



Disability Accommodation Policy for Employees and Job Applicants

Administrative policy approved May 31, 2023. Effective immediately.

Revision history: Supersedes and replaces the Disability and Accommodations Policy in Appendix L of the Employee Handbook.

Related policies: None

Scheduled Review Date: May 2025 (General Counsel's Office and Administrative Services Office)

A. Purpose/Objective

Southwestern Law School is committed to providing equal employment opportunities to qualified individuals with disabilities and to complying with all laws that protect qualified individuals with disabilities, including Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, as amended (ADA), and the California Fair Employment and Housing Act (FEHA). FEHA requires employers of five or more employees to provide reasonable accommodations for individuals with a qualifying physical or mental disability to perform the essential functions of their job, unless providing those accommodations poses a direct threat to the health or safety of others or the requesting individual or creates an undue hardship for the employer. Consistent with its commitment, Southwestern will provide a reasonable accommodation to qualified employees and applicants with a physical or mental disability if the reasonable accommodation would allow the individual to perform the essential functions of the job, unless doing so would create an undue hardship or pose a direct threat to the health or safety of others in the workplace or to the requesting individual.

B. Eligibility

This policy applies to all employees and job applicants and extends to all aspects of Southwestern's employment practices, including recruiting, hiring, discipline, termination, promotions, transfers, compensation, benefits, training, leaves of absence, and other terms and conditions of employment.

C. Definitions

FEHA defines two categories of disability: mental disability and physical disability. In addition, employees or applicants with a medical condition are also entitled to reasonable accommodation under FEHA.

1. Disability

Disability includes a physical or mental impairment or medical condition that limits one or more major life activities, having a record or history of such impairment, or being perceived or regarded as having such impairment. Major life activities include caring for oneself, performing manual tasks, walking, sitting, standing, lifting, reaching, seeing, hearing, breathing, learning, and working. This definition is provided only as a guide. Nothing in this policy is intended to alter the legal definitions of this term or impose obligations on Southwestern not required by law.

2. Physical Disability

Physical disabilities include any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects one or more of several body systems and limits a major life activity. The body systems listed include the neurological, immunological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine systems. A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity, such as working, if it makes it difficult to achieve the major life activity. Physical disability also includes any other health impairment that requires special education or related services; having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment known to Southwestern; and being perceived or treated by Southwestern as having any of the conditions mentioned above.

3. Mental Disability

Mental disabilities include any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity or any other mental or psychological disorder or condition that requires special education or related services. An employee with a record or history of a mental or psychological disorder or condition known to Southwestern, or who is regarded or treated by Southwestern as having a mental disorder or condition, is also protected.

4. Medical Condition

A medical condition is any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer, or a genetic characteristic. A genetic characteristic can be a scientifically or medically identifiable gene or chromosome or an inherited characteristic that could statistically lead to the

increased development of a disease or disorder. For example, women who carry a gene established to statistically lead to breast cancer are protected under California law. Southwestern will not subject, directly or indirectly, any employee or applicant to a test for the presence of a genetic characteristic.

D. Procedures

1. Request for Disability Accommodation

If an employee or applicant believes they need an accommodation because of a disability, the employee or applicant is responsible for requesting a reasonable accommodation from Human Resources. This request can be made orally or in writing. Southwestern encourages employees and applicants to make their request in writing by completing and submitting a [Request for Reasonable Accommodations \(Employee\)](#) and the associated [Confidential Healthcare Provider Questionnaire \(Employee\)](#) to Human Resources via email to HR@swlaw.edu. An employee or applicant requesting an accommodation should include in the request their suggestion for specific reasonable accommodations and how the employee or applicant or their treating healthcare provider believes that the accommodation(s) will help the employee or applicant perform the essential functions of the job. Job applicants should make these requests as soon as reasonably possible during the application and recruitment process.

2. Medical Information

If an individual's disability or need for accommodation is not obvious, Southwestern may ask the individual to provide supporting documents showing that the individual has a disability within the meaning of the ADA and FEHA and that the disability necessitates a reasonable accommodation for the individual to perform the essential functions of the position. This documentation will not include submitting a diagnosis or medical condition. If the information provided in response to this request is insufficient, Southwestern may require that the individual see a healthcare professional of Southwestern's choosing and at Southwestern's expense. In those cases, if the individual fails to provide the requested information or see the designated healthcare professional, the request for a reasonable accommodation may be denied.

