

## FACULTY REASONABLE ACCOMMODATION POLICY AND PROCEDURES (Disabilities and Accommodation Advisory Committee)

### POLICY

The University of Wisconsin-Madison will adhere to all applicable federal and state laws, regulations, and guidelines with respect to providing reasonable accommodations as required to afford equal employment opportunity to qualified individuals with disabilities. The University will provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for employment unless doing so would cause an undue hardship to the employer.

The purpose of such accommodation is to allow a faculty member with a disability to perform the essential functions of a job or to access benefits and privileges of employment and to allow an applicant to have an equal opportunity to compete for a job.

The purpose of this document is to describe the procedure by which a reasonable accommodation can be requested by current or potential members of the faculty.

### CAMPUS CONTACTS

Divisional Disability Representative (DDR). Each dean/director has appointed a DDR to respond to disability-related employment matters. DDRs assist departments/divisions/schools in reviewing and responding to disability accommodation requests. They are authorized to request, receive, and maintain confidential medical information for employees and applicants in their divisions. Contact information for DDRs is available on the Office of Equity and Diversity (OED) website (<http://www.oed.wisc.edu/divisional-disability-representatives.htm>) and at the Office for Equity and Diversity, 263-2378.

Disability Coordinator/Employment, OED, 179A Bascom Hall, 263-2378, Wisconsin Telecommunications Relay Service (WTRS) 7-1-1. The Disability Coordinator/Employment will provide assistance and advice to the employing unit, the employee, the applicant, and DDR at any point in the process to ensure compliance with federal and state laws and university policy.

Americans with Disabilities Act (ADA) Coordinator, Office of Legal Affairs, 361 Bascom Hall, 263-7400, Wisconsin Telecommunications Relay Service (WTRS) 7-1-1. The chancellor has appointed the ADA Coordinator to be responsible for campus-wide compliance with the ADA and to review appeals of disability accommodation decisions.

### DEFINITIONS

The following definitions and explanations may help faculty members and their departments/divisions/schools in consideration of accommodation requests.

**Disability.** Americans with Disabilities Act of 1990 (42 U.S.C. 12102). “Disability” means, with respect to an individual: A physical or mental impairment that substantially limits one or

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more of the major life activities of such an individual; A record of having such an impairment; or Being regarded as having such an impairment.

**ADA Amendments Act of 2008** (Public Law 110-325) clarifies and reiterates who is covered. Revises the definition of disability to more broadly encompass impairments that substantially limit a major life activity. The law also states that mitigating measures have no bearing whether a disability qualifies under the law. Clarifies coverage of impairments that are episodic or in remission that substantially limit a major life activity when active.

**Wisconsin Fair Employment Law** (111.32). An individual with a disability: Has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work; has a record of such an impairment; or is perceived as having such an impairment.

**Major Life Activities** include, but are not limited to, functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, sleeping, breathing, learning, and working.

**Qualified Individual With A Disability** has the experience, education, and/or training to perform the essential functions of a position (those duties for which the position was created), with or without reasonable accommodation.

**Reasonable Accommodation** is a change or modification to a job, the work environment, or the way things are usually done that enables a qualified individual with a disability to apply for a job, perform the essential functions of a job and access benefits and privileges of employment equal to those without disabilities, without causing an undue hardship or posing a direct threat to his/her self or others. Reasonable accommodations may include, but are not limited to, making facilities accessible, adjusting work schedules, altering how or when a job duty is performed, providing assistive devices, assistive technology or equipment, providing readers or interpreters, or modifying work areas.

**Essential Functions.** A job function may be considered essential for any of several reasons, including but not limited to the following: (a) the reason the position exists is to perform the function, (b) there are a limited number of available employees among whom the performance of that job function can be distributed, and/or 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 (e.g., teach a particular required course). Some of the factors that may be considered in determining whether a job function is essential include the amount and or percent of time spent performing the function and the consequences of not requiring an individual to perform the function.

**Undue Hardship** means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the university. An employer must assess on a case-by-case basis whether a particular accommodation would cause an undue hardship. An employer is not required to make an accommodation if it would impose an undue hardship.

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**Confidentiality.** Access to confidential medical information is restricted under the ADA. Only DDRs are authorized to manage confidential medical information in each school, college and division. Confidential medical information includes written and verbal information from any source regarding an employee or applicant's medical condition or disability. The fact that an employee or applicant has a reasonable accommodation is also confidential. All medical information and the completed Disability Accommodation Request Form will be kept by the DDR in the division's confidential medical file separate from the personnel file. The DDR will only share medical information on a need to know basis with others.

**Interactive Process** is an informal problem-solving process between the employer and the employee or applicant to identify the precise work-related limitations resulting from the disability, the nature of the problem that is generating the request and the potential reasonable accommodation that may be effective.

