



Affirmative Action Plan
*Veterans and Individuals
with Disabilities*

Duke University
Duke University Health System

Affirmative Action Plan

Veterans and Individuals with Disabilities

Duke University and Duke University Health System

This document is available in alternative formats upon request

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Acronyms Used in This Document

ADA	Americans with Disabilities Act
CCTV	Closed-circuit television
DMS	Disability Management System
DOJ	Department of Justice
DOL	Department of Labor
E&O	Engineering and Operations
EEOC	Equal Employment Opportunity Commission
EOHW	Employee Occupational Health and Wellness
FMD	Facilities Management Department
GIS	Geographic Information Systems
HR	Human Resources
JAN	Job Accommodation Network
JVA	Jobs for Veterans Act
OCR	Office for Civil Rights
OESO	Occupational and Environmental Safety Office
OFCCP	Office of Federal Contract Compliance Programs
OIE	Office for Institutional Equity
RAP	Reasonable Access Process
TTD	Telecommunications device for the deaf
TTY	Telephone typewriter or teletypewriter
USERAA	Uniformed Services Employment and Reemployment Rights Act
VEVRAA	Vietnam-Era Veterans' Readjustment Assistance Act

For more detailed definitions, please refer to the Glossary of Terms in Appendix A.

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Purpose and Application

The Affirmative Action Plan for Veterans and Individuals with Disabilities for Duke University and Duke University Health System (the “University”) meets compliance obligations created by federal statute.

Affirmative action is a set of positive steps that employers use to promote equal employment opportunity, and to eliminate unlawful discrimination. It includes expanded outreach, recruitment, mentoring, training, management development, and other programs designed to help employers hire, retain, and advance qualified workers from diverse backgrounds, including veterans and persons with disabilities.

Relevant Laws and Regulations

1973 Rehabilitation Act – 29 USC 793

For the past two decades, OFCCP has enforced Section 503 of the Rehabilitation Act of 1973, as amended, which requires federal contractors and subcontractors with Government contracts in excess of \$10,000, to take affirmative action to employ and advance in employment, qualified individuals with disabilities.

1974 Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) – 38 USC 4212

Regulations found at 41 CFR-250 and 41 CFR-300, the law requires that employers with Federal contracts or subcontracts of \$25,000 or more provide equal opportunity and affirmative action for Vietnam era veterans, recently separated veterans, special disabled veterans, or veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

1990 Americans with Disabilities Act (ADA)

The OFCCP has had coordinating authority under Title I of the Americans with Disabilities Act (ADA), which prohibits job discrimination against qualified individuals with disabilities by employers with 15 or more employees. The Equal Employment Opportunity Commission (EEOC) has primary authority for enforcing the ADA. Most government contractors are covered by both Section 503 and the ADA.

Section 503 and the ADA cover persons with a wide range of mental and physical impairments, which substantially limit or restrict a major life activity, including hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning, or working. Section 503 and the ADA also protect qualified individuals with records of substantial mental or physical disabilities and, individuals who are perceived as having disabilities when, in fact, they do not. Veterans and individuals who have recovered from disabilities may face job discrimination because of their past medical records.

1994 Uniformed Services Employment and Reemployment Rights Act (USERRA)

USERRA clarifies and strengthens the Veterans' Reemployment Rights (VRR) Statute. USERRA is intended to minimize the disadvantages to an individual that occur when that person needs to be absent from civilian employment to serve in the military.

2002 Jobs for Veterans Act (JVA)

Regulations added to VEVRAA require employers with federal contracts of \$100,000 or more to provide equal opportunity and affirmative action for recently separated veterans (extending coverage from one year to three years), all disabled veterans, veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, or any other veteran who served on active duty and received an Armed Forces service medal pursuant to Executive Order 12985 (61 FR 1209).

Enforcement and Compliance

The Office of Federal Contract Compliance Programs (OFCCP), an agency of the Department of Labor (DOL), monitors contractor and subcontractor compliance with the nondiscrimination and affirmative action provisions. OFCCP investigates the employment practices of government contractors by conducting compliance reviews. During a compliance review, the compliance officer checks personnel, payroll, and other employment records, interviews employees and company officials, and investigates virtually all aspects of employment. The investigator also checks to see whether the contractor is making special efforts to achieve equal opportunity through affirmative action.

The Equal Employment Opportunity Commission (EEOC) investigates discrimination and harassment complaints on an individual level. The EEOC works very closely with the DOL and the OFCCP to ensure consistency in the Federal government's effort to combat workplace discrimination. Based on findings from individual investigations, the EEOC sometimes analyzes employment patterns such as the representation of female and minority workers within companies, industries and regions.

The Office for Civil Rights (OCR) enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education. Prior to filing a complaint with OCR against an institution, a potential complainant may want to find out about the institution's grievance process and use that process to have the complaint resolved. However, a complainant is not required by law to use the institutional grievance process before filing a complaint with OCR. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group.

Equal Opportunity and Nondiscrimination Policies

Equal Opportunity Policy

Duke University prohibits discrimination and harassment, and provides equal employment opportunity without regard to race, color, religion, national origin, disability, veteran status, sexual orientation, gender identity, sex, or age. Duke is committed to recruiting, hiring, and promoting qualified minorities, women, individuals with disabilities and veterans.

The University is an institution and community committed to the principles of excellence, fairness, and respect for all people. As part of this commitment, Duke actively values diversity in the workplace, and seeks to take advantage of the rich backgrounds and abilities of everyone. Our Equal Opportunity Policy affirmatively protects all University employees and applicants, ensuring that employment decisions are based on individual merit, as opposed to stereotypes and biases. The University's policy applies to recruitment, hiring, appointment, and promotion for all positions. It also governs personnel actions, such as determining compensation, layoffs, terminations, and benefits.

