



BOISE STATE UNIVERSITY

University Policy 7570

Accommodating Disabilities in the Work Environment

Effective Date

November 2019

Responsible Party

Human Resources, (208) 426-1616

Office of Institutional Compliance and Ethics, (208) 426-1258

Scope and Audience

This policy applies to all Boise State University employees and Applicants for University employment.

Additional Authority

- Section 503 of the Rehabilitation Act of 1973, as amended
 - Section 504 of the Rehabilitation Act of 1973, as amended
 - Americans with Disabilities Act of 1990, as amended (ADA)
 - Pregnant Worker's Fairness Act (PWFA)
 - Idaho Commission on Human Rights Act § 67-5901
 - Idaho Code § 67-5909
 - University Policy 1060 (Non-Discrimination and Anti-Harassment)
 - University Policy 1075 (Non-Discrimination on the Basis of Disability)
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1. Policy Purpose

To state the University's commitment to and process for complying with applicable laws regarding Reasonable Accommodations for University employees and Applicants who have a Disability.

2. Policy Statement

Boise State University is committed to employing Qualified individuals with a Disability and providing Reasonable Accommodations to ensure equal access and opportunity to Applicants and employees. University Policy 1060 (Non-Discrimination and Anti-Harassment) prohibits discrimination on the basis of Disability in the employment application process and during employment. Adverse treatment of an individual because that individual opposed discrimination or harassment, made a good faith complaint, or conducted or participated in good faith in an investigation, are also prohibited.

3. Definitions

3.1 Applicant

An individual pursuing an employment opportunity with the University who submits appropriate application materials for an open or vacant position.

3.2 Disability

With respect to an individual:

- a. A Physical or Mental Impairment that substantially limits one or more Major Life Activities of such individual;
- b. A record of such an impairment; or
- c. Being regarded as having such an impairment.

3.3 Essential Functions

Position duties that are fundamental to a specific employment position. A function can be "essential" if, among other things: the position exists to perform the function; a limited number of other employees are available to perform the function; or the function is highly specialized and the individual is hired based on having those specialized skills. Factors which determine whether a particular function is essential include:

- The judgment of the position's supervisor
- A written position description developed before a position is advertised
- The amount of time spent performing the function

- The consequences of not requiring the person in the position to perform the function
- The work experience of past incumbents in the position or current incumbents in similar positions.

3.4 Interactive Process

An information-gathering approach used by the University to evaluate a request for accommodation. It is intended to be a flexible approach that centers on the communication between the University and the individual requesting an accommodation, but may (and often does) involve obtaining relevant information from a supervisor and an individual's healthcare provider.

3.5 Major Life Activities

Activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major Life Activities also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.

3.6 Physical or Mental Impairment

An impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrated by medically acceptable clinical and laboratory diagnostic techniques.

3.7 Qualified

An individual with a Disability is Qualified for a specific position if the individual:

- a. Satisfies the requisite skill, experience, education, and other position-related requirements of the position, and
- b. Can perform the Essential Functions of the position with or without Reasonable Accommodation(s).

3.8 Reasonable Accommodation

Any change in the workplace or in the way things are customarily done that provides an equal employment opportunity to an individual with a Disability that does not cause an Undue Hardship to the University.

The University provides Reasonable Accommodation:

- a. When an individual with a Disability needs a Reasonable Accommodation to have an equal employment opportunity in the application process;
- b. When an individual with a Disability needs a Reasonable Accommodation to perform the Essential Functions of the position held or sought, or to gain access to the workplace; and
- c. When an individual with a Disability needs a Reasonable Accommodation to enjoy equal access to benefits and privileges of employment (e.g., trainings, transportation, office-sponsored events).

3.9 Undue Hardship

An action that is unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the employment position and/or the nature or operation of the University.

3.10 University Business Days

Monday through Friday, excluding weekends, official University holidays, and University closures.

4. Initiating a Request for a Reasonable Accommodation

4.1 Accommodation in the Application/Interview Process

Human Resources provides information and assistance to Applicants who request an accommodation. An Applicant with a Disability may request an accommodation in the hiring process or application itself (such as a modification in the manner in which an application is filed). Applicants are responsible for making accommodation requests to Human Resources through the application process. An Applicant's request for an accommodation must allow the University sufficient time to review and respond to the request, and an accommodation will not be implemented retroactively. Applicants may be asked to provide supporting documentation as part of the Interactive Process.

4.1.1 Skill-Based Application Tests

In the event an Applicant with a Disability applies for a position which requires all Applicants to complete a test(s) measuring certain skills, the Applicant may request a testing accommodation. If the test is a requirement of the application process, an Applicant with a Disability will not be granted a “test exemption.”

Examples of testing accommodations may include, but are not limited to:

- Testing in a private room;
- Providing extended time to take the test;
- Providing instructions/test in large or bold print;
- Providing magnification;
- Use of a computer with screen readers (voice output);
- Use of scratch paper; and
- Allowing breaks.

An Applicant with a Disability may need an accommodation to help meet the standard, but the standard must not be lowered, changed, or altered. In most cases, the University cannot approve an accommodation such as an alternative format or extended time without supporting documentation from a licensed healthcare provider.