## I. FACULTY EMPLOYEES

### A. NOTICE

Faculty members will be informed about their right to request reasonable accommodations: in the letter of appointment and/or in any employee orientations and at periodic oversight, promotion, or post-tenure reviews; by periodic public notice in Inside UW-Madison, the university's electronic employee newsletter; when a survey is conducted that invites employees to self-identify as persons with disabilities.

### B. REQUESTING AN ACCOMMODATION

Many accommodation requests are simple and straightforward and have little impact on department/division/school functioning. For example, a person with back pain may request a better chair for his/her computer work station, an individual with carpal tunnel syndrome may ask for a wrist rest for his/her computer, or a faculty member with a mild hearing loss might request a volume device for the telephone. Other requests may be more complex and have more impact on the functioning of the unit. For example, a faculty member who acquired a disability might request an extension of the tenure clock, or modifications to an office or laboratory.

#### 1. Procedures

A faculty member needs to inform the university that he or she needs an accommodation for reasons related to a disability or chronic medical condition.

The faculty member may make an accommodation request to his or her DDR at any time. If the faculty member makes a request for an accommodation to the departmental chair, dean, or director that person shall forward the request to the DDR. The reasonable accommodation process begins as soon as an oral or written request is made. The faculty member, department chair/director/dean, or DDR may consult with the Disability Coordinator/Employment in OED for guidance and assistance at any time during the process.

#### 2. The Process

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a. A faculty member who wants to request an accommodation may do so orally or in writing to his or her DDR. Upon the request, either verbal or written, the faculty member must also submit the Disability Accommodation Request Form (<http://www.oed.wisc.edu/documents/faculty.pdf>) to his or her DDR.

b. After a request is made, the DDR, employee, and others, as needed, will begin the interactive process, making an individualized assessment, to identify the precise work-related limitations resulting from the disability, the nature of the problem that is generating the request, and the potential reasonable accommodations that may be effective. The DDR is responsible for processing requests and may need to gather information from others in order to make a recommendation.

c. The DDR will communicate as necessary with--and make a recommendation to--the department chair/dean/director, who can authorize the recommendation pursuant to departmental/divisional/school practice and university policy, consulting with the departmental/divisional/school executive committee on matters of personnel actions that affect the instructional activities or budget of the department/division/school. (See FP&P 5.21, [http://www.secfac.wisc.edu/governance/FPP/Chapter\\_5.htm#521](http://www.secfac.wisc.edu/governance/FPP/Chapter_5.htm#521)). The faculty member may request the information regarding his or her accommodation not be shared with the department chair/director/dean for simple accommodation requests that do not impact personnel actions affecting instructional activities or the budget of the department/division/school or that do not impact research or service activities. The DDR must consult with the Disability Coordinator/Employment if such a request is made.

d. The ability of the faculty member's department/division/school to fund the cost of the accommodation will not be taken into consideration when evaluating the request.

e. A faculty member may be required to provide the DDR with verification of a disability and accommodation recommendations from a treating specialist. The employee must bear the initial cost of verification. (This generally may be covered by the employee's health insurance.) If UW-Madison requests a second opinion, the university will bear the cost. The DDR will share with the department chair/director/dean or executive committee only what is essential for them to know to make a final determination on the requested accommodation. The executive committee will be reminded of the importance that all confidential information, including information regarding an accommodation, not be discussed or commented on outside of closed session. No information or question, however slight, should be mentioned/posed to any other party or to the person requesting the accommodation except through the DDR.

f. If the request is approved, the DDR will notify the faculty member of the decision by providing a copy of the completed request form. The DDR will send copies of the form to the department chair/director/dean and the Disability Coordinator/Employment. The DDR will file the original form in the division's confidential medical files, separate and outside of the departmental or divisional personnel file.

g. Requests for tenure clock extensions must additionally be approved by the departmental/divisional/school executive committee, the provost, and the University Committee, pursuant to FP&P 7.04.H.

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h. Before deciding to modify or deny the request, the DDR must consult the Disability Coordinator/Employment in the Office of Equity and Diversity and the department chair/director/dean. If the request is modified or denied, the DDR will notify the faculty member of the decision in writing including the reason for the modification or the denial, and including copies of the completed request form and the Appeal Process (as described in this policy, section IV). The DDR will send copies of the accommodation form to the department chair/director/dean, and the Disability Coordinator/Employment. The DDR will file the original accommodation form in the division's confidential medical files, separate and outside of the departmental or divisional personnel file.

i. The university will make a good faith effort to approve, modify, or deny an accommodation request as soon as possible and not later than 30 calendar days from the date of the oral or written request, absent extenuating circumstances.

j. The department/division/school and its executive committee must make every effort to keep the request, and information regarding it, confidential.