The University's equal opportunity policy is an important part of our compliance with federal and state laws and regulations. Equally important, this policy guides us in our institutional commitment to diversity and fairness, and guarantees that every employee is welcome and free to contribute his or her talents to help Duke achieve excellence in all our endeavors.

Nondiscrimination Policy for Veterans and Individuals with Disabilities

As stated in its equal opportunity policy, the University prohibits discrimination against any employee or applicant for employment, on the basis of his or her veteran or disability status. Individuals covered under this policy include disabled veterans, special disabled veterans, recently separated veterans, Armed Forces Service Medal veterans, Veterans of the Vietnam Era, other protected veterans, and individuals with physical or mental impairments which substantially limit one or more major life activities. Additionally, the University prohibits harassment of employees or applicants for employment based on veteran and/or disability status.

This policy applies to all employment practices, including, but not limited to, the following: recruitment, hiring, promotion, demotion, layoff, transfer and termination. Additionally, the policy applies to the conditions of employment, including, but not limited to, compensation, benefits, participation in University-sponsored training programs, education, tuition assistance, social and recreational programs, and use of University facilities.

Affirmative Action Program

To support the Equal Opportunity Policy and Nondiscrimination Policy, Duke University has an affirmative action program for qualified veterans and individuals with disabilities. Through this program, the University actively communicates relevant policies, procedures, and services available at the University and Health System to all employees and takes active steps to identify, recruit, advance, and retain qualified veterans and individuals with disabilities at all levels of employment.

Dissemination of Nondiscrimination Policies

The equal opportunity policy is distributed to all members of the University community. Copies are provided to new employees at orientation sessions, to union officials representing University employees, and are posted on bulletin boards throughout the University. The statement is also published in the Duke University Staff Handbook and Faculty Handbook.

The policy is discussed in management training programs, and is described in various literature distributed by the University. Nondiscrimination clauses are included in all union agreements, and all such contractual provisions are reviewed to ensure that they are nondiscriminatory. Purchase orders, leases, contracts, etc., incorporate an equal opportunity clause as required. All recruiting advertisements state that the University is an Equal Opportunity/Affirmative Action Employer.

The Affirmative Action Plan for Veterans and Individuals with Disabilities is available for inspection upon request by any employee or applicant, during normal business hours, by contacting the Office for Institutional Equity (OIE). Information about the program is also available on the OIE website at www.duke.edu/web/equity.

The University ensures that all applicants for employment are informed of its status as an Equal Opportunity/Affirmative Action employer, by noting this on its application for employment, and making brochures available upon request. In addition, the equal opportunity policy is posted on the websites for Human Resources, the Disability Management System (DMS), and OIE.

Specific information regarding the University's disability-related employment procedures and resources is posted on the DMS website at www.access.duke.edu. Newspaper advertisements and other recruiting communications include the statement, "Duke University is an Equal Opportunity Employer and Affirmative Action Employer."

All contracts and subcontracts issued by the University contain the University's equal opportunity policy. Contracting agencies may request a copy of the Assurances of Compliance form that the University submits to the Department of Health and Human Services.

Implementation

Every member of the University community is encouraged to participate wholeheartedly in the effort to promote a workplace free from unlawful discrimination and harassment, while respecting and embracing diversity. Because managers and supervisors make so many personnel decisions, they have particular responsibility for achieving our institutional equal opportunity goals.

The Office for Institutional Equity (OIE) implements and monitors the policy throughout the University. OIE develops the University Affirmative Action Plans, reviews employee recruitment, hiring, and other personnel activities, and provides technical advice and training to members of the University community.

Responsibility for Implementation

Duke University's President affirms a moral commitment to Affirmative Action Programs for Veterans and Individuals with Disabilities as a matter of law, conscience, and good human relations. The Vice President, Office for Institutional Equity (OIE), is responsible for implementing, monitoring, and administering the Affirmative Action Programs. The Directors for the Equal Opportunity/Affirmative Action Programs, and the Disability Management System (DMS) directly oversee the implementation of the programs, and work jointly with the Office of Human Resources (HR), to ensure the following:

- Development of workplace policies and procedures, affirmative action programs, and internal and external communication strategies, including but not limited to, discussions with managers, supervisors, and employees to ensure that the policy is being followed;
- Identification of problem areas in the implementation of the affirmative action program, in conjunction with line management and development of solutions;
- Design and implementation of audit and reporting systems;
- Maintenance of liaison relationships with organizations of, and for workers with disabilities; and
- Dissemination of information related to the current affirmative action trends and legislative actions.

The Program Director, Employment and Public Reasonable Accommodations in DMS, facilitates an interactive process with applicants and employees with disabilities to effectively explore reasonable accommodations as indicated.

Enforcement

As Chief Executive Officer of the University, the President has the legal responsibility for compliance with the equal opportunity laws.

The Provost, the Chancellor for Health Affairs, the Vice Presidents, and other senior officers are all responsible to the President for implementing the equal opportunity policy within their administrative areas. Deans, directors, chairpersons, and managers of the various schools, departments, and programs all work to administer and manage personnel activities within their areas to ensure full implementation of the policy.

The Office for Institutional Equity handles alleged violations of the equal opportunity policy, including allegations of discrimination and harassment. Concerns or questions about the equal opportunity policy or its implementation can be forwarded to OIE.

Policies and Procedures

The University continues to develop procedures and practices necessary to implement its Affirmative Action Program for Veterans and Individuals with Disabilities. For the select group of individuals covered under this plan, the Disability Management System (DMS) collaborates with Human Resources (HR) to determine if its employment procedures include careful, thorough, and systematic consideration of the job qualifications of applicants and employees, for decisions regarding hiring, promotion, participation in training opportunities, and all other personnel actions.

Recruitment

The University submits its job listings with the North Carolina Employment Security Commission (ESC); however, the ESC does not currently have the capacity to post all of the University's open positions to the larger public. The OFCCP is currently developing an electronic job posting system with the Veterans Employment and Training Service, and the University will file job listings with that service when it becomes available.

