

Disability Policy for Faculty, Staff (Including Postdoctoral Trainees) or Members of the Public

Affirmative Action Statement

The **Johns Hopkins University** does not discriminate on the basis of race, color, sex, religion, sexual orientation, national orientation, national or ethnic origin, age, disability or veteran status in any student program or activity administered by the university or with regard to admission or employment. The University provides appropriate, necessary, and reasonable accommodation to qualified students, faculty, and staff (including postdoctoral trainees) who have a disability. When generally accessible facilities do not adequately accommodate a specific disability, the university makes program and/or facility adjustments as are reasonably necessary to assure individual access. Questions regarding Title VI, Title IX, and Section 504 should be referred to the Office of Institutional Equity, Garland Hall, Suite 130, 410-516-8949 (v), 410-516-6225 (TTY).

Who is Covered?

This policy applies to faculty, staff (including postdoctoral trainees) and members of the public with disabilities. The Americans With Disabilities Act (ADA), 1990 prohibits discrimination against a qualified person with a disability in employment practices such as job application procedures, hiring, promotion, discharge, compensation, training, benefits, and other conditions of employment. The ADA also requires that employers provide reasonable accommodations to qualified individuals with disabilities. Under the ADA, a person is considered to have a disability if (1) he or she has a physical or mental impairment that substantially limits one or more major life activities such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, or working; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. In addition, the ADA protects individuals who have family, business, social, or other relationships or associations with persons who have known disabilities (such as a friend who has AIDS).

Temporary, non-chronic impairments of short duration, with little or no long term or permanent impact, are usually not disabilities. Such impairments may include, but are not limited to, broken limbs, sprained joints, concussions, appendicitis, influenza, and pregnancy.

Reasonable Accommodations

It should be noted that in addition to compliance with the nondiscrimination provisions of the ADA, the University is required to provide reasonable accommodations to the known physical or mental limitations of qualified persons with disabilities. The employee should initiate a request for an accommodation. A "qualified person with a disability" is a person who, with or without reasonable accommodations, is able to perform the essential functions of the position. For persons with disabilities it is important to provide to the university a comprehensive evaluation of a specific disability from an appropriate qualified diagnostician that identifies the type of disability, describes the current level of functioning in an academic or employment setting, and lists recommended accommodations. It is a violation of the ADA to fail to provide reasonable accommodations to the known physical or mental limitations of a qualified individual with a disability.

When a qualified individual with a disability requests an accommodation, the University must make a good faith effort to provide an accommodation that is effective for the individual. Accommodations must be made on a case-by-case basis because the nature and extent of a disabling condition and the requirements of the job may vary. In many cases, an accommodation will be obvious and can be made without difficulty and at little or

no cost. The department should consult with the employee as it considers the reasonableness of the requested accommodation.

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. For example, a reasonable accommodation may include:

- Acquiring or modifying equipment or devices
- Job restructuring
- Part-time or modified work schedules
- Reassignment to a vacant position
- Adjusting or modifying examinations, training materials, or policies
- Providing readers and interpreters
- Making the workplace readily accessible to and usable by people with disabilities

Assessing Reasonableness

When the employee with a disability requests an accommodation to assist in the performance of a job, the departmental unit, using a problem-solving approach, should:

1. Analyze the particular job involved and determine its purpose and essential functions (as distinguished from marginal functions).
2. Consult with the individual with a disability to determine the precise job-related limitations imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation.
3. In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position.
4. Consider the preference of the individual to be accommodated and select the accommodation that best serves the needs of the individual and the employer.

In determining whether job functions are essential, departments should consider the following:

- In general. The term essential functions mean the fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.
- A job function may be considered essential for any of several reasons, including but not limited to the following:
 - ❖ The function may be essential because the reason the position exists is to perform that function.
 - ❖ The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.
 - ❖ 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.
- Evidence of whether a particular function is essential includes, but is not limited to:
 - ❖ The employer's judgment as to which functions are essential.
 - ❖ Written job descriptions prepared before advertising or interviewing applicants for the job.

