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I. Introduction and Background

A. Section 504 of the Rehabilitation Act of 1973

Section 504 is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance. It prohibits the denial of benefits, exclusion from participation, and all forms of discrimination against a qualified person with a disability. A person with a disability is defined as any person who: 1) has a physical or mental impairment that substantially limits one or more major life activities; 2) has a record of such an impairment; or 3) is regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.

All University administrators and managers shall be responsible for ensuring that employees with disabilities enjoy the same benefits and privileges of employment available to employees who are not disabled. All University administrators and managers shall be responsible for ensuring that employees with disabilities are reasonably accommodated. University employees with disabilities shall request a reasonable accommodation through the Office of Adaptive Services.

B. Americans with Disabilities Act

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, and amended in 2008. This Act protects millions of Americans with disabling conditions from discriminatory practices in public accommodations (including colleges and universities), employment, transportation and telecommunications. The ADA extends the coverage of Section 504 of the Rehabilitation Act of 1973.

The ADA protects every person who either has, or is treated as having, a physical or mental disability which substantially limits one or more major life activity. Individuals who have serious contagious and non-contagious diseases such as HIV/AIDS, cancer, epilepsy or tuberculosis are also covered under the auspices of ADA.

Employment:

State universities, as employers of students, faculty and staff, may not discriminate against qualified individuals with disabling conditions and must reasonably accommodate the disabilities of qualified applicants or employees unless undue hardship would result.

Public Service:

State universities may not discriminate against qualified individuals with disabling conditions by excluding them from participating in or denying them benefits of the services, programs, or activities of the university.
Public Accommodations:

Public facilities of state universities, including student unions, museums, athletic arenas, auditoriums, libraries, recreational facilities, etc., must be accessible to individuals with disabling conditions.

Telecommunications:

Telecommunication relay services for hearing and speech-impaired persons must be provided.

ADA Employee-related accommodations should be referred to the Office of Adaptive Services (590-7956).

II. Policy Statement

It is the policy of Florida Gulf Coast University (FGCU) to extend reasonable accommodation to qualified persons with disabilities (Disability Access and Reasonable Accommodation 1.008). Reasonable accommodations are also made for employees or applicants for employment in order that these individuals are able to perform the essential functions of a position and/or participate in the employment application process.

Accordingly, FGCU will adhere to all applicable Federal and state laws, regulations, and guidelines with respect to providing reasonable accommodations for the purpose of affording equal employment opportunity to qualified individuals with disabilities.

All requests for accommodations will be evaluated on an individual basis to determine the appropriateness of the request. Additionally, reasonable accommodations will be provided in a timely and cost-effective manner. Moreover, employment opportunities shall not be denied because of the need to make reasonable accommodations to an individual’s disability.

III. Employment

FGCU will not unlawfully discriminate against its employees on the basis of disability and will provide accessibility and reasonable accommodation to its employees with regard to employment including fringe benefits, training, conferences, professional meetings and recreational/social activities sponsored by FGCU. To request a reasonable accommodation under the Americans with Disabilities Act (ADA), an employee of FGCU must:

a. Submit a written request outlining the requested accommodation(s) to the Office of Adaptive Services (Attachment B).
b. Attach documentation to the written request, including diagnosis of a disability from the employee’s primary health care practitioner (Attachment A). “Primary health care practitioner” is defined as a medical doctor, psychiatrist, or licensed psychologist, or other professional licensed and trained to diagnose and/or treat the specified condition.

The employee’s supervisor or Human Resources will provide additional materials to include:

- A copy of the employee’s position description, which enumerates the essential and marginal functions of the job.
- A brief statement outlining the potential impact of the requested accommodation upon the department.

The ADA Coordinator shall determine the appropriateness of the reasonable accommodation to the employee via memorandum.

The responsibility for funding the cost of a reasonable accommodation rests with the employee’s department. Should a department demonstrate that funds do not exist, the department supervisor should then refer a request for co-funding to the next highest administrative level. Final decisions on employee disability issues for FGCU will be made by the ADA Coordinator.

