

## **Americans with Disabilities Act (ADA) Policy**

### **Policy**

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that require employers with 15 or more employees to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

It is the policy of The Arc of Northern Virginia to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the organization's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

Beyond its legal obligations, The Arc of Northern Virginia is committed to providing accommodations that will allow its employees with disabilities to contribute at the highest levels.

### **Process**

When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.

The Arc of Northern Virginia will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to The Arc of Northern Virginia. Contact human your supervisor or Rikki Epstein with any questions or requests for accommodation.

All employees are required to comply with The Arc of Northern Virginia's safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation.

Individuals who are currently using illegal drugs are excluded from coverage under the company ADA policy.

The Executive Director, Rikki Epstein, is responsible for implementing this policy, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

## Procedure

### Requesting Accommodation

Employees or applicants with disabilities may request reasonable accommodations of the employer, regardless of title, salary or employment status. This request should be made by the employee in writing to their supervisor or to the Executive Director.

The reasonable accommodation does not have to be requested at the beginning of employment. However, a reasonable accommodation request will not cancel out any prior performance improvement or disciplinary actions.

### Identifying Need

Upon receiving the reasonable accommodation request, the supervisor or Executive Director will meet with the employee to conduct an informal, interactive discussion. The discussion will include the following steps:

1. A review of the employee's position description or job announcement delineating the essential functions from the marginal or auxiliary functions.
2. A determination of how the employee's disability limits their ability to perform the essential functions of their job in order to identify the employee as a qualified individual with a disability.
3. Identify potential accommodations and assessment of the effectiveness of such accommodations on the employee's job performance.
4. Identification of the type of accommodation needed. The Job Accommodation Network can be contacted for assistance in making this assessment at 1-800-232-9675 (Voice/TTY) or through their website.
5. The employee's preference of accommodation will be considered. The Arc of Northern Virginia has the right to select among the alternatives available, as long as they are effective.
6. Selection and implementation of the effective reasonable accommodation by The Arc of Northern Virginia will occur as soon as possible. The supervisor or Executive Director will continue to communicate with the employee to discuss timelines for obtaining the accommodation and any possible delays.

### Medical Documentation and Confidentiality

If the disability is not obvious and there is no other medical information already on record for the employee, The Arc of Northern Virginia may require the employee to provide documentation from a physician or other medical professional concerning the existence and extent of the disability.

The employee's medical information will be maintained in a separate confidential file. Any information regarding the employee's condition will only be made available on a need to know basis.

### ADA Determination

After meeting and reviewing medical documentation, The Arc of Northern Virginia will determine whether the employee is a qualified individual with a disability and develop a reasonable accommodation plan for the employee.

The plan will:

1. State whether the employee is a “qualified individual with a disability” as defined by the ADA.
2. Outline the employee's essential job functions needing accommodation.
3. Recommend types of accommodation.
4. Determine whether any accommodations cause an undue hardship or poses a direct threat.

### **Types of Reasonable Accommodation**

Accommodation will be determined on a case by case basis. The Executive Director will work closely with the employee and supervisor to ensure that reasonable accommodation is provided and effective.

The employee's preference of accommodation will be considered. The Arc of Northern Virginia has the right to select among the alternatives available, as long as they are effective.

1. Some accommodations cost little or no money. Changes may include support from supervisor, additional time to complete assignments or small changes in worksite setup.
2. Some accommodations are technologically simple and easily achieved in most offices. Examples: accessible door handle, magnifier, additional lighting.
3. Accommodations requiring advanced or sophisticated devices may take more time and expense to achieve. Examples: screen reading software, CCTV, speech synthesizer.

Within 90 days after the accommodations have been provided, the Executive Director will assess the effectiveness of the accommodations in enabling the employee to perform the essential functions of the job. Additional accommodations or changes to the existing accommodations may be considered.

### **Complaint Form and Procedures**

Any individual who believes that they have been subjected to unequal treatment or discrimination prohibited by the ADA may file a written complaint with The Arc of Northern Virginia's Executive Director. A formal complaint must be filed within 180 days of the alleged occurrence or when the alleged discrimination became known to the complainant. A complaint form follows this policy. It can also be found on The Arc of Northern Virginia's website at [www.arcofnova.org](http://www.arcofnova.org).

### **Terms Used in This Policy**

As used in this ADA policy, the following terms have the indicated meaning:

- **Disability:** A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
- **Major life activities:** Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
- **Major bodily functions:** Term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness and specific learning disabilities.
- **Substantially limiting:** In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.

- **Direct threat:** A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
- **Qualified individual:** An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- **Reasonable accommodation:** Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
- **Undue hardship:** An action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:
  - The nature and cost of the accommodation.
  - The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
  - The overall financial resources of the employer; the size, number, type and location of facilities.
  - The type of operations of the company, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.
- **Essential functions of the job:** Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

**For more information, please contact:**

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