

POLICY AND PROCEDURE MANUAL

Pennington Biomedical	POLICY NO. 925.00	Origin Date: 12/15/1992
Impacts:	All Personnel, Public Servants of the Agency, Applicants, and Members of General Public	Effective Date: 09/13/2022
Subject:	Persons with Disabilities and the Americans with Disabilities Act (ADA)	Last Revised: 09/13/2022
Source:	Human Resources Management	Version No. 5

PURPOSE

To express Pennington Biomedical Research Center's (Pennington Biomedical) commitment to comply with mandates of the 1990 Americans with Disabilities Congressional Act, the ADA Amendments Act of 2008, ADA Revised Regulations effective March 15, 2011, R.S. 46:2591, The Rehabilitation Act of 1973, plus any and all laws and policies related to accessibility, et seq.

This policy outlines Pennington Biomedical's standard and procedures for purposes of ADA compliance.

POLICY

Pennington Biomedical is fully committed to ensuring compliance with the requirements of the Americans with Disabilities Act and its Amending Act of 2008 (collectively ADA) to include:

- Title I: Prohibits discrimination against qualified individuals with disabilities in all employment practices, including recruitment, hiring, advancement, compensation, fringe benefits, job training and other terms, conditions, and privileges of employment. Upon request, Pennington Biomedical shall engage in an interactive process and may approve a reasonable accommodation, unless the Requestor is not a qualified individual; doing so poses an undue hardship to the agency; or poses a direct threat to the health or safety of the individual with a disability or others.
- Title II: Ensures qualified individuals with disabilities have equal access to the full range of programs, services, activities and facilities of the agency. Upon request, Pennington Biomedical may provide a reasonable accommodation, unless the Requestor is not a qualified individual; doing so would fundamentally alter the nature of the agency's service, program or activity; or poses a direct threat to the health or safety of the individual with a disability or others.

DEFINITIONS

Disability: Under the ADA, an individual with a disability is a person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such impairment; or
3. Is regarded as having such impairment as described in item #1 above.

Impairment: Any physiological, mental, or psychological disorder or condition, including those that are episodic or in remission, that substantially limits one or more major life activities when active.

Substantially Limits: An impairment that prevents the ability of an individual to perform one or more major life activities as compared to most people in the general population when taking into consideration factors such as the nature, severity, duration and long-term impact of the condition. Such consideration must be regardless of any mitigating measures such as modifications, auxiliary aids or

medications used to lessen the effects of the condition (except for use of ordinary eyeglasses or contact lenses).

Major Life Activities:

1. Generally, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others and working; and
2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Essential Functions: The fundamental and primary job duties of a position. Considerations in determining whether a function is essential include such factors as the written job description; whether the reason the position exists is to perform that function; the limited number of employees available to perform that function; and the degree of expertise required to perform the function.

Qualified Individual:

1. Under Title I, an individual with a disability who meets the requisite skill, experience, and education requirements for the position and who can perform the essential functions of the position held or applied for, with or without reasonable accommodation(s).
2. Under Title II, an individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by **Pennington Biomedical**, with or without reasonable accommodation(s)

Reasonable Accommodations:

1. Under Title I, a modification or adjustment to the work environment that will enable a qualified individual with a disability to:
 - a. Participate in the testing, application and/or interview process;
 - b. Perform the essential functions of the job; or
 - c. Provide equal opportunity to the benefits and privileges of employment.
2. Under Title II, a modification that permits an individual with a disability to effectively communicate with **Pennington Biomedical** and/or ensure equal opportunity relative to **Pennington Biomedical's** programs, services, activities and facilities.

Undue Hardship: An accommodation that would be unduly costly, extensive, substantial or disruptive, in light of factors such as the size of the agency, the resources available and the nature of the agency's business operations.

Direct Threat: A significant risk of substantial harm to the health or safety of an individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation.

ADA Coordinator: The Pennington Biomedical representative responsible for facilitating the interactive, evaluation process relative to any request for accommodation, whose name and contact information is provided below.

