

Compliance with Affirmative Action Regulations for

Section 503 of the Rehabilitation Act of 1973

Purpose and Application

The following document is a written interpretation of Purdue University's non-discrimination and affirmative action policy and the regulation of the U.S. Department of Labor, Office of Federal Contract Compliance Programs for the purpose of complying with Section 503 of the Rehabilitation Act of 1973.

Section 503 of the Rehabilitation Act requires that in employing persons to carry out federal contracts or subcontracts of more than \$10,000.00, a federal contractor or subcontractor must take affirmative action to employ and advance in employment qualified individuals with disabilities. In addition, a federal contractor or subcontractor with a (sub)contract of \$50,000.00 or more and 50 or more employees must prepare and maintain an affirmative action program to employ and advance in employment qualified individuals with disabilities. This legislative companion to section 504 is administered by the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP).

Specific requirements applicable to federal (sub)contractors are outlined in OFCCP's section 503 regulations (41 C.F.R. C0-741) issued to implement section 503. These regulations were revised to make all terminology, definitions, and concepts applicable under section 503 identical to those expressed in the section 504 regulations, which in turn are governed for employment purposes by rules issued by the Equal Employment Opportunity Commission (EEOC) to implement the Americans with Disabilities Act (ADA). They also reflect the 1992 Rehabilitation Act Amendments, which raised the threshold from \$2,000 to more than \$10,000.00.

Purdue University is a contracting party within the meaning of Section 503 of the Rehabilitation Act of 1973.

Purdue University acknowledges that the "ADA does not preempt any Federal law, nor any state or local law, that grants to individuals with disabilities protection greater than or equivalent to that provided by the ADA." (Title I, Americans with Disabilities Act, 1990)

Definitions

Disability - an individual with a disability is one 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." (Exceptions to this definition are found in section 1630.3 of the ADA.)

Qualified individual with a disability – an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation – a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity.

Undue hardship – an action that requires significant difficulty or expense in relation to the size of the employer, the resources available, and the nature of the operation.

Affirmative Action Clause

Section 60-741.4 (a) (3) of Section 503 of the Rehabilitation Act of 1973 indicates that an affirmative action clause be included in each of its covered government contracts or subcontracts.

Each document produced by the University contains the non-discrimination statement: "Equal Opportunity/Equal Access University." Documents regarding employment contain the statement: "Purdue University is an equal access/equal opportunity/affirmative action employer fully committed to achieving a diverse workforce." The Affirmative Action Office checks for the statement in faculty advertisements and Personnel Services checks non-faculty advertisements.

Posters explaining the law and providing the names of federal agencies to contact regarding questions or complaints are posted in conspicuous areas within each work unit.

Affirmative Action Policy, Practices, and Procedures

a) General requirements

1. No qualified individual with a disability shall, on the basis of the disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to, discrimination in any aspect of the employment process at Purdue.
2. Purdue University takes affirmative action to employ and advance in employment qualified individuals with disabilities.
3. The University is committed to the elimination or revision of any policy or practice that has the effect of discriminating against people with disabilities. Purdue is convinced that every individual is entitled to an opportunity equal to his or her abilities.
4. Purdue makes reasonable accommodations to known physical or mental limitations of a qualified individual with a disability who is an applicant or employee, unless the accommodation or request for services would pose an undue hardship on the employing unit.
5. Purdue does not knowingly participate in a contractual or other relationship that has the effect of subjecting applicants or employees with disabilities to discrimination.
6. Purdue does not knowingly use employment selection criteria that are discriminating. Arrangements may be made for alternative testing or selection criteria that impair sensory, manual or speaking skills for people with disabilities.
7. Information concerning a disability, medical condition, or medical history may be necessary to determine whether the disability is job related. Any employee or applicant to whom such an inquiry is directed shall be provided the opportunity to explain how the disability either is or is not related to the requirements of the job or what reasonable accommodations can be made.
8. Alcoholism, drug addiction, and AIDS are recognized as disabilities as defined in the Americans with Disabilities Act. However, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs.

Considerate treatment of applicants and employees is essential to good human relations and the development of good moral among employees. These practices directly affect and improve the quality of employment at Purdue University and create the kind of atmosphere that fosters a successful operation.