- ❖ The amount of time spent on the job performing the function.
- ❖ The consequences of not requiring the incumbent to perform the function.
- ❖ The terms of a collective bargaining agreement.
- ❖ The work experience of past incumbents in the job.
- ❖ The current work experience of incumbents in similar jobs.

Departments should analyze each request (as set forth in 1-4 above) and make a good faith effort to provide a reasonable accommodation to an individual covered by the ADA. For further information, contact the Human Resources Manager in your area.

It is not necessary to provide a reasonable accommodation if doing so would cause an undue hardship. Undue hardship means that an accommodation would be unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the department or unit. Among the factors to be considered in determining whether an accommodation would pose an undue hardship are the cost of the accommodation, the employer's overall size, overall financial resources, and the nature and structure of its operation. If a particular accommodation would pose an undue hardship, you must try to identify another accommodation that will not pose such a hardship. In assessing whether or not an undue hardship exists, the EEOC and other enforcement agencies will look at the resources of the University as a whole.

The ADA permits an employer to require that an individual not pose a direct threat to the health or safety of the individual or others in the workplace. A direct threat means a significant risk of substantial harm. An employer cannot refuse to hire nor can it fire an individual because the employee poses a slightly increased risk of harm to himself or herself or to others. Nor can an employer refuse to hire or decide to fire a person based on a speculative or remote risk. The determination that an individual poses a direct threat must be based on objective, factual evidence regarding the individual's present ability to perform essential job functions. If an applicant or employee with a disability poses a direct threat to his or her health or safety or to that of others, you must consider whether the risk can be eliminated or reduced to an acceptable level with a reasonable accommodation.

Documentation

In the context of assessing an accommodation request, medical documentation or a psycho-educational evaluation may be needed. Medical documentation is often needed to determine if the employee has a disability covered by the ADA and is entitled to an accommodation (i.e., has a permanent disability, as distinguished from temporary disability, that substantially limits one or more major life activities, affects the employee's ability to perform essential job functions, and is of sufficient severity) and if so, to help identify an effective accommodation.

Generally, in the context of an accommodation, medical inquiries related to an employee's disability and functional limitations are permissible and may include consultations with knowledgeable professional sources, such as doctors, occupational and physical therapists, psychologists, rehabilitation specialists, and organizations with expertise in adaptations for specific disabilities. The Office for Disability Services is the University unit charged with collecting medical documentation.

It is essential that the documentation be written by a qualified individual in the field, that it be on letterhead, and signed with an original signature. It also must be current, give a diagnosis, describe the impact of the disability on the setting in which the individual is requesting accommodations and make recommendations for accommodations. Documentation is not acceptable from a family member.

Whom to Contact

If you need assistance in assessing the reasonableness of a requested accommodation, locating auxiliary aids, or have general questions about the ADA and the Rehabilitation Act, please contact the Office of Institutional Equity or your Human Resources Representative/Officer.

Accommodations for the Public

Accommodations must also be made to members of the public who attend University-sponsored events. The sponsoring department is responsible for accommodating the needs of the participants. This means conducting events in accessible locations and may mean providing sign-language interpreters, printed material in Braille, or alternative formats such as audio recordings if requested in advance. Departments should include the accommodation statement in publications inviting participation in University-sponsored events. An example of an accommodation statement is as follows:

The Johns Hopkins University encourages qualified persons with disabilities to participate in its programs and activities. If you anticipate needing any type of accommodation or have questions about the physical access provided, please contact _____ in advance of your participation or visit.

(Note: place your department or contact person's name and telephone number in the blank space.)

If you have questions about the ADA or issues relating to compliance with the ADA and interpretation of its provisions, such as the obligation to provide reasonable accommodations, please contact the Office of Institutional Equity at 410-516-8075 (voice) or 410-516-6225 (TTY).

Funding

Funding for accommodations or auxiliary aids or services will be handled as any other expenditure is handled. The employing unit is responsible for funding the accommodation or auxiliary aids or services. Lack of resources at the unit level will not be a sufficient reason in most instances for failing to provide a reasonable accommodation.

Requests for accommodations by students and members of the public for access to University Services and activities must be assessed in a similar manner and will be handled, as a fiscal matter, as are employment accommodations.