Name:	Amy Martinell
Section:	Human Resources Director
Address:	6400 Perkins Rd, Baton Rouge, LA 70808

Phone #: **(225) 763-3024**
Email: **Amy.Martinell@pbrc.edu**

I. APPLICABILITY

This policy applies to all Pennington Biomedical employees, applicants for employment, and members of the general public that receive services from Pennington Biomedical.

II. IDENTIFYING POTENTIAL ADA ISSUES

Supervisors and managers who encounter any of the following situations or have an employee self-report or self-identify any physical or mental impairment, must consult with the ADA Coordinator and also refer the employee or applicant to the ADA Coordinator before taking any action or making any statements or promises to the employee.

- An employee has a serious illness or injury impacting job performance, including regular attendance;
- An employee or applicant is placed on medical restriction by a health care provider;
- An employee or applicant refuses, or states they will be unable, to perform essential job functions due to medical issue;
- An employee or applicant is unable or states that they are unable to perform essential job functions and objective facts indicate a medical condition may be the reason;
- An employee or applicant requests a job accommodation including but not limited to a schedule change or job modification.

III. PROCEDURES FOR REQUESTING A REASONABLE ACCOMMODATION

It is the responsibility of the qualified individual with a disability to request a reasonable accommodation(s) when needed. To do so, the individual:

- May initiate a request either verbally or in writing. If in writing, the qualified individual with a disability should complete the Request for Accommodation Form. If the individual needs assistance to complete the request form, Pennington Biomedical will provide such assistance;
- Must submit the request to the appropriate person for the nature of the accommodation requested (as further explained below); and
- Must timely and cooperatively participate in the interactive process (as further described therein).

If the accommodation request is from a Pennington Biomedical employee, he/she may be required, as part of the interactive process, to provide the ADA Coordinator with medical documentation from their health care provider describing the nature of the disability and the functional limitations thereof.

A. Employment (Title I)

1. Application/Testing Process

A qualified individual with a disability may address an accommodation request relative to the application and/or testing process to the following dependent upon the Job Type indicated on the vacancy announcement:

- a. For Classified Jobs: Contact State Civil Service, Testing and Recruiting Office at (225) 925-1911. For more information regarding accommodations, applicants may go to <https://jobs.civilservice.louisiana.gov/TestInformation/Accommodations.aspx>.
- b. For Unclassified Jobs: Contact the Pennington Biomedical representative identified in the vacancy announcement for the job being sought. The Pennington Biomedical representative shall notify and collaborate with the ADA Coordinator to address the accommodation request.

2. Interview Process

If contacted for an interview, a qualified individual with a disability should notify the hiring manager at that time if an accommodation is needed in order to participate in the interview and, if so, the nature of the accommodation. The hiring manager shall notify and collaborate with the ADA Coordinator to address the accommodation request.

3. Performance of Essential Functions

A qualified individual with a disability may address an accommodation request related to the performance of the essential functions of a job to the following:

- a. If needed prior to or at the time of hire for a position, the accommodation request should be submitted to the person with whom the individual interviewed.
- b. If employed by Pennington Biomedical and needed for the current job held, the accommodation request should be addressed to the immediate supervisor.

The interviewer or immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests must include the duties the individual is unable to perform and the accommodation(s) requested. Such accommodations may include job restructuring, use of accrued paid leave (or once exhausted, unpaid leave), modified or part-time work schedules, acquiring equipment or reassignment.

4. Benefits and Privileges of Employment

An employee seeking an accommodation related to the benefits and/or privileges associated with employment should notify the immediate supervisor. The immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests should include the benefits and/or privileges of employment in which the individual is unable to participate and the accommodation requested. Such accommodations may include restructuring work areas, lunchrooms, break rooms, training rooms and restrooms to make them available and accessible to all employees.