### 3. Guidelines

a. The following questions should be considered when determining reasonableness:

Are the job functions for which the accommodation is required essential to the overall performance of the job?

Is the faculty member otherwise qualified to perform the essential job functions?

Does the accommodation accomplish the desired result (i.e., does it allow the faculty member to perform the essential functions of the job effectively)?

Are there other accommodation options that will allow the faculty member to perform the essential functions of the job?

Will the accommodation adversely affect the productivity or work environment of others in the work unit?

Will the accommodation be unduly disruptive to the department, unit, school, college, or division?

b. As a general rule, the department, unit, school or college will purchase equipment only if it is determined that the use of the equipment is necessary in transaction of the official business of that department, unit, school, or college. The equipment may not be of a personal nature (for example, eyeglasses or hearing aids), which the employee reasonably can be expected to provide.

c. When a requested accommodation is outside the department/division/school's responsibility (e.g., general facilities modification, parking), the Disability Coordinator/Employment receives

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and reviews the request with the DDR and the Facilities Planning & Management (FP&M) ADA Specialist. If the request is deemed reasonable, FP&M procedures will be followed.

d. When a requested accommodation involves employment-related travel, the Disability Coordinator/Employment receives the accommodation request from the DDR, verifies that appropriate procedures are followed, and notifies Business Services-Travel of approved requests.

e. The faculty member will always be the primary person consulted when determining the most appropriate accommodation. Faculty members may provide or arrange for their own accommodations; however, the procedures in this document must be followed (e.g., completed Disability Accommodation Request Form, appropriate approval). This gives documentation of accommodations and ensures that the accommodations are not disruptive to the workplace.

f. After an accommodation is provided, the faculty member and his or her chair/director/dean shall evaluate the effectiveness of the accommodation, consulting with the DDR and Disability Coordinator/Employment as necessary. If modifications to the accommodation are needed, they should be requested using the procedures outlined in this policy.

g. As the ADA requires, if the university is not able to make a reasonable accommodation for a faculty member with a disability that allows the individual faculty member to continue in his or her current position, the university will devote its best efforts to securing an alternative appointment within the institution in positions for which the faculty member is qualified and eligible under existing university policies and state law and can perform the duties with or without a reasonable accommodation.

h. A faculty member who encounters difficulty working through the DDR and department/division/school, or does not wish to provide information that may be requested of him/her, and has exhausted all efforts of assistance from the Disability Coordinator/Employment, may request advice and assistance from the Disabilities Accommodation Advisory Committee (DAAC.) The DAAC will make every effort to assist in a confidential manner and work with the parties involved. If the DAAC determines that a request for information is reasonable and necessary, the faculty member shall abide by that decision. In cases of requests for medical documentation, the DAAC will not receive detailed medical records, but only enough information to determine if a request for further information is warranted.

i. If the department, division, or school denies the accommodation request, or does not propose an accommodation that the faculty member regards as reasonable, he/she may appeal the decision. (See Appeals Process, Section IV.)

j. The executive committee, the dean, the DAAC, the University Committee, and all other involved university personnel must make every effort to keep accommodation requests and related information confidential.

k. Requests for a reasonable accommodation from tenured and probationary faculty members, including requests for tenure clock extensions for probationary faculty, shall be treated alike.

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Faculty may seek the guidance or assistance of a mentor, or another faculty member, in securing documentation, if necessary, from medical or rehabilitation professionals and presenting the request to the DDR. The dean, the provost, and the University Committee must approve all requests for tenure clock extensions.

I. The DDR will submit an annual report of all requests for faculty disability accommodation to the Office for Equity and Diversity.

## II. APPLICANTS FOR FACULTY POSITIONS

Divisional Disability Representative (DDR) for the school, college or division where the applicant is applying to work will process accommodation requests from applicants. After a request is made, the DDR, applicant, and others as needed, will work to identify what accommodations may be effective. Information about the applicant's need for accommodation and any confidential medical information will be shared with others only on a need to know basis in order to make a determination on the request. The applicant, DDR, chair or hiring/search committee can contact the Disability Coordinator/Employment in the Office for Equity and Diversity at any time.

### A. NOTICE

Applicants will be informed of this UW-Madison policy to provide reasonable accommodations in the Position Vacancy Listing, in the invitation for an interview, and in the letter of appointment. This notice will include information on how to contact the DDR and how to make the request.

1. The following sample paragraph should be included if a letter is used as part of the interview scheduling process:

“It is the policy of the [FILL IN NAME OF UNIT OR DEPARTMENT] to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. If you need assistance or accommodations to interview because of a disability, please contact your Divisional Disability Representative (DDR) at: (INSERT NAME/ADDRESS/TELEPHONE/EMAIL OF DDR). Employment opportunities will not be denied to anyone because of the need to make reasonable accommodations for a person's disability.”