IV. Are you protected by ADA?

If you have a disability and are qualified to do a job, the ADA protects you from job discrimination on the basis of your disability. Under the ADA, you have a disability if you have a physical or mental impairment that substantially limits a major life activity. The ADA also protects you if you have a history of such a disability.

To be protected under the ADA, you must have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working.

If you have a disability, you must be qualified to perform the essential functions or duties of a job, with or without reasonable accommodation, in order to be protected from job discrimination by the ADA. This means two things. First, you must satisfy the employer’s requirements for the job, such as education, employment experience, skills or licenses. Second, you must be able to perform the essential functions of the job with or without reasonable accommodation. Essential functions are the fundamental job duties that you must be able to perform on your own or with the help of a reasonable accommodation. An employer cannot refuse to hire you because your disability prevents you from performing duties that are not essential to the job.

The ADA makes it unlawful to discriminate in all employment practices such as:
V. ADA and the Family Medical Leave Act (FMLA)

The FMLA and the ADA both require a covered employer to grant medical leave to an employee and therefore, FMLA can be considered a reasonable accommodation in certain cases. FMLA and Title VII both have requirements governing leave for pregnancy and pregnancy-related conditions.

c. The Family and Medical Leave Act of 1993 (FMLA or Act) gives “eligible” employees of a covered employer the right to take unpaid leave, or paid leave if it has been earned, for a period of up to 12 work weeks in any 12 months because of the birth of a child or the placement of a child for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee’s own serious health condition makes the employee unable to do his or her job. Depending on the circumstances, this leave may be taken on an intermittent basis rather than all at once, which could temporarily, allow the employee to work a part-time schedule.

d. An employee on FMLA leave is also entitled to have health benefits maintained while on leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay their share during the leave period. The employer can recover its share only if the employee does not return to work for a reason other than the serious health conditions of the employee or the employee’s immediate family member, or another reason beyond the employee’s control.

e. An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. If a medical condition continues to exist upon return to work, the employee may request reasonable accommodations through the Office of Adaptive Services, if needed, in order to perform the essential functions of the job.

f. The employer has a right to 30 days advance notice from the employee where practicable. In addition, the employer may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee’s immediate family member. Failure to comply with these requirements may result in the denial of FMLA leave. Pursuant to a uniformly applied policy, the employer may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee’s serious health condition. The employer may deny restoration to employment without such certificate relating to the health condition which caused the employee’s absence.
VI. What is a reasonable accommodation?

Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include but is not limited to:

- Providing or modifying equipment or devices,
- Job restructuring,
- Part-time or modified work schedules,
- Reassignment to a vacant position,
- Adjusting or modifying examinations, training materials, or policies,
- Providing readers and interpreters, and
- Making the workplace readily accessible to, and usable by, people with disabilities.

An employer is required to provide a reasonable accommodation to a qualified applicant or employee with a disability unless the employer can show that the accommodation would be an undue hardship, that is, that it would require significant difficulty or expense.

VII. Reasonable accommodation procedure, confidentiality and record keeping

Reasonable Accommodation Procedure


2. The employing unit and/or the ADA Coordinator shall hold an initial meeting with the employee regarding the request within five (5) working days of the receipt of the ADA Reasonable Accommodation Request form. All accommodations requests will be handled as expeditiously as possible.

3. The office responsible for the decision to approve or deny an accommodation request, either temporary or permanent, is the Office of Adaptive Services. All decisions will be made in consultation with the employee and the employee’s supervisor(s), and this interaction will continue throughout the accommodation process.
4. Decisions may be appealed to the Director of the Office of Institutional Equity and Compliance.

