

GRAYS HARBOR COLLEGE
Administrative Procedure

Subject: REASONABLE ACCOMMODATION, ALL EMPLOYEES

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Purpose and Description

This procedure defines terms associated with the issue of reasonable accommodation and delineates related procedures and responsibilities. This procedure will not be construed as providing rights or obligations not provided under applicable laws.

Definitions

Equal Employment Opportunity

The opportunity to perform the essential job functions or to enjoy equal benefits and privileges of employment as are available to a similarly-situated applicant or employee without a disability.

Essential Functions

The fundamental job duties of the position that the individual with the disability holds or desires. The term "essential functions" does not include the marginal functions of the positions. The following criteria will be considered in identifying the essential functions of a position:

1. Tasks and Responsibilities
2. Administrative Requirements
3. Tools and Equipment Used
4. Physical Factors
5. Mental/Cognitive Factors
6. Productivity Standards
7. Health and Safety Requirements
8. Work Place conduct Requirements

Persons With A Disability

Persons having physical or mental impairment that substantially limits one or more major life activities or a person who has an abnormal condition that is medically cognizable or diagnosable, and who is denied reasonable accommodation or is discriminated against on the basis of that condition.

Qualified Individual With A Disability

An individual with a disability who meets the skill, experience, education and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job. A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the accommodation, s/he will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.

Persons whose disability is due to association with a disabled person. Whether the association is real or perceived.

Reasonable Accommodation

A modification or adjustment to a job, work environment, policies, practices or procedures that enables a qualified individual with a disability to enjoy equal employment. Reasonable accommodations may include, but are not limited to, the following actions:

1. Changes in work schedules or job structure;
2. physical changes or office relocation to make facilities accessible and usable;
3. assignment to a different available position within the current class;
4. opportunity to apply for other employment, for which the individual qualifies (including promotion, transfer, lateral movement and demotion opportunities), within the institution as per ~~WAC 251-17-090 and WAC 251-19-100;~~ **WAC 357 or relevant labor agreements**;
5. appointment to an available temporary or exempt position in accordance with ~~WAC 251-01-415(1) and (3) and WAC 251-04-040(5);~~ **WAC 357 or the relevant labor agreements**.
6. leave of absence per ~~WAC 251-22-165 or WAC 251-22-167.~~ **WAC 357 or the relevant labor agreements**.

Reasonable accommodations are determined by the circumstances in each case. Not all possible accommodations are reasonable. To help determine if an accommodation is reasonable or imposes an undue hardship, the following factors shall be considered:

1. The nature and net cost of the accommodation needed, taking into consideration the availability of outside funding;
2. the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of employees and the effect, expenses and resources;
3. the overall financial resources of the college with respect to the number of employees and the number, type and location of its facilities;
4. the type of operation or operations of the college, including the composition, structure, and functions of the workforce of the college, and the geographic separateness and administrative or fiscal relationship or the facility or facilities in question to the college;
5. the impact of the accommodation on the operation of the facility including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.
6. whether or not the proposed reasonable accommodation would create an unsafe working condition for staff at the College.

Reasonable accommodations are made with careful consideration and, if appropriate, after efforts are made to consult with an appropriate organization, such as Services for the Blind, DSHS-Division of Vocational Rehabilitation, Dept. of Labor & Industries, Human Rights Commission, and/or the health care provider of the person of disability.

Responsibilities/Rights

Employee/Applicant

1. It is the obligation of the individual with disability to request a reasonable accommodation and to provide the information/documentation necessary to verify the disability and make decisions regarding reasonable accommodation.

2. A qualified individual with disability has the right to refuse an accommodation, however, if after refusing the accommodation the essential elements cannot be performed, the individual will not be considered qualified.
3. In the situation where the college is attempting to accommodate or assist the employee in applying for other positions, the employee is responsible for providing current information showing skills, abilities, training, and experience; identifying the types of jobs s/he is interested in and qualified for; applying for vacant positions; and advising the college of any change of address/phone number.

Grays Harbor College

1. The college must provide reasonable accommodation to known physical, mental or sensory limitations of an otherwise qualified individual with a disability. This is an ongoing responsibility which applies to all aspects of employment. This includes:
 - a. Selection, selection for promotion, training, traveling, participation in projects and committees,
 - b. Developmental work assignments or any opportunity which may have an impact on an employee's career development,
 - c. Opportunities to enjoy all employer supported social or recreational activities,
 - d. Timelines for all activities and opportunities which allow an employee to enjoy equal terms, benefits, privileges and conditions of employment,
 - e. Information regarding benefits, privileges, and conditions of employment must be provided in a format which is readily accessible to the disabled employee.
2. Information regarding the presence or nature of an employee's or applicant's disability must be treated as a confidential medical record and shall be maintained in a secure manner, apart from personnel files with access restricted to designated personnel on a need to know basis.
3. The college's internal grievance procedures are to be used for addressing disputes related to requests for reasonable accommodation.
4. Information regarding this procedure and related regulations will be disseminated/discussed during employee orientations and through other appropriate methods. Employees will be notified of the college's obligation to provide reasonable accommodations and be instructed as to how to initiate such a request.
5. The institution may request verification by the employee's or applicant's health care provider when an applicant/employee requests a reasonable accommodation when a disability is not readily apparent and has not been previously documented. The college may obtain a second opinion at its own expense from a health care provider of its selection. Such inquiries must be limited to verification of the employee's/applicant's claims, except that the college may also request suggestions for alternative accommodations.
6. Notification of the right to make an accommodation request and information on how to initiate such a request must be included with all position announcements and bulletins. The college will respond to such requests in a timely way and will extend application and other deadlines if necessary.

