

18-109 Americans with Disabilities Act

We have completed our audit of the Americans with Disabilities Act (ADA). This audit was performed at the request of the UTHealth Audit Committee and was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*.

BACKGROUND

The ADA of 1990 is one of several disability related federal laws. The purpose of the law is to ensure people with disabilities have the same rights and opportunities as everyone else. Changes were made to the law by the ADA Amendments Act of 2008, which broaden the definition of “disability.” ADA’s protection applies primarily, but not exclusively, to individuals who meet the ADA’s definition of disability. An individual has a disability if:

- 1) He or she has a physical or mental impairment that substantially limits one or more of his/her major life activities;
- 2) He or she has a record of such impairment; or
- 3) He or she is regarded as having such an impairment.

ADA’s protection also extends to those who:

- 1) Have an association with an individual known to have a disability; and
- 2) Are coerced or subjected to retaliation for assisting people with disabilities in asserting their rights under the ADA.

At UTHealth, the following responsibilities were noted:

- The institution’s Disability Coordinator and the Section 504 Coordinators are responsible for administering disability accommodation requests for employees, faculty, and students. The process is governed by HOOP 101 *Disability Accommodation*.
- Facilities, Planning & Engineering, Auxiliary Enterprises and UT Physicians are responsible for accessibility related to buildings/clinics.
- Information Technology, Procurement, and individual departments at UTHealth share the responsibility for accessibility of technology procured and/or developed. In addition, Information Technology also has the responsibility of ensuring public websites are accessible to individuals with disabilities.
- The Diversity & Equal Opportunity division within Human Resources and the Office of Institutional Compliance share the responsibility of investigating and resolving complaints related to disability and/or accommodation.

OBJECTIVE

The objective of this audit was to review the disability and accommodation process at UTHealth and determine whether controls are adequate to ensure compliance with federal guidelines.

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SCOPE PERIOD

The scope period was FY 2018, unless otherwise noted.

METHODOLOGY

The following procedures were performed:

- Selected a sample of accommodation requests (10) from September 1, 2017 through February 28, 2018 and reviewed supporting documentation for compliance with HOOP 101.
- Obtained disability utilization reports (2) for calendar years 2016 and 2017 and reviewed for anomalies.
- Selected a sample of buildings/clinics (20) and reviewed supporting documentation for accessibility compliance.
- Selected a sample of applications (5) and reviewed supporting documentation for electronic and information resources (EIR) accessibility compliance. A suggestion was made to align policies and procedures developed by Information Technology and Procurement to define responsibility for monitoring EIR accessibility. In addition, suggestions were made to ensure exception requests for application accessibility have not expired and to promote employees' awareness on technology accessibility. Information Technology has implemented corrective actions in relation to the two latter suggestions prior to the issuance of the audit report.
- Selected a sample of schools/units (5) tracked by Information Technology's University Web Services and reviewed the process for ensuring public websites accessibility compliance. A suggestion was made to define and communicate expectations for website accessibility compliance goals to all applicable employees.
- Reviewed complaints (2) related to disability and/or accommodation during FY 2018 to ensure the process for reporting and resolving complaints is functioning as intended.

AUDIT RESULTS

A&AS identified areas for improvement related to disability accommodations and accessibility:

- There is no centralized monitoring or oversight in place to ensure compliance and consistency in applying the federal guidelines as well as policy and procedures established by UTHealth.
- The records retention requirement in HOOP 101 has not been updated to align with current practice. In addition, required forms per HOOP 101 were not consistently used.
- Accessibility documentation for four UT Physicians' clinics could not be located for review. As a result, a determination of whether the clinics meet Texas Accessibility Standards could not be made.

NUMBER OF PRIORITY & HIGH FINDINGS REPORTED TO UT SYSTEM

None

We would like to thank the staff and management within the Diversity & Equal Opportunity division of Human Resources, Facilities, Planning & Engineering, Auxiliary Enterprises, UT Physicians, Information Technology, Procurement, the Office of Institutional Compliance, and various employees throughout the institution who assisted us during our review.



