function" does not include any marginal functions of a particular position).

A job function may be considered essential for any of several reasons, including, but not limited to the following: (1) the function may be essential because the reason the position exists is to perform that function, (2) the function may be essential because of the limited number of faculty and staff available among whom the performance of that job function can be distributed, and/or (3) 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.

***Has a Record of Such an Impairment*** (Defined by the ADA): Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

***Is Regarded as Having Such an Impairment*** (Defined by the ADA): (a) Has a physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting a substantially limiting impairment, (b) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, (c) has no physical or mental impairment but is treated by an employer as having a substantially limiting impairment.

Although an individual may have an impairment that does not in fact substantially limit a major life activity, the reaction of others may prove just as disabling. Such impairment might not diminish a person's physical or mental capabilities, but could nevertheless substantially limit that person's ability to work as a result of the negative reactions of others to the impairment.

An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. For this purpose, minor and transitory impairments are excluded and a "transitory" impairment is one lasting fewer than six months.

Employers are not required to provide reasonable accommodations to faculty and staff members who only meet the ADA's "regarded as" definition of "disability."

***Major Life Activity*** (Defined by the ADA): Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

***Physical, Medical, or Mental Impairment*** (Defined by the ADA): A physical impairment is any medical disorder, condition, disfigurement or loss affecting one of the body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs),

cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.

A mental impairment is any mental or psychological disorder, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

It is not possible to include a list of all the specific conditions that would constitute physical or mental impairments, but some examples may be useful.

Examples of conditions that are impairments: AIDS, and its symptoms; Alcoholism; Asthma; Blindness or other visual impairments; Cancer; Cerebral palsy; Depression; Diabetes, Epilepsy; Hearing or speech impairments; Heart Disease; Migraine Headaches; Multiple sclerosis; Muscular dystrophy; Orthopedic impairments; Paralysis; complications from Pregnancy; Thyroid gland disorders; Tuberculosis; and loss of body parts.

Certain temporary, non-chronic impairments of short duration with little or no residual effects usually are not disabilities. Likewise, environmental conditions and alternative lifestyles are not protected. A person currently engaging in the illegal use of drugs is not considered an individual with a disability. This refers both to the illegal use of unlawful drugs such as cocaine as well as prescription drugs.

**Qualified Individual with a Disability:** A person with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position he or she holds or seeks, and who, with or without reasonable accommodation, can perform the essential functions of the position.

**Covered by the ADA:** A person who: (a) has a physical or mental impairment that substantially limits one or more of his or her major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.

**Reasonable Accommodation** (Defined by the ADA): Actions that may include: making existing facilities used by faculty and staff readily accessible to and usable by individuals with disabilities; job restructuring, part-time or modified work schedules, allowing work from home or other remote location; reassignment to a vacant position, acquisition or modifications 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.

**Retaliation** (Defined by the ADA): The seeking of revenge, reprisal, or injury to another who has exercised the right to request an accommodation.

**Substantial Limitation** (Defined by the ADA): Inability to perform a major life activity that the average person in the general population can perform; or significantly restricted as to the

condition, manner, or duration under which an individual can perform a particular major life activity as compared to the average person.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodation or auxiliary aides or services, or learned behavioral or adaptive neurological modifications.

***Undue Hardship/Burden*** (Defined by the ADA): Significant difficulty or expense incurred by an employer, with respect to the provision of reasonable accommodation. Undue hardship means that an accommodation would be unduly costly, extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the business. Among the factors to be considered in determining whether an accommodation is an undue hardship are the cost of the accommodation, the employer's size, financial resources, and the nature and structure of its operation.

### III. POLICY

In accordance with the Americans with Disabilities Act (ADA) and the Pennsylvania Human Relations Act Salus University policy prohibits discrimination in employment against qualified individuals with disabilities. It is the policy of Salus University to provide reasonable accommodations or when necessary. These accommodations and adjustments must be made in a timely manner and on an individualized and flexible basis.

