



THE JOHN MARSHALL LAW SCHOOL

Accommodating Employees with Disabilities Policy

1. **Purpose and Overview:** The Americans with Disabilities Act (ADA) prohibits discrimination against a qualified individual with a disability in all aspects of employment, including, but not limited to, job application procedures, hiring, promotion, discipline, discharge, compensation, tenure, training, benefits, and other terms and conditions of employment. Pursuant to the Rehabilitation Act of 1973, the ADA, and state law, JMLS will explore providing reasonable accommodations to qualified individuals with disabilities, unless providing such an accommodation would pose an undue hardship.
2. **Definitions:**
 - a. A **“qualified individual with a disability”** is an employee or applicant for employment who can perform the essential functions of the job with or without a reasonable accommodation provided by JMLS. The essential functions of the job are the major duties of that job, as evidenced by the applicable job description, or the primary reason that the job exists.
 - b. As used in this Policy and any implementing procedures, the term **“disability”** means an individual who has a physical or mental impairment that substantially limits one or more of the individual’s major life activities. The term also includes individuals who have a record of such an impairment or who are regarded 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, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include 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, cardiovascular, endocrine, musculoskeletal, and reproductive functions.

3. **Reasonable Accommodations:** JMLS is committed to making reasonable efforts to accommodate qualified individuals with disabilities. Such reasonable accommodations may include, but are not limited to, one or more of the following: job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or medical devices; changing tests, training materials, or policies; providing qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

An employee and his or her qualified treating physician or diagnosing professional provide valuable input as part of the interactive process used to determine whether a reasonable accommodation is available. However, JMLS will determine what constitutes a reasonable accommodation on a case-by-case basis and reserves the right to request additional relevant information from an employee's treating physician or diagnosing professional or to seek the results of an independent medical examination, performed at JMLS's expense, to evaluate a request for a reasonable accommodation. Medical information is treated as confidential and will be shared with JMLS administrators only on a need-to-know basis.

In limited situations, a requested accommodation may pose an "undue hardship" on JMLS which prevents the accommodation from being implemented. The determination of whether a requested accommodation creates an "undue hardship" is contingent upon a number of variables and is made by the Accommodations Coordinator or the General Counsel & Assistant Dean for Human Resources.

4. **Interactive Process for Requesting a Reasonable Accommodation:** This paragraph provides a general overview of the interactive process used to evaluate a request for a reasonable accommodation under this policy.
 - a. **Making a Request for a Reasonable Accommodation:** Generally, an employee should submit a request for an accommodation to the Accommodations Coordinator first, or, in his or her absence, to the General Counsel & Assistant Dean for Human Resources. However, an employee may submit an accommodation to either party if the employee has a concern regarding individual privacy or because of a perceived conflict of interest. When a request is made verbally, employees seeking a reasonable accommodation should confirm their request in writing (email is acceptable) to the Accommodations Coordinator or General Counsel & Assistant Dean for Human Resources.
 - b. **Determination of Disability:** After the initial request is made, a determination is made by the Accommodations Coordinator or the

General Counsel & Assistant Dean for Human Resources about whether the employee has a disability as defined by applicable federal and state laws. The employee may be required to submit documentation to substantiate his or her request. Submitted documentation will be confidentially maintained in a file separate from an employee's personnel file. If the employee's condition is determined not to be a disability, the employee will be notified that the request is denied on that basis.

- c. **The Interactive Process:** The exact nature of the interactive process will vary. In some instances, both the disability and the type of accommodation required will be obvious, and thus there may be little or no need to engage in any discussion. In other situations, JMLS may need to ask questions concerning the nature of the disability and the individual's functional limitations to identify an effective reasonable accommodation. While the individual does not have to be able to specify the precise accommodation sought, the individual must be able to describe the problems posed by the workplace barrier. Additionally, suggestions from the employee may assist JMLS in determining the type of reasonable accommodation to provide. Where the individual or JMLS is not familiar with possible accommodations, JMLS may consult with public or private resources to help identify reasonable accommodations once the specific limitations and workplace barriers have been ascertained. In some situations, JMLS may require that a request for a reasonable accommodation be supported by medical documentation. If required, the cost of obtaining and providing this information to JMLS is the employee's responsibility. After reviewing the facts of each request, the Accommodations Coordinator or the General Counsel & Assistant Dean for Human Resources will determine if the employee is eligible for a reasonable accommodation, and if so, will implement a reasonable accommodation that best serves the needs of the employee and JMLS and does not place an undue hardship on JMLS.

While a reasonable accommodation may be provided on a long-term basis, this does not mean that an employee is necessarily entitled to receive the accommodation indefinitely. There are several reasons why a specific accommodation may no longer be appropriate, including, but not limited to, a person's disability no longer necessitating a reasonable accommodation, the person no longer being disabled, or the previously-granted reasonable accommodation becoming an undue hardship on JMLS. Accordingly, the need to re-engage in the interactive process, which may include the need to provide updated medical documentation, may arise based on a change in the employee's

or JMLS's circumstances. Additionally, an employee who has been granted a reasonable accommodation has an ongoing obligation to keep JMLS informed of any change in condition(s) that may impact the need for or nature of the accommodation.

- 5. Direct Threat Concerns:** The ADA permits employers to require that employees not pose a direct threat—a significant risk of substantial harm—to the health or safety of themselves or others in the workplace. Determining whether an employee poses a direct threat is based on objective, factual evidence regarding the employee's ability to safely and effectively perform the essential functions of his or her position, including recent documentation from an employee's medical provider and, if necessary, the results of a medical evaluation by a licensed medical provider selected and paid for by JMLS to evaluate an individual's ability to safely and effectively perform the essential functions of the position, with or without a reasonable accommodation, without posing a direct threat.

Employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace may be placed on administrative leave until a decision has been made regarding their ability to return to work to perform the essential functions of their position, with or without a reasonable accommodation.

- 6. Appeals and Complaints:** An employee who wishes to appeal the denial of a request for a reasonable accommodation may file a grievance pursuant to the Employee Grievance Process.

If an employee wishes to submit a complaint about the manner in which an accommodation request was handled, or about perceived discrimination based on a disability or request for accommodation, an employee may file a complaint pursuant to the Employee and Faculty Protection from Discrimination and Harassment Policy or through the Ethics and Compliance Hotline.

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