It is the policy of Purdue University, under the affirmative action obligation imposed by section 503 of the Rehabilitation Act of 1973, to take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment. The obligations

apply to all employment practices including, but not limited to recruitment, selection, promotion, termination, rates of pay or other compensation, demotion or transfer, advertising, layoff or termination, selection for training, including apprenticeship.

The University's non-discrimination policy covers all aspects of employment at all campus locations.

b) Proper Consideration of Qualifications

ADA Self-Study Survey

The Americans with Disabilities Act of 1990 established a requirement that a public entity examine its current policies and practices to identify and correct any that are not consistent with the requirements. The University conducted a formal Self-Study Survey in a manner that would effectively produce data, expand knowledge, encourage creativity, and incorporate procedures designed to enhance accessibility in employment, programs, and facilities for individuals with disabilities. Units were encouraged to consider the Self-Study recommendations for inclusion in their strategic plans. The Self-Study culminated with the development of The Purdue University Americans with Disabilities Act Self-Evaluation Report and Transitional Plans.

c) Physical and Mental Qualifications

The University shall review all physical and/or mental job qualification requirements when positions are submitted for review to insure that, to the extent qualification requirements tend to screen out qualified individuals with disabilities, they are job related and are consistent with business necessity and the safe performance of the job.

The Affirmative Action Office and Personnel Services review the physical and mental qualifications for positions, when new positions are established and current positions are submitted for the review process.

The University shall not use employment selection criteria that are not essential functions of the job position.

The University shall comply with Title I regulations 1630.13 and 1630.14 regarding prohibited medical examinations and inquires and medical examinations and inquires specifically permitted, respectively.

Information concerning a disability or medical history of an employee shall be accorded confidentiality as medical records, and, should be retained only through the use of forms accorded confidentiality as medical records, except that:

Responsible supervisors may be informed regarding necessary accommodations.

First aid and safety personnel may be informed if the condition might require emergency treatment; and,

Authorized representatives of organizations investigating compliance with applicable law or involved in the University's internal grievance procedure may be informed.

Consistent with Purdue University's Reasonable Accommodation Procedures when an employee self-discloses as having a disability, medical documentation can be required. Any information obtained from such medical inquiries must be used in accordance with job related standards.

d) Accommodation to physical and mental limitations of employees

Consistent with Purdue University's Reasonable Accommodation Procedures, the University shall make reasonable accommodation to the known physical or mental disability of an otherwise qualified applicant or employee, unless the accommodation or request for services would impose an undue hardship on the employing unit. The Assistant Director for Compliance and Disabilities Services assists employees with disabilities in arranging job accommodations and locating adaptive equipment. A job accommodation could include priority snow removal, adapted transportation, construction to eliminate architectural barriers, or provision of sign language interpreters. Adaptive equipment could include amplified telephone receivers or TTYs, print enlargers, or modified computer software. The Job Accommodation Network (JAN) may be consulted through-out the reasonable accommodation process. The disability fund provides funding consideration to the unit for the purchase of adaptive equipment/devices/services.

Reasonable accommodations must be made unless the employer can demonstrate that such an accommodation would impose an undue hardship. In determining the extent of the obligation to the accommodation, business necessity, financial cost and expenses are considered.

e) Compensation

The University shall not reduce the amount of compensation offered because of disability income, pension or other benefit the applicant or employee receives from another source.

f) Outreach, positive recruitment, and external dissemination of policy

Internal Dissemination

Notification of the University's obligation to take affirmative action under the law is made available to all employees through the Affirmative Action Office. Required posters explaining the law and providing information on federal agencies to contact regarding questions or complaints are posted by building deputies. The Affirmative Action Office mails a memorandum to the building deputies each year reminding them to check their buildings for notices on the employee or public bulletin boards.

The University continues to promote internal support from supervisory and management personnel and other employees. On-going meetings and workshops with employees are scheduled to discuss policy and responsibilities.

Equal Opportunity is the Law posters are posted on University bulletin boards.

The booklet *Removing Barriers for Faculty and Staff* is available in the Affirmative Action Office. This booklet discusses the Americans with Disabilities Act and specifically how Purdue University utilizes the Act to include individuals with disabilities in employment, programs and services. The booklet also instructs individuals as to whom to contact regarding accommodations. The booklet is available at Adaptive Programs (Student Services Annex 1), the Affirmative Action Office (American Railway Building), the Office of the Dean of Students

(Schleman Hall), the Office of Publications (South Campus Courts D), Personnel Services (Freehafer Hall), Purdue Memorial Union (Newsstand), and the Visitor Information Center (504 Northwestern Avenue).