NOTE: Guidelines that govern facility standards are based on the date of original construction. Additional guidelines may apply when renovations or alterations are undertaken. **State Agency** shall coordinate construction and renovation in conjunction with appropriate state departments, as well as building code, regulatory and leasing entities, as applicable.

5. Pregnancy, Childbirth, or Related Medical Condition

In accordance with La. R.S. 23:341-342, an applicant or employee with limitations arising from pregnancy, childbirth or related medical conditions may request an accommodation to the immediate supervisor. The immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such accommodations may include but are not limited to: providing more frequent, compensated break periods; providing a private place, other than a bathroom stall, for purposes of expressing breast milk; modifying food or drink policy; and other accommodations that permit the individual to reduce or eliminate the need for leave.

NOTE: Accommodation requests and information collected during the associated interactive process shall be limited to only those individuals with a business need-to-know.

B. Effective Communication (Title II)

A qualified individual with a speech, hearing or vision impairment may request an accommodation to the ADA Coordinator and shall be furnished with appropriate auxiliary aids and services so that the individual can participate equally in **State Agency's** programs, services and activities. Such

auxiliary aids may include qualified sign language interpreters, documents in Braille and other ways of making information and communication accessible. Anyone who requires an auxiliary aid or service for effective communication should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

C. Modifications to Policies, Procedures, of Facilities (Title II)

A qualified individual with a disability seeking modifications to policies, procedures, or facilities for equal opportunity to enjoy **State Agency's** programs, services and activities should contact the ADA Coordinator. Such requests should include the specific program, service or facility that the individual is unable to access and the accommodation(s) requested.

IV. INTERACTIVE PROCESS – EVALUATION OF ACCOMMODATION REQUESTS

Upon receipt, the individual to whom an accommodation request was submitted must immediately notify the ADA Coordinator. The ADA Coordinator shall:

- Document the request, if not submitted in writing by the Requestor, on the Request for Accommodation Form;
- Notify the Requestor, if he/she is a current Pennington Biomedical employee, whether a completed Medical Inquiry Form from a health care provider is required;
- Engage in an interactive process involving consultation with the Requestor, the treating physician (if applicable) and agency management;
- Confer with the Louisiana Rehabilitation Services and/or Job Accommodation Network (JAN), as deemed appropriate, to help evaluate the availability of accommodation options and resources related thereto;
- Where appropriate, discuss any alternative, equally effective accommodations with the Requestor;
- Recommend to, and secure approval from, the Appointing Authority as to the final determination of the accommodation request; and
- Notify the Requestor, in writing, of the final determination, including information regarding the internal grievance procedure

Individuals with disabilities are encouraged to suggest accommodations based upon their own life and/or work experiences. Such requested accommodations will be duly considered. Nonetheless, Pennington Biomedical reserves the right to select an equally effective accommodation that may be less expensive or impactful on business operations. All accommodation requests will be evaluated thoroughly and objectively on a case-by-case basis.

V. UNDUE HARDSHIP AND UNREASONABLE ACCOMMODATIONS

Pennington Biomedical recognizes that “undue hardship” is the point at which an accommodation is unreasonable; a claim of “undue hardship” will depend on numerous factors, including but not limited to:

- The nature and cost of the accommodation
- The substantial or disruptive nature of the accommodation
- The size, type and financial resources of Pennington Biomedical
- The particular type of operation, including composition, structure, and function (office or laboratory)
- The fundamental nature of the position; the reason the position exists

A requested accommodation that is feasible and is not an undue hardship, but would not be effective to allow the person to safely perform the essential functions of the position will not be considered to be reasonable.

The decision that a requested accommodation is unreasonable, either because it would cause an undue hardship or would not be effective, will be made by consensus of the personnel involved in the case evaluation which may include, but is not limited to: Human Resources, the employee's supervisor, Division AED, Safety Officer, and Director of Legal and Regulatory Compliance.

VI. SAFETY CONCERN

Pennington Biomedical will (a) reject an application or (b) remove an employee who poses a direct threat of substantial harm to the health or safety to himself or others, if the risk of harm cannot be eliminated or reduced through reasonable accommodation. The determination that there is a direct threat to the health or safety of others exists will be made through case-by-case evaluations of the individual and their impairment.

