

Texas Woman's University University Regulation and Procedure

Regulation and Procedure Name: Americans with Disabilities Act Policy

**Regulation and Procedure
Number: URP: 05.110**

Policy Owner: Finance and Administration

POLICY STATEMENT

This policy sets forth the commitment of Texas Woman's University ("TWU") to nondiscrimination in the employment and hiring of persons with disabilities consistent with the requirements of applicable federal and state laws.

Higher education institutions are subject to the requirements of the Americans with Disabilities Act ("ADA") of 1990. Title III of the ADA requires that universities make reasonable modifications in their policies, unless the institution can demonstrate that making such modifications would "fundamentally alter" the nature of the educational service being offered. The ADA Amendments Act ("ADAAA") of 2008 states that "nothing in this Act (1) alters the standards for determining eligibility for benefits under state worker's compensation laws or under state and federal disability benefit programs; (2) alters the requirement to make reasonable modifications in policies or procedures, unless such modifications would fundamentally alter the nature of the goods, services, facilities, or accommodations involved; or (3) provides the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability."

Title I of the ADA – which went into effect over a decade after the Pregnancy Discrimination Act ("PDA") of 1978 and was amended in 2008 to broaden the definition of disability – applies to individuals with pregnancy-related impairments.

The PDA clarifies that discrimination based on pregnancy, childbirth, or related medical conditions, is a prohibited form of discrimination. It requires that employers treat women affected by pregnancy or related medical conditions the same as non-pregnant applicants or employees who are similar in their ability or inability to work. Although pregnancy itself is not a disability, impairments related to pregnancy can be disabilities if they substantially limit one or more major life activities or substantially limited major life activities.

It is the policy of TWU not to discriminate against qualified individuals with disabilities with respect to employment application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions and privileges of employment as

defined under the Rehabilitation Act of 1973, as amended, the ADA, the ADAAA, the Texas Commission on Human Rights Act, and PDA, where applicable.

It is also the policy of TWU to treat women affected by pregnancy or related medical conditions the same as non-pregnant applicants or employees who are similar in their ability or inability to work.

APPLICABILITY

This policy is applicable to TWU Faculty and Staff.

DEFINITIONS

1. “Disability” means any actual, past, or perceived physical or mental impairment that substantially limits Major Life Activities or major bodily functions. A person with a disability is someone who has a record of such impairment or is regarded as having such impairment. The definition also includes persons who have an impairment that is episodic or in remission, if the impairment would substantially limit a major life activity when active.
2. “Direct Threat” means a significant risk to the health, safety, or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
3. “Essential Functions of a Position” means the fundamental job duties that are determined by TWU to be essential or core to performing a position.
4. “Major Life Activities” means activities including caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and the operation of a major bodily function, such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
5. “Qualified Individual with a Disability” means an individual with a disability who meets all the skill, experience, knowledge, educational, and other job requirements for a position and can perform the essential functions of a position with or without reasonable accommodation.
6. “Reasonable Accommodation” means modifications or adjustments
 - a. To a job application process that enable a qualified applicant with a disability to be considered for the position he or she desires;
 - b. To the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that

enable a Qualified Individual with a Disability to perform the essential functions of that position; or

c. That enable a TWU employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

7. "Undue Hardship" means an individualized assessment of a requested or contemplated accommodation that includes consideration of the following factors:

a. The nature and cost of the requested or contemplated accommodation in relation to the size of TWU;

b. The overall financial burden required in the provision of the reasonable accommodation, the number of employees, the effect on expenses and resources, or the impact otherwise of such accommodation upon TWU operations; and

c. The nature and structure of TWU's operation, as well as the impact of the requested or contemplated accommodation on the specific facility providing the accommodation.

REGULATION AND PROCEDURE

I. Requesting Reasonable Accommodation

A Qualified Individual with a Disability may request a Reasonable Accommodation at any time during the application process or during the individual's employment with TWU. An individual should request a Reasonable Accommodation when they know there is a workplace barrier that is preventing them from effectively competing for a position for which they are otherwise qualified, performing the essential functions of a position, or gaining equal access to a benefit of employment.

II. Confidentiality of Records

All offices and individuals responsible for reviewing and evaluating an employee's request for accommodation will maintain the confidentiality of all medical and ADA information. Records must be kept separate from personnel files and will be accessible only to authorized personnel.