Confidentiality and Record Keeping

1. All employee records that include medical information or reasonable accommodation request must be kept confidential and must not be entered into any employee’s personnel file and or manager’s file. The ADA prohibits an employer from disclosing confidential medical information to anyone, including co-workers, except as expressly provided in the law. All medical information will be kept in a separate file in the Office of the ADA Coordinator and is only to be made accessible to human resource employees and other management personnel on a need-to-know basis. Sharing of medical information will be limited to those individuals who need the data to satisfy accommodation requests; managers and supervisors, if the information is needed for effective supervision; health or safety professionals who may be called upon to provide medical attention; and proper government officials investigating the institution’s compliance with the ADA and other disability discrimination laws.

VIII. Guidelines and ADA Grievance Procedures

Guidelines

1. Employees may be asked to provide verification of their disability, as well as a documented recommendation relative to the nature and extent of the accommodation(s) required to enable them to perform the essential job functions. Acceptable documentation regarding the need for an accommodation must be provided by a licensed medical practitioner with specialization in the appropriate medical area, who has direct knowledge of the employee and his/her disability. The University reserves the right to obtain a second opinion.

2. Factors which should be considered in determining the “reasonableness” of the request include:

   • Whether the accommodation would fundamentally alter the function of the position and/or the operations of the unit.
   • Whether there would be a direct health or safety threat to the individual or others, with or without reasonable accommodation.
   • Whether the individual with a disability is otherwise qualified to perform the essential job functions, with or without reasonable accommodation.
   • Whether the cost of the accommodation is feasible. If not, can funds be obtained from another source to pay for the accommodation.
   • Whether there are other, more cost-effective options, which will allow the individual to perform the essential functions of the job.
Recommended accommodations by a physician/medical provider will be strongly considered in determining whether that specific accommodation can be provided and/or if it is reasonable. However, these recommended accommodations are not binding on the University.

**ADA Complaint Procedure for All Applicants and Employees**

Employees and/or applicants for employment who wish to file a complaint on the basis of an ADA decision may do so by filing the complaint with the University’s Office of Institutional Equity and Compliance. All complaints must be filed within 180 days of the alleged violation. An investigation will be conducted by the Office of Institutional Equity and Compliance and, will afford all interested persons and their representatives an opportunity to submit evidence relevant to the complaint.

**IX. Medical Documentation Requirements for Reasonable Accommodations**

This documentation will assist FGCU in determining reasonable accommodations as required under the American with Disabilities Act, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and other pertinent state and federal regulations.

Under the ADA, a person with a disability is anyone with a physical or mental impairment that substantially limits one or more major life activities. Under Section 504 of the Rehabilitation Act of 1973, as amended, a “handicapped person” means any person who has a physical or mental impairment, which substantially limits one or more major life activities.

To establish that an individual is covered under the ADA, the documentation must indicate that the disability substantially limits some major life activity. “An impairment substantially interferes with the accomplishment of a major life activity when the individual’s important life activities are restricted as to the conditions, manner, or duration under which they can be performed in comparison to most people.” It is important to note that the comparison involves an average person in the general population. Although FGCU may regard the individual as an “individual with a disability,” or impairment, the individual may not necessarily be regarded as substantially limited in his/her ability to work, thus being ineligible for accommodations under the ADA.

Refer to Attachment C for specific documentation requirements.
Important Telephone Numbers and Web Sites

University ADA Coordinator……………………………….590-7956
http://www.fgcu.edu/adaptive

Office of Institutional Equity and Compliance…………….745-4367
http://www.fgcu.edu/equity/

Office of Human Resource……………………………….590-1400
http://admin.fgcu.edu/stathtml/hr/index.html

Office of Student Affairs……………………………………590-7900
http://studentservices.fgcu.edu
ATTACHMENTS
Office of Adaptive Services
Documentation of Disability

EMPLOYEE: RELEASE OF INFORMATION

I, ____________________________________, hereby authorize the release of the following information to the ADA Coordinator for the purpose of determining my eligibility as a person with a disability on the campus of Florida Gulf Coast University.

