

**Colorado School of Mines
Americans with Disabilities Act (ADA) Request Procedures
for
Employees and Job Applicants**

1.0 BACKGROUND

The Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008, obligate the Colorado School of Mines (Mines) to provide assistance and support to employees and applicants with disabilities. Consistent with the Colorado School of Mines Board of Trustees Unlawful Discrimination Policy and Complaint Procedure, 10.6, the procedures contained herein provide persons with disabilities with information regarding how to request reasonable accommodation and the documents that are needed to support such a request.

It is the intent of Mines to comply with the applicable requirements of the ADA, the ADAAA, and their implementation rules and regulations in support of equal employment opportunities for qualified employees/applicants with disabilities and to promote diversity and inclusion at Mines. These actions will include, but are not limited to, the making of reasonable accommodation during the employment selection process and within the work environment for existing employees. Actions to be taken in any particular situation may be affected by funding and/or operational limitations.

2.0 PROCEDURES

The contact information for the school's ADA Coordinator (employees and applicants for employment) is:

Colorado School of Mines
Office of Human Resources
Attn: Ann Hix, ADA Coordinator
1500 Illinois Street
Golden, CO 80401

Office: (303) 273-3052
Fax: (303) 384-2025
E-mail: ahix@mines.edu

2.1 Medical Information -- Under the ADA, medical information provided by an employee or applicant will be maintained apart from his or her general personnel files as a separate, confidential medical record. The ADA recognizes that employers may sometimes have to disclose medical information about employees. The law contains certain exceptions to the general rule requiring confidentiality. Information that is otherwise confidential under the ADA may be disclosed:

- A) To supervisors and managers when they need medical information in order to provide a reasonable accommodation or to meet an employee's work restrictions;
- B) To first aid and safety personnel if an employee should need emergency treatment or require some other assistance (such as help during an emergency evacuation) because of a medical condition;
- C) To individuals investigating compliance with the ADA and with similar state and local laws;

- D) Pursuant to worker's compensation laws (e.g., to a state workers' compensation office in order to evaluate a claim) or for insurance purposes; and,
- E) As otherwise required or permitted by applicable law.

2.2 Periodic Updates -- Mines reserves the right to direct the employee to undergo an independent evaluation at Mines' expense. The independent evaluation will be conducted by a licensed, qualified health professional or physician that Mines selects regarding the request for accommodation and the impact of the disability on the employee's performance of his or her job functions. If an employee is granted an accommodation due to disability under the ADA, Mines reserves the right to request periodic updates of the employee's condition as frequently as such status reports may be necessary. All information regarding the employee's disability and reasonable accommodation request is confidential to the extent provided above. Any documentation obtained regarding an independent evaluation or a periodic evaluation update will be kept separate from the employee's personnel file.

2.3 REQUESTS FOR REASONABLE ACCOMMODATION – EMPLOYEES

2.3.1 Any employee who believes that he or she has a disability may initiate a request for a reasonable accommodation. The initial request may be made orally or in writing but must be followed by the completion of the *Colorado School of Mines Employee ADA Reasonable Accommodation Request* form, the *Authorization and Informed Consent for Discloser of Health Information* form, and the *Medical Information Request* form. These forms must be completed in full by the employee and submitted to the ADA Coordinator in the Office of Human Resources. In addition, current documentation of the asserted disability from a treating, licensed medical professional must accompany the request. Mines will generally not request a person's complete medical records as they are likely to contain information unrelated to the disability at issue and the need for accommodation; however, the specific elements of the request for accommodation will guide the content of any request for medical records that may be made. If an individual has more than one disability, Mines may request information pertaining to the specific disability for which the requested reasonable accommodation applies.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except a specifically allowed by this law. To comply with this law, Mines requests that the employee, and any physician treating the employee, not provide any genetic information when responding to a request for medical information. "Genetic Information" as defined by GINA includes and individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. A copy of the GINA policy will be included with the ADA application and should be given by the individual requesting reasonable accommodation to any physician providing medical information in conjunction with the employee's ADA request.

2.3.2 The ADA Coordinator will begin the interactive process by acknowledging the request and determining if the information submitted is complete. If additional information is required before the request can be properly analyzed, the ADA Coordinator will communicate with the employee as to what additional information is needed and will explain the need for the additional information.

2.3.3 Once all of the required documentation is received, the ADA Coordinator will meet with the requestor's Director/Manager and Supervisor. Efforts will be made to meet within a reasonable time from receipt of the request and completed documentation. The items to be assessed are:

- A) Conformation and/or determination of the essential functions of the job;
- B) The functional limitations of the disability as they relate to the requestor's ability to perform the essential functions of his/her job;
- C) An analysis of the accommodation requested, including its reasonableness and appropriateness for the work setting;
- D) An analysis of alternative accommodations, as necessary.
- E) Any other requirements under the ADA or ADAAA.

