

Americans with Disabilities Act

Information for Employees

If you are an employee considering using Family Medical Leave (FML), you may want to also become familiar with the Americans with Disability Act (ADA). You may have rights under both the FMLA and the ADA. For example, if you have a disability and need reasonable accommodations in the workplace you should contact the ADA Coordinator (below) to see if accommodations would allow you to continue to work full or part time and/or if reasonable accommodations should be in place when you return from your FML leave.

The Americans with Disability Act (ADA)

The Americans with Disabilities Act of 1990 prohibits private employers (such as the University of Denver), state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees. The law also requires employers to provide employees with disabilities reasonable accommodations needed in the workplace.

An *individual with a disability* is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

A *qualified employee or applicant with a disability* is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. *Reasonable accommodations* are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities. Accommodations vary depending upon the needs of the individual applicant or employee. Not all people with disabilities (or even all people with the same disability) will require the same accommodation.

All accommodations are individualized for the person's limitations and essential job functions. A few examples of reasonable accommodations include:

- A deaf applicant may need a sign language interpreter during the job interview.

- An employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood sugar and insulin levels.
- A blind employee may need someone to read information posted on a bulletin board and may need adaptive equipment on his/her computer.
- An employee with cancer may need leave or a flexible schedule to have radiation or chemotherapy treatments.
- An employee with mobility limitations may need a specific desk, keyboard, or other workplace equipment.

An employer does not have to provide a reasonable accommodation if it imposes an undue hardship. *Undue hardship* is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

An employer is not required to lower quality or production standards to make an accommodation; nor is an employer obligated to provide personal use items such as glasses or hearing aids.

An employer generally does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. If an employer believes that a medical condition is causing a performance or conduct problem, it may ask the employee how to solve the problem and if the employee needs a reasonable accommodation. Once a reasonable accommodation is requested, the employer and the individual should discuss the individual's needs and identify the appropriate reasonable accommodation. Where more than one accommodation would work, the employer may choose the one that is less costly or that is easier to provide.

It is also unlawful to *retaliate* against an individual for opposing employment practices that discriminate based on disability or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADA.

Contact information:

For more information about ADA in the workplace or to make an appointment to discuss your situation, please contact the University's ADA Coordinator:

Susan Lee
Director, Diversity and Equal Opportunity
susanlee@du.edu
303-871-7436
Website: <http://www.du.edu/deo/>