Signature: ___________________________ Date: _____________________

TO THE DIAGNOSING PROFESSIONAL:

Employees requesting a disability eligibility review for the purpose of receiving accommodations at Florida Gulf Coast University are required to provide current documentation about their physical or mental impairment. Documentation standards to determine legal eligibility are more stringent than for usual clinical practice. Eligibility is based on documented clinical data not simply on self-report or evidence of a diagnosis. The University’s ADA Coordinator will review the documentation you provide. The purpose of the review is to determine whether or not the employee has a “disability,” as defined by the ADA Amendments Act. The definition of “disability” as outlined in this Act, is tailored for the purpose of eliminating discrimination, and therefore, may differ from the definition of “disability” under other statutes. As the diagnosing professional, please complete fully all sections of this form and provide a brief narrative. Failure to do either may interfere with the employee receiving a timely eligibility decision.

Documentation should be sent directly to:
Cori Bright-Kerrigan, ADA Coordinator
Office of Adaptive Services
Florida Gulf Coast University
10501 FGCU Boulevard South
Fort Myers, FL 33965-6565
(239) 590-7941(V)
(239) 590-7975(F)
cbright-kerrigan@fgcu.edu

PLEASE NOTE: ALL INFORMATION PROVIDED MIGHT BE SHARED WITH THIS EMPLOYEE UNLESS CLEARLY MARKED OTHERWISE.

For purposes of the ADA, a diagnosing professional must provide clear and precise documentation that allows the ADA Coordinator to answer the following question as part of a 3-step inquiry:
Does the employee have a physical or mental impairment that substantially limits a major life activity, like caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working?
THE 3-STEP INQUIRY

Step 1: Information regarding the employee’s physical or mental impairment. Attach any test results or reports that support the following information:

Primary Diagnosis: ___________________________ CODE: ____________
Date of Diagnosis: ____________ History of Impairment: ____________
Nature and severity: _______________________________________________________________________
Is the impairment persistent and long-term? _______________________________________________________________________
If the impairment is temporary, what is the expected duration? _______________________________________________________________________

Secondary Diagnosis: ___________________________ CODE: ____________
Date of Diagnosis: ____________ History of Impairment: ____________
Nature and severity: _______________________________________________________________________
Is the impairment persistent and long-term? _______________________________________________________________________
If the impairment is temporary, what is the expected duration? _______________________________________________________________________

Other Diagnosis: ___________________________ CODE: ____________
Date of Diagnosis: ____________ History of Impairment: ____________
Nature and severity: _______________________________________________________________________
Is the impairment persistent and long-term? _______________________________________________________________________
If the impairment is temporary, what is the expected duration? _______________________________________________________________________

Date of last visit: ____________ How often do you provide treatment? _______________________________________________________________________
Describe the medications and/or other corrective measures that have been prescribed and any possible side effects:
_____________________________________________________________________________________
_____________________________________________________________________________________

Step 2: Information regarding the employee’s affected major life activity.
Which, if any, of the major life activities, does the physical or mental impairment/s affect?
Please check all that apply:

_____ Breathing  _____ Learning  _____ Walking
_____ Caring for self  _____ Performing manual tasks  _____ Working ***
_____ Hearing  _____ Seeing  _____ None

*** If you checked “working” as the affected major life activity, please provide more detailed information by checking all components of “working” that are substantially affected:

_____ Fulfilling key job responsibilities
_____ Performing at an acceptable level
Demonstrating workplace knowledge/skills
Acquiring new workplace knowledge/skills
Judgment and use of appropriate occupational behaviors
Communicating: ___ verbal ___ written
Developing/maintaining working relationships
Attending regularly
Organizing effectively and efficiently
Leading others
Complying with safety and health requirements

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Step 3: **Information regarding the employee’s substantial limitations.**

Information is needed about how the employee is *significantly* restricted in comparison to the average person in the general population as to the conditions, manner, or duration under which activities can be performed. How does the physical or mental impairment affect the employee in the activities required in the workplace? List the following: the specific *substantial functional limitations*, how often they occur, how long they last, and the severity of each.

