

Metropolitan State University of Denver

ADA Policies and Procedures – Accommodations for Faculty, Staff, and Student Employees with Disabilities



Revised October 2017

**ADA POLICIES AND PROCEDURES FOR PROVIDING
ACCOMMODATIONS FOR FACULTY, STAFF AND STUDENTS
WITH DISABILITIES**

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INTERNAL MSU DENVER RESOURCES

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I. POLICY ON REASONABLE ACCOMMODATION

The University's policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973. Under the law, agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship. The University is committed to providing reasonable accommodations to its employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity at the University. The University provides reasonable accommodations:

- when an applicant with a disability needs an accommodation in order to be considered for a job;
- when an employee with a disability needs an accommodation to enable him or her to perform the essential functions of the job or to gain access to the workplace; and
- when an employee with a disability needs an accommodation to enjoy equal benefits and privileges of employment.

The University will process requests for reasonable accommodation and provide reasonable accommodations in a prompt, fair and efficient manner where appropriate,

In order to effectuate this policy, the various departments are not responsible for costs to implement employee accommodation requests. The University has dedicated centralized funding resources to pay for reasonable accommodations. In addition, The University has designated an ADA Coordinator for employees who have direct administrative responsibility for ADA accommodation requests, University-wide.

DEFINITION OF KEY TERMS

- **Reasonable Accommodation:** Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities, as long as the change does not require the employer to face undue financial hardship, or to remove an essential job function, or to lower employment standards.
- **Qualified Individual with a Disability:** An individual with a disability is qualified if (1) s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) s/he can perform the essential functions of the position, with or without reasonable accommodation.
- **Essential Functions:** Those job duties which are so fundamental to the position the individual holds or desires that s/he cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.
- **Reassignment:** Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to vacant positions and to employees who are qualified for the new position. In the case of exempt employees (including faculty and staff); the employee is qualified for the position, s/he will be reassigned to the job and will not have to compete for it. Under the State Personnel Rules classified staff will have to compete for vacant positions.
- **Undue Hardship:** If a specific type of reasonable accommodation causes *significant difficulty or expense*, then the University does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the University.

II. REQUESTS FOR REASONABLE ACCOMMODATION

A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition. **The reasonable accommodation process begins as soon as the request for accommodation is made.**

A request does not have to use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act." An individual with a disability may request a reasonable accommodation whenever s/he chooses, even if s/he has not previously disclosed the existence of a disability. **Any University employee or applicant may consult the ADA Coordinator¹ for further information or assistance** in connection with requesting or processing a request for reasonable accommodation.

An **employee (faculty, staff and/or student)** may request a reasonable accommodation **orally or in writing** from his/her supervisor; another supervisor or manager in his/her immediate chain of command; the dean; vice president. However, they must refer such requests and the individual making the request to the ADA Coordinator for processing.

An **applicant** may request a reasonable accommodation orally or in writing from any University employee with whom the applicant has contact in connection with the application process. However the University employee must refer the individual making the request to the EO Office for processing the request. The Office of Human Resources (for classified positions) and Equal Opportunity office (for exempt, faculty and student employees) are responsible for training staff that is involved in the application process to recognize requests for reasonable accommodation and to handle them appropriately. Off campus office directors also should ensure that **all staff** having contact with applicants knows how to recognize and handle requests for reasonable accommodation.

A **family member, health professional, or other representative** may request an accommodation on behalf of a University employee or applicant. The request should go to one of the same persons to whom the employee or applicant would make the request.

III. WRITTEN REQUESTS FOR RECORD KEEPING PURPOSES

To enable the University to keep accurate records regarding requests for accommodation, employees seeking a reasonable accommodation **must follow up an oral request either by completing the "Request for Reasonable Accommodation Form" (Appendix D) or otherwise confirming their request in writing (including by e-mail as a written confirmation) to the ADA Coordinator.** For applicants seeking a reasonable accommodation, the ADA Coordinator must give them the "Request for Reasonable Accommodation Form" to fill out.² If an individual with a disability requires assistance with this requirement, the ADA Coordinator receiving the request will provide that assistance.

¹ The ADA Coordinator, as explained below, has specific responsibilities as part of the reasonable accommodation process, including processing certain requests, making determinations on the need for medical information, and preparing annual reports on University's reasonable accommodation process. See "Internal MSU Denver Resources" page 3, for the phone number and e-mail address for the ADA Coordinator. ²See "Section IV. Determining which University Official Will Handle the Request," page 7, for information on the responsibilities of the HR Management Specialist.

While the written confirmation should be made as soon as possible following the request, it is not a requirement for the request itself. The University will begin processing the request as soon as it is made, whether or not the confirmation has been provided.