2.3.4 The ADA Coordinator will continue the interactive process by contacting the requestor and exploring questions or issues that have arisen during the meeting with the Director/Manager and Supervisor. This discussion may include alternatives to the requested accommodation, a plan for implementation of a reasonable accommodation, or other considerations. It is the employee's responsibility to be responsive and to timely engage with the ADA Coordinator. If more than one accommodation exists, the ADA coordinator will take into consideration the employee's preferences, but the ADA Coordinator will choose the accommodation to be provided. CSM does not have to provide an accommodation that would cause undue hardship to the school.

2.3.5 Once a decision has been made, the ADA Coordinator will provide written notification to the requestor of the outcome of his/her request within a reasonable amount of time

2.3.6 If the requestor is unable to be reasonably accommodated in his/her existing job, and no vacancies exist into which the requestor can be reassigned or the requestor refuses the reassignment, the requestor will be notified by the Office of Human Resources regarding any remaining employment benefits or options. If the requestor's paid leave and benefits have been exhausted, the requestor may be involuntarily separated from his/her employment.

2.4 REQUESTS FOR REASONABLE ACCOMMODATION - APPLICANTS FOR EMPLOYMENT

2.4.1 An applicant who believes that he/she has a disability, like all other applicants, must be able to meet Mines' requirements for the position, such as the required education, training, employment experience, skills, and/or licenses. In addition, an applicant with an asserted disability must be able to perform the "essential functions" of the job on his/her own or with the help of a "reasonable accommodation." Mines does not have to provide an accommodation that would cause undue hardship to the school.

2.4.2 Any applicant who believes that he or she has a disability may initiate a request for reasonable accommodation. The initial request may be made orally or in writing but must be followed by the completion of the *Colorado School of Mines Applicant Request for Reasonable Accommodation Request* form, the *Authorization and Informed Consent for Disclosure of Health Information* form, and the *Medical Information Request* form. These forms must be completed in full by the applicant and submitted to the ADA Coordinator in the Office of Human Resources. In addition, current documentation of the asserted disability from a treating, licensed medical professional must accompany the request. Mines will generally not request a person's complete medical records as they are likely to contain information unrelated to the disability at issue and the need for accommodation; however, the specific elements of the request for accommodation will guide the content of any request for medical records that may be made. If an individual has more than one

disability, Mines may request information pertaining only to the specific disability for which the requested reasonable accommodation applies.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except a specifically allowed by this law. To comply with this law, Mines requests that the applicant, and any physician treating the applicant, not provide any genetic information when responding to a request for medical information. "Genetic Information" as defined by GINA includes and individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. A copy of the GINA policy will be included with the ADA application and should be given to any physician providing medical information in conjunction with the applicant's ADA request.

2.4.3 The ADA Coordinator will begin the interactive process by acknowledging the request and determining if the information submitted is complete. If additional information is required before the request can be properly analyzed, the ADA Coordinator will communicate with the applicant what additional information is needed and will explain the need for the additional information. Due to the need to meet its employment objectives, it is the responsibility of the applicant to provide all requested information in a timely manner. Failure by the applicant to timely provide requested information may be considered to be a withdrawal of the request for reasonable accommodation by the applicant.

2.4.4 If an examination is part of the application process, an applicant may request an accommodation for the examination process. In accordance with the State of Colorado's recruitment and selection rules, the request must be received in the Office of Human Resources at least three business days prior to the administration of the exam. Upon receiving the accommodation request and supporting documentation, the ADA Coordinator will determine:

- A) Whether the applicant meets the definition of a "qualified person with a disability" as defined by the ADA and ADAAA;
- B) The functional limitations of the disability as they relate to the applicant's ability to participate in the exam process;
- C) An analysis of the accommodation requested, including its reasonableness and appropriateness for the exam setting;
- D) An analysis of alternative accommodations, if the requested accommodation is determined to be unreasonable for the applicant in the exam setting;
- E) If more than one option exists, the ADA Coordinator will take into consideration the applicant's preference, but the ADA Coordinator will choose the accommodation to be provided to the applicant for the exam process.

2.4.5 Once a decision has been made, the ADA Coordinator will provide written notification to the requestor of the outcome of his/her request within a reasonable amount of time.

2.4.6 If a reasonable accommodation has been granted, the Human Resources Specialist will implement the accommodation in the process of administering the exam to the applicant. In some cases, this may involve rescheduling the exam for the applicant in a different location and/or on a different date.

3.0 APPEALS

If the requestor desires to appeal the decision of the ADA Coordinator, the complainant and/or his or her designee may appeal the decision, in writing to:

Colorado School of Mines
Office of Human Resources
Attn: Associate Vice President for Human Resources
1500 Illinois Street
Golden, CO 80401

Office: (303) 273-3554
Fax: (303) 384-2025

3.1 After receipt of the written appeal, the Associate Vice President for Human Resources will make a decision and communicate the decision within a timely manner. The decision of the Associate Vice President for Human Resources will serve as Mines' final decision on the request.