POLICY TITLE: Americans with Disabilities Act
EFFECTIVE DATE: January 2005
SCOPE: Faculty, Staff and Student Employees

PURPOSE
To provide guidelines for compliance with the Americans with Disabilities Act (ADA).

POLICY
The Americans with Disabilities Act prohibits discrimination against a qualified individual with a disability in job application procedures, hiring, compensation, training, advancement, and other terms, conditions and privileges of employment. This law also requires employers to provide reasonable accommodations for individuals with disabilities.

DEFINITIONS
Individual with a Disability - Any person with a physical or mental impairment that substantially limits one or more major life activities, a person with a record of such impairment, or a person who is regarded as having such impairment.

Mental Impairment - Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, or a specific learning disability. It does not include sexual behavior disorders and psychoactive substance disorders resulting from current illegal drug use.

Physical Impairment - Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, digestive, respiratory, (including speech organs), reproductive, special sense organs, cardiovascular, genito-urinary, hemic and lymphatic, skin and endocrine. For example: individuals with arthritis, cerebral palsy, epilepsy, multiple sclerosis, HIV, cancer, heart disease, or diabetes are persons with “physical impairments”.

Major Life Activities - Any function such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The duration or expected duration of the impairment and the actual or expected permanent or long-term impact of the impairment are factors that should be considered when evaluating whether the impairment substantially limits a major life activity. For example, someone with a broken arm would not typically be a person with a disability because the impairment is temporary. On the other hand, someone whose arm was not treated properly and suffers a permanent condition as a result of this may be “disabled” under the Act.
Determining If a Person Is Disabled
The determination of whether someone is disabled under the Act may be easy in some cases, but difficult in others. For example, if someone is blind, deaf, or paralyzed, the person is clearly disabled under the Act. However, the case is less clear with respect to someone who suffers from a long-term significant illness. In order to best comply with the Act, all determinations with respect to whether an employee or applicant is disabled must be directed to and ultimately made by the Department of Diversity, Access and Equity of the Office of Human Resources. Members of the University community who believe that they require an accommodation should contact the Department of Diversity, Access and Equity of the Office of Human Resources to obtain an ADA request form.

Requirements That a Person Be Qualified For the Job
Being disabled does not automatically offer protection to an individual. The Act requires that the individual requesting an accommodation also be qualified for the job. A person is qualified if he/she meets the minimum qualification of the job and, with or without reasonable accommodations, can perform the essential functions of the job.

The minimum qualifications are the job’s personal and professional requirements, such as education, experience, and training. The “essential functions” are the fundamental duties of the job not the occasional or marginal functions.

Written job descriptions should be consulted before a decision is made whether a disabled individual is qualified for a particular job.

Pre-Employment Inquires
The Act prohibits employees from asking questions of applicants, which elicit information about the applicant's disability. The following are examples of questions that should not be asked:

- Do you have any disabilities?
- Have you ever been treated for any particular condition or disease?
- Have you ever applied for Workers’ Compensation benefits?

Drug Abuse
The Act does not protect an employee or applicant who is currently engaged in the illegal use of drugs. However, the Act does protect those who have successfully completed a rehabilitation program or are currently participating in a program and no longer use illegal drugs.

Relationship to Disabled Person
The Act prohibits employers from denying a job or benefits to a qualified person because of that person's relationship or association with a disabled individual. Therefore, it is a violation of the Act for an employer to refuse to offer a job to an applicant or to refuse to promote an employee on the grounds that this person's spouse is disabled and he/she may miss work in order to care for the spouse. It is also a violation of the Act for an employer to hire an applicant whose dependent is disabled only on condition that the applicant waived health insurance coverage for the dependent.
Reasonable Accommodations
The Act requires employers to make reasonable accommodations for disabled employees. An employer is not required to provide an accommodation that would impose an undue hardship on the employer. Reasonable accommodations may include but are not limited to:

- Making existing facilities readily accessible to disabled individuals
- Allowing part-time or modified work schedules
- Reassignment of positions
- Acquiring or modifying equipment or devices
- Adjusting or modifying training materials
- Providing readers to help with specific duties

The accommodations to be provided depend on the nature of the employee's disability, the responsibilities of the job, and the nature of the environment.

All determinations with respect to the type of accommodations to be provided must be directed to the Department of Diversity, Access and Equity of the Office of Human Resources.

DISABILITY PROCEDURES
If an applicant, faculty, or staff employee believes a reasonable accommodation is needed he/she should initiate the reasonable accommodation process by completing a reasonable accommodation form and submitting it to the department supervisor. The Supervisor will evaluate the request to determine if the accommodation can be made in the department. The supervisor would then discuss the request with the Vice President of Human Resources or designee. The accommodation request may be approved at this point.

If the accommodation is not granted due to cost to make the reasonable accommodation or if the accommodation involves significant staffing changes, Human Resources will convene the Reasonable Accommodation Committee (committee).

This committee convenes on an ad hoc basis. The committee’s role is to review the request and gather information as necessary and make a final decision. Gathering information will include a review on the employee’s job description and essential job functions and may include an evaluation of the employee by a qualified professional to assess the employee’s ability to perform the essential job functions.

The purpose of the review is to determine if University policy and applicable federal and local law have been followed and, if not, to address the consequences that may have resulted and take corrective action. The Department of Diversity, Access and Equity of the Office of Human Resources promptly undertakes an investigation and may use conflict resolution as a strategy. Information relevant to the matter may be requested from the involved parties. The Department of Diversity, Access and Equity provides a response to the employee or applicant upon completion of the review. Anyone who uses the complaint procedure will not be retaliated against for doing so. The employee or applicant may choose another faculty or staff employee to accompany him or her through the procedure. The other employee may help to express the complaint.
Additionally, employees who believe that they have been harassed or discriminated against can file a Charge of Discrimination with the Illinois Department of Human Rights, which will investigate the Charge and determine whether there is substantial evidence of harassment or discrimination. The Department of Human Rights and/or the employee may also have the right to file a Complaint with the Illinois Human Rights Commission on behalf of the employee. The Illinois Human Rights Department and the Illinois Human Rights Commission are located at the James R. Thompson Center, 100 W. Randolph, Suite 10-100, Chicago, Illinois, 60601. Similarly, individuals can file with their own State Fair Employment Practices Agency or the U.S. Equal Employment Opportunity Commission in their region. For example, the Illinois District EEOC Office is at 500 W. Madison, Suite 2800, Chicago, Illinois 60661. Additionally, if the issue involves a student in any manner, individuals can file at their regional U.S. Department of Education Office for Civil Rights. For example, the Illinois and Wisconsin Regional office is at 111 N. Canal Street, Chicago, Illinois, 60606.