Employment opportunities are publicized in a variety of media, including hard copy and the Internet. Each employing unit is encouraged to consult with the Recruitment Division for recruitment resources and the use of outreach media. Collaboration among the DMS and Human Resources Information Center (HRIC) has improved accessibility to job opportunity information posted on the HR website. Additionally, a rehabilitation engineer is utilized as a consultant when exploring reasonable accommodations for employees who are blind or have low vision.

Job listings are sent to organizations addressing the needs of individuals with disabilities, including Vocational Rehabilitation and Disabled Veterans. External agencies are requested to refer applicants, in accordance with University procedures. A collaborative relationship has been developed among Duke University and North Carolina Blind and Visual Services, State of North Carolina Department of Health and Human Services, and Division of Services for the Deaf and the Hard of Hearing. These collaborations reaffirm the University's commitment to effective accommodations for applicants and employees with disabilities. Training sessions are periodically offered for HR recruitment staff to reinforce the University's policy and procedures.

University guidelines for employment of individuals with disabilities include, but are not limited to, the following:

- Each employing unit must consider an applicant in terms of the essential elements of the job necessary to performing the job competently, with or without reasonable accommodation;
- An individual with a disability who cannot perform the essential functions of the job, with or without reasonable accommodation, is not otherwise qualified;
- Applicants for all positions must be given the opportunity to request reasonable accommodations in order to ensure access to the employment application process;

- Any determination of disability status is in accordance with the affirmative action obligations of the University, and follows the process for requesting exploration of possible coverage and reasonable accommodations;
- The Office of Human Resources and the DMS provide assistance to employing units to facilitate the reasonable accommodations process; and
- Transfer candidates with disabilities are assigned a recruitment transition coordinator to provide consultation during the transfer process.

Training of Personnel Involved in Selection

Administrators and other staff with responsibilities for employment, placement, and transfer or promotion processes, periodically receive training on applicable equal opportunity law, the equal opportunity policy, and the affirmative action policy for Veterans and Individuals with Disabilities. Training on Affirmative Action Practices and Procedures is available to all employees, including, but not limited to, those in HR.

Medical Examinations and Pre-employment Inquiries

In accordance with the regulations, the University neither requires medical examinations nor makes inquiries as to whether an applicant or employee is an individual with a disability or as to the nature or severity of such disability. However, the regulations allow pre-employment inquiries into the ability of an applicant to perform job-related functions.

For selected positions, the University administers placement health reviews following an offer of employment. The majority of these positions are in the Health System, and research-related positions at the Medical School. Such health reviews are classification-specific, as defined by Employee Occupational Health and Wellness (EOHW), and are designed to ensure that qualifications are job-related, consistent with business necessity, ensure safe performance of the job, comply with regulatory requirements, limit health risk to patients, students, staff, and work products, and minimize the University's exposure to liability.. All medical records are maintained at EOHW; information is kept confidential, and is not shared with managers. Managers receive notification that indicate 'acceptable for hire,' 'not acceptable for hire,' or 'hire with specific accommodations.

In addition to the placement health reviews, periodic health reviews are conducted for incumbent employees in selected jobs, and on a case-by-case basis when a position is submitted for review. Guidelines for health reviews vary by the nature and risk factors related to the job.

Confidentiality

The University complies with Title I Regulations 1630.13 and 1630.14 regarding prohibited medical examinations and inquiries. Information concerning a disability or medical history of an employee is accorded the same confidentiality as medical records. Consistent with the University's obligation, such information is collected and maintained on separate forms, and filed in separate and secure locations. Medical information may be disclosed in following conditions:

- First aid and safety personnel who may be required to provide emergency treatment due to the employee's disability or medical condition;
- Authorized representatives of government agencies and other organizations investigating compliance with applicable laws, or involved in the University's internal grievance procedure; and
- Supervisors will be informed only of the necessary restrictions on the work or duties of the employee, and resulting necessary accommodations.
- Confidential medical information will be maintained in a secure file, separate from all other personnel records.

Compensation and Benefits

The University will not reduce the amount of compensation offered for a position due to veterans' benefits, disability income, or any pension or other benefit the applicant or employee receives from another source.

Self-Identification

An Invitation to Self-Identify for veteran and/or disability status is distributed to all new employees during orientation, and periodically to all employees. This invitation is also posted in selected employee work areas, and in the various HR offices. Self-identification is voluntary. No employee is subject to adverse treatment for either providing, or declining to provide, this information. Self-identification data collected by the OIE is kept confidential to the extent permitted by law. When applicable, the Reasonable Access Process (RAP) is initiated following self-disclosure. See Appendix A for the Invitation to Self-Identify process.

Reasonable Accommodation Process

Consistent with Title I of the ADA, the University makes reasonable accommodation to the known physical or mental disability of an otherwise qualified applicant or employee, unless the accommodation or request for services would impose an undue hardship on the employing unit. Information related to practices/procedures for employees with disabilities is posted on the DMS web site at www.access.duke.edu. When applicable, the Job Accommodation Network (JAN) is consulted during the Reasonable Accommodation Process (RAP).

The RAP, following the guidelines established by Title I of the ADA, is a collaborative and interactive process between the staff member, the manager/supervisor/department head, the Program Director, Employment and Public Reasonable Accommodations, Employee Occupational Health and Wellness (EOHW), and other appropriate personnel.

When the staff member requests an accommodation, the manager/supervisor/department head provides the staff member with a copy of the Reasonable Accommodation Request Form, and guidance in the accommodation process. Sample copies of Reasonable Accommodation Request Forms for faculty and staff are included in Appendix B.

