

Policy Name: Reasonable Accommodation	
Policy Owner: SVP and Chief People Officer	Effective Date: 08/05/2014
Approved By: System Leadership Council	Last Reviewed Date: 08/05/2014
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1.0 Scope:

1.1 Applicable Entities:

This policy applies to Texas Health Resources and its member entities and excludes the Texas Health joint venture entities.

1.2 Applicable Departments:

This policy applies to all Texas Health departments.

2.0 Purpose:

- 2.1 To provide employment practices related to work accommodations which are in compliance with the Americans with Disabilities Act of 1990 (“ADA”) and the ADA Amendment Act of 2008 (“ADAAA”).

3.0 Policy Statement(s):

- 3.1 It is the policy of Texas Health Resources (“Texas Health”) to provide a consistent process to comply with the ADA/ADAAA by assisting applicants and employees in requesting and obtaining Reasonable Accommodation in order to be considered for employment in positions for which they are qualified, or to perform the Essential Functions and physical demands of the position in which they are employed.

4.0 Policy Guidance:

- 4.1 Reasonable Accommodation is available to all employees with a Disability as defined under the ADA/ADAAA.
- 4.1.1 All employment decisions are based on the merits of the situation on a case by case basis in accordance with the criteria set out herein and applicable law.
- 4.1.2 Texas Health is committed to providing equal employment opportunity for persons with disabilities in accordance with the ADA/ADAAA and all other applicable federal, state, and local laws.
- 4.1.3 Access to the Reasonable Accommodation assessment process may be provided even if the employee does not meet the definition of Disability and use of the policy and procedures does not indicate the employee is qualified under the ADA/ADAAA.

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- 4.2 If an applicant or employee requests an accommodation in order to interview, begin or continue employment or return to work from a leave of absence, the applicant or employee will be referred to the entity Employee Health Services.
- 4.2.1 The Employee Health Nurse will evaluate the ability of the applicant or employee to perform the Essential Functions and non-essential job functions and related job demands in consultation with the employee's or applicant's health care provider or appropriate health care provider when more extensive evaluation is required. (See Fitness for Duty policy).
- a. The Employee Health Nurse will provide a copy of the job description and physical demands to the health care provider in order for the health care provider to discuss the requirements of the position and the applicant's or employee's ability to perform the duties.
- 4.2.2 All employee health records will be kept confidential in the Employee Health Services Department, separate from all other files.
- a. Medical inquiries must be treated as a confidential medical record.
- b. The results of medical inquiries must be used for the purpose of determining the ability of an applicant or employee to perform job related functions.
- c. Any medical notes or records provided to the manager must be forwarded to the Employee Health Services Department and must not remain in the department employee file or Human Resources files.
- 4.2.3 The Employee Health Nurse will notify Human Resources and the manager of restrictions or limitations of the applicant's or employee's ability to perform the Essential Functions and non-essential job functions and physical demands of the job.
- 4.2.4 Human Resources and/or Employee Health Services may convene the Accommodation Review Committee (ARC) after an employee or applicant has requested a Reasonable Accommodation or Texas Health has reasonable notice that one is needed. Human Resources, the manager, and Employee Health Services will meet with the Employee in an interactive process to reasonably identify an appropriate accommodation to present to the Accommodation Review Committee.

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4.2.5 Accommodation Review Committee will discuss possible accommodation options based upon the documented limitations of the applicant or employee to perform the Essential Functions of the job and physical demands, taking into consideration accommodation suggestions from the affected applicant or employee, the feasibility of the accommodations, and whether an Undue Hardship is presented.

- a. When restrictions are **Temporary**, the following accommodations are considered:
- 1) Any accommodation that would allow the employee to perform the Essential Functions of current job.
 - 2) Temporary light duty assignments subject to availability and business needs.
 - 3) Job Protected Leave if:
 - i. for a reasonable duration
 - ii. the health care provider foresees the employee may return to work at the end of the leave requested
 - iii. the leave is not an Undue Hardship
 - 4) Transfer to a new position. The employee will be immediately placed on a forty-five (45) day unpaid administrative leave of absence to attempt to secure a new position in which they can perform the Essential Functions of the job, with or without a Reasonable Accommodation. A recruiter will be assigned to the employee to identify any open positions for which the employee may be qualified with or without any restrictions. If the employee declines a position offered or, if at the end of forty-five (45) days an appropriate position has not been found, Texas Health may separate the employee from employment.
- b. When restrictions are **Permanent**, the following accommodations are considered:
- 1) Any accommodation that would allow the employee to perform Essential Functions in current job.

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- 2) Transfer to a new position. The employee will be immediately placed on a forty-five (45) day unpaid administrative leave of absence to attempt to secure a new position in which they can perform the Essential Functions of the job. A recruiter will be assigned to the employee to identify any open positions for which the employee may be qualified with or without any restrictions. If the employee declines a position offered or, if at the end of forty-five (45) days an appropriate position has not been found, Texas Health may separate the Employee from employment.

4.3 If Reasonable Accommodation is feasible, then the accommodation that is most appropriate will be implemented and manager will follow up regularly. Human Resources and manager will:

- a. Meet with the employee;
- b. Discuss granted Reasonable Accommodation or
- c. Denial of accommodation

4.4 If Texas Health is unable to provide a Reasonable Accommodation, then a written denial letter will be sent to the employee by the manager or Human Resources. If the accommodation is not feasible, action may be taken to remove the employee from employment for inability to meet the Essential Functions of the assigned position.

4.5 This policy is based upon current interpretations of the ADA/ ADAAA is subject to change if the Act changes.

5.0 Definitions:

5.1 Accommodation Review Committee – A system based multidisciplinary team which may include representatives from Human Resources, IDM, Employee Health, the department director/manager, Legal Services, or other appropriate representatives determined by Human Resources to convene and evaluate potential accommodation options for an employee with a Disability.

5.2 Disability – A physical or mental impairment that substantially limits one or more major life activities, such as eating, walking, seeing, hearing, speaking, breathing or working, but also include the operation of a major bodily function, such as functions of the immune system, digestive, bowel, bladder, neurological and other functions; has a record of such an impairment, or is regarded as having such an impairment that is not transitory and/or minor.

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- 5.3 Essential Functions – Essential Functions are the basic job duties that an employee must be able to perform, with or without Reasonable Accommodation.
- 5.4 Reasonable Accommodation – Any adjustment within the work environment or work procedures which result in equal employment opportunity for a qualified individual with a Disability, as defined in the ADA.
- 5.5 Undue Hardship – Significant difficulty or expense to Texas Health when considered in light of following factors:
- a. Financial Burden
 - b. Availability and cost of temporary replacement minus any savings from employee being out
 - c. Disruption to Workplace
 - d. Impact on Operations
 - e. Impact on other Employees
 - f. Length of time job was allowed to remain vacant

6.0 Responsible Parties:

- 6.1 Employees & Managers
6.1.1 It is the responsibility of all employees and managers to comply with this policy.
- 6.2 Human Resources Entity Officer
6.2.1 Implementation and oversight of the policy is the responsibility of the entity Human Resources Officer.

7.0 External References:

Not Applicable

8.0 Related Documentation and/or Attachments:

- 8.1 [Fitness for Duty Policy - THR System Policy](#)
- 8.2 [Leave of Absence Policy - THR System Policy](#)

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8.3 [Return to Work Policy - THR System Policy](#)

8.4 The Americans with Disabilities Act of 1990 and the ADA Amendment Act of 2008

9.0 Required Statements:

Not Applicable