2. If interview arrangements are made by telephone, this statement (above) should be given as part of the telephone conversation.

### B. REQUESTING AN ACCOMMODATION

An applicant may request an accommodation orally or in writing. Individuals must follow-up an oral request by completing the Disability Accommodation Request form ([www.oed.wisc.edu/documents/faculty.pdf](http://www.oed.wisc.edu/documents/faculty.pdf)) or by confirming their request in writing (includes email) to the Divisional Disability Representative (DDR). Contact information for DDRs is available on the Office of Equity and Diversity (OED) website (<http://www.oed.wisc.edu/divisional-disability-representatives.htm>) and at the Office for Equity and Diversity, 263-2378.

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### C. COMMUNICATION

If the applicant makes an accommodation request to someone other than the DDR, that person should notify the DDR. The DDR will only share with the chair/director/dean or hiring/search committee information that they need to know in order for the accommodation to be implemented.

In some cases the applicants may have made a simple request for accommodation that the hiring/search committee contact was able to fulfill. The hiring/search contact person should notify the DDR in these circumstances with information about the modification or accommodation made.

### D. INTERVIEW PROCESS

1. Applicants may be asked whether they can perform essential job functions, with or without reasonable accommodation. Applicants may not be asked other questions that are likely to elicit information about, or that are closely related to, a disability, including whether an applicant has a particular disability. Please refer to Job Interview Disability-Related Questions document for additional information <http://www.oed.wisc.edu/documents/job-interview-questions.pdf>

2. If an applicant has a known disability, either because it is obvious or because the applicant has voluntarily disclosed a hidden disability, he or she may be asked to describe or demonstrate how he or she would perform the job functions, even if other applicants have not been asked to do so. The applicant cannot be asked questions about his or her disability.

### E. EMPLOYMENT DECISIONS

1. Qualified applicants cannot be denied employment solely on the basis of a need to provide a reasonable accommodation.

2. An applicant who has received a job offer and who needs a disability accommodation to perform the essential functions of the job should request the accommodation by submitting a Faculty Disability Accommodation Request Form (<http://www.oed.wisc.edu/documents/faculty.pdf>) to the employing unit's DDR. If the applicant's disability cannot reasonably be accommodated, the job offer can be rescinded. The employing unit must consult the Disability Coordinator Employment before a job offer can be rescinded.

### III. Funding

Financial responsibility for providing reasonable accommodations (other than most barrier removal requests) belongs to the employer, which is deemed to be the University. Departments should consult with the division, school or college, which, in turn, will consult with the Provost and Vice Chancellor for Administration for funding.

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#### IV. The Appeal Process for Faculty Employees

*Applicants do not have access to this process but may follow external complaint procedures (Wisconsin Department of Workforce Development, Equal Rights Division; federal Equal Employment Opportunity Commission).*

An employee who disagrees with a reasonable accommodation request decision may appeal the decision using the following procedure.

- a. The employee must file a written appeal, stating the reasons for the disagreement, with the UW-Madison ADA Coordinator within 30 calendar days of the date of the decision as shown on the Accommodation Request Form or notice of the decision. The employee shall send copies of the appeal to the DDR and the department chair/director/dean. The DDR will notify the department chair/director/dean and the Disability Coordinator/Employment of the appeal.
- b. The ADA Coordinator will reevaluate the decision and consider any additional information or statement supplied by the faculty member, as well as additional information from treating specialists. The ADA Coordinator may consult with the Disability Coordinator/Employment and other staff, taking care to provide confidentiality for the faculty member.
- c. The ADA Coordinator shall review the record of the accommodation request and make a final decision regarding the appeal.
- d. Appeals of accommodation requests related to tenure clock extensions will be advanced to the Chancellor for a final decision.
- e. The ADA Coordinator shall provide written notification of the appeal decision within 30 calendar days to the faculty member, employing unit and DDR. The DDR will notify the department chair/director/dean and the Disability Coordinator/Employment. If the 30 calendar day time limit cannot be met, the ADA Coordinator will inform the faculty member, the employing unit and DDR of an alternative time limit, not to exceed an additional 60 calendar days. The DDR will apprise the department chair, dean or director and Disability Coordinator/Employment.
- f. This is the final internal appeal process for disagreements regarding accommodation requests.

#### V. Other Complaints

Nothing in this policy should be construed to impede or prohibit a timely filing of a discrimination complaint with the appropriate external government agency (Wisconsin Workforce Development, Equal Rights Division; federal Equal Employment Opportunity Commission). This procedure also does not prohibit a timely filing of an internal discrimination complaint, with the UW-Madison Complaint Investigator, Office of the Provost.