The written form is required only for the first request although, of course, appropriate notice must be given each time the accommodation is needed. A written confirmation is not required when an individual needs a reasonable accommodation on a repeated basis (e.g., the assistance of sign language interpreters or readers).

IV. DETERMINING WHICH UNIVERSITY OFFICIAL WILL HANDLE THE REQUEST

As the first step in processing a request for reasonable accommodation, the University staff member who receives the request must forward it, to the ADA Coordinator.

The request should be forwarded to the ADA Coordinator **as soon as possible but in no more than five business days.**³ All referrals must be copied to the Department Director/Chair, Dean and Vice President of the employee requesting the accommodation. If the person receiving the request, including the ADA Coordinator s/he should promptly notify the employee's Department Director/chair, Dean, or Vice President that the request has been made.

- **Requests for accommodation from applicants will be handled by the EO office or HR Representative responsible for the recruitment and/or selection process.**
- **Requests for accommodation from employees will be handled by the requesting employee's immediate supervisor** unless the request is one which should be handled by the Department Director/Dean, Vice President or the ADA Coordinator, as explained below. The supervisor should then forward the request to the ADA Coordinator.
- **Certain requests for accommodation will be handled by the Department Director or his or her designee in Collaboration with the ADA Coordinator.** These include requests involving personnel actions (other than reassignment) and requests by off campus staff for accessible parking.
- **Certain requests for accommodation will be handled by the ADA Coordinator.** The ADA Coordinator will handle the following:
 - Requests for **adaptive equipment, including information technology and communications equipment, or specially designed furniture.**
 - Requests for **a reader or sign language interpreter or other Administrative Hourly to enable employees to perform their job functions, where the accommodation cannot be provided by current staff.** The ADA Coordinator will coordinate such requests with the Office of Human Resources. (See Appendix A for information on requesting sign language interpreters and Appendix B for information on hiring Administrative Hourly).

³ In certain circumstances, referring and processing a request will have to be made very quickly. For example, an applicant may need an accommodation such as help filling out an application immediately. See Section VIII, Time Frames for Processing Requests and Providing Reasonable Accommodations, for information, including when a request must be expedited.

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Requests for the **removal of an architectural barrier(s), including reconfigured work spaces.** The ADA Coordinator will coordinate these requests with the Auraria Higher Education Center.

- Requests for **materials in alternative formats (e.g., Braille, large print) which cannot be handled by the supervisor or Department Director, Chair Dean, Vice President.**
- Requests for reassignment to another job. The ADA Coordinator will coordinate these requests with the Office of Human Resources.
- In addition, the ADA Coordinator will be available as needed to provide assistance to employees and supervisors in processing requests.
- The ADA Coordinator must have designated back-ups to continue receiving, processing and providing reasonable accommodations when the ADA Coordinator is unavailable. The ADA Coordinator should ensure that individuals know who has been designated as backup. The time frames discussed in Section VIII below, will not be suspended or extended because of the unavailability of a decision maker.
- The back-up for a supervisor is his/her Department Director, Chair, Dean or Vice President.
- The Office Director/Chair, Dean, Vice President and the ADA Coordinator must each designate a back-up.

V. THE INTERACTIVE PROCESS

The next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the University ADA Coordinator must talk to each other about the request, the process for determining whether an accommodation will be provided, and potential accommodations.

Communication is a priority throughout the entire process. The University ADA Coordinator will have the principal responsibility for identifying possible accommodations. S/he will take a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee requesting the accommodation should also participate to the extent possible in helping to identify an effective accommodation.

Resources that are available to help both the ADA Coordinator and the individual requesting the accommodation to identify possible accommodations are listed in Appendix C.

As the first step, the University ADA Coordinator will: (1) explain to the applicant or employee that s/he will be making the decision on the request; and (2) describe what will happen in the processing of the request. **This initial discussion should happen as soon as possible.**

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- When a request for accommodation is made by a third party the ADA Coordinator should, if possible, confirm with the applicant or employee with a disability that s/he, in fact, wants a reasonable accommodation before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, the University will process the third party's request and will consult directly with the individual needing the accommodation as soon as it is practicable.
- On-going communication is particularly important where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are considering different possible reasonable accommodations. In those cases where the disability, the need for accommodation and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the ADA Coordinator and requesting individual should talk to each other to make sure that there is a full exchange of relevant information.
- The ADA Coordinator or any other University official who receives information in connection with a request for reasonable accommodation may share information connected with that request with other University officials **only when the University official(s) need to know the information in order to make determinations on a reasonable accommodation request.** See Section VII for specific rules governing the confidentiality of medical information.
 - For example, the Office of Information Technology (IT) will typically be consulted in connection with requests for adaptive equipment for computers. However, IT has no need to know any information about the medical condition of the person seeking the accommodation. It only needs to know his or her functional limitations insofar as these limitations affect technology needs.
- There are specific considerations in the interactive process when responding to a **request for reassignment.**
 - Reassignment will only be considered if no accommodations are available to enable the individual (including student employees) to perform his or her current job, or if the only effective accommodation would cause undue hardship. In considering whether there are positions available for reassignment, the ADA Coordinator will work with both the Office of Human Resources (OHR) and the individual requesting the accommodation to identify: (1) all vacant positions within the agency for which the employee may be qualified, with or without reasonable accommodation; and (2) all positions which OHR has reason to believe will become vacant over the next **60 business days** and for which the employee may be qualified. The agency will first focus on positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, the University will consider vacant lower level positions for which the individual is qualified; if classified, for which they have been certified.