Southwestern will keep confidential any medical information it obtains in connection with a request for reasonable accommodation.

3. Interactive Process

After receiving an oral or written disability accommodation request, Southwestern will engage in an interactive process with the individual to determine their specific limitations with respect to the essential functions of their job and explore potential reasonable accommodations that could overcome those limitations. Both Southwestern and the employee or applicant are expected to participate in the interactive process in good faith. Southwestern encourages the requesting

individual to suggest specific reasonable accommodations that they believe would allow the requesting individual to perform the essential functions of their job. However, Southwestern is not required to make the specific accommodation requested and may provide an alternative, effective accommodation, to the extent any reasonable accommodation can be made without imposing an undue hardship on Southwestern.

In determining how to respond to a disability accommodation request, Human Resources will:

- identify the essential functions of the individual's position;
- confer with anyone reasonably necessary to the decision-making process, including the employee's immediate supervisor;
- assess the impact of the requested accommodation on the performance of the essential functions of the individual's position and the operation of the department; and
- assess all other potential issues posed by the request, such as the impact on other employees.

4. Determinations

Southwestern makes determinations about reasonable accommodations on a case-by-case basis considering various factors and based on an individualized assessment in each situation, having engaged in the interactive process. It is important to note that accommodations are based on the unique needs of the employee or applicant's limitations and the necessity to perform the essential functions of the job and not necessarily on the employee's or applicant's preferences. On the other hand, if reasonable, consideration should be given to the employee's or applicant's preferences. Southwestern reserves the right to select between equally effective accommodations in terms of cost and ease of implementation.

If an employee or applicant has any questions about a reasonable accommodation request, please email Human Resources at hr@swlaw.edu.

5. Potential Accommodations

Reasonable accommodations may include modifying a workstation, changing job duties or schedule, telecommuting, reassignment to another position, or time off (with or without pay), provided that the accommodations do not pose a direct threat to the health or safety of others in the workplace or the requesting employee or applicant. The goal of accommodation is to help the individual perform the essential job functions and meet normal performance standards.

6. Denial of a Requested Accommodation

Any employee who believes they have been subjected to discrimination or harassment based on a disability may file a complaint under Southwestern's

Policy to Prevent Discrimination, Harassment, and Retaliation. Employees may also file a grievance if their request for a reasonable accommodation has been denied.

7. Grievances

Grievances under this policy must be submitted to the Chief Operating Officer (COO) within 10 business days of the individual filing the grievance becoming aware that the requested accommodation has been denied. A complaint must be in writing and contain the name and address of the person filing it. The complaint must state the reasonable accommodation that was sought, the basis for the requested accommodation, and the stated reason for the denial. The COO (or designee) will investigate the complaint. This investigation may be informal but must be thorough, allowing the parties to submit evidence relevant to the complaint. The COO may consult with others, such as the Dean, General Counsel, and the employee's supervisor. The COO will maintain Southwestern's files and records relating to the grievance. The COO will issue a written decision on the grievance no later than 30 calendar days after it was filed. The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination based on disability with the U.S. Department of Education, Office for Civil Rights.

Southwestern will make appropriate arrangements to ensure that individuals with disabilities are provided with other accommodations, if needed, to participate in this grievance process. These arrangements may include, but are not limited to, providing interpreters for individuals with hearing issues, providing audio recordings of material for individuals who are blind, or assuring a barrier-free location for the proceedings. The COO will be responsible for making these arrangements.

E. General Provisions for Disability Accommodations

1. Safety and Security

Southwestern is not required by law or this policy to grant accommodations that would violate other laws or interfere with the safety and security of our community.

2. Time Frame

Accommodation requests will be processed within a reasonable period based on the facts and circumstances. Requests that do not involve extenuating circumstances will be processed within 30 business days from the date of the request.

3. Effect on Pending Personnel Actions

Filing an accommodation request will not stop or delay any evaluation or disciplinary action related to an employee not performing up to acceptable standards or violating Southwestern's rules or policies.

4. Retaliation

Individuals will not be retaliated against for requesting an accommodation for their disability in good faith. Southwestern expressly prohibits any form of discipline, reprisal, intimidation, or retaliation against any individual for requesting an accommodation in good faith. Individuals who believe that they have been treated in a manner inconsistent with this policy should notify Human Resources.