Daniel G. Sherman, MBA, CPA, CIA
Assistant Vice President

MAPPING TO FY 2018 RISK ASSESSMENT

Risk (Rating)	Compliance with the Americans with Disabilities Act for students and employees (High).
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AUDITING & ADVISORY SERVICES ENGAGEMENT TEAM

Assistant Vice President	Daniel G. Sherman, MBA, CPA, CIA
Audit Manager	Nathaniel Gruesen, MBA, CIA, CISA, CFE
Auditor Assigned	Kathy Tran, CIA, CFE
End of Fieldwork Date	May 18, 2018
Issue Date	July 31, 2018

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Audit Committee
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<p>Issue #1</p>	<p>UTHealth established HOOP 101 to ensure compliance with the ADA federal guidelines.</p> <ul style="list-style-type: none"> • The federal guidelines do not require training prior to appointment to administer disability accommodation requests. However, all appointed Disability Coordinator and Section 504 Coordinators are required to comply with federal law as well as policies and procedures established by UTHealth. • HOOP 101 requires submission of a completed <i>Request for Reasonable Accommodation</i> form in order to initiate the disability accommodation process. In addition, the policy also requires submission of a completed <i>Medical Inquiry</i> form, and a written response once a determination to approve or deny the disability accommodation request is made. <p>Audit Results</p> <p>A&AS reviewed a sample of 10 accommodation requests during September 1, 2017 through February 28, 2018 and noted the following:</p> <ul style="list-style-type: none"> • One request form was not signed by the requestor but the request was processed in accordance with policy. The Associate Vice President of Diversity and Equal Opportunity stated while it is preferred to have a completed <i>Request for Reasonable Accommodation</i> form, the request will be processed regardless of what format it was received in and whether it is complete or incomplete. • A new template form titled <i>Accommodation Approval Form</i> was created in October 2017 to document the written response; however, old template form titled <i>Reasonable Accommodation Request – Response</i> was still posted on Human Resources’ website and was used concurrently. <p>In addition, A&AS noted there is no centralized monitoring or oversight in place to ensure compliance and consistency in applying federal guidelines as well as applying policy and procedures established by UTHealth. For example:</p> <ul style="list-style-type: none"> • The disability accommodation process is decentralized and administered by employees in Diversity & Equal Opportunity as well as by appointed Section 504 Coordinators assigned at each school. • Training and/or periodic updates related to the disability accommodation process has not been consistently provided to all applicable employees.
<p>Recommendation #1</p>	<p>We recommend management:</p> <ol style="list-style-type: none"> a) Review the current accommodation practices to identify opportunities for promoting awareness and consistency in the administration of disability accommodation requests. b) Provide training and periodic updates to all applicable employees.

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	<ul style="list-style-type: none"> c) Ensure all required documentation is completed, to the extent possible, in accordance with HOOP 101. Reasons for deviation from HOOP 101 should be documented and retained. d) Communicate to all applicable employees changes made to forms in order to ensure consistency throughout the institution. <p>In addition, we also recommend central university oversight be a part of the process to ensure compliance and consistency in applying the federal guidelines as well as HOOP 101.</p>
Rating	Medium
Management Response	<p>Diversity and Equal Opportunity management will:</p> <ul style="list-style-type: none"> a) Diversity and Equal Opportunity has developed and launched a new website, to promote awareness and communicate relevant information to UTHHealth faculty and staff. This website went live in June 2018. b) Initiate quarterly 504 Coordinator brown bag sessions by August 31, 2018; <ul style="list-style-type: none"> i. Assign Skillsoft ADA related training to 504 Coordinators; ii. Educate 504 Coordinators on the difference between ADA and ergonomic assessment documentation requirements and begin tracking ergonomic assessment referrals separately from ADA requests if they do not result in the purchase of non-standard office equipment. c) Review and update student ADA request forms consistent with updated employee forms. d) Initiate semi-annual audit/review with 504 Coordinators to assess compliance.
Responsible Party	Deana Moylan, Associate Vice President of Diversity and Equal Opportunity
Implementation Date	<ul style="list-style-type: none"> a) Completed b) (i) September 30, 2018 (ii) September 1, 2018 c) September 30, 2018 d) December 31, 2018