VI. DOES THE INDIVIDUAL REQUESTING THE ACCOMMODATION HAVE A DISABILITY? REQUESTS FOR MEDICAL INFORMATION

The University is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In some cases the disability and need for accommodation will be obvious or otherwise already known to the ADA Coordinator. In these cases, the University will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not obvious or otherwise already known to the ADA Coordinator, the University may require, if it chooses, that the individual provide reasonable documentation about the disability and his or her functional limitations.

- The ADA Coordinator will make a determination as to whether medical documentation is necessary. If it is, s/he will request the necessary medical information. If it is not necessary, the request for accommodation will be processed.
- If a determination is made to seek medical information, the University will request information sufficient to substantiate that the individual has a Rehabilitation Act disability and needs the reasonable accommodation requested, but will not ask for unrelated documentation. University requests for medical information will follow the requirements set forth in the Equal Employment Opportunity Commission's *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act* (available on EEOC's internet and intranet sites).
- The ADA Coordinator will seek information or documentation about the disability and/or functional limitations from the individual, and/or ask the individual to obtain such information from an appropriate professional, such as a doctor, social worker, or rehabilitation counselor. In order to get the most helpful possible information, all requests for information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.
- Once the medical documentation is received, the ADA Coordinator will evaluate it, in consultation with a physician chosen by the University, if necessary.
- If the information provided by the health professional (or the information volunteered by the individual requesting the accommodation) is insufficient to enable the University to determine whether an accommodation is appropriate, the ADA Coordinator may ask for further information.
- First, however, s/he will explain to the individual seeking the accommodation, in specific terms, why the information which has been provided is insufficient, what additional information is needed, and why it is necessary for a determination of the reasonable accommodation request.
- The individual may then ask the health care or other appropriate professional to provide the missing information.
- Alternatively, the ADA Coordinator and the individual requesting the accommodation may agree that the individual will sign a limited release, and that the University may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's doctor.

- If, after a reasonable period of time, there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the ADA Coordinator may request that the individual be examined by a physician chosen by the University.
- The ADA Coordinator will let the decision maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional relevant information about the individual's functional limitations.
- In some cases, the individual requesting the accommodation will supply medical information directly to the ADA Coordinator without being asked. In these cases, the ADA Coordinator will consider such documentation and if additional information is needed (See Section XII for instructions on storage of this information).

The failure to provide appropriate documentation or to cooperate in the University's efforts to obtain such documentation can result in a denial of the reasonable accommodation.

VII. CONFIDENTIALITY REQUIREMENTS REGARDING MEDICAL INFORMATION OBTAINED IN THE REASONABLE ACCOMMODATION PROCESS

Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means that all medical information, including information about functional limitations and reasonable accommodation needs, that the University obtains in connection with a request for reasonable accommodation must be kept in **files separate from the individual's personnel file**. It also means that any University employee who obtains or receives such information is strictly bound by these confidentiality requirements.

The ADA Coordinator will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of 29 C.F.R. § 1611 and EEOC Order 150.003. This information may be disclosed **only** as follows:

- Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s), but medical information should only be disclosed if strictly necessary. First aid and safety personnel may be informed, when appropriate, *if the* disability might require emergency treatment;
- Government officials may be given information necessary to investigate the University's compliance with the Rehabilitation Act; and
- The information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers.
- Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that attach to it.

VIII. TIME FRAMES FOR PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMMODATIONS

The University will process requests for reasonable accommodation and provide accommodations, where they are appropriate, in as short a time frame as reasonably possible. The University recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

- A. **Expedited processing:** In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 15 or 20 business days discussed below. This includes where a reasonable accommodation is needed:

To enable an applicant to apply for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for reasonable accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the Office of Human Resources and the EO Office directors need to move as quickly as possible to make a decision and if appropriate, provide a reasonable accommodation.

To enable an employee to attend a meeting scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in 5 days.