The staff member is then responsible for the following:

1. Forwarding the completed Reasonable Accommodation Request form to the Coordinator, Employment and Public Reasonable Accommodations; and
2. Forwarding the Healthcare Provider Medical Information Request Form and all pertinent medical and/or psychological documentation regarding his/her impairment to the Employee Occupational Health and Wellness office, either via fax, 684-1852, or campus mail at Box 3148 DUMC. (Please see documentation guidelines at www.access.duke.edu.)

SCOPE OF THE PROCESS

Pursuant to Title I of the ADA, it is not necessary to provide an accommodation, if doing so would cause an undue hardship; i.e., unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the department or unit. Some temporary jobs become available on short notice, and last only a brief period of time, during which certain tasks must be completed. In such cases, undue hardship may apply since the work assignment must be filled on short notice. (*EEOC Enforcement Guidance: Application of the ADA to Contingent Workers Placed by Temporary Agencies and Other Staffing Firms.*)

Regulations permit the University to require that an individual not pose a direct threat to the health or safety of the individual or others in the workplace. A “direct threat” means a significant risk of substantial harm. Determination that a staff member who has initiated the RAP poses a direct threat is made through EOHW, or other qualified personnel.

Additionally, temporary, non-chronic impairments of short duration, with little or no long term or permanent impact, are usually not disabilities. Such impairments may include, but are not limited to broken limbs, sprained joints, concussions, appendicitis, and influenza.

Employee Occupational Health and Wellness may need to contact appropriate healthcare providers to identify any functional limitations related to the impairment or job.

The Program Director, Employment and Public Reasonable Accommodations explores possible accommodations with appropriate resources which may include, but not be limited to the Job Accommodation Network (JAN). Possible accommodations are reviewed with the manager, supervisor, and department head, before a final offer of reasonable accommodations is made to the staff member. If the staff member is dissatisfied with the reasonable accommodations process or the outcome, he/she may contact OIE to initiate the complaint process.

Consistent with Title I of the ADA and the RAP, medical documentation may be required of an employee who self-identifies as having a disability and requests accommodation. Any information obtained from such inquiries is consistent with job necessity and established University medical and psychological documentation criteria.

An Assistive Technology Lab and Lending Library have been developed for employees who are blind or have visual disabilities, are deaf or hard of hearing, or have mobility impairments. Examples of devices and equipment available are the following: refreshable Braille, JAWS software, Zoomtext, Assistive Listening Devices, CCTV, and scanning

software and hardware. Assistive technology specialists, or rehabilitation engineers, are utilized as needed to facilitate training, and to develop scripts for JAWS.

Reasonable accommodations are explored for qualified applicants with disabilities needing accommodations during the application process. HR, DMS, and the applicant collaborate in exploring what reasonable accommodations may be indicated or necessary.

PUBLICATIONS

Where applicable, publications produced by the University contain an alternative format statement, and one of two accommodation statements (Appendix D). Publications of the University picture both minority and non-minority men and women and persons with disabilities. All recruiting advertisements state that the University is an Equal Opportunity/Affirmative Action Employer.

Record Keeping, Audit, and Reporting Systems

The Office for Institutional Equity, and Human Resources, monitor applicant and employee data for individuals who have self-identified as having a disability and indicated the need for reasonable accommodations. The University retains all records relating to employment decisions for a period of three years from the date the record was made, or the date of the selection decision, whichever occurs first. These records may include advertisements, postings, applications, resumes, interview notes, tests, test results, and requests for accommodation. Additionally, OIE submits annual Vets-100 and Vets-100A Reports to the United States Department of Labor, documenting the representation of special disabled veterans, Vietnam era veterans, and other protected veterans in the University workforce.

Discrimination Grievance Procedures

If an applicant for employment at Duke University or a Duke University employee feels that Duke University hasn't taken sufficient action with a request for an accommodation, or wishes to pursue a complaint of discrimination or harassment, based on veteran and/or disability status in violation of the University's equal opportunity policy or affirmative action policy or program for Veterans and Individuals with Disabilities, a grievance can be filed with the Office for Institutional Equity at 919-684-8222. The full text of the grievance procedure is included in Appendix D. Complaints may also be filed with external agencies, the OFCCP, Office for Civil Rights (OCR), and the EEOC, in accordance with the guidelines set forth by those agencies

Appendices

Appendix A: Glossary of Terms

Appendix B: Invitation to Self-Identify for Disability or Veteran Status

Appendix C: Reasonable Accommodation Procedures (RAP)

Appendix C-1: Reasonable Accommodation Request Form

Appendix C-2: Medical Information Release Form for Staff

Appendix C-3: Assessment and Referral Form

Appendix D: Accommodation and Alternative Format Statements

Appendix E: Disability Discrimination Grievance Procedure

Appendix F: Best Practices

Appendix G: Manager's Toolkit

Appendix A: Glossary of Terms

The University utilizes the following definitions, as provided by the relevant statutes, in the application of its affirmative action programs.

DISABILITY STATUS TERMS

Individual with a Disability – Any individual who:

- has a physical or mental impairment that substantially limits one or more of her/his major life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment.

Individual or Qualified Veteran with a Disability – Any individual who:

- Satisfies the requisite skill, experience, education, and other job-related requirements of the position the individual holds, or is an applicant for; and
- is able to perform the essential functions of the position, with or without reasonable accommodations.

Mental Impairment - Any mental or psychological disorder, such as intellectual disabilities, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major Life Activities - In order for a disability to be covered by the Americans with Disabilities Act (ADA), an impairment must substantially limit one or more major life activities. These activities are those which an average person is able to perform with little or no difficulty. Examples include, but are not limited to, walking, seeing, speaking, hearing, breathing, learning, and manual self-care tasks.

Physical 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, genito-urinary, hemic and lymphatic, skin, and endocrine.