4.2 Employee Request for a Reasonable Accommodation

- a. Human Resources is the University’s point-of-contact for an employee requesting a Reasonable Accommodation. A supervisor notified of an employee’s Disability or a request for Reasonable Accommodation should immediately inform Human Resources.
- b. Any current employee, or a family member or healthcare provider acting on the employee’s behalf, may request a Reasonable Accommodation from Human Resources in person, or via phone, email, or fax. The responsibility for initiating a request for a Reasonable Accommodation rests with the employee.
- c. The employee requesting a Reasonable Accommodation should notify Human Resources as soon as practical and provide information on the nature of the employee’s Disability. Human Resources will contact the employee to obtain additional information regarding the

potential qualifying Disability and requested Reasonable Accommodation. The employee must complete a Request for Reasonable Accommodation Form, and may be requested to complete an Authorization for Limited Release of Medical Information Form if the employee's disability is not known or obvious.

- d. The Request for Reasonable Accommodation Form and Authorization for Limited Release of Medical Information Form (if requested) must be completed in full and submitted to Human Resources in a timely manner. Upon request, Human Resources will assist the employee in completing these forms. The University needs all applicable requested information to determine an employee's request for a Reasonable Accommodation.

5. Interactive Process

- a. The University, through Human Resources, engages in the Interactive Process with the individual requesting an accommodation. An individual requesting an accommodation is strongly encouraged to participate in, and cooperate throughout the Interactive Process. Human Resources works collaboratively with the individual requesting an accommodation and the supervisor (if appropriate) to identify a mutually-agreeable Reasonable Accommodation. For an employee requesting an accommodation, Human Resources will:
 - Consult with the employee's supervisor concerning the substance of the request and, in conjunction with the employee's supervisor, analyze the Essential Functions as defined in the position description.
 - Consult with the employee to determine the position-related limitation(s) resulting from the employee's Disability and how the limitation(s) could be overcome by a Reasonable Accommodation.
 - If possible, identify in consultation with the employee and the supervisor, Reasonable Accommodation(s) that may overcome the limitation(s) and assess the effectiveness and feasibility of the proposed accommodation(s).
- b. Depending on the nature of the Disability and Essential Functions of the position, a Reasonable Accommodation may be temporary or long-term.

6. Requested Accommodation(s) Not Required

The University may deny a requested accommodation(s) if:

- a. It is determined that even with the requested accommodation(s), the individual will not be able to perform all of the Essential Functions of the position as defined in the job description; or
- b. The healthcare documentation submitted to the University in support of the individual's requested accommodation(s) does not establish the existence of a Disability within the terms of the ADA or Section 504; or
- c. The requested accommodation(s) will impose an Undue Hardship; or
- d. The individual requesting the accommodation(s) poses a direct threat or significant risk of substantial harm to the health or safety of the individual or others. The University must determine, on a case-by-case basis, whether a Reasonable Accommodation would either eliminate the risk or reduce it to an acceptable level.

7. Decision Concerning a Requested Accommodation(s)

- a. If a Reasonable Accommodation is identified, Human Resources communicates the decision in writing to the individual and the supervisor.
- b. If an anticipated Reasonable Accommodation cannot be provided immediately for some reason, an interim accommodation may be granted if the University has received sufficient information through the Interactive Process to believe it is reasonably likely that an individual will be entitled to a Reasonable Accommodation.
- c. If denying a requested accommodation, Human Resources will explore the possibility of a different Reasonable Accommodation with the individual.
- d. If Human Resources offers a Reasonable Accommodation other than the one requested, but the alternative Reasonable Accommodation is not accepted by the individual, Human Resources will record the individual's refusal of the alternative Reasonable Accommodation and Section 4.5 of this policy, Refusing an Offered Reasonable Accommodation, then applies.

8. Refusing an Offered Reasonable Accommodation

An individual with a Disability may refuse a Reasonable Accommodation offered by the University. However, if an individual with a Disability refuses an offered Reasonable Accommodation and is unable or unwilling to perform the Essential Functions of the position at a satisfactory level without the offered Reasonable Accommodation, the individual will not be considered Qualified and may be dismissed from the application process, employment, or be subject to a medical layoff as provided by applicable law, University and/or Idaho State Board of Education policy, and/or the Rules of the Division of Human Resources and Idaho Personnel Commission.

9. Confidentiality

- a. All health information obtained by the University in connection with a request for a Reasonable Accommodation will be kept confidential and maintained by Human Resources in a separate, employee health information file.
- b. The employee's supervisor will be informed by Human Resources of any restrictions in duties or work and any implemented Reasonable Accommodation. An employee is not required to disclose the health basis for a requested Reasonable Accommodation to the employee's supervisor. The employee's personal, health-related information must not be solicited by the supervisor.

10. Subsequent Review

A Qualified employee and/or supervisor may confer with Human Resources to determine the continuing need for any approved Reasonable Accommodation. Any request for updated or new medical information must meet the job-related and consistent with business necessity standard under the ADA.

11. Complaints

An individual with a Disability who believes they have been denied a Reasonable Accommodation, or have been discriminated against on the basis of Disability, or retaliated against due to a Reasonable Accommodation request, may submit a complaint to the Office of Institutional Compliance and Ethics: <https://www.boisestate.edu/compliance/>. The University processes complaints alleging discrimination or harassment on the basis of disability pursuant to University Policy 1060 (Non-Discrimination and Anti-Harassment). An individual with a Disability may also file a complaint with either of the following:

Idaho Human Rights Commission
317 W Main Street Boise, ID 83702
<https://humanrights.idaho.gov>
(208) 334-2664

or

Equal Employment Opportunity Commission
(206) 220-6850
www.eeoc.gov

12. Forms

Discrimination and Harassment Complaint Form
<https://www.boisestate.edu/compliance/complaint-form/>

Revision History