- B. If a request for an accommodation by the **employee's supervisor or Department Director, Dean, Vice President to the ADA Coordinator for immediate processing**, if no supporting medical information is required and no extenuating circumstances apply, the request shall be processed. If granted, the accommodation should be provided in no more than **15 business days** from the date the supervisor or Office Director receives the request, and sooner, if possible. Since the ADA Coordinator may need the full 15 days to engage in the interactive process and collect all relevant information about possible accommodations, they should not delay beginning this process. Failure to meet this time frame solely because the ADA Coordinator delayed processing the request is not an extenuating circumstance (see next page for information on "extenuating circumstances").
- If the ADA Coordinator believes that it is necessary to obtain medical information to determine whether the requesting individual has a disability and/or to identify the functional limitations, such request to the employee must be made as soon as possible after his or her receipt of the request for accommodation, but before the expiration of the 15-day period. The University recognizes that the need for documentation may not become apparent until after the interactive process has begun.
 - If the ADA Coordinator requests medical information, the 15-day period is frozen.
 - If the ADA Coordinator determines that medical information is not needed, the 15-day time period resumes as soon as the ADA Coordinator notifies the decision maker that s/he can continue processing the request.

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- If the ADA Coordinator determines that medical documentation is needed, the decision shall be made. If granted, the accommodation will be provided within **15 business days** from the date the ADA Coordinator receives the relevant information.

Examples of accommodations which can easily be provided within this 15-day time frame include:

- An employee with diabetes who sits in an open area asks for four breaks a day to test his/her blood sugar levels so that s/he may do these tests in private.
- An employee who takes anti-depressants which make it hard for him/her to get up in time to get to the office at 8:00 a.m., requests that s/he be allowed to start work at 9:00 a.m. and still work an 8 hour day.
- A supervisor distributes detailed agendas at the beginning of each staff meeting. An employee with a learning disability asks that the agenda be distributed ahead of time because the disability makes it difficult to read and he needs more time to prepare.

C. Once the ADA Coordinator grants the accommodation, the accommodation will be provided **within 20 business days** from the date the request was initially made, absent extenuating circumstances. If medical documentation is necessary, the decision will be made **within 20 business days** from the receipt of the documentation, absent additional extenuating circumstances.

D. Extenuating Circumstances: These are **factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation.** When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. It is the University's policy that extensions based on extenuating circumstances should be limited to circumstances where they are strictly necessary. All University staff (including student employees) are expected to act as quickly as reasonably possible in processing requests and providing accommodations. The following are examples of extenuating circumstances:

- There is an outstanding initial or follow-up request for medical information, or the ADA Coordinator is evaluating medical information which has been provided.
- The purchase of equipment may take longer than 15 or 20 business days because of requirements under the State Acquisition Regulation.
- Equipment must be back-ordered, the vendor typically used by the University for goods or services has unexpectedly gone out of business, or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available.
- The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before the University buys it.
- New staff needs to be hired or contracted for, or an accommodation involves the removal of architectural barriers.

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"Extenuating circumstances" covers limited situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation. For example, the University may not delay processing or providing an accommodation because a particular staff member is unavailable. (See Section IV on designating back-ups to handle requests when the decision maker is unavailable.)

Where extenuating circumstances are present, **the ADA Coordinator must notify the individual of the reason for the delay, and the approximate date on which a decision, or provision of the reasonable accommodation, is expected.** Any further developments or changes should also be communicated promptly to the individual.

- If there is a delay in providing an accommodation which has been approved, the **ADA Coordinator** must investigate whether **temporary measures** can be taken to assist the employee. This could include providing the requested accommodation on a temporary basis or providing a less effective form of accommodation. In addition, the **ADA Coordinator** may provide measures that are not reasonable accommodations within the meaning of the law (*e.g.*, temporary removal of an essential function) if: (1) they do not interfere with the operations of the University; and (2) the employee is clearly informed that they are being provided only on a temporary, interim basis.
- For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the supervisor might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives.
- If a delay is attributable to the need to obtain or evaluate medical documentation and the University has not yet determined that the individual is entitled to an accommodation, the University may also provide an accommodation on a temporary basis. In such a case, the **ADA Coordinator** will notify the individual **in writing** that the accommodation is being provided on a temporary basis pending a decision on the accommodation request.
- The University **ADA Coordinator**, who approves such temporary measures, is responsible for assuring that they do not take the place of a permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

IX. GRANTING A REASONABLE ACCOMMODATION REQUEST

As soon as the **ADA Coordinator** determines that a reasonable accommodation will be provided, that decision should be immediately communicated to the individual. If the accommodation cannot be provided immediately, the **ADA Coordinator** must inform the individual of the projected time frame for providing the accommodation. This notice does not need to be in writing.