Reasonable Accommodation - Reasonable accommodation is a critical component of the ADA's assurance of nondiscrimination. Reasonable accommodation is any change in the work environment, or in the way things are usually done, that results in equal employment opportunity for an individual with a disability. An employer must make a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability, unless it can show that the accommodation would cause an undue hardship. Some examples of reasonable accommodations include:

- making existing facilities used by employees readily accessible to, and usable by an individual with a disability;
- job restructuring; modifying work schedules; reassignment to a vacant position;
- acquiring or modifying equipment or devices;
- adjusting or modifying examinations, training materials, or policies providing qualified readers or interpreters.

An employer is not required to lower quality or quantity standards to make an accommodation. Nor is an employer obligated to provide personal use items, such as glasses or hearing aids, as accommodations.

Record of a Substantially Limiting Condition - ADA Technical Assistance Guidelines state that this protected group includes:

- A person who has a history of an impairment that substantially limited a major life activity but who has recovered from the impairment. Examples of individuals who have a history of an impairment are persons who have histories of mental or emotional illness, drug addiction, alcoholism, heart disease, or cancer.

Regarded as Substantially Limited - The ADA also protects certain persons who are regarded by a public entity as having a physical or mental impairment that substantially limits a major life activity, whether or not that person actually has an impairment. Three typical situations are covered by this category:

ADA Guidelines state that this protected group includes:

- An individual who has a physical or mental impairment that does not substantially limit major life activities, but who is treated as if the impairment does substantially limit a major life activity;

ILLUSTRATION A: an individual with mild diabetes controlled by medication is barred by the staff of a private summer camp from participation in certain sports because of her diabetes. Even though A does not actually have an impairment that substantially limits a major life activity, she is protected under the ADA because she is treated as though she does.

- 2) An individual who has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards the impairment;

ILLUSTRATION B: a three-year old child born with a prominent facial disfigurement has been refused admittance to a private day care program on the grounds that her presence in the program might upset the other children. B is an individual with a physical impairment that substantially limits her major life activities only as the result of the attitudes of others toward her impairment.

- 3) An individual who has no impairments but who is treated by a public accommodation as having an impairment that substantially limits a major life activity.

ILLUSTRATION C: is excluded from a private elementary school because the principal believes rumors that C is infected with the HIV virus. Even though these rumors are untrue, C is protected under the ADA, because he is being subjected to unlawful discrimination by the school based on the belief that he has

an impairment that substantially limits major life activities (i.e., the belief that he is infected with HIV).

Substantially Limits - An impairment only qualifies as a “disability” under the ADA if it substantially limits one or more major life activities. An individual must be unable to perform, or be severely restricted in the ability to perform an activity, compared to an average person in the general population. The regulations provide three factors to consider in determining whether a person's impairment substantially limits a major life:

- nature and severity;
- how long it will last, or is expected to last;
- permanent or long term impact, or expected impact.

These factors must be considered, because, generally, it is not the diagnosis of an impairment or a condition that determines whether a person is protected by the ADA, but rather the effect of an impairment or condition on the life of a particular person.

Temporary Impairments - Non-chronic impairments that do not last for a long time, and that have little or no long-term impact, usually are not disabilities

Undue Hardship - Excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.

In determining undue hardship, factors to be considered include the nature and cost of the accommodation in relation to the size, the financial resources, the nature and structure of the employer's operation, as well as the impact of the accommodation on the specific facility providing the accommodation. An employer is not required to provide an accommodation if it will impose an undue hardship on the operation of its business.

VETERAN CATEGORIES

A qualified Veteran is an individual who falls within one or more of the following categories of veterans: Armed Forces Service Medal veteran, disabled veteran, other protected veteran, recently separated veteran, special disabled veteran and Veteran of the Vietnam era. These categories are defined below.

Armed Services Medal Veteran - any veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209) (an operation in which the participants encountered no foreign armed opposition or imminent hostile action.)

Disabled Veteran - Includes all veterans with service-connected disabilities.

Other Protected Veteran - Any other veteran who served on active duty in the U.S. military ground, naval, or air service during a war or in a campaign or expedition, for which a campaign badge has been authorized, other than a special disabled veteran, veteran of the Vietnam era, or recently separated veteran.

Recently Separated Veteran - Defined as any veteran who served on active duty in the U.S. military, ground, naval, or air service during the one-year period (under VEVRAA regulations) or three-year period (under JVA regulations), beginning on the date of such veteran's discharge or release from active duty.

Special Disabled Veteran - A veteran who served on active duty in the U.S. military ground, naval, or air service and (1) who was discharged or released from active duty because of a service-connected disability, or (2) who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) for certain disabilities under laws administered by the Department of Veterans Affairs (i.e., disabilities rated at 30 percent or more, or at 10 or 20 percent if the veteran has been determined to have a serious employment handicap.)

Veteran of the Vietnam Era - Under Section 4212, a veteran of the U.S. military, ground, naval, or air service, any part of whose service was during the period of August 5, 1964, and May 7, 1975, who (1) served on active duty for a period of more than 180 days, and was discharged or released with other than a dishonorable discharge, or (2) was discharged or released from active duty because of a service-connected disability. "Vietnam Era Veteran" also includes any veteran of the U.S. military, ground, naval, or air service who served in the Republic of Vietnam between February 28, 1961, and May 7, 1975.

Appendix B: Invitation to Self-Identify for Disability or Veteran Status

The University is committed to offering equal opportunity to its employees and applicants for employment, without regard to disability or veteran status. This policy includes recruiting, hiring, appointment, and promotion, in all position classifications. In view of this commitment, the University reviews its personnel policies regularly, to ensure that veterans and individuals with disabilities are given careful consideration for all jobs for which they qualify.

We invite all employees who are veterans, and/or have disabilities, to make this fact known to us. Submission of such information is voluntary, and declining to provide it will not subject you to adverse treatment. The University keeps such information confidential, except as provided by law.