III. Accommodation

A. TWU will provide reasonable accommodations to Qualified Individuals with a Disability so they can perform the Essential Functions of a position unless doing so creates an Undue Hardship or causes a Direct Threat to the

individual or others in the workplace and the threat cannot be eliminated by reasonable accommodation.

- B. Decisions regarding requests for accommodation relating to impairments that are episodic or in remission are based on the effects of the impairment and on the effects if or when it is in an active state. Requests for accommodation will be evaluated without regard to the measures used to mitigate or manage impairments. Mitigating measures other than "ordinary eyeglasses or contact lenses" will not be considered in assessing whether an individual has a disability.
- C. An individual is "regarded as" having a disability if the individual establishes that they have been discriminated against because of an actual or perceived physical or mental impairment regardless of whether the impairment limits or is perceived to limit a major life activity. This definition does not include transitory and minor impairments where the impairment is expected to last six months or less. TWU is not required to provide a reasonable accommodation to individuals that are Regarded As having a disability but who do not actually have a disability.

IV. Procedure to Request an Accommodation

- A. Requests for accommodation are considered on an individual basis through an interactive process with the employee, supervisor and the University's ADA Officer. The ADA Officer will appoint an ADA Coordinator as a designee to facilitate the Interactive process. An individual seeking an accommodation must engage in the interactive process.
- B. An individual requesting an accommodation is responsible for initiating contact and requesting information regarding accommodations. Individuals interested in a workplace accommodation should discuss the request with their immediate supervisor and the TWU ADA Coordinator (ADAEmployment@twu.edu).
- C. TWU may receive the accommodation request either verbally or written. All verbal requests require a submitted Accommodation Request Form. If the requested accommodation is "obvious" and is connected to the requested accommodation, then medical documentation may not be necessary as determined by the Office of Human Resources. An individual who fails to provide reasonable medical documentation when requested by the Office of Human Resources may not be approved for accommodation.
- D. The ADA coordinator may request the following documentation from the employee:
 - 1. An Accommodation Request Form including a statement of the requested or contemplated accommodation, the essential job

functions of the individual's current position, what functions the individual is having difficulty performing, any past accommodations, whether the request is time sensitive, and how the specific accommodation will assist the individual; and

2. A Medical Inquiry Form in Response to an Accommodation Request, completed by the individual's physician and providing a diagnosis, prognosis, a description of the specific impairment(s), the major life functions or activities affected by the impairment, the degree of limitation to those functions and activities caused by the impairment, and the suggested and/or appropriate accommodations that should be considered.

- E. If the information provided is not sufficient to allow the ADA Coordinator to make a determination, the ADA Coordinator will contact the individual requesting accommodation within ten (10) business days of the request and receipt of the medical injury form, if required, to explain why the documentation is insufficient and allow the individual an opportunity to provide any necessary additional information in a timely manner. The ten (10) business day notification requirement may be extended by the ADA Coordinator where extenuating circumstances necessitate an extension in time to respond to an individual.
- F. Once the necessary information regarding the individual's disability has been provided to the ADA Coordinator, the ADA Coordinator will engage in an informal interactive process with the individual requesting an accommodation to clarify the individual's needs and identify the appropriate reasonable accommodation(s). The individual may be asked relevant questions that will enable the ADA Coordinator to make an informed decision about the request.
- G. The ADA Coordinator will analyze the request and confer with appropriate TWU personnel to determine whether the accommodation can be granted, or whether an Undue Hardship exists with respect to a requested accommodation.
- H. If there is a question regarding the existence of a disability or the need for a reasonable accommodation based on the information provided by the employee and their treating physician, TWU may require the employee go to an appropriate health professional of TWU's choice and at TWU's expense.
- I. The ADA Coordinator, on behalf of the ADA Officer, will communicate the final decision on the individual's requested accommodation.

V. Periodic Review

If a reasonable workplace accommodation is implemented, the ADA Coordinator will periodically confer with the employee receiving the accommodation to determine whether the workplace accommodation should be continued or modified.

VI. Reporting Complaints

Any employee who believes they have been denied a reasonable accommodation, has been discriminated against on the basis of disability, or has been retaliated against due to an accommodation request should immediately report the allegations to the TWU Equal Employment Opportunity Officer or designee.

REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

REFERENCES

42 U.S.C. §12102

42 U.S.C. §12111

[URP 01.235: Resolution Procedures for Complaints of Prohibited Conduct](#)

FORMS AND TOOLS

[ADA Accommodation Request](#)

[ADA Hiring Guide](#)

[Medical Inquiry Form in Response to an Accommodation Request](#)

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