X. DENIAL OF REASONABLE ACCOMMODATION REQUEST

As soon as the **ADA Coordinator** determines that a request for reasonable accommodation will be denied, s/he must fill out the "Denial of Request" form (**Appendix E**) and give it to the individual who requested the accommodation. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Where the **ADA Coordinator** has denied a specific requested accommodation, but offered to make a different one in its place which was not agreed to during the interactive process, the denial notice should

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explain both the reasons for the denial of the requested accommodation and the reasons that the decision maker believes that the chosen accommodation will be effective. Reasons for the denial of a request for reasonable accommodation may include the following (keeping in mind that the actual notice to the individual **must include specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship**):

- The requested accommodation would not be effective.

Providing the requested accommodation would result in undue hardship. Before reaching this determination, the **ADA Coordinator** must have explored whether other effective accommodations exist which would *not* impose undue hardship and therefore can be provided. A determination of undue hardship means that the University finds that a specific accommodation would result in significant difficulty or expense, or would fundamentally alter the nature of the University's operations. When evaluating budgetary or administrative concerns to determine if undue hardship exists, the University will follow the standards enunciated in the regulations and in the *"Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act."*

- Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
- The requested accommodation would require the removal of an essential function.
- The requested accommodation would require the lowering of a performance or production standard.

The written notice of denial also informs the individual that s/he has the right to file an EEO complaint internally or externally with the Equal Employment Opportunity Commission (EEOC) or the Colorado Civil Rights Division (CCRD).

XI. INFORMAL DISPUTE RESOLUTION - Individuals with disabilities can request prompt reconsideration of a denial of reasonable accommodation.

- If an individual wishes reconsideration, s/he should first ask the **ADA Coordinator** to reconsider the decision in writing. The individual may present additional information in support of his/her request. The ADA Coordinator will respond to the request for reconsideration within **five business days**.
- If the **ADA Coordinator** does not reverse the decision, the individual can request in writing appropriate Dean/ HR Director for further consideration. The Director/Dean will respond to this request in writing within **ten business days**.
- If the decision is not reversed, the individual can ask the appropriate VP to conduct a final review. The VP will respond to this request in writing within **ten business days. The VP's decision is final.**

Pursuing any of the informal dispute resolution procedures identified above, including seeking reconsideration from the decision maker and appealing to the next person in the decision maker's chain of command, **does not affect the time limits for initiating statutory claims**. An individual's **participation in any or all of these informal dispute resolution processes does not satisfy the requirements for bringing a claim under the University's Equal Opportunity Office**. Employees may also file unlawful discrimination complaints with the U.S. Equal

**Employment Opportunity Commission and/or the Colorado Civil Rights Division,
Colorado Department of Labor.**

XII. INFORMATION TRACKING AND REPORTING

The ADA Coordinator will complete the "Reasonable Accommodation Information Reporting Form" (**Appendix F**) within **10 business days** of the decision. The ADA Coordinator should attach to the form copies of all information, including medical information s/he received as part of processing the request.

- The ADA Coordinator will maintain these records for the length of the employee's tenure with the University or five years.
- The ADA Coordinator will prepare annually a report, to be made available to all employees. The report will contain the following information, presented in the aggregate:
 - the number of reasonable accommodations, by type, that have been requested in the application process and whether those requests have been granted or denied;
 - the jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;
 - the types of reasonable accommodations that have been requested for each of those jobs;
 - the number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;
 - the number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;
 - the reasons for denial of requests for reasonable accommodation;
 - the amount of time taken to process each request for reasonable accommodation; and
 - the sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

In addition, the report will provide a qualitative assessment of University's reasonable accommodation program, including any recommendations for improvement of the University's reasonable accommodation policies and procedures.

XIII. RELATION OF PROCEDURES TO STATUTORY CLAIMS

This policy is **in addition to** statutory protections for persons with disabilities and the remedies they provide for the denial of requests for reasonable accommodation.

Requirements governing the initiation of statutory claims, including time frames for filing such claims, remain unchanged. An individual who chooses to pursue statutory remedies for denial of reasonable accommodation **must:** For an Equal Opportunity Complaint-contact the Executive Director of Equal Opportunity at MSU Denver within 300 days from the date of receipt of the written notice of denial. Phone 303-556-4746.

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If a member of the EO staff has had any involvement in the processing of the request for reasonable accommodation, that staff member shall recuse him or herself from any involvement in the processing of an EEO counseling contact or complaint in connection with that request.

INQUIRIES - Any person wanting further information concerning these procedures may contact Amanda Berry, Senior Benefits Administrator, Human Resources, 303-352-7033, via e-mail at aberry11@msudenver.edu; or the Interim Executive Director of Equal Opportunity, Velveta Howell, J.D., 303-556-4246, via e-mail at vhowell5@msudenver.edu.

