



## USM OFFICE POLICY AND PROCEDURE ON DISABILITY ACCESSIBILITY AND REQUESTING A REASONABLE ACCOMMODATION

(Approved by the Chancellor: December 15, 2020)

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### I. Policy

- A. The University System of Maryland (USM) is an Equal Opportunity Employer, and complies with all applicable federal and state employment laws and regulations regarding non-discrimination and affirmative action, including the Americans With Disabilities Act, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended. The USM Office (USMO) recruits, hires, and promotes qualified people from traditionally underrepresented communities, minorities, women, qualified individuals with disabilities, and protected-status veterans. The USM prohibits harassment, retaliation, or discrimination on the basis of physical or mental disability, or because a person files a complaint of harassment or discrimination, or participates in an investigation of a complaint of discrimination, or opposes a practice of discrimination.
- B. The USMO will provide reasonable accommodations to qualified individuals with disabilities who are employees or applicants for USMO employment, unless doing so would cause the USMO undue hardship.

### II. Applicability

This Policy and Procedure applies to USMO employees and job applicants.

### III. Definitions

- A. An **accommodation** is a reasonable modification or adjustment to the work environment that enables a qualified individual with a disability to perform the essential duties of their job, or to enjoy the same benefits and privileges of employment as are enjoyed by non-disabled individuals.
- B. The **Human Resources-ADA Coordinator** is responsible for compliance with the Americans With Disabilities Act and other federal and state employment laws and regulations pertaining to persons with disabilities.
- C. A **disability** is defined as:

- A. a physical or mental impairment that substantially limits a major life activity;
- B. a record of such impairment; or
- C. being regarded as having such impairment<sup>1</sup>
- D. **Effective** means a reasonable accommodation that meets the needs of the qualified individual with a disability so that an individual is able to perform the essential functions of the position, and/or to enjoy the benefits and privileges of employment that non-disabled individuals in similar USMO positions enjoy. An effective reasonable accommodation enables a qualified applicant with a disability to participate in the job application process and be considered along with other applicants.
- E. **Essential functions** are the fundamental duties of the employment position the person with a disability holds or desires. A job function may be considered essential for any of several reasons, including but not limited to the following:
  1. the function may be essential because the reason the position exists is to perform that function;
  2. the function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or
  3. 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.
- F. The **interactive process** is an informal practice by which the qualified individual with a disability and the HR-ADA Coordinator (or other USMO official) determine the precise limitations created by the disability and how best to respond to the need for accommodation.
- G. **Major life activities** include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, learning, and working, and the operations of major bodily functions.
- H. A **qualified individual with a disability** is a person who has the skills, experience, education and other job-related requirements necessary for the position, and is able to perform the essential functions of the job with or without a reasonable accommodation. A simple form is available in the Human Resources Office or on the USMO's website.
- I. A **request for accommodation** (or accommodation request) is a request for a modification or adjustment to a job, employment practice, or work environment to address the functional limitations of a disability.

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<sup>1</sup> Only individuals who have an actual disability, or who have a record of a disability are entitled to accommodation(s); individuals who are *regarded as* having a disability are not entitled to accommodation(s).

J. **Substantially limits a major life activity** means the employee's disability limits the employee's ability to perform a major life activity as compared to most people in the general population.

K. **Undue hardship** means a significant difficulty or expense that would be incurred by the USMO if it were to provide certain reasonable accommodations.

#### IV. Procedure for USMO Employees to Request an Accommodation

The reasonable accommodation procedure is essentially three steps, intended to be simple and accessible:

A. **Initiate:** To make an accommodation request, the employee should let the HR-ADA Coordinator know that an adjustment or change is needed at work for a reason related to a physical or mental impairment. This is the first step in the interactive process.

1. The request may be written or verbal; no special words are needed.
2. A USMO supervisor or manager who learns first of an employee's request should immediately seek the guidance of the HR-ADA Coordinator so that the matter can be handled in an expeditious manner.
3. The HR-ADA Coordinator will ask the employee to complete a form that will serve as a guide to the interactive process.

#### B. Information Exchange:

The HR-ADA Coordinator will discuss the reasonable accommodation request with the employee, if necessary. If the disability isn't already known or obvious, the HR-ADA Coordinator may ask clarifying questions in order to establish that an employee is a qualified individual with a disability in need of a reasonable accommodation to perform the essential functions of the position. The employee may be asked for a limited amount of additional medical information to the extent necessary to establish the disability, and the accommodation(s) needed to perform the essential functions.

#### C. Determination:

From the information exchanged between the employee and the HR-ADA Coordinator during the interactive process, the HR-ADA Coordinator will render a Determination on the accommodation(s) to be implemented, if applicable. Depending on the nature and complexity of the request, an accommodation could potentially be made immediately, or take several weeks to implement.

1. The HR-ADA Coordinator will prepare a brief written Determination summary, a copy of which the employee will receive.
2. The supervisor will receive only the information needed to implement the accommodation and supervise the employee performing the job's essential functions.

#### D. Complaint

If a USMO employee believes they have been denied a reasonable accommodation or denied another right to which they are entitled under this Policy and Procedure, or if they believe they have been discriminated against or retaliated against on the basis of their disability, they may file a written Complaint with the Associate Vice Chancellor for Human Resources.

1. The written Complaint must be sent within ten (10) work days of the HR-ADA Coordinator's written Determination summary.
2. The written Complaint must be sent via email to [USMOHR@usmd.edu](mailto:USMOHR@usmd.edu) or via U.S. Mail to:

Associate Vice Chancellor for Human Resources, University System of Maryland, 3300 Metzert Road, Adelphi, MD 20783. The envelope should be marked "Personal and Confidential" and include the employee's return address.

**V. Confidentiality**

Documentation pertaining to an employee's accommodation(s) requests, and the information gathered as part of the interactive process, will be maintained in a confidential file in the USMO Human Resources Office, separate from the employee's official personnel/payroll file. Only the USMO staff involved in the interactive process, or reconsideration, will be provided access to such documents and information.

**VI. Changes to Medical Condition**

The employee is responsible for advising the USMO HR-ADA Coordinator if and when there is a change in functional limits of the disability for which they have received accommodation.

**VII. Accommodation Requests by Applicants to USMO Jobs**

Individuals with disabilities who need reasonable accommodation to apply to an advertised USMO job vacancy should contact the HR-ADA Coordinator or the USM Office of Human Resources before the advertisement expires.

APPROVED:



December 15, 2020

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Jay A. Perman, Chancellor

Date