Further information regarding the definitions of disability, veteran status, and other relevant terms are included on the following pages. To self-identify, discuss your status, or ask any questions about reasonable accommodations, please contact the appropriate office as noted below. Self-Identify forms can also be found on the Office for Institutional website, http://www.duke.edu/web/equity/Invitation_to_Self_2008.pdf.

Duke University	Office for Institutional Equity – 919-684-8222
Duke University Health System	Office for Institutional Equity – 919-684-8222
Durham Regional Hospital	Human Resources – 919-470-7271
Duke Health Raleigh Hospital	Human Resources – 919-954-3338

Appendix C: Reasonable Accommodation Procedures (RAP)

PURPOSE

Pursuant to the ADA, RAP is a consistent procedure to explore possible workplace accommodations for staff members who request them.

PROCESS

When an individual with a disability requests an accommodation to assist in the performance of a job, the supervisor/department head should provide the staff member with a copy of the Reasonable Accommodation Request Form.

The staff member is responsible for (1) Forwarding the completed Reasonable Accommodation Request form to the Program Director, Employment and Public Reasonable Accommodations, and (2) Forwarding the Medical Information Release Form and all pertinent medical and/or psychological documentation regarding his/her impairment, to Employee/Occupational Health and Wellness, either via fax, 919-684-1852, or campus mail at Box 3148 DUMC.

Note: More information about the RAP for Faculty is available in the Faculty Handbook and The Provost’s Office website at www.provost.duke.edu.

CONTACT

Questions or comments related to the RAP should be directed as follows:

DU	Program Director, Employment and Public Reasonable Accommodations	919-684-8247
DUHS	Program Director, Employment and Public Reasonable Accommodations	919-684-8247
DRH	DRH Human Resources	919-470-7271
DHRH	DHRH Operations Manager	919-954-3275

Any questions, comments, or concerns from any employee may be directed to Director, Disability Management System at 919-684-8231.

This information is available in alternative format upon request. Please call 919-684-8247, TTY 919-668-1329.

Appendix C-1: Reasonable Accommodation Request Form

Duke University/Health System

Disability Management System, 402 Oregon Street, Suite 102, Box 90142, Telephone: (919) 668-6213, Fax: (919) 668-3977, www.access.duke.edu

**CONFIDENTIAL
DUKE UNIVERSITY**

Reasonable Accommodation Request Form – Employment

The purpose of this form is to assist the Duke University/Duke University Health System in determining whether, or to what extent, a reasonable accommodation is required for an employee with a disability to perform one or more essential functions of his or her job safely and effectively. This form must be filed separately from the employee's personnel file and be treated confidentially.

DUHS/College/School/Administrative Area	Department/Unit
---	-----------------

SECTION I: Employee/Applicant: To be completed by employee requesting accommodation.

Employee:	Telephone:		
Address:			
Job Title:	Date of Birth:		
Department Head/ Supervisor:	Telephone:		
Address:			
Human Resources Officer/Representative/Personnel Rep:	Telephone:		
Address:			
Have you contacted Employee Occupational Health and Wellness?	Yes	Date of Contact	No

The accommodation requested is: _____

I, _____ give Duke University, including but not limited to, EOHW, DMS, HR, E&O, FMD, Fire and Safety and my work unit, permission to explore possible coverage and reasonable accommodations under the Americans with Disabilities Act. I understand that all information obtained during this process will be maintained and used in accordance with applicable confidentiality requirements.

I further understand that I am required to complete and sign the attached release of information giving Duke permission to consult with my health care professional(s) as necessary in order to determine that I am a qualified employee with a disability, to seek guidance as to any functional limitations resulting from my condition(s) and to assist the University in determining what appropriate accommodations may exist to address my limitations.

Date
Employee's Signature

Please return this form and attached healthcare provider form to Disability Management System, 402 Oregon Street, Suite 102, Box 90142, Durham, NC 27708.

Appendix C-2: Medical Information Release Form for Staff

I, _____, voluntarily give Duke University permission to contact

_____.

Dr. (s)

Address _____, as

necessary, for discussion of my case as it relates to possible limitations of a major life activity, which can affect my employment. I have been given an opportunity to ask questions regarding this form, and to have those questions answered to my satisfaction. I further understand that all information obtained from this interaction will be maintained and used in accordance with applicable confidentiality requirement.

Health Care Provider: _____ Phone Number: _____

Address: _____

Staff Signature: _____ Date: _____

Witness: _____

Please return this form to Disability Management System, 402 Oregon Street, Suite 102, Box 90142, Durham, NC 27708.

Appendix C-3: Assessment and Referral Form

If you are an individual with an impairment that may require evacuation assistance during an emergency, completion of this form will help assess your needs.

- **Employees** should return or fax the completed form, along with the signed Reasonable Accommodation Request form and Health Care Provider Release form, to the Disability Management System office at 402 Oregon Street, Box 90142, Fax: 919-668-3977.
- **Students** should contact the Disability Specialist at the Disability Management System-Student Access Office (SAO) to discuss and complete the form.

General Information:

Student Section	
Name:	Duke ID Number:
Address:	Email Address
Telephone Number:	College/School :
Residence Hall [Building/Room]:	
Employee Section	
Department/Unit:	Job Title:
Supervisor's Name:	Supervisor's Phone Number:
Work Location [Building/Room]:	

Disability:

Visual
 Hearing
 Mobility
 Other
 Is the disability
 Temporary
 (If so, how long? _____)
 Permanent

(Please complete **each** section that applies.)