DISTRIBUTION - These Procedures shall be placed on the University's intranet and internet sites. All employees will be notified of their availability on these sites. Copies also will be available in AHEC's library, the MSU Denver Equal Opportunity Office and the MSU Denver Office of Human Resources. All new employees, as part of their "New Employee Orientation" will be informed of these sites. These Procedures will be provided in alternative formats, including simplified format, when requested from the ADA Coordinator by, or on behalf of, any University employee.

APPENDIX A - UTILIZING SIGN LANGUAGE INTERPRETERS AT THE COLLEGE

- 1. SCHEDULING INTERPRETER SERVICES.** The individual or office scheduling a meeting or event which will require interpreting services (staff meeting, training, office function, etc.) is responsible for directing the request, via e-mail, to aberry11@msudenver.edu.

Please check to see if an interpreter is available before scheduling the date, time, and place of the event.

Requests for staff interpreters are accepted and scheduled on a first come, first served basis with exceptions considered on a case-by-case basis. Interpreting for official University business always takes priority over interpreting for non-official matters.

Advance scheduling - preferably one to two weeks - is strongly encouraged, to the extent possible. Although it is not possible to foresee every occasion for which interpreting services may be required, failure to schedule interpreting services well in advance may result in the necessity to reschedule meetings until interpreter services are available.

If a meeting or event will last longer than one half hour, arrangements must be made for more than one interpreter to be present, or the meeting or event must be scheduled to include sufficient rest periods, including a "sign-free" lunch break, if necessary. Generally, one interpreter can work 45-60 minutes and then needs a 15-minute break. A break during a meeting or event does not constitute a rest period for the interpreter if s/he is expected to continue working (e.g., deaf and hearing parties wish to communicate during the break and look to the interpreter to facilitate the exchange).

An employee who knows sign language or who is taking a sign language class is *not* an acceptable substitute for a University staff interpreter or a contract interpreter.

- 2. WORK EVENTS OUTSIDE THE WORKPLACE.** The University will provide an interpreter for an employee who is deaf or hard of hearing who, as part of his/her job, attends a meeting or event outside of the workplace. If s/he attends a conference or training program sponsored by an outside organization, the sponsoring organization is principally responsible for providing interpreters. University contract/staff interpreters will provide interpreting services, however, if the sponsoring agency fails to do so.

When an employee goes to a meeting, conference, or training program outside the workplace, the University will assess whether it would be effective to send staff interpreters or contract interpreter(s). If the University decides it would be more effective to send contract/staff interpreter(s), and the University provides transportation for or reimburses the travel costs of the employee, then the office of the employee with disability must also provide for/reimburse travel costs for the staff interpreter(s). Similarly, if the University pays for meals for the employee who is deaf or hard of hearing while attending these types of events, then the office of the employee with the disability must also pay for the meals for the staff interpreter(s).

3. **OFFICE SOCIAL FUNCTIONS AND SPECIAL EVENTS TO WHICH THE INTERPRETERS ARE INVITED.** Interpreting services are routinely requested for office or University social functions or special events — e.g., Winter Holiday Party, scheduled during official University time and which might be attended by employees who are deaf or hard of hearing. If the University staff interpreters express the desire to attend these "all-employee" functions in an off-duty capacity, arrangements will be made by the ADA Coordinator for contract interpreting services.

4. **INTERPRETING PHONE CALLS.** Employees who are deaf or hard of hearing should schedule an interpreter when services are needed to interpret business-related phone calls. The telecommunication relay service is available to all University employees to serve telephone needs when a sign language interpreter is not available.

APPENDIX B – ADA ADMINISTRATIVE HOURLY

1. **ADA ADMINISTRATIVE HOURLY.** The University will make ADA Administrative Hourly employees available, if appropriate. ADA Administrative Hourly are sign language interpreters, readers, and assistants that perform physical tasks that an employee cannot perform because of a disability. For example, an E.O. investigator with limited or no upper extremity mobility may need assistance in physically organizing a file. The employee will perform the essential functions of the position – e.g., conduct the investigation and draft documents — and the assistant would perform only the physical task.
2. **REQUEST FOR ADA ADMINISTRATIVE HOURLY.** Requests for hiring an ADA Administrative Hourly must be referred to the **ADA Coordinator** from the University staff member who received the request. The **ADA Coordinator** will first determine whether ADA Administrative Hourly already hired by the University can fulfill an employee's needs. **ADA Coordinator** also will determine if an employee's needs could be met by contracting for services (e.g., a contract interpreter), and if so, will make the necessary arrangements.

If the **ADA Coordinator** approves the request to hire an ADA Administrative Hourly, the employee's Department Director, in consultation with the Office of Human Resources if necessary, should prepare a Personnel Action Form and a position description. The employee with a disability must play an integral part in the interview and selection process of an interpreter, reader, or assistant.

