office of legal affairs Newslettet

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What is the ADA?

The Americans with Disabilities Act (ADA) is a federal law that prohibits discrimination against individuals with disabilities and requires covered employers and entities, like Southern Utah University, to provide reasonable accommodations to qualified individuals with a disability.

What is a disability under the ADA?

The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities. This definition is interpreted broadly.

What is an accommodation?

It may be useful to think of accommodations as adiustments or modifications to how things are normally done.

Employees may request a reasonable accommodation that enables the employee to perform the essential functions of their job. This usually consists of a modification or adjustment to a job, the work environment, or a change in the way things are usually done in the hiring process. The ADA requires reasonable accommodations for: 1) the application process; 2) enabling a qualified individual with a disability to perform the essential functions of a iob: and 3) making it possible for an employee with a disability to eniov equal benefits and privileges of employment.

Students may request a reasonable accommodation related to their student activities so long as it does not result in a fundamental alteration of that activity. program, or course. An accommodation will typically involve a modification or adiustment to a course, program, service, or activity.

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Providing a reasonable accommodation is one area of the law where sometimes the Universitv's obligation is to provide something additional or different than it normally does. This can help the emplovee or student perform in their work. studies. or other activities, often to the benefit of the University.

Who at the University is responsible for accommodations?

Students may requests reasonable accommodations through the Disability Resource Center. To schedule an appointment click <u>here</u>.

Employees may request reasonable accommodations through Human Resources, by contacting the University's ADA Coordinator, <u>Deputy Chief Human</u> <u>Resources Officer</u>.

Employment applicants and visitors also may request accommodations through the ADA Coordinator.

What SUU resources are available to employees to promote compliance with the ADA?

In addition to the offices referenced above, additional resources at the University include:

- Student Affairs <u>ADA information</u> and resources.
- <u>Disability Support Forms</u>.
- <u>SUU Policy 11.9</u> is an established process by which students with disabilities may request and receive Reasonable Accommodations to address the functional limitations created by their disabilities.

 <u>SUU Policy 5.2</u> applies to SUU employees who may need disability accommodations and supervisors of those employees.

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Complaints related to disability discrimination are governed by <u>SUU Policy 5.27</u>.

What are some examples of accommodations the University might provide to a qualified student or employee with a disability?

Emplovee accommodations may include making existing facilities accessible. iob restructuring, modified work schedules, acquiring or modifving equipment, making an exception to policy, among others. What is reasonable and available will depend on the iob duties and medical provider-provided information.

Accommodations for students may include accessible course materials, assistive technology, note-taking services, sign language interpreters, or extended time for exams, among others. The SUU Disability Resource Center publishes a comprehensive list of available accommodations for students at SUU and additional information can be found in <u>SUU</u> Policy 11.9.

ADA accommodations may also include making physical and digital environments accessible to individuals with disabilities. This may include providing accessible parking, ramps, and restrooms, as well as ensuring that websites, online learning platforms, and digital course materials are accessible to individuals with a disability.



I've Heard of ADA and FMLA. What's the Difference?

As you saw on the first page, ADA is a law that protects against discrimination based on disability. As part of that, it includes certain requirements to reasonably accommodate an otherwise qualified employee. That part can overlap with the FMLA, the Family Medical Leave Act, which is a separate federal law. Where a disability requires an absence from work, FMLA protections might also apply for the employee. FMLA generally provides for leave from work and protection of the person's job (or similar job) upon return from the absence, when that absence is necessitated by the employee's serious medical condition, the employee's family members' medical condition, the birth or adoption of a new child in the family, or certain military leaves. We will focus on when FMLA is necessitated by an employee's medical condition-that is, when there might be a relationship between FMLA obligations and reasonably accommodating an employee under the ADA.

Some examples of when these laws might overlap in the employment context include:

- An employee takes FMLA leave for a surgery and is unable to immediately return to work after that FMLA leave expires due to a medical condition;
- An employee is in the hospital for three or more consecutive days requiring continued treatment or care by a healthcare provider, and the disability that rendered the employee hospitalized has resulted in the employee needing modifications to their working conditions;
- An employee is out on FMLA leave for the birth of a child and during that time sustains a disabling injury that requires adjustments in order for the employee to perform the essential functions of their job upon their return; and
- An employee suffers from a chronic condition like migraines, depression, or diabetes that require at least two visits per year to a healthcare provider for treatment, continued over a period of time, and causes episodic incapacity might be entitled to leave under the FMLA and to related reasonable accommodation(s) under the ADA.

Under each of these scenarios, supervisors should work with SUU Human Resources, which will assess the University's obligations under FMLA and the ADA.

In sum, when an employee under your supervision needs to miss work related to a medical condition, first consult <u>SUU Human Resources</u> to navigate SUU's responsibilities under both the ADA and FMLA. Let Human Resources ask for any information needed from the employee and to involve you as a supervisor when necessary.

About this Newsletter: This newsletter is designated to serve as an informational tool, bringing you topics of interest and practical tips. It should not be relied on as a substitute for legal advice. Laws, regulations and policies change frequently, and legal advice requires careful consideration and application of all relevant facts. if you have legal questions or need legal advice concerning any University matter, please contact the *Office of Legal Affairs*.



Arts for All: Even the Lawyers!

The Office of Legal Affairs and the Equal Opportunity and Compliance took a short break over the summer for a team building activity. Painting! Whose do you think is worthy of display at SUMA? The experience left us feeling more connected and energized. It was also fun to see everyone's individuality come through their artwork. If you ever find yourselves in need of a little team-building magic, we highly recommend a painting event. Stay adventurous and keep those team-building spirits high!



Contact Us

legal@suu.edu with legal questions, to provide feedback, or submit a topic idea for a future newsletter

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