<table>
<thead>
<tr>
<th>Limitations</th>
<th>Frequency/Duration (daily, weekly, etc/# hours, days, etc.)</th>
<th>Severity (mild, moderate, severe)</th>
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</tbody>
</table>

Are there any activities or situations that should be avoided by this employee or would present a significant risk of serious injury or death for this employee or others?

__________________________________________________________

Which accommodations, if any, do you recommend? (This is for informational purposes only. If required, Florida Gulf Coast University will determine the appropriate, reasonable accommodations.)

__________________________________________________________
**WRITTEN NARRATIVE:** A written narrative, signed, dated, and on letterhead, must be submitted with this form. The narrative can be brief, but must include:

1. A specific, current diagnosis (within one year),
2. What procedures were used to diagnose the impairment,
3. A description of the limitations the employee currently experiences in the workplace, and
4. Whether or not accommodations will be needed when utilizing medications and/or corrective measures.

**PLEASE ATTACH YOUR BUSINESS CARD HERE**

Name/Title: ________________________________________________

Business Address __________________________________________

Phone: _______ Fax: _______ Email: ___________________________

Professional Credentials ___________________ License/Certification ________________

Area of Specialization: ________________________________ State/Province: ________

Signature: ____________________________________________ Date: ________________
DISABILITY ACCESS REQUEST FORM
FOR EMPLOYEE

DATE: ________________  CHECK ONE: FACULTY: ___  STAFF: ___

NAME: ________________  POSITION/TITLE: ____________________

DEPARTMENT: __________  DIVISION: ______________________________

HOME ADDRESS: ___________________________________________________

____________________________________________________________________

City State Zip Code

PHONE: ______________________________

E-MAIL:

Describe the reasonable accommodation(s) you are requesting, including how they would help you to perform the essential functions of your job. If the accommodation request is situational, please include date, time, and location of when the accommodation is needed. Use additional sheets of paper as necessary. Forward this request to the Office of Adaptive Services.

____________________________________________________________________

Requestor’s Signature: ____________________________  Date: ________________

This form is available in alternative formats upon request.
TTY, VCO, HCO, ASCII or Speech-to-Speech via 711 for (239) 590-7941

Florida Gulf Coast University
GC54897_3
Policy No. 1.008-Appendix B
Approved: 5/24/19
SPECIFIC DOCUMENTATION REQUIREMENTS
Florida Gulf Coast University

I. A Qualified Professional Must Conduct the Evaluation

The documentation should be completed by an appropriate licensed medical practitioner who has direct knowledge of the patient and his/her disability. The name, title, and professional credentials of the evaluator must be clearly stated in the documentation.

II. Documentation Must be Current

Because the provision of reasonable accommodations and services is based on FGCU’s assessment of the current impact of the disability on work performance, it is in the employee’s best interest to provide recent and appropriate documentation.

III. Documentation Necessary to Substantiate the Diagnosis Must be Comprehensive

The Medical Inquiry/Examination Questionnaires attached must be completed by the appropriate licensed medical practitioner.

IV. Documentation Must Include a Specific Diagnosis

The report must include the following:

1. Date and method of diagnosis, including any test results and analysis, as well as current medical treatment.

2. How the medical condition affects one or more major life activities. This is the essential criterion necessary to have the medical condition considered a disability. Although a medical condition may be considered a disability in one patient, this does not imply that the impact will be the same for all persons with the condition.

3. The future prognosis of the medical condition. Is the condition temporary or permanent, progressive or stable?
STATEMENT OF FREE EXPRESSION

Florida Gulf Coast University vigorously protects freedom of inquiry and expression and categorically expects civility and mutual respect to be practiced by faculty, students and staff in all deliberations on its campus. As such, the FGCU Community as well as the Florida Gulf Coast University Board of Trustees shares the commitment of the State University System of Florida and the Florida Board of Governors to civil discourse and endorses their commitment with this Statement of Free Expression.