

University of Central Florida
Office of Institutional Equity
Discrimination: Descriptions, Prevention
DISCRIMINATION BASED ON DISABILITY

The University of Central Florida promotes access to its educational programs and activities, including employment, consistent with federal and state statutes as well as UCF Regulation 3.001, *Non-Discrimination; Affirmative Action*. The University takes prompt action to investigate complaints of discrimination based on disability, providing corrective actions when appropriate.

Discrimination based on disability involves treating an individual less favorably because of a disability, or the perception of a disability, or a record of a disability. Under federal law, the protected class includes individuals with disabilities that can be observed; individuals with non-visible disabilities; individuals that do not have a disability but are regarded as having one; or individuals who had a disability (identified correctly or incorrectly) when the negative action is based on the record.

Just as with other protected classes, complaints still may be valid even though the alleged discriminating official also has a disability. "Sharing the same protected class" is not a valid defense to the prohibited conduct.

That conduct includes decisions to hire, terminate, set a particular salary, assign certain tasks, promote, lay off, train, or any other term or condition of employment. Common examples of discrimination based on disability include:

- Excluding an individual from a program or service based on a disability
- Failing to provide a reasonable accommodation when a qualified individual requests something reasonable
- Taking an adverse action based on an assumption about all individuals with the condition, with no information about the individual

The best systems for employment decisions consider job-related factors such as qualifications, experience, education, interview success, reference-check results, performance in current and previous positions, potential for success in higher-level or reorganized positions, abilities, and interest. UCF incorporates those factors into employment selection decisions (as an example), using the Faculty Hiring Guide, A&P Hiring Guide, Search and Screen Guidelines, pre- and post-hire monitoring of rationale, and training programs for hiring officials, search committee members, and interviewers.

Disability-related harassment is more of a pattern than specific acts of discrimination. It may take the form of "joking around" or "teasing." If it substantially interferes with an employee's performance, however, it is an area for the University to take action.

The following example may contain offensive material because it is provided as an example of a hostile or offensive environment.

If the “jokes” can be stopped by the target early in the pattern because it is a miscommunication about what is funny, the target may be able to tell the individual, “Nicknaming me ‘Gimpy’ is getting old. Why don’t we go back to when I was still Aisha.” If the pattern stops, there is no basis for a harassment claim.

If the disability-related nicknaming continues, and colleagues join in despite requests to stop, and colleagues start imitating her gait, and they ask if she can pitch in this time or does she need to make another excuse to the boss as usual: the individual is responsible for reporting this pattern of disability-related harassment and the University is responsible for addressing it. It is unlawful when it is so severe or persistent or pervasive that it creates a hostile or offensive working environment.

The University’s non-discrimination regulation prohibits acts of retaliation, as well as harassment, within the definition of discrimination. Retaliation consists of an adverse action, taken against an individual who complained or threatened to complain or who served as a witness in a discrimination complaint, based on that individual’s involvement.

Other [OIE website](#) resources:

- ADA – Accommodations in Employment and for Members of the Public
- ADA – Assistive Animals as Accommodations
- ADA – Faculty Training

For additional questions and resources for filing a report, complaint, or discrimination grievance, utilize the following contact information:

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<http://www.oie.ucf.edu/>

UCF OIE 6/11, 11/12, 5/17