Mobility:

Does the impairment prohibit you from using steps or hinder your ability to negotiate stairs?
___Yes ___No. If yes, please describe:

Do you have problem with different kinds of door hardware: (i.e., latches, knobs, panic hardware, or power assist buttons)? ___Yes ___No. If yes, please describe:

During a normal day, if a fire alarm were to occur, would you be able to evacuate the facility without assistance?
___Yes ___No

For student residents only: If you were fast asleep in their room at night, and a fire alarm occurred, would you be able to awake and evacuate without assistance? ___Yes ___No

Hearing:

Do you use hearing assistance devices during the day? ___Yes ___No. If yes, please describe:

During a normal day, if a fire alarm were to occur would you be able to hear the alarm and evacuate without assistance or special notification? ___Yes ___No. If no, please describe the type(s) of assistance or notification that would be necessary:

For student residents only: If you were fast asleep in your room at night, and a fire alarm occurred, would you be able to hear the signal to awake and evacuate without assistance, or special notification? ___Yes ___No

If no, please describe the type(s) of assistance or notification that would be necessary:

Visual:

Does your visual impairment prohibit or hinder your evacuation during an emergency? ___Yes ___No

Do you use a cane or guide dog that helps with travel throughout the day? ___Yes ___No
Or exit a facility? ___Yes ___No. If yes, please describe:

This form was completed by: _____

Date: _____

Note: The Disability Management System representative or the Student Access Office Disability Specialist should forward or fax the completed form to OESO-Fire Safety Division, 1411 Hull Street, Box 90427, Fax: 919-684-5487.

OCCUPATIONAL & ENVIRONMENTAL SAFETY OFFICE (OESO)

Date form received from DMS or SAO _____.
Date facility was surveyed _____.
Date Site Specific Fire Plan was developed _____.
Date Training was conducted _____.

Fire Safety Division personnel will return the completed form along with the site-specific fire plan to:
For Employees: Disability Management System, 402 Oregon Street, Box 90142 or Fax to 919-668-3977.
For Students: Disability Management System, Student Access Office (SAO), 402 Oregon Street, Box 90142, or Fax to 919-668-3977.

Appendix D Accommodation and Alternative Format Statements

Duke University is a contracting party within the meaning of Section 503/504 of the Rehabilitation Act of 1973. As such, it is recommended that the following alternative format and accommodation statements be used where applicable.

Alternative Format Statement (This statement should be printed in an easy-to-read type size and placed in a location that is easy to notice.)

This publication is available in alternative format on request. Please call (insert telephone number of program sponsor)

Accommodation Statement (This statement should be printed in any publication that describes a specific program or special event, e.g., seminar, film, speaker, performing arts series, employment programming, etc.)

Duke University encourages persons with disabilities to participate in its programs and activities. If you anticipate needing any type of accommodation or have questions about the physical access provided, please contact (telephone number of the program sponsor) in advance of your participation or visit.

Abbreviated Accommodation Statement (Use the abbreviated version only when space constraints are severe.)

Persons with disabilities who anticipate needing accommodations or who have questions about physical access may contact (telephone number of the sponsor) in advance of the program (or film, event, etc).

Appendix E: Disability Discrimination Grievance Procedure

The University has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging discrimination based on disability.

Complaints alleging discrimination based on disability must be addressed to the Office for Institutional Equity, 147B Trent Hall Drive, Box 90012, Durham, NC 27708-0012, 919-684-8222.

- A complaint must be submitted in writing, including the name and address of the complainant, and a description of the allegations of discrimination. The complainant must set forth specific facts in support of the allegation(s).
- A complaint must be filed within sixty (60) days of the alleged discrimination.
- An investigation, as may be appropriate, shall be conducted by OIE, following receipt of a discrimination complaint. This procedure affords the complainant, and the person(s) against whom the allegation(s) of discrimination have been made and their respective representatives, if any, an opportunity to submit information and documentation regarding the complaint allegations.
- The investigation will be completed, with written results of the investigation issued, and a copy forwarded to the complainant within forty-five (45) workdays of the receipt of the complaint.
- The complainant may appeal the findings of an investigation by submitting a written document to the Vice President, OIE, Duke University, 143A Trent Hall, Durham, NC, 27708. An appeal shall only be considered if the complainant specifies with particularity the irregularities of the investigator's determination, such as inaccurate finding of facts, or incorrect conclusions of law, the correction of which would likely change the outcome of the determination of an investigation. The appeal must either be postmarked or received within fourteen (14) days of the date of the determination. The Vice President will make a final determination, and inform the complainant within fourteen (14) work days of the Vice President's receipt of the appeal.
- Although the University will make every effort to comply with these timelines, circumstances, such as school breaks, may justify an extension of time.
- Retaliation against any person who files a complaint of alleged discrimination, participates in an investigation, or opposes a discriminatory employment or education practice or policy, is prohibited under University policy, and by state and federal law.

Appendix F: Best Practices

DISABILITY MANAGEMENT SYSTEM

The Disability Management System (DMS) provides leadership to the University and the Health System to ensure an accessible and hospitable working and learning environment for people with disabilities, as well as fully complying with federal and state regulations. DMS interfaces with all organizational units of the University and collaborates with staff and faculty to ensure compliance and raise awareness regarding needs of persons with disabilities. DMS is responsible for development and implementation of standard University practices and procedures, and for responding to the needs of faculty, staff, students, and visitors with disabilities.

The following disability-related accomplishments have been noteworthy:

- An ADA Facilities Program Director has been appointed to provide further support to the facilities accessibility and to develop a comprehensive plan for the University.
- Training and educational materials were developed and disseminated to managers providing guidance in recordkeeping requirements of medical related documentation.
- Employment Reasonable Accommodation and ADA brochures have been developed.
- Collaboration with Facilities Management Department for the creation of the on-line accessibility map.
- Collaboration with Office of the University Architect (OUA) and Facilities Management to secure West Campus exterior directional signage installation.
- Continued collaboration with Fire and Safety regarding site specific emergency evacuation plans for employees and students with disabilities; provided accessibility guidance for mobile research laboratory.