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<p>Issue #2</p>	<p>HOOP 101 states, “Records or information obtained by the Disability Coordinator as part of the accommodation request process that reflect diagnosis, evaluation, or treatment of a person’s health condition are confidential and shall be maintained by Diversity & Equal Opportunity.”</p> <p>Audit Results</p> <p>During planning, A&AS met with the appointed Section 504 Coordinators and noted they also maintain records of accommodation requests for students, residents, fellows and employees (on some occasions). This is inconsistent with HOOP 101, which states records or information is obtained and maintained only by Diversity & Equal Opportunity.</p>
<p>Recommendation #2</p>	<p>We recommend Diversity & Equal Opportunity Management update HOOP 101 on records retention to ensure current practice aligns with policy.</p>
<p>Rating</p>	<p>Medium</p>
<p>Management Response</p>	<p>Diversity & Equal Opportunity will submit recommended updates to HOOP Policy #101 to governance as well as review policy changes with 504 Coordinators upon completion of governance review.</p>
<p>Responsible Party</p>	<p>Deana Moylan, Associate Vice President of Diversity and Equal Opportunity</p>
<p>Implementation Date</p>	<p>September 1, 2018</p>

<p>Issue #3</p>	<p>The ADA prohibits discrimination against people with disabilities, ensuring equal access to all public goods and services. The regulations include design specifications known as <i>ADA Accessibility Guidelines for Buildings and Facilities</i> (1991 Standards) which was published on July 26, 1991. The 1991 Standards was subsequently replaced by the <i>2010 ADA Standards for Accessible Design</i> (2010 Standards) which was published on September 15, 2010 and became effective on March 15, 2012.</p> <ul style="list-style-type: none"> • ADA authorizes the U.S. Department of Justice (DOJ), upon request from state or local officials, to certify the state or local accessibility laws meet or exceed the requirements of the ADA. The Texas Department of Licensing & Regulation (TDLR) developed Texas Accessibility Standards (TAS) based on the requirements of the ADA Standards and the DOJ has certified TAS as equivalent to the ADA standards. TAS initially came into effect on April 1, 1994 and updated in 2012. <p>Audit Results</p> <p>A&AS reviewed a sample of 20 buildings/clinics and noted accessibility documentation was available for all but four locations in our sample. All four are clinics operated by UT Physicians. Based on information provided by UTP, all four are older clinics that fall under the 1991 Standards. No documentation was available for review. The Executive Director of Operations - UT Physicians stated while there is no formal records retention schedule related to building records, the documentation is generally retained indefinitely.</p>
<p>Recommendation #3</p>	<p>We recommend UT Physician Management:</p> <ol style="list-style-type: none"> a) Develop and implement a formal records retention policy. b) Perform an inventory of TAS inspection documentation. c) Work with OLA, FP&E or other subject matter experts to identify additional TAS, or other requirements that should be addressed and develop a plan and timeline for completion. d) Ensure a process to evaluate TAS and related needs is part of practice acquisitions.
<p>Rating</p>	<p>Medium</p>
<p>Management Response</p>	<p>UTP management will:</p> <ol style="list-style-type: none"> a) Develop and implement a formal records retention policy. b) Perform an inventory of TAS inspection documentation. c) (i) Evaluate and identify actual needs during above inventory of inspection documentation and (ii) based upon findings address needs. d) (i) Include evaluation of TAS and related needs to the acquisition process and (ii) address any needs of additional findings during above process once it is complete.

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Responsible Party	Andrew Casas, Vice President and Chief Operating Officer UTP
Implementation Date(s)	a) October 31, 2018 b) January 31, 2019 c) (i) January 31, 2019 (ii) April 30, 2019 d) (i) August 31, 2019 (ii) April 30, 2019