

ADA Rights & Accommodations

UVMCC Support Staff United
Contract Education Committee





What is the ADA?

The **Americans with Disabilities Act of 1990** prohibits discrimination on the basis of disability and protects the rights of workers with disabilities.

It requires workplaces to provide **reasonable accommodations** to those with disabilities and requires public facilities to meet certain **accessibility** standards.



What is a disability?

- May be **physical** or **mental**
- Does not have to be permanent or severe
- Qualified by symptoms without “mitigating measures” (e.g. treatment, medications, assistive devices) during “active episode,” not current state
 - It is better to get accommodations early than late!
- Does not include behaviors that harm others



Examples of disabilities

This is not a complete list, just examples of possible disabilities

- Mobility impairment
- Movement disorders
- Hearing impairment
- Vision impairment
- Amputation
- Cancer
- Diabetes
- Epilepsy
- Intellectual disability
- HIV/AIDS
- Anxiety
- Depression
- PTSD
- OCD
- ADHD
- Bipolar
- BPD
- Schizophrenia
- Gender dysphoria
- Memory impairment



What is a “reasonable accommodation”?

- Providing or modifying equipment or devices
- Job restructuring
- Part-time or modified work schedules
- Reassignment to a vacant position
- Adjusting or modifying examinations, training materials, or policies
- Providing readers and interpreters
- Making the workplace readily accessible to and usable by people with disabilities



Auxiliary Aids

“Interpreters; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;

Acquisition or modification of equipment or devices; and

Other similar services and actions.”



Limits of ADA

- Must be able to complete “essential functions” of job
- Does not guarantee time off like FMLA
- Employer must agree to accommodations
- Requires in depth and frequent medical documentation



“Undue Hardship”

Accommodations may not create “**Undue Hardship**” for employer.

“Any accommodation that would be unduly costly, extensive, substantial, or disruptive or that would alter the nature or operation of the business.”

Still must be able to complete essential job functions.

MAJOR limitation to ADA



HOW TO APPLY FOR ADA ACCOMMODATIONS



STEP 1

CONTACT
THE
HARTFORD

- Call The Hartford at 1-888-716-4549
Mon - Fri, 8am - 9pm
- Let them know you would like to apply for disability accommodations through the ADA
- Request an Accommodation Request Form



STEP 2

CONTACT YOUR DOCTOR

- Make an appointment with a relevant physician for your disability
- Send their office the Accommodation Request form and take a copy with you
- Bring a list of reasonable accommodation ideas
- Discuss and fill out every section of the form
- Have your doctor sign the completed form



STEP 3

SUBMIT
YOUR
FORM

- Fax your completed Request form and medical documentation to The Hartford
- Fax: 1-877-588-4817
- **Fax your documentation before the deadline!**



STEP 4

REVIEW

- Human Resources Solution Center (HRSC) will review your request with an HR Business Partner and your supervisor
- Your supervisor will meet with you to discuss reasonable accommodations



STEP 5

RESULTS & IMPLEMENTATION

- Your supervisor and The Hartford will notify you whether your request has been approved.
- If so, HR and your supervisor will implement the accommodations
- If not, you may change your requested accommodations or medical documentation and reapply



HELP!

My rights are being violated!





File an EthicsPoint Complaint

- Ethics Compliance Reporting on UVMCMC Intranet
- **Discrimination on the Basis of Disability**
- Initiates an internal investigation
 - May contact supervisor and even coworkers
 - Conducted by **Human Resources**
- Historical issues with investigation and enforcement
- File before or with **Step 1** grievance

**HR is not
your friend.**





The Split Loyalty of HR

1. The Law

HR's first obligation is to encourage UVMC to meet legal requirements regarding hiring, firing, labor rights, and discrimination.

1. The Company

HR works for the company! They will protect the company's interests over yours. (E.G. **Undue Hardship**)

1. The Worker

When they align with the minimum legal requirements and the company's interests, HR will accommodate your needs.



EEOC Protections

The **Equal Employment Opportunity Commission** investigates complaints and protects against discrimination in the workplace.

Instituted via the **Civil Rights Act of 1964**



EEOC - Protected Classes

- Race
- Color
- national origin
- Religion
- Sex (including sexual orientation, pregnancy, and gender identity)
- Age
- Disability
- Genetic information
- Retaliation for participating in a discrimination complaint proceeding and/or opposing a discriminatory practice



File an EEOC Complaint

- If you feel like you are being discriminated against or that your ADA accommodations request was unfairly denied, file a complaint with the EEOC
 - <https://www.eeoc.gov/filing-charge-discrimination>
- The EEOC will investigate and, if it validates your complaint, will file federal discrimination charges against the employer, initiating a series of court hearings



File a Grievance!

- Article 7 - Non-Discrimination
 - Grieve discrimination on the basis of disability
 - Does not require discipline
- Article 42 - Discipline & Discharge
 - **Just Cause discipline** factors in “mitigating/extenuating circumstances”
 - Treatment and/or lack of accommodations may qualify



Organize Your Coworkers!

Creating a **petition** for your coworkers to sign can be an effective way to use collective power to pressure management.

The petition should not contain specific details about your disability, but should be a broad call on mgmt to work with the employee in good faith.

Talk to your union steward before circulating a petition to make sure it's the best path forward.