



INDIANA UNIVERSITY
OFFICE OF INSTITUTIONAL EQUITY

To: Deans, Chairs, HR Business Partners, Managers, and Supervisors
From: Emily Springston, University Director of Institutional Equity & ADA Coordinator
Re: Guidance Regarding ADA and Non-Discrimination in the COVID-19 Environment
Date: May 26, 2020

Background: As we continue to prepare for the upcoming academic year, I understand that work is underway to evaluate and determine which positions and job responsibilities can be performed remotely, and which must be performed on-campus. Chairs and supervisors are being asked to make these determinations, with an eye toward allowing remote work when feasible/when the job can be effectively performed that way, as well as maintaining public health requirements. The guidance below is not intended to apply to or replace that important work. Rather it is intended to provide guidance regarding individual evaluation that may need to occur in the event an employee indicates, via disclosure to their unit or through the forthcoming Community Responsibility Acknowledgement form, that they may want to seek an accommodation based on disability or high-risk condition in light of COVID-19.

Accommodation Processes: In the event an employee approaches you on an individual basis about workplace accommodations related to a disability or to a high-risk category identified by CDC guidelines, please refer them to the Community Responsibility Acknowledgement form that will soon be available or to the appropriate campus accommodations specialist. (See the ADA Campus Contacts attached identifying the appropriate contact based on campus and employee role.) These steps will help get our office involved.

A bit of background about the separate ADA accommodation process: Once an employee makes a request through that process and has provided the accommodations specialist with necessary information, the accommodation specialist will also contact the employee's supervisor or chair (as applicable based on the employee's role), to facilitate the accommodation process. This is necessary to determine whether and what reasonable accommodation is appropriate based on the particular circumstances. Within this accommodation process, deans, chairs, supervisors and others can discuss an employees' disability and medical information, but it is extremely important to respect the privacy of such information within this process and keep it within this channel, as advised in more detail below.

The following items are designed to help provide guidance. You are encouraged to contact your Campus HR Directors, Academic Affairs, or our Office of Institutional Equity if you need additional information.

Many ADA-related questions will be fact-specific and not all situations are covered here.

Do:

- Do continue to follow the communications and guidelines coming from IU, including from University and campus leadership, IU HR, and PSIA, including at the following links:
<https://coronavirus.iu.edu/index.html> and <https://hr.iu.edu/relation/coronavirus.html#loaded>.

- Do familiarize yourself with the University’s screening and testing options and inform employees about the process.
- Do ask employees to self-screen and monitor for COVID-19 (and other illness) symptoms and send home employees who report coronavirus symptoms and refer them to the IU Health screening process or their health care provider. Implement any screening measures equally for all employees.
- Do encourage and allow employees who report experiencing any COVID-19 like symptoms (even if they should still feel able to work) to stay away from campus and, if they work on campus, as opposed to working remotely, to remain at home.
- Do inform employees that the accommodation process is available with respect to disability-related and CDC risk-related issues, and direct them to the appropriate office or to the Community Acknowledgement Form to begin that process.
- Unless advised otherwise, do treat individual health information you may become aware of in your role as a supervisor, chair or dean as confidential – including a person’s virus status, presence of antibodies, reasons for absence, and existing or requested accommodations. For public health reporting obligations, consult PSIA (AVPpsia@iu.edu).
- Do keep information about an employee’s health, including health information used to determine accommodation, separate from any general file that you keep on the employee.

Don’t:

- Unless you are participating in the accommodation process in consultation with the appropriate ADA accommodation specialist, don’t initiate questions of employees about risk factors or ask questions about specific health information or medical conditions. (For example, asking about a person’s immune system could reveal other conditions such as cancer or an autoimmune disruption.) If an employee initiates such a conversation with you, or volunteers medical information, please refer that person to the appropriate office, or to the Community Acknowledgement Form, and consult with that office. (See ADA Campus Contacts attached to identify appropriate contact based on their campus and role.)
- Unless you are participating in the accommodation process, do not discuss any person’s health condition, illness, illness-related absences, or accommodation with third parties outside that process or within earshot of any other person. Those who may fall within the “need to know” categories for such information are very limited and will vary depending on individual circumstances. Please contact the appropriate resource on the attached contact list for any questions on this issue.
- Don’t keep information about a person’s health, including accommodations, in their general personnel file.
- Don’t make employment decisions based solely on your own *personal* assessment that an employee is at a higher or lower risk for COVID (including age, body size, or other physical condition). That is what the accommodation process is for. If an employee requests an accommodation based on CDC identified risk areas or other health related concerns that may affect the work assignment that has been made, direct them to the Community Acknowledgement Form or the accommodation specialist to begin the accommodation request process. (See ADA Campus Contacts attached to identify appropriate contact based on their campus and role. They will work directly with the employee to gather necessary information, determine whether the individual qualifies for an accommodation, and work with the employee and supervisor, chair, or dean to identify a reasonable accommodation as appropriate.)