

# Utah Tech University Policy

## 153: ADA and Section 504



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### I. Purpose

- 1.1 This policy indicates Utah Tech University's ("the University") compliance with the Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Vocational Rehabilitation Act of 1973.

### II. Scope

- 2.1 The University is committed to providing equal employment opportunities for qualified employment applicants and employees as well as providing equal educational opportunities for all qualified students who have learning or physical disabilities.

### III. Definitions

- 3.1 **ADA Coordinator(s):** The person(s) designated by the University to authorize and ensure the provision of reasonable accommodation and other ADA related assistance. For students, that person is the Director of the Disability Resource Center and for employees or applicants, that person is the Executive Director of Human Resources.
- 3.2 **Disability:** Any physical or mental impairment that substantially limits one or more major life activities as covered and protected by ADA. Having a qualified record of such an impairment and/or being regarded as having such an impairment by a qualified professional may validate an individual as having a disability.
  - 3.2.1 Exceptions are those conditions excepted by Title I, Section 504 of the ADA.
  - 3.2.2 To be considered with a disability, one must meet the essential eligibility requirements for receipt of special accommodations,

according to ADA and 504 regulations.

- 3.2.3 An employee who is covered by worker's compensation due to a work-related injury may also be qualified with rights under ADA.
- 3.2.4 An employee may qualify for a temporary transitional assignment upon return to work after being on worker's compensation, due to the development of a disability, or during the disability qualification determination period.
- 3.3 **504 Compliance Officer(s):** The person(s) responsible for assuring that the University and the ADA Coordinators are complying with requirements of reasonable accommodation. For students, that person is the Executive Director of Human Resources and for employees or applicants, that person is the Director of the Disability Resource Center.
- 3.4 **Reasonable Accommodation:** Effective accommodation of a qualified individual with a disability by which barriers to equal employment opportunity are removed or alleviated, so that they are enabled to perform the essential functions of the job for which they are hired.
  - 3.4.1 Reasonable accommodation should not impose an undue hardship on the employer. "Undue hardship" mean significant difficulty or expense, which is extensive, substantial, or disruptive.
  - 3.4.2 An employer is obligated to provide reasonable accommodation only for qualified individuals with eligible disabilities.
  - 3.4.3 Reasonable accommodation also considers the health or safety of other employees.
  - 3.4.4 Employees must be able to perform the essential functions of the job, either with or without accommodation.
  - 3.4.5 If reasonable accommodations will not enable the employee to perform the job adequately, the employee may be judged to be not qualified for the position.

#### IV. Policy

- 4.1 It is the University's policy to ensure that employment decisions are made without discrimination, including but not limited to, decisions concerning hiring, compensation, benefits, job assignments, training, evaluations, working conditions, and opportunities for advancement.
- 4.2 The University expresses intent to provide reasonable accommodation, as

necessary, to enable an otherwise qualified person with a disability to perform successfully the essential functions of the job.

- 4.3 The University's objective is to encourage program participation, provide program access, and deliver services to students with disabilities in the most integrated setting possible in compliance with ADA and Section 504 of the Vocational Rehabilitation Act.
- 4.4 The Human Resources Office is responsible for posting a notice of the Americans with Disabilities Act in locations appropriate for employee and applicant access, while the Disability Resource Center ensures notice for students.

## **V. References**

- 5.1 Americans with Disabilities Act of 1990
- 5.2 Section 504 of the Vocational Rehabilitation Act of 1973
- 5.3 University Policy 164: Protected Class and Non-Title IX Discrimination, Harassment, Sexual Harassment and Retaliation
- 5.4 University Policy 533: Student Accommodations

## **VI. Procedures**

- 6.1 Request: It is the responsibility of the employee, student, or applicant to disclose their disability and to request reasonable accommodation, if desired, from the ADA Coordinator. Accommodation is to be requested in the following manner:
  - 6.1.1 Requests are to be made to the ADA Coordinator in writing, when possible, or in another appropriate format.
  - 6.1.2 The requestor needs to provide necessary information as determined by the ADA Coordinator.
  - 6.1.3 It is the responsibility of the requestor to provide the necessary medical or psychological information identifying diagnosis, associated functional limitations, and their effect of major life and work activities.
    - 6.1.3.1 Additional opinions may be required by the ADA Coordinator and obtained at the expense of the requestor or their department, if an employee.

- 6.1.4 The ADA Coordinator has discretion to provide reasonable accommodations where the disability is obvious.
  - 6.1.5 The requestor should provide a release of information to allow communication between the University and the medical certifier.
  - 6.1.6 It is the responsibility of the requestor to recommend the nature of the accommodations they desire and to provide a detailed description and an explanation of its appropriateness.
  - 6.1.7 The University will determine eligibility for and specify the nature of academic adjustments accommodation or reasonable work-related accommodations.
- 6.2 Response: The ADA Coordinator will consult with the requestor and others as deemed appropriate. This may include the supervisor, department head, or other appropriate individuals both inside and outside the University.
- 6.2.1 Simple, inexpensive, work accommodation may be granted by the supervisors to all requestors alike without regard to ADA.
  - 6.2.2 The ADA Coordinator is to be informed of all requests that involve a work change due to a health condition.
  - 6.2.3 The reasonableness of any accommodation will be made on a case-by-case basis.
  - 6.2.4 Determinations will be rendered in a timely manner after considering the information provided in the request and reviewing accommodations available.
  - 6.2.5 The ADA Coordinator may provide temporary accommodations as are appropriate while required documentation is obtained and ADA/504 determinations are being made.
  - 6.2.6 Before a request is denied, the state risk management office will be consulted.
  - 6.2.7 Decisions regarding the determined accommodation will be issued by the ADA Coordinator, in writing, to the requesting person.
  - 6.2.8 The University shall share ADA information internally on a “need to know” basis.
  - 6.2.9 Supervisors are to provide accommodation. However, they will

receive only information about job limitations and needed accommodations. They will not receive information regarding the requestor's disability, unless the disability creates a life-safety issue.

- 6.2.10 Medical and Psychological records and other ADA information will be classified as confidential and will be maintained in keeping with the confidentiality requirements prescribed by the ADA Coordinator, ADA and GRAMA (Government Records Access and Management Act).
- 6.3 Direct Threat: Employees who present a direct threat to the safety of themselves or others, due to a qualified disability, may receive a new or a transitional assignment if appropriate or as a reasonable accommodation, if it will alleviate the safety threat.
  - 6.3.1 If accommodation is not possible or the safety threat remains, the employee may be terminated.
- 6.4 Appeal: If the employee, applicant, or student believes a denied accommodation or a determined accommodation to be inadequate or unacceptable, they may appeal the decision, in writing or in another appropriate format, to the 504 Compliance Officer.
  - 6.4.1 The 504 Compliance Officer will investigate the appeal and make a recommendation to the Associate Vice President (AVP) of Executive Affairs / Chief of Staff, who will make the final determination of accommodation on behalf of the University.
- 6.5 Complaints: Any disability discrimination complaint should be reported to the Director of Equity Compliance, who is responsible for Policy 164, by completing the Incident Reporting Form on the University's Equity Compliance and Title IX website or by calling 435-652-7747.
  - 6.5.1 A complaint which is an appeal of a determined accommodation should be made following the process in 6.4 above.

## **VII. Addenda – N/A**

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Policy Owner: Chief of Staff

Policy Stewards: Director of the Disability Resource Center, Executive Director of Human Resources

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