



The Americans with Disabilities Amendments Act - ADAAA Process

The ADA Process begins when the ADA Consultant receives a request for an accommodation due to a disability as defined by the Americans with Disabilities Amendments Act (“ADAAA”).

The following process is designed to be used as a guideline between the ASU OHR Office of Equity and Inclusion (OEI) and ASU OHR Recruitment & Selection (RS).

1. OEI will meet with the ADAA candidate to determine medical restrictions and obtain a resume.
2. OEI will provide RS with a copy of the candidate’s resume and meet with RS to discuss the candidate’s restrictions and determine the ASU job titles and descriptions that the ADAA candidate will qualify.
3. RS will flag the chosen job titles in Kenexa.
4. When a department sends one of the chosen job titles in a REQ to RS to be posted, RS will review the job description in the REQ, send a link to the REQ to OEI, and give their recommendation regarding the candidate’s ability to do the job described in the REQ.
5. OEI will review the REQ with RS’s recommendation and correspond with the ADAA candidate to determine if the REQ would be one to pursue or not.
6. If it is determined by OEI or the candidate that the REQ is not suitable, RS will post the REQ for open recruitment. If it is determined that the REQ is suitable, OEI, with RS, will schedule a meeting with the hiring department, OEI, RS, and the ADAA candidate to discuss pursuing the placement of the ADAA candidate in the position.
7. If in the meeting the ADAA candidate or OEI determine that this REQ is not suitable, RS will post the REQ for open recruitment. If it is determined that the REQ is suitable, RS will waive the ADAA candidate into the REQ and assist the hiring department with the hire process.

The following process is designed to be used as a guideline for the employer to follow, understanding that no situation is identical and there may be different circumstances associated with each claim.

The notification for the accommodation request can come from the staff or faculty member directly, or from the Leaves Coordinator, HR Representative, or Department personnel.

Guidelines to follow:

- The request for accommodation should accompany medical documentation from the treating healthcare provider. The documentation can be in the form of a doctor’s note or the FMLA Healthcare Provider Release to Return to Work/Certificate of Illness form. **The ADA Consultant should receive the request at least two weeks before the employee is released to return to work.**
- Once it is verified that the employee qualifies for ADAA protection, the ADA Consultant will request a copy of the job description from the department supervisor to identify the essential functions of the employee’s job. This is done for two reasons:
 - 1) To gain an understanding of what the employee’s job entails.
 - 2) A copy of the job description is provided to the healthcare provider so he/she can recommend a “reasonable” accommodation in conjunction with the disability and the essential functions of the job.

In the event the department does not have a current job description, the ADA Consultant will provide the Physical, Environmental and Mental Demands Form which will enable to department to create/determine the essential functions of the job.

- The ADA Consultant contacts the employee, explains that the request for accommodation may qualify the employee under the ADAAA and that he/she will be receiving the ADA Packet in the mail. ADA Consultant reviews what is included in the packet and the employee's responsibility to return the forms completed in timely manner, i.e., as soon as possible, but preferably within two weeks of the notification.

The ADA Packet contains:

- ACD 405 – Individuals with Disabilities
- Introduction Letter explaining the ADA Process
- ADA Acknowledgement Form (with 3 Options)
- ADA Acknowledgement Questionnaire (to be completed by the employee)
- Medical Provider Response for Reasonable Accommodation
- Job Description

The packet is sent to the employee via Certified Mail (Return Receipt Requested) with a self-addressed stamped envelope enclosed for the employee to use when returning the completed forms. The employee is also given the option to fax the documents back via a confidential fax.

- The three main documents necessary for the process to commence are:
 - a. ADA Acknowledgement Form with the 3 options. The three options are:
 - 1) I acknowledge understanding of the ADA policy and would like to move forward with the interactive process
 - 2) I am unable to perform the essential functions of a [TITLE] with the [DEPARTMENT] with or without reasonable accommodation. I elect to participate in a 30 day job search.
 - 3) I am unable to work in any capacity and thus decline participation in the ADA Process at this time.
 - b. ADA Accommodation Questionnaire from Employee
 - c. Medical Provider Response for Reasonable Accommodation form

ADA ACKNOWLEDGEMENT FORM

- If the employee chooses **Option #1** of the ADA Acknowledgement Form, the interactive process begins by reviewing and discussing the requested accommodation with the employee and the department. The Medical Provider Response for Reasonable Accommodation Form must be completed and returned to the ADA Consultant before this step can be taken.
 - a. If the department can accommodate, then the accommodation is identified and implemented. Upon return to work, the employee and department are provided with the Reasonable Accommodation Acknowledgement Form, indicating the reason for the decision to provide the accommodation and the specific accommodation(s) being provided to the individual. The form must be signed by the department representative and the employee, and returned to ADA Consultant for signature, who will place it in the file. (Note: The accommodation can be temporary or permanent.) Once the accommodation is implemented, the ADA Consultant sends a Conclusion Letter to the employee concluding the process and closes the file. A copy of the Conclusion Letter is sent to the respective OHR Partner. If the accommodation is permanent, the process is concluded; if the accommodation is temporary, the accommodation is monitored during the specified temporary time period, and once that time period has expired, the ADA process is then concluded.

- b. If the accommodation is denied, the same information must be provided on the Reasonable Accommodation Acknowledgement Form, i.e., the reason why the accommodation could not be made. In order for an accommodation to be denied, there must be a compelling reason and evidence that allowing the accommodation would result in an undue hardship to the department and/or the university. The form must be signed by the department representative and the employee, and returned to the ADA Consultant for signature and filing.
- When the employee cannot perform the essential functions of the job with or without reasonable accommodation, and the department cannot provide the requested accommodation, the next choice the employee has is **Option #2**, expressing interest to participate in the 30 day job search. The Medical Provider Response for Reasonable Accommodation form must be completed and returned to the ADA Consultant before this step can be taken.
 - a. The university will make a good faith effort to find another position for the employee for which she or he is qualified. In consultation with the ADA Consultant, the hiring official will make every effort to find another position within the department for the employee. When that is not possible, the employee will be referred to Human Resources for assistance in identifying positions in other areas of the university, including all four campuses, for which the employee meets minimum qualifications. When a position is identified, the employee is transferred to that position via a waiver of recruitment. The ADA Consultant concludes the ADA Process and sends out the Conclusion Letter to the appropriate parties and closes the file.
 - b. When a position cannot be identified after 30 days from the date the employee is determined to be unable to perform the essential functions of his/her current position, the ADA Consultant concludes the process and refers the employee back to his/her Human Resources Representative for determination of next steps, which may result in either early retirement or termination of employment.
- When an employee cannot perform the essential functions of his/her job with or without reasonable accommodation and is unable to work in any capacity, a letter will be sent to the employee, along with the ADA Acknowledgement Form, acknowledging their current status, and stating that if their condition improves and they are able to return to work with an accommodation, to contact the ADA Consultant at 480-965-9786. If the form is returned, checking off **Option #3**, it will be kept in a file in the ADA Consultant's office.

ADA ACCOMMODATION QUESTIONNAIRE

- Self-Explanatory

MEDICAL PROVIDER RESPONSE FOR REASONABLE ACCOMMODATION

- Self-Explanatory