ACTIVE OUTREACH

The Office for Institutional Equity (OIE), and Human Resources (HR), work to provide outreach efforts to veterans and individual with disabilities. These efforts are designed to increase awareness and understanding throughout the University, of the needs and challenges presented to these individuals, and to make employment and advancement opportunities more accessible for them.

The following disability-related accomplishments have been noteworthy:

- OIE assists HR in identifying outreach possibilities with the state workforce agency job bank and with web-based and community-based job bank and job search resources. These resources are contacted and invited to include job openings at Duke University in their databases, and to establish working relationships with departments within the University.

- Duke University representatives attend job fairs for Veterans held by state and local employment service agencies, such as the North Carolina Employment Securities Commission.
- The Human Resources department provides computer terminals at their location for individuals to use when searching for jobs at Duke University. This center is accessible to individuals with disabilities and assistance is provided, if needed.

Appendix G: Manager’s Toolkit

Please feel free to use this toolkit as a quick reference to key terms used in the Affirmative Action Plan for Veterans and Individuals with Disabilities. If you have any questions, or would like to

Term	Page	Definition
Accommodation	9	<ul style="list-style-type: none"> ➤ Individuals interested in requesting an accommodation for a disability should contact the manager/supervisor/department head for a Reasonable Accommodation Request Form. The completed form is sent by the staff member to the Program Director, Employment and Public Reasonable Accommodations (Disability Management System) at 668-6213, TTY 668-1329. A copy of this form is also included in this Affirmative Action Plan, Appendix C-1, along with other relevant forms that may need to be completed.
Confidentiality	8	<ul style="list-style-type: none"> ➤ Information concerning a disability or medical history is accorded the same confidentiality as medical records. ➤ Any records containing medical information, grievances, or disability related information must be kept separate from personnel files.
Disability	13	<ul style="list-style-type: none"> ➤ has a physical or mental impairment that substantially limits one or more of her/his major life activities; ➤ has a record of such an impairment; or ➤ is regarded as having such an impairment.
Grievance (Discrimination Complaint)	11, 25	<ul style="list-style-type: none"> ➤ Contact the Office for Institutional Equity, 919-684-8222.
Job Posting	7, 26	<ul style="list-style-type: none"> ➤ Jobs are posted on the Duke University website as well as many major websites that are designed for veterans and individuals with disabilities. Those in need of TTY and/or TDD services can call Relay NC at 1-800-735-2962 and ask to be connected with Duke Human Resources at 919-684-5600. Also, see job applicants.
Medical-related Information for Job Applicants	8	<ul style="list-style-type: none"> ➤ Medical examinations or inquires about a disability are not required of individuals unless the examination and inquiries are made to all job applicants. Regulations allow pre-employment inquiries into the ability to perform job-related functions.

review the Affirmative Action Plan, you may contact the Office for Institutional Equity at 919-684-8222. The Affirmative Action Plan is also available at the Perkins Library reference desk.

Term	Page	Definition
Qualified Person with a Disability	2, 15	<ul style="list-style-type: none"> ➤ Satisfy the requisite skill, experience, education, and other job-related requirements of the position the individual holds, or is an applicant for; and ➤ Be able to perform the essential functions of the position, with or without reasonable accommodations.
Record Keeping, Medical Records	8, 9	<ul style="list-style-type: none"> ➤ Records are kept for three years from the date the record was made, or of the date of the selection decision, whichever comes first. Any records containing medical information, grievances, or disability related information must be kept in a separate and secure location.
Self-Identification Process	9	<ul style="list-style-type: none"> ➤ Individuals can self-identify during the application process, during orientation, or at any time during employment by contacting the Office for Institutional Equity (OIE) at 684-8222. ➤ OIE contacts the Program Director, Disability Management System (DMS) if an individual requests an accommodation. DMS assesses the need for accommodation, abiding by ADA and Uniformed Services Employment and Reemployment Rights Act (USERRA) guidelines.
Substantially Limits	13	<ul style="list-style-type: none"> ➤ Nature and severity; ➤ How long it will last, or is expected to last; or ➤ Permanent or long term impact, or expected impact.
Temporary Impairments	15	<ul style="list-style-type: none"> ➤ The issue of whether a temporary impairment is significant enough to be a disability must be resolved on a case-by-case basis, taking into consideration, both the duration (or expected duration) of the impairment, and the extent to which it actually limits a major life activity of the affected individual.
Web Resources for Veterans and the Disabled	18, 26	<ul style="list-style-type: none"> ➤ http://www.afb.org ➤ http://www.earnworks.com ➤ http://www.business-disability.com ➤ http://www.disabledperson.com/recruitability.asp ➤ http://www.northcarolinadiversity.com ➤ http://www.americasheroesatwork.gov

Appendix H: Duke University Contact Information

Accessibility Policies and Procedure, Disability Management System	919-668-6213
Affirmative Action Plan, Office for Institutional Equity	919-684-8222
Alternative Format Contact (TTY), Disability Management System.....	919-668-1329
Ambulatory Parking Permits, Parking and Transportation Services.....	919-684-7275
Diversity and Equity General Information, Office for Institutional Equity	919-684-8222
Diversity and Equity Programs, Office for Institutional Equity	919-684-8244
Employee Occupational Health and Wellness	919-684-5600
Equal Opportunity and Affirmative Action Programs, Office for Institutional Equity ...	919-684-1925
Faculty Ombudsman.....	919-613-7811
Harassment Prevention and Policies, Office for Institutional Equity	919-668-6214
Human Resources, Duke University and Duke University Health System	919-684-5600
Medical Center Van Service, Parking and Transportation Services	919-684-2020
Personal Assistance Service.....	919-416-1727
Reasonable Accommodations Process, Disability Management System	919-684-8247
Student Disability Access Office (TTY 668-1329).....	919-668-1267

To request a copy of this Plan, please contact the Office for Institutional Equity at 684-8222.