Presentations are available to all employees on disability issues from the Affirmative Action Office. Information presented includes, but is not limited to, specific disabilities, disability etiquette, employment disability laws, how to aggressively recruit individuals with disabilities, and how to retain individuals with disabilities. Information is given to all search and screen committees regarding applicants and interviewees with disabilities.

The University distributes to all Human Resource Representatives and Officers, *The Americans with Disabilities Act of 1990: Title I*, *AT&T Telecommunication Relay Services and Operator Services for the Deaf* information, and *Job Accommodation Network (JAN)* information.

Additionally, the University has publicized ADA articles and Supreme Court cases, University's initiatives, and accomplishments of individuals with disabilities.

The Affirmative Action Plan, reviewed and updated yearly, is available in the Affirmative Action Office. The full affirmative action program is also available for inspection to any employee or applicant for employment upon request.

Invitation to Self-identity

Annually, an invitation to all employees is circulated by Personnel Services. This invitation invites all employees to self-identify in order to benefit under the Rehabilitation Act of 1973. An employee of the University may self-identify at any time in order to benefit under the program.

Education Programs – Awareness

Cooperation of all University employees is an essential part of the successful implementation of the University's Affirmative Action Plan.

The Assistant Director for Compliance and Disability Services in the Affirmative Action Office provides training to educate employees concerning their responsibility to successfully integrate people with disabilities into the workforce.

Training is also done in cooperation with local advocate groups as a service to the community.

Recruitment

The Affirmative Action Office and Personnel Services are responsible for coordinating advertising activities designed to recruit employees with disabilities. Employment opportunities are publicized in a variety of media (e.g. hardcopy, Internet, telephone job information services). Each employing unit should consult with the Affirmative Action Office for recruitment sources and the use of outreach media.

Purdue University employment advertisements and brochures strongly encourage qualified individuals with disabilities to apply for employment opportunities and clearly indicate that accommodations and physical access will be ensured for everyone.

University guidelines for effective recruitment include, but are not limited to, the following:

Each employing unit must consider an applicant in terms of the essential elements of the job necessary to performing the job competently with or without an accommodation.

An individual with a disability who cannot perform the essential functions of the job, with or without a reasonable accommodation, is not qualified.

Applicants for all positions are given the opportunity to request reasonable accommodations in order to perform the job, e.g. accommodation/ alternative format statements.

Any determination of disability required shall be in accord with the affirmative action obligations of the University. Such information shall be accorded the confidentiality of other medical data and shall not be used to exclude a qualified individual with a disability.

Physical or mental requirements for all vacancies shall be reviewed prior to the announcement to avoid screening out qualified individuals with disabilities. All major physical and mental requirements that are job related shall be written into the job description.

The Affirmative Action Office should be consulted to assist in accommodations being considered by the employing unit that involve analyzing and restructuring jobs for qualified applicants with disabilities.

The University has developed a Reasonable Accommodation Procedure.

g) Responsibility for implementation

The responsibility for the Affirmative Action Plan is under the Vice President for Human Relations who has delegated the responsibility for day to day operations to the Director of Affirmative Action.

Allegations of Discrimination

Allegations of discrimination -- An employee may allege discrimination on the basis of disability in violation of the University policy on non-discrimination, the Affirmative Action Plan or the Americans with Disabilities Act of 1990. The policy is presented in the Executive Memorandum C-28.

Attempts to resolve disputes may first be done internally within the University guidelines. The employee and/or the employer should consult the Affirmative Action Office in order to resolve a discrimination complaint as soon as possible. The internal review process followed by the Affirmative Action Office in matters concerning employees with disabilities will be consistent with other issues of discrimination.

Individuals may file a complaint with the Director of the Office of Federal Contract Compliance Programs. The complaint must be filed within 180 days from the date of alleged violation, unless the time limit is extended by the Director for good cause.

Individuals may file complaints with EEOC. Individuals may also file a private lawsuit without exhausting administrative remedies.