3. **USE OF ADA ADMINISTRATIVE HOURLY.** The ADA Administrative Hourly is to be used **only** to hire interpreters, readers, and assistants as a reasonable accommodation for employees with disabilities. Staff hired shall be shared to provide assistance to more than one employee with a disability, where appropriate. The ADA Administrative Hourly **may not** be assigned any other duties unless the person they were hired to assist has no work for them to perform at that time. Before assigning other duties to the assistant, the employee with the disability shall be consulted to determine when assistant services are not needed. If the supervisor is not the employee with a disability, s/he must consult with the employee with a disability regarding the ADA Administrative Hourly's performance evaluation. In no case should an ADA Administrative Hourly be called upon by management or by the employee(s) to whom he or she is assigned to perform the essential functions of the job held by the employee with the disability.
4. **RELEASE OF POSITIONS.** When the need for an ADA Administrative Hourly is reduced or eliminated, the Administrative Officer or Human Resources Manager shall notify the ADA Coordinator, who will take appropriate steps.

APPENDIX C - SELECTED REASONABLE ACCOMMODATION RESOURCES

EXTERNAL RESOURCES

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

1 -800-669-3362 Publication Center (Voice) /1 -800-800-3302 (TT)/1-800-669-4000 General Line

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA, including both the statute, 42 U.S.C. § 12101 et seq. (1994), and the regulations, 29 C.F.R. § 1630 (1997). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship. The two main sources of interpretive information are: (1) the Interpretive Guidance accompanying the Title I regulations (also known as the "Appendix" to the regulations), 29 C.F.R. pt. 1630 app. §§ 1630.2(o), (p), 1630.9 (1997), and (2) A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act, 8 FEP Manual (BNA) 405:6981, 6998-7018 (1992). The Manual includes a 200-page Resource Directory, including federal and state agencies, and disability organizations that can provide assistance in identifying and locating reasonable accommodations. The EEOC also has discussed issues involving reasonable accommodation in the following guidance and documents: (1) Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations at 5, 6-8, 20, 21-22, 8 FEP Manual (BNA) 405:7191, 7192-94, 7201 (1995); (2) Enforcement Guidance: Workers' Compensation and the ADA at 15-20, 8 FEP Manual (BNA) 405:7391, 7398-7401 (1996); (3) Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities at 19-28, 8 FEP Manual (BNA) 405:7461, 7470-76 (1997); (4) Fact Sheet on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VH of the Civil Rights Act of 1964 at 6-9, 8 FEP Manual (BNA) 405:7371, 7374-76 (1996); and (5) Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act at 20, 22, 23, 24-5, 8 FEP Manual (BNA) 405:7701, 7711, 7712-14, 7715-16 (2000). Finally, the EEOC has a poster that employers and labor unions may use to fulfill the ADA's posting requirement. All of the above-listed documents, with the exception of the ADA Technical Assistance Manual and Resource Directory and the poster, are also available through the Internet at <http://www.eeoc.gov>.

JOB ACCOMMODATION NETWORK (JAN)

1-800-232-9675 (Voice/TT)

<http://janweb.icdi.wvu.edu/>.

A service of the President's Committee on Employment of People with Disabilities; JAN can provide information free-of-charge, about many types of reasonable accommodations.

ADA DISABILITY AND BUSINESS TECHNICAL ASSISTANCE CENTERS (DBTACS)

1-800-949-4232 (Voice/TT)

The DBTAC's consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTAC's can make referrals to local sources of expertise in reasonable accommodations.

REGISTRY OF INTERPRETERS FOR THE DEAF

(301) 608-0050 (Voice/TT)

The Registry offers information on locating and using interpreters and transliteration services.

RESNA TECHNICAL ASSISTANCE PROJECT

(703) 524-6686 (Voice) (703) 524-6639 (TT)

<http://www.resna.org>

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- information and referral centers to help determine what devices may assist a person with a disability (including access to large databases containing information on thousands of commercially available Assistive technology products),
- centers where individuals can try out devices and equipment,
- assistance in obtaining funding for and repairing devices, and
- equipment exchange and recycling programs.

APPENDIX D

REQUEST FOR REASONABLE ACCOMMODATION FORM

Applicant's/Employee's Name

Applicant's/Employee's Phone #

Date of Request

Employee's Department

Today's Date

Name of Supervisor

- 1) **Informed Supervisor of Request?** **YES** **NO**
If no, why not?