It is the responsibility of individual faculty and staff members to identify themselves as an individual with a disability when seeking an accommodation or adjustment. It is also the responsibility of individual staff, and faculty members to provide documentation of their disability(ies) (from an appropriately licensed professional) and to demonstrate how the disability(ies) limit(s) their ability to complete the essential functions of their job. Medical documentation will be kept confidential.

Staff and faculty members must maintain institutional standards of performance.

## **IV. PROCEDURE**

### **Faculty and Academic Appointee Accommodation Request Procedures**

1. To receive an accommodation under the ADA, a faculty member must submit a written request to the Director of Human Resources. The faculty member must include documentation of his/her disabilities and corresponding functional limitations.
2. The Director of Human Resources will review each request and will discuss the request with the appropriate Dean or Program Director as well as the Provost. Together, they will determine if the faculty member is eligible for accommodation(s) under the ADA.
3. The Provost, appropriate Dean and Director of Human Resources will then meet with the faculty member to develop a plan of reasonable accommodation(s). During this meeting, the participants will:
  - a. identify the essential and marginal functions of the position (if not already articulated),
  - b. discuss the faculty member's specific disabilities as they relate to the essential functions of the position along with potential accommodation(s), and
  - c. identify the accommodation(s) that reasonably support the needs of the faculty member, his/her students, and the University.
  - d. The faculty member may be accompanied to the discussions by a representative of his/her choosing if they so desire.
4. It is the responsibility of the Director of Human Resources to determine reasonable accommodation(s) for each requesting faculty member as appropriate. The Director of Human Resources will outline the process for providing the accommodation(s) verbally and in writing to the faculty member and his/her Dean.
5. Written copies of the accommodation plan will be placed in the faculty member's personnel file in the Office of Human Resources and in the Office of the Provost. To the extent necessary, and as appropriate, this documentation should include a long-term plan for addressing anticipated changes in the faculty member's needs over time. Medical documentation shall be retained only by the Director of Human Resources and shall be kept confidential.
6. The faculty member is responsible for contacting the Director of Human Resources if the agreed-upon accommodations are not implemented in an effective and timely manner.

The Director of Human Resources will work with the faculty member and the department to resolve questions that may arise regarding the granted accommodation(s).

### **Staff Member Accommodation Request Procedures**

1. To receive an accommodation under the ADA, employees must submit a written request to the Director of Human Resources. The staff member must include documentation of his/her disability(ies).
2. The Director of Human Resources will review each request and will discuss the request and with the staff member's supervisor. Together, they will determine if the staff member is eligible for accommodation(s) under the ADA.
3. The supervisor and Director of Human Resources will then meet with the staff member to develop a plan of reasonable accommodation(s). During this meeting, the participants will:
  - a. identify the essential and marginal functions of the position (if not already articulated),
  - b. discuss the staff member's specific disability(ies) as they relate to the essential functions of the position along with potential accommodations, and
  - c. identify the accommodation(s) that reasonably support the needs of the staff member and the University.
  - d. The staff member may be accompanied to the discussions by a union representative or a representative of his/her choosing if they so desire.
4. It is the responsibility of the Director of Human Resources to determine reasonable accommodation for each requesting staff member. The Director of Human Resources will outline the process for providing the accommodation(s) verbally and in writing to the staff member and his/her supervisor.
5. Written copies of the accommodation plan will be placed in the staff member's personnel file and in the Office of Human Resources. To the extent necessary, and as appropriate, this documentation should include a long-term plan for addressing anticipated changes in the staff member's needs over time. Medical documentation shall be retained only by the Director of Human Resources and shall be kept confidential.
6. The staff member is responsible for contacting the Director of Human Resources if the agreed-upon accommodations are not implemented in an effective and timely manner. The Director of Human Resources will work with the staff member and the department to resolve any questions that may arise regarding the accommodation(s).

## **Grievance Procedure**

Faculty and staff who believe the University has not met its obligations under the ADA should consult with the University's Affirmative Action Officer.