# Procedures for Employees (Faculty/Staff) with Disabilities to Request Workplace Accommodations

The University of Virginia is committed to providing reasonable accommodations, upon request, to qualified employees (faculty and staff) with disabilities to ensure equal access to its employment opportunities, benefits, programs, and services.

## STEP 1: EMPLOYEE REQUEST FOR WORKPLACE ACCOMMODATIONS

The employee is responsible for requesting a reasonable accommodation for a disability in the workplace. This is the first step in the interactive process. The request should be submitted to the employee’s Employee Relations Consultant (ER Consultant), who will notify the employee’s supervisor of the request. If employees are not sure who their ER Consultant is, they can locate that person at [Employee Relations Directory](https://hr.virginia.edu/employee-relations/employee-relations-directory), or can contact their supervisor or the University’s ADA Coordinator for assistance.

The employee’s request for workplace accommodations should include the following information:

1. the condition and its duration;
2. the limitations caused by the condition and how those limitations impact the employee’s performance of the essential job functions;
3. the accommodation the employee and/or the employee’s medical/healthcare professional believes will enable performance of essential job functions.

**If employees need assistance due to a disability in submitting a written accommodation request, they should contact the University’s ADA Coordinator at** **ADACoordinator@virginia.edu** **or (434) 924-3295.**

**Note to Supervisors**: If a request is submitted directly to a supervisor, verbally or in writing, the supervisor is responsible for promptly forwarding the request and/or notifying the ER Consultant. The reasonable accommodation process begins when the written request for accommodation is received by the employee’s supervisor.

## STEP 2: INTERACTIVE PROCESS

1. **Duration of Interactive Process:** Absent extenuating circumstances, requests for reasonable accommodations will be considered within fifteen (15) business days of the ER Consultant receiving both the request for reasonable accommodations and completed supporting Medical Information Request Form (except in circumstances where both the disability and the need for the accommodation are obvious). If there is a delay in processing the request, the ER Consultant will notify the employee and supervisor in writing and inform them of the date on which the ER Consultant expects the process to be completed.
2. **Interactive Communications:** Upon receipt of the employee’s request for accommodation, the ER Consultant will promptly engage in the “interactive process,” i.e., a series of communications with the employee to determine appropriate reasonable accommodations. The employee is expected to cooperate with the interactive process, including requests for meetings or additional information from the ER Consultant. The ER Consultant must contact and involve the employee’s supervisor as an integral part of this process. The ER Consultant is encouraged to consult with other University offices (e.g., IT for technology solutions), as needed, as a part of this process.

If both the employee’s disability and the need for the accommodation are obvious and the requested reasonable accommodation does not constitute an undue hardship, the ER Consultant, in consultation with the employee’s supervisor, may provide the reasonable accommodation after discussing the request with the employee without engaging in an extensive interactive process or requesting documentation of the disability.

1. **Documentation of Disability:**  If additional documentation is needed to support the request, the employee will need to send the University’s Medical Information Request Form to the employee’s identified healthcare professional. This form includes the definition of a disability, as defined by the ADA and Section 504, and will include a job description identifying the essential functions of the employee’s job. The ER Consultant also will ask that the employee sign a written consent form for release of information in the event that the ER Consultant may need to contact the healthcare professional to clarify any of the information provided. Note that an employee’s refusal to sign the consent form can result in denial of the request. As part of this process, the ER Consultant will ensure that the employee understands what additional documentation is required and why.
2. **Approval/Denial of Request**: What constitutes a reasonable accommodation will be determined on a case-by-case basis, with input from the employee and supervisor. The employee’s supervisor, after consultation with the ER Consultant (and the ADA Coordinator, as necessary), makes the final determination regarding approved accommodations.

In the case of auxiliary aids and services for employees with sensory or communication (vision, hearing, speech) disabilities, primary consideration will be given to the auxiliary aid or service requested by an employee, unless there is another equally effective means of communication or the request would result in an undue hardship or a fundamental alteration. In such circumstances, the ER Consultant will seek to identify an effective alternative auxiliary aid or service taking into consideration the timeliness, accuracy, and appropriateness of the alternative aid or service.

Whether a condition qualifies as a disability under the ADA will be determined by the ER Consultant. If the ER Consultant is unsure whether a condition qualifies as a disability as defined by the ADA or Section 504, they must consult with the ADA Coordinator and the Office of University Counsel. If after this consultation, the ER Consultant determines that the employee’s condition does not qualify as a disability, the ER Consultant must notify the employee in writing of this determination and the basis for this determination.

Similarly, if the employee’s supervisor and ER Consultant want to deny a requested accommodation because they believe it is not reasonable or that it constitutes an undue hardship, this decision should only be made after consultation with the ADA Coordinator and the Office of University Counsel.

Once accommodations are agreed upon and approved, the ER Consultant will ask the employee to sign a document outlining the reasonable accommodations, a copy of which will be shared with the employee’s supervisor and maintained by the ER Consultant.

## STEP 3: IMPLEMENTATION OF REASONABLE ACCOMMODATION

**University Departments/Schools/Units are responsible for covering the cost of approved, reasonable accommodations, not the employee receiving the accommodations.**

Once a supervisor receives the signed document outlining the approved accommodations, the supervisor is responsible for:

* implementing the reasonable accommodation; and
* keeping the request confidential, except as necessary for implementing the accommodation; and
* assist employee and ER Consultant with any necessary and reasonable modifications.

