

08.01.02 Civil Rights Protections for Individuals with Disabilities

Approved April 25, 2018
Next Scheduled Review: April 25, 2023



Regulation Summary

The Texas A&M University System (system) will provide equal opportunity to all employees, students, applicants for employment and admission, and the public who have disabilities.

This regulation provides guidance in complying with local, state, and federal civil rights laws and regulations with regard to qualified individuals with disabilities (IWDs). This includes providing reasonable accommodations to IWDs with regard to employment and educational opportunities, as well as access to public events and services.

Definitions

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Regulation

1. The system will not discriminate against a qualified individual on the basis of disability in such matters as job application procedures; hiring, advancement or discharge practices; compensation; job training; or other terms, conditions and privileges of employment. Further, no individual will be excluded from participation in, or be denied the benefit of, or be subjected to illegal discrimination based on disability under any system program or activity. In accordance with System Regulation *29.01.04, Accessibility of Electronic and Information Resources*, members' electronic and information resources must meet the appropriate Technical Accessibility Standards. Further, members will provide reasonable accommodations to qualified individuals with a disability under the provisions of this regulation.
2. Section 503 of the Rehabilitation Act of 1973 allows federal contractors and subcontractors to invite individuals with disabilities to identify themselves for affirmative action purposes. However, this information may not be provided to search committees or hiring officials, and it must be maintained as a separate, confidential record, apart from the hiring or personnel file.
3. Position descriptions and job vacancy announcements should not specify any physical or mental requirements unless they are job-related and essential to the successful performance of the job. In making this determination, members may consider whether the removal or

redistribution of certain tasks is possible, the amount of time spent performing the function, and the critical nature of the requirement if not frequently performed. Essential functions should state what is done or required of the position, not how it must be accomplished.

4. Members should be prepared to respond to requests for reasonable accommodations in the application process. If the need for an accommodation is not obvious, the member may ask the applicant for reasonable documentation about their disability. Job vacancy announcements and admissions forms should include a point of contact for applicants with disabilities to request assistance. In addition, advertisements for events open to the public should include a point of contact for IWDs who seek accommodations or assistance.
5. Pre-Offer Stage. Members may not ask any disability-related question or require any medical examination before an offer of employment has been made. Members may state the requirements of a job and ask if an applicant can meet those requirements with or without a reasonable accommodation. Members may also ask applicants to describe or demonstrate how they would perform job tasks, as long as all applicants in the job category are asked to do this. However, if an applicant states that they will need a reasonable accommodation in order to demonstrate the tasks, the member should be prepared to provide the accommodation or allow the applicant to identify the type of accommodation needed and describe how the task can be accomplished with that accommodation.

When the member reasonably believes that an applicant will not be able to perform a job function because of an obvious or voluntarily disclosed disability, the member may ask that particular applicant to describe or demonstrate how they would perform the function without having to ask all applicants to do so.

6. Post-Offer Stage. A medical examination may be required after an offer of employment has been made, and prior to commencement of employment duties, if all persons offered the position are required to have the examination. The examination cannot include any inquiry about genetic information. An offer of employment may be conditioned on the results of such an examination, if any identified disabilities would preclude the individual from accomplishing the essential functions of the position and no reasonable accommodations are available. If an offer is withdrawn because of a disability, the member should document in the hiring file that the reason was job-related and consistent with business necessity.
7. Employment Stage. Members may ask disability-related questions or require a medical examination when they are job-related and consistent with business necessity and when there is a reasonable belief, based on reliable evidence, that an employee's ability to perform essential job functions may be impaired by a medical condition or when an employee may pose a direct threat to others due to a medical condition.
8. Applicants extended an offer of employment, employees, program participants and students who request an accommodation are responsible for obtaining a medical statement that contains a diagnosis, prognosis and the major life function that is substantially limited, unless the disability is visible and/or obvious. This medical statement should include an evaluation as to the effect that the disability has on the prospective employee's or employee's ability to perform the duties associated with the position or the participant's or student's ability to complete the educational program. All medical information will be treated as confidential and will be kept in a separate file from other personnel or student records.

9. It may be a defense to a charge of illegal discrimination that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by a reasonable accommodation. The term "qualification standards" may include a requirement that an individual will not pose a direct threat to the health or safety of other individuals in the workplace.
10. It is the responsibility of the IWD to inform the member that an accommodation is needed for a disability. Complaints alleging illegal discrimination on the basis of disability will be handled in accordance with provisions of System Regulation *08.01.01, Civil Rights Compliance*. Member questions regarding the application of this regulation will be directed to the System Ethics and Compliance Office and/or the System Office of General Counsel.

Related Statutes, Policies or Requirements

[The Rehabilitation Act of 1973, as amended](#)

[Americans with Disabilities Act of 1990, as amended](#)

[The Genetic Information Nondiscrimination Act of 2008](#)

[Tex. Lab. Code, Ch. 21, Employment Discrimination](#)

[Fair Housing Act](#)

[Texas Fair Housing Act](#)

[System Policy *08.01, Civil Rights Protections and Compliance*](#)

[System Regulation *08.01.01, Civil Rights Compliance*](#)

[System Regulation *29.01.04, Accessibility of Electronic and Information Resources*](#)

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

System Ethics and Compliance Office
(979) 458-6203

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