



# OLD DOMINION UNIVERSITY

## University Policy

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### Policy #5406

### ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES

**Responsible Oversight Executive:** Vice President for Human Resources, Diversity, Equity, and Inclusion

**Date of Current Revision or Creation:** August 23, 2022

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#### A. PURPOSE

The purpose of this policy is to prescribe adequate accommodations in accordance with Title I of the Americans with Disabilities Act (ADA). Old Dominion University is committed to providing individuals with disabilities equal opportunities in all phases of employment. Old Dominion University will, in good faith, provide reasonable accommodations for its qualified applicants and employees as required by the Americans with Disabilities Act of 1990, as amended in 2008, (the “ADA”) and the Rehabilitation Act of 1973, as amended, and their implementing regulations, and consistent with University and Commonwealth anti-discrimination policies.

Retaliation against an individual with a disability for requesting or using accommodations is prohibited. The University takes strong action to protect individuals from retaliation and to address any retaliatory behavior that occurs.

#### B. AUTHORITY

[Code of Virginia Section 23.1-1301, as amended](#), grants authority to the Board of Visitors to make rules and policies concerning the institution. Section 7.01(a)(6) of the [Board of Visitors Bylaws](#) grants authority to the President to implement the policies and procedures of the Board relating to University operations.

[Title I of the Americans with Disabilities Act of 1990, as amended \(ADA\)](#)

[The Americans with Disabilities Act Amendments of 2008 \(ADAAA\)](#)

[Section 504 of the Rehabilitation Act of 1973](#)

#### C. DEFINITIONS

Assistant Vice President for Institutional Equity/ADA Coordinator (AVPIE/Section 504/ADA Coordinator) – The position designated by the University to coordinate the institution’s compliance with Section 504 of the Rehabilitation Act of 1973, as amended. The 504 Coordinator is responsible for assuring compliance with Section 504 of the Rehabilitation Act of 1973, and related Federal and State laws pertaining to people with disabilities.

Disability – Under the ADA, a person has a disability if the individual has a physical or mental impairment that substantially limits one or more major life activities, has a record of a physical or mental impairment that substantially limits a major life activity, or is regarded as having a physical or mental impairment.

Essential Functions – The fundamental job duties of the employment position.

Record of an Impairment – An individual has a record of an impairment if that individual has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

Major Life Activity – Major life activities include, but are not limited to, the following: self-care, manual tasks, walking, seeing, hearing, breathing, standing, thinking, concentrating, reading, learning, sleeping, working, bending, communicating, reproducing, normal cell growth, immune system function, digestive function, bowel function, bladder function, neurological function, brain function, respiratory function, circulatory function, and endocrine function.

Physical and Mental Impairment - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine; or any mental or psychological disorder such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Qualified Candidate/Employee with a Disability - An individual who satisfies the skills, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

Reasonable Accommodation - Any change or adjustment to a job or work environment that does not cause an undue hardship on an employer's business operations and permits a qualified candidate or faculty member with a disability to participate in the job application process or to perform the essential functions of the job.

Regarded as Having Such an Impairment – An individual meets the requirements of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment substantially limits or is perceived to substantially limit a major life activity.

Retaliation – Overt or covert acts of discrimination—including harassment, interference, intimidation, penalty, coercion, reprisal, or restraint—against a group or individual for exercising rights under this policy, including, but not limited to:

- the right to request an accommodation
- the right to insist upon an individualized, case-by-case determination for determining a reasonable accommodation; and
- the right to use that reasonable accommodation.

Substantially Limiting – An impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. The determination of whether an impairment substantially limits a major life activity depends on the nature and

severity of the impairment, the duration or expected duration of the impairment, and the permanent or long-term impact of the impairment.

Undue Hardship - An accommodation would be considered an “undue hardship” if it is too difficult or too expensive to provide in light of the employer’s size, financial resources, and the needs of the business.

#### **D. SCOPE**

This policy applies to all employees, prospective employees, volunteers, and visitors to the institution. Employees include all staff, administrators, faculty, full- or part-time, and classified or non-classified persons who are paid by the University. Visitors include vendors and their employees, parents of students, volunteers, guests, and all other persons located on property, owned, leased, or otherwise controlled by the University.

This policy does not apply to students or student employees, as they are covered under [University Policy 4500, Accommodations for Students with Disabilities](#).