**Note to Employees:** You are responsible for promptly notifying your ER Consultant and your supervisor if you believe an accommodation being provided is not effective.

| **Role of the Employee** | **Role of ER Consultant** | **Role of Supervisor** |
| --- | --- | --- |
| * Make request in writing to supervisor or ER Consultant
* Engage in interactive process
* Provide documentation/additional documentation of disability, as needed/requested
* Sign documentation of agreed upon accommodations
* Notify ER Consultant or supervisor if accommodations no longer necessary or effective
 | * Notify supervisor of request
* Engage in interactive process
* Obtain any necessary documentation/clarification of request – from employee and healthcare professional, as well as supervisor
* Draft and maintain documentation of agreed upon accommodations
* Assist employee and supervisor with any necessary modifications if notified by employee not effective
 | * Promptly forward any request to ER Consultant
* Engage in interactive process
* Provide information regarding essential job duties upon request
* Approve/implement agreed upon accommodations; as needed, communicate to University personal assisting with implementation that accommodations are required and not merely a preference
* Assist employee and ER Consultant with any necessary modifications if notified by employee not effective
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## CONFIDENTIALITY OF RECORDS

It is the ER Consultant’s responsibility to document in writing all requests for reasonable accommodation and the conversations during the interactive process and to maintain the information separate from the employee’s personnel file. All medical documentation must be kept confidential, separate from general personnel files (either in electronic and/or hard copy format), and shared only with those who are involved in the accommodation process or when required by law.

**RELATED FORMS**

* Medical Certification Letter To be submitted to healthcare professional by HR business partner.
* [Medical Information Request Form](http://eocr.virginia.edu/sites/eop.virginia.edu/files/pdf/MedInfoRqstFrm%20-%202017.pdf) Attached to Medical Certification Letter and completed by a medical/healthcare professional.
* [Disability Accommodation Worksheet](http://eocr.virginia.edu/sites/eop.virginia.edu/files/DisabilityAccomWrk%20-%202016.pdf) Used by HR partner to document the process.

## ROLE OF THE UNIVERSITY ADA COORDINATOR

At any point during the accommodation process, the employee, ER Consultant, and/or supervisor may contact the ADA Coordinator with disability-related questions and requests for assistance regarding compliance with these Procedures at ADACoordinator@virginia.edu or (434) 924-3295.

## COMPLAINTS

Failing to provide a reasonable accommodation to a qualified individual with a disability may constitute discrimination based on a disability, which is a violation of the University’s HRM-009 Preventing and Addressing Discrimination and Harassment policy (PADH Policy). Further, employees are protected from retaliation because they requested an accommodation for a disability under the University’s HRM-010: Preventing and Addressing Retaliation policy (PAR Policy).

Employees who believe that they have been denied a reasonable accommodation for a disability, retaliated against for making such a request, and/or otherwise subjected to disability discrimination, may file a complaint with the University’s Office for Equal Opportunity and Civil Rights (EOCR) in accordance with the Preventing and Addressing Discrimination, Harassment, and Retaliation (PADHR) Complaint Procedures available at [PADHR Complaint Procedures](http://eocr.virginia.edu/file-complaint). Employees may also file a complaint with the external agency authorized to accept such complaints or pursue other remedies available to them under state or federal law.

## KEY DEFINITIONS

**Americans with Disabilities Act of 1990**, as amended in 2008 (ADA): a federal law that prohibits discrimination based on disability by state and local governments.

**Disability**: for purposes of these procedures, a mental or physical impairment that substantially limits one or more major life activities.

**Employee**: any University full-time or part-time employee, including faculty and student employees, wage employees, and post-doctoral students being paid by grants.

**Employee Relations Consultant (ER Consultant):** works in collaboration with employees, managers, the ADA Coordinator, and other Human Resource professionals to resolve workplace issues and serve as a strategic partner through interactive processes.

**Essential functions**: fundamental job duties that bear more than a marginal relationship to the job at issue. If the job description contains the essential functions of the job including physical, behavioral, and minimal qualification requirements, that description will be considered evidence of the essential functions of the job. If the position exists to perform a function, then that function is essential. A function may also be essential if:

* it requires specialized skills;
* it requires a significant amount of time;
* there are significant consequences if the function is not performed; or
* there are a limited number of employees to perform the function.

**Major life activities**: activities that 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.

**Qualified Individual with a Disability**: an individual who, with or without reasonable accommodations, can perform the essential functions of the job.

**Reasonable accommodation**: modifications or adjustments necessary to enable qualified individuals with a disability to perform the essential functions of their job or enjoy equal benefits and privileges of employment. Examples of reasonable accommodations may include, but are not limited to:

* making existing facilities accessible to persons with disabilities;
* job restructuring or modifying work/classroom/lab schedules;
* acquiring or modifying work equipment or devices;
* adjusting or modifying examinations;
* providing qualified readers or interpreters;
* granting leave from work or modifying leave policies; or
* reassignment to an open position for which the employee is qualified.

Please note that what constitutes a reasonable accommodation is determined by the specific facts of each request and will be determined on a case-by-case basis.

**Section 504 of the Rehabilitation Act of 1973** (Section 504): a federal law that prohibits discrimination based on disability in any program or activity operated by an institution that receives federal funds from the U. S. Department of Education.

**Supervisor:** for purposes of these Procedures, a person who has authority to undertake or recommend tangible employment decisions (e.g., hiring, firing, and promoting) affecting an employee (faculty/staff). undertake or recommend tangible employment decisions (e.g., hiring, firing, and promoting) affecting an employee;

* undertake or recommend academic decisions affecting a student; or
* direct a student’s academic activities.

**Undue hardship**: The University does not have to provide a reasonable accommodation that would cause an undue hardship to the employer. Undue hardship must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant burden or expense to the University.

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