- 2) **Accommodation Requested**
(Be as specific as possible, e.g., adaptive equipment, reader, interpreter)

- 3) **Reason for Request** (Attach Medical Certification)

If accommodation is time-sensitive, please explain:

Return Form to:
Amanda Berry, Senior Benefits Administrator
Metropolitan State University of Denver
P.O. Box 173365, Campus Box 47
Student Success Building, Room 310, Denver, CO 80217-3362
Phone: 303-352-7033 Fax: 303-556-5151 E-mail: aberry11@msudenver.edu

- 4) **Log #:** _____ **(The Log # will be assigned by HR)**

APPENDIX E

DENIAL OF REASONABLE ACCOMMODATION REQUEST
(Must complete numbers 1-4; complete number 5, if applicable)

Internal Use Only

1) Name of Individual requesting reasonable accommodation:

2) Type(s) of reasonable accommodation requested:

3) Request for reasonable accommodation denied because: (may check more than one item)

- Accommodation Ineffective
- Accommodation would cause undue hardship
- Medical documentation inadequate
- Accommodation would require removal of an essential function
- Accommodation would require lowering of performance or production standard
- Other (Please identify):

Comments:

4) Detailed reason(s) for the denial of reasonable accommodation: (must be specific, e.g., why the accommodation is ineffective or causes undue hardship, lack of medical documentation, etc).

5) If the individual proposed one type of reasonable accommodation which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.

- 6) **If an individual wishes to request reconsideration of this decision, s/he may take the following steps:**
- A) **First, ask the ADA Coordinator to reconsider his/her denial. Additional information may be presented to support this request.**
 - B) **If the ADA Coordinator does not reverse the denial the individual may access the Informal Dispute Resolution Process (See page 15 “XI. Informal Dispute Resolution”).**
 - C) **If an individual wishes to file an EEO complaint, s/he must contact the MSU Denver Executive Director of Equal Opportunity at 303-556-4246 or e-mail vhowell5@msudenver.edu within 300 days from the date of this notice of denial of reasonable accommodations.**

Name of Deciding Official

Signature of Deciding Official

Date Accommodation Denied

APPENDIX F

**REASONABLE ACCOMMODATION INFORMATION
REPORTING FORM
INTERNAL USE ONLY**

1) Name of Individual requesting reasonable accommodation:

2) Office of requesting individual:

3) Reasonable accommodation approved? YES NO

If denied, attach copy of the written denial letter/memo - See Section X. Denial of Reasonable Accommodation Request, page 14, of the "ADA Policies and Procedures for Providing Reasonable Accommodation Procedures Manual".

4) Date reasonable accommodation requested and who received the request:

5) Date reasonable accommodation request referred to ADA Coordinator:

Name of ADA Coordinator:

6) Date reasonable accommodation was approved or denied:

7) Date reasonable accommodation provided (if different from the date approved):

8) If time frames outlined in the "Reasonable Accommodation Procedures" were not met, please explain why in the box below:

9) Reasonable accommodation needed for: (check on of the boxes below)

Application Process

Performing Job Functions or Accessing the Work Environment

Accessing a Benefit or Privilege of Employment (ie: attending a training, program, or special event, etc.)

Other:

10) Type(s) of reasonable accommodation requested:

--

11) Was medical information required to process this request? If yes, explain why in box below:

--

12) Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (i.e. Job accommodation network, disability organization, ADA Coordinator):

--

13) Additional Comments:

--

Signature	Date	Phone



Date: _____

Dear Physician:

Our employee, _____, has requested disability status in accordance with the Americans with Disabilities Act (ADA). In order to establish this status we need you to complete the following questionnaire. Please be as specific as possible and use layman terms when possible or provide definitions of medical terms not customarily understood by the general public.

Under the ADA the definition of disability is: a physical or mental impairment that substantially limits one or more of that individual's major life activities.

1. What is this employee's impairment?

2. Check all major life activities affected and the degree to which they are affected as described in the table, "Major Life Activity Scale."
 - a. Unable to perform a major life activity that the average person in the general population can perform; or
 - b. Significantly restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity. (over)

Check all that apply to the impairment you identified. On a scale of 1 – 5 with:

1 = CANNOT perform activity at all

5 = CAN perform activity with some difficulty

<u>Check Here</u>	<u>Major Life Activity</u>	<u>Rate 1 – 5</u>
	Caring for oneself	
	Performing manual tasks	
	Walking	
	Seeing	
	Hearing	
	Speaking	
	Breathing	
	Learning	
	Working	
	Sitting	
	Standing	
	Lifting	
	Reaching	
	Thinking	
	Concentrating	
	Interacting with others	



3. Suggested accommodation if needed or required to perform the essential job duties. (see attached job description)

Thank you for your quick response to this request.

Respectfully,

Amanda Berry
Senior Benefits Administrator

Return Form to:

Amanda Berry, Senior Benefits Administrator
Metropolitan State University of Denver
P.O. Box 173365, Campus Box 47
Student Success Building, Suite 310, Denver, CO 80217-3362
Phone: 303-352-7033 Fax: 303-556-5151 E-mail: aberry11@msudenver.edu