#### **E. POLICY STATEMENT**

It is the policy of Old Dominion University that no qualified individual be excluded or discriminated against in job application procedures, hiring, firing, advancement, compensation, fringe benefits, job training, and other terms, conditions, and privileges of employment.

Old Dominion University will provide reasonable accommodations to a qualified applicant or employee with a disability as required by the Americans with Disabilities Act of 1990 (the “ADA”), as amended, the Rehabilitation Act of 1973, as amended, and their implementing regulations. Reasonable accommodations consistent with University and Commonwealth anti-discrimination policies will be provided in order to enable the individual to perform the essential functions of the position for which he or she is applying or in which he or she is employed.

#### **F. PROCEDURES**

The University is required to make a reasonable accommodation to the known disability of a qualified candidate or employee if it would not impose an “undue hardship” on the operation of the University.

##### **1. Applicants**

Applicant requests for reasonable accommodation during the hiring process may be made to the hiring supervisor, the Department of Human Resources, or the Office of Institutional Equity and Diversity (“OIED”). Supervisors or Human Resources staff receiving a request should contact the OIED for guidance.

##### **2. Employees**

- a. Employee requests for reasonable accommodations must be made to OIED. Supervisors or Human Resources personnel should refer employees who indicate a need for accommodation to OIED for assistance.
- b. The employee must meet with the Assistant Vice President for Institutional Equity (AVPIE) or designee who will facilitate an interactive process between the employee and the

supervisor to determine if a reasonable accommodation can be provided to the employee. The employee must communicate how the disability affects his/her ability to perform the essential functions of the job and identify what workplace accommodations are necessary to assist in performing the job duties.

- c. The AVPIE or designee will discuss essential functions of the particular position involved and the precise job-related limitations and other suggestions for possible reasonable and effective accommodations.
- d. The AVPIE or designee may request medical documentation of the individual's functional limitations to support the request. Any medical documentation will be collected and maintained in accordance with appropriate confidentiality procedures.

This medical documentation should include the following:

- i. Nature of the condition
  - ii. Description regarding the condition's impact on any major life activities (such as walking and performing manual tasks)
  - iii. Diagnosis and prognosis of the condition
  - iv. Suggestions for adjusting the work environment so the employee will have the opportunity to perform essential tasks.
- e. Using the position description to identify the essential functions of the position, the supervisor will also provide input to the AVPIE or designee on the effectiveness each potential accommodation would have in allowing the employee to perform the essential functions of the position.
  - f. Upon completion of the interactive process, OIED is responsible for assessing whether or not the employee's requested workplace accommodation is reasonable and determining what, if any, accommodation is most appropriate for both the employee and the University. While consideration is given to the employee's preference, the University will balance the preference of the employee with the needs of the department in determining effectiveness.
  - g. Once an accommodation has been deemed appropriate and reasonable, both the employee and the supervisor are notified. Approved accommodations are not applied retroactively.
  - h. Expenses associated with an accommodation should not prohibit hiring a qualified applicant. To the extent possible, the hiring department will be responsible for funding the accommodation. The department can seek resources from the University to support the accommodation when the cost of the accommodation is beyond the department's available resources. The University has no duty to provide personal items needed to accomplish daily activities both during and outside of working time. This includes items such as eyeglasses, hearing aids, and prosthetic limbs.
  - i. Modifications to the work plan can be made if the health conditions change and/or the nature of the work performance/duties change. An employee or a supervisor may request a periodic review of the accommodation by the Office of Institutional Equity and Diversity.
  - j. If a request for a reasonable accommodation is denied or not plausible, the employee will be notified in writing.

### 3. Confidentiality

Inquiries regarding requests for accommodation or the nature of the disability shall, whenever possible, be kept confidential in accordance with applicable University and Commonwealth policies.

#### **G. RECORDS RETENTION**

Applicable records must be retained and then destroyed in compliance with the [Commonwealth's Records Retention and Disposition Schedules](#).

#### **H. RESPONSIBLE OFFICER**

Assistant Vice President for Institutional Equity

#### **I. RELATED INFORMATION**

[Board of Visitors Policy 1012 - Resolution Adopting Executive Order Number One \(2018\), "Equal Opportunity"](#)

[University Policy 1005 – Discrimination Policy](#)

[University Policy 6050 - Family Medical Leave Policy](#)