- It will not be speculatively assumed that a direct threat exists solely because of a requirement or regulation. A case by case evaluation of each situation will be made when assessing the existence of a direct threat to health and safety.
- The evaluation will include assessment of: duration of the risk; nature and severity of the potential harm; the likelihood that the potential harm will occur and; the imminence of the potential harm.
- The decision that the risk of harm cannot be eliminated or reduced through reasonable accommodation will be made by consensus of the personnel involved in the case evaluation which may include, but is not limited to: HRM, the employee's Supervisor, Division AED, Safety Officer, and outside counsel.

VII. INTERNAL COMPLAINT PROCEDURE

The following internal grievance procedures are available to individuals with disabilities for resolution of complaints regarding the disposition of an accommodation request or asserting any action that would be prohibited by the ADA.

- A. Employees:** Pennington Biomedical employees may file an internal grievance in accordance with Policy No. 911.00 – Employee Grievances and routed directly to Step 3
- B. Applicants or General Public:** Complaints regarding the application/testing/interview process or accessibility of a program, service or activity of Pennington Biomedical may be addressed to Director of Legal and Regulatory Compliance, by writing to: 6400 Perkins Rd, Baton Rouge, LA 70808; or by calling 225-763-3024.

VIII. PROTECTIONS

No individual shall be discriminated or retaliated against, coerced, intimidated, threatened, harassed or interfered with for:

- Making an accommodation request;
- Opposing any act or practice made unlawful by the ADA;
- Filing a charge, testifying, assisting or otherwise participating in an investigation, proceeding or hearing to enforce any provision of the ADA;
- Aiding or encouraging another individual in the exercise of any right granted or protected by the ADA; or
- Having a family, business, social or other relationship or association with an individual with a known disability

IX. PUBLIC NOTICE

To ensure accessibility by all interested persons, this policy shall be made available on Pennington Biomedical's public website located at www.pbrc.edu, as well as a notice posted conspicuously for access by the public in each of Pennington Biomedical's facilities.

X. DOCUMENTATION

Forms associated with this policy are available on PINE or by request to the ADA Coordinator

- Request for Accommodation Form
- Medical Inquiry Form

XI. CONFIDENTIALITY

All documentation obtained as part of an accommodation request, including medical and other relevant information, shall be maintained as confidential records, separate from the employee's personnel file, and subject to disclosure only as allowed by law or with the individual's permission.

XII. TRAINING

All supervisors, managers, and the ADA Coordinator must complete one (1) hour of training within ninety (90) days of hire or appointment to the role, and every three (3) years thereafter. Employees can reference Pennington Biomedical Policy No. 106.00.

XIII. ADDITIONAL RESOURCES

For additional resources, individuals may visit <https://www.doa.la.gov/doa/office-of-state-ada-coordinator/>

Individuals may also contact or file a complaint with the following:

- U.S. Equal Employment Opportunity Commission (EEOC) pursuant to Title I (29 CFR § 1630.1 – 1630.16) at 1-800-669-4000, 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only) or 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only).
- Louisiana Commission on Human Rights pursuant to La. R.S. 23:323 et seq at 225-342-6969; or
- U.S. Department of Justice (DOJ), Civil Rights Division, pursuant to Title II (28 CFR § 35.101 – 35.190) at 202-514-3847 or 202-514-0716 (TTY for Deaf/Hard of Hearing callers only).

Be advised that strict time limitations apply for filing complaints with these governmental agencies.



**Pennington Biomedical
Research Center**
Louisiana State University

Policy Committee Secretary's Attestation

Date of Policy Committee Meeting: 09/13/2022

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Christine Earnheart
Christine Earnheart, Policy Committee Secretary

9/16/22
Date

Approval by the Executive Director

John Kirwan
John Kirwan, PhD
Executive Director

9/20/22
Date