7. Qualification standards, employment tests or other selection criteria must not screen out or tend to screen out an individual with a disability unless they are job related and necessary for the employer. Employment tests must accurately reflect skills, aptitude, or other factors being measured and not the impaired sensory, manual, or speaking skills of an employee or applicant with a disability unless those are the skills the test is designed to measure. Skills should be essential to the job.
8. The personnel office staff are the designated contact point of information about job openings and the application process. They have the authority to initiate the college's process for the provision of reasonable accommodations for applicants.
9. The college is responsible for informing employees of its obligation to communicate information appropriate to assist the employee in identifying and applying for vacant positions. See "Responsibilities - Employee/Applicant."

Separation For Disability Reasons

Employment termination of an employee who is unable to perform the duties of his or her position or class due to mental, sensory, or physical incapacity. Such action is taken after the institution has made a good faith effort to reasonably accommodate the employee's disability. A permanent classified employee being separated due to disability will be provided with a pre-separation notice which includes information regarding the employee's option to apply for return to re-employment. A separated **non represented** classified employee may appeal his/her separation, as provided by ~~WAC 251-12-080~~. **WAC 357-46-175**. Separations due to disability will not be considered disciplinary actions.

Undue Hardship

An excessively costly, extensive, substantial, or disruptive modification, or one that would fundamentally alter the nature of the operation of the agency/institution. See definition of "Reasonable Accommodation".

Procedures

Determination Of Essential Functions

Additionally essential functions may be identified and clearly noted: Upon request from an employee or employee representative; during a reallocation process; when reasonable accommodation is being considered; during an employee's annual evaluation; periodically by updating employee's job description.

2. Upon receiving a reasonable accommodation request, the personnel officer or designee will consult with the individual with a disability to find out the specific limitations as they relate to the essential job functions, identify the barriers to job performance and assess how an accommodation can overcome these barriers. As defined above, verification of the disability/limitations and/or a second opinion may be appropriate.

The personnel officer/designee will consult with the employee/applicant and may consult with other knowledgeable sources, to identify potential accommodations and assess how effective each would be in enabling the individual to perform the essential job functions.

3. If there are two or more effective accommodations that would allow the individual with a disability to perform essential job functions, after considering the preference of the individual with a disability, the employer will select the accommodation to be provided.
4. When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, the college will attempt to accommodate the employee through reassignment to a vacant position, at the same pay range or lower, for which s/he is qualified. Within practical limitations, the college may also assist the employee in identifying and applying for vacant positions for which s/he is qualified within other agencies/institutions.
5. Written justification, signed by the president, must be provided for any decision not to provide a reasonable accommodation because of undue hardship. The justification will demonstrate a consideration of the Disability Accommodation Revolving Fund at the Department of Personnel and will explore the practical and available limits of the institution's ability to draw upon resources available elsewhere within state government.
6. If the cost of a reasonable accommodation would impose an undue hardship, and there are no other financial resources available, the individual with a disability must be given the option of providing the accommodation, or paying that portion of the cost which would constitute an undue hardship.
7. If no reasonable accommodation can be made, a separation due to disability is initiated.
 - a. Written notice of separation is provided to the employee. Notice includes, in part, reason for separation. Classified employees' will be notified of their option to apply for return to employment and appeal rights.
 - b. A classified employee being separated due to disability will also be provided with the following information:

*Provisions governing re-employment(WAC 251-10-080).

*Assistance provided by the institution when seeking re-employment.

*Information pertaining to a probationary period for employees returning from disability separation (WAC 251-10-090).

*Information pertaining to examination and eligibility for current and returning permanent employees of the classified service (WAC 251-17-090).

*Information pertaining to the definition and composition of eligible lists (WAC 251-18-180).

*Information pertaining to training and development for employees returning from separation (WAC 251-24-030).

*Copies of applicable civil service rules.

- c. In addition to the information listed above, the employee will be provided with a list of benefits assistance programs offered by other agencies (ie: public assistance, disability retirement, social security, etc.) and information concerning COBRA.

Dissemination

A copy of this procedure will be given to an employee at the time of a request for accommodation or when steps to accommodate are initiated by the institution. Information concerning this policy will be shared during new employee orientation and supervisor training programs.

Employee Appeals

If, after working through the college's internal grievance procedure, employees feel their disabilities have not been reasonably accommodated or addressed, they may appeal to the Washington State Human Rights Commission, the Equal Employment Opportunity Commission, and/or the Office of Federal Contract Compliance Programs. Classified Service employees may also appeal to the Department of Personnel in Olympia.

Other Reference Legislation

- A. Americans With Disabilities Act, 1990
- B. Rehabilitation Act, 1973
- C. Executive Order 93-03
- D. WAC 357-26

Approved by:

Dr. Edward J. Brewster, President

Date