

# **ADM 225 – Americans with Disabilities (ADA) Reasonable Accommodation Policy**

## **I. Purpose**

The purpose of the Americans with Disabilities Act (ADA) Reasonable Accommodation Policy is to provide policy and procedures to ensure equal and effective opportunities for persons with disabilities and full compliance with the employment provisions of Titles I and II of the Americans with Disabilities Act, including the ADA Amendments Act of 2008.

## **II. Policy**

The College is committed to providing equal access and opportunity to qualified persons with disabilities in all terms and conditions of employment and in all College programs and services. The College recognizes that in order to have equally effective employment opportunities and benefits, individuals with disabilities may need reasonable accommodation. The College will adhere to all applicable federal and state laws, regulations and guidelines with respect to providing reasonable accommodation, as necessary, to afford equal employment opportunity and equal access to programs, services, and benefits for qualified persons with disabilities. Questions regarding reasonable accommodation and/or discrimination on the basis of disability should be directed to the College Director of Human Resources.

## **III. Definitions**

**Disability with Respect to an Individual Means:** A physical or mental impairment that substantially limits one or more major life activities; a record of having such an

impairment; or being regarded as having such impairment.

In addition, an individual may not be discriminated against due to association with a person who has, has a record of, or is regarded as having such impairment.

**Major life activities** are:

(1) Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(2) It also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

**Regarded as having such an impairment** means the absence of a physical or mental impairment but regarding or treating an individual as though such an impairment exists. An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that such individual has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. Being “regarded as” having an impairment shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. A reasonable accommodation or a reasonable modification to policies, practices or procedures need not be provided to an individual who only meets the “regarded as” definition of disability.

**A Qualified Person with a Disability** is a person who

satisfies the requisite skills, experience and other job-related requirements of the position and who, with or without reasonable accommodation, can perform the essential functions of the job.

**Essential Functions** are job duties that are fundamental to the position, not marginal to the position. Duties are what must be accomplished, not how the duties are performed. Essential functions are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the employee is hired based on the ability to perform the function.

**Reasonable Accommodation** means modifications or adjustments to a job application process that enable a qualified person with a disability to be considered for a position OR modifications or adjustments to the job, work environment, or the way in which work is customarily performed that permit a qualified employee with a disability to perform the essential functions of the job or enjoy the benefits and privileges of employment equal to those of employees without disabilities.

**Disability** shall be construed in accordance with the following:

- (1) The definition of disability shall be construed in favor of broad coverage;
- (2) an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability;
- (3) an impairment that is episodic or in remission is a disability if it would substantially limit a major life

activity when active; and

(4)

(A) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the beneficial effects of mitigating measures such as the following:

- (i) Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eye glasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
- (ii) use of assistive technology;
- (iii) reasonable accommodations or auxiliary aides or services; or
- (iv) learned behavioral or adaptive neurological modifications.

(B) The beneficial effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(C) As used in this subparagraph:

- (i) "Ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
- (ii) "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

**Undue hardship** means that a specific accommodation would require significant difficulty or expense. This determination, which must be made on a case-by-case basis, considers factors such as the nature and cost of the

accommodation needed and the impact of the accommodation on the operations of the College.

#### **IV. Procedures**

##### **A. Employment Applicant Request for Accommodation:**

1. All application materials shall be made available in alternative formats, upon request, according to the needs of a qualified person with a disability. The College jobs website shall include the following statement or its equivalent and applicants shall be notified that they can request reasonable accommodation for the application, testing and interview process as follows:

To request an ADA accommodation or for more information, please contact the [Director of Human Resources](#) at (620) 242-0454

2. Applicant requests for reasonable accommodation shall be made to the College Director of Human Resources.
3. Upon receiving a request for reasonable accommodation, the Director of Human Resources will evaluate the request and determine what, if any, accommodation is appropriate. To ensure that all reasonable accommodations have been considered, the Director of Human Resources will talk to the individual requesting the accommodation where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the College is choosing between different possible reasonable accommodations.
4. The Director of Human Resources may request medical documentation of the applicant's disability if the disability and/or the need for accommodation is not obvious. Documentation of an applicant's disability is confidential.
5. If an accommodation is appropriate, the Director of Human Resources will assist the hiring authority in

arranging the accommodation.

6. In cases where requests for accommodation are not approved such as the employee is not deemed eligible for an ADA accommodation, what reasonable accommodation is needed or was approved or there was a finding of hardship, the Director of Human Resources shall inform the applicant in writing of the decision and inform the applicant of the availability to appeal the decision to the College President.

#### **B. Employment Interview Request for Accommodation:**

1. Applicants who have received employment interview offers may make an accommodation request. Employment opportunities will not be denied to anyone because of the need to make reasonable accommodation for a person's disability.
2. The Director of Human Resources may request documentation of the applicant's disability. Documentation of an applicant's disability is confidential.
3. The Director of Human Resources shall make a decision regarding the request and, if approved, arrange the accommodation. If the request is not approved such as the employee is not deemed eligible for an ADA accommodation, what reasonable accommodation is needed or was approved or there was a finding of hardship, the Director of Human Resources shall inform the applicant in writing of the decision and inform the applicant of the availability to appeal the decision to the College President.

#### **C. Selected Applicant Request for Reasonable Accommodation:**

1. After interviewing all applicants and evaluating all relevant, non-medical information, the hiring authority or designee makes a conditional offer of employment to the applicant who is determined to best match the needs

of the position. If necessary, the selected applicant may request reasonable accommodation to perform the essential functions of the job.

2. When the disability and/or the need for accommodation is not obvious, the Director of Human Resources may request medical documentation concerning the individual's status as a person with a disability and his or her functional limitations to verify the need for accommodation.
3. The Director of Human Resources will review the medical documentation to determine whether or not the person has a disability that qualifies under the ADA.
4. The Director of Human Resources, in consultation with the selected applicant, and hiring authority or designee, shall:
  - a. Ensure that the applicant is qualified to perform the essential functions of the job with or without reasonable accommodation.
  - b. Review to determine if the accommodation shall enable the individual to perform the essential functions of the job by:
    - i. Obtaining relevant job and task information through a job analysis;
    - ii. Determining if job duty or function is essential by review of analysis;
    - iii. Exploring job modification alternatives by consulting with the individual;
    - iv. Identifying barriers to job performance and assessing how accommodation could overcome those barriers;
    - v. Determining the most effective modification or adjustment for the individual.
  - c. Determine whether the reasonable accommodation would pose an undue hardship for the employer considering the nature and cost of the accommodation and the financial resources available.
  - d. The hiring authority or designee, in consultation

with the Director of Human Resources, shall consider the reasonableness of the proposed accommodation.

- e. If approved, implement a reasonable accommodation giving consideration to the preferences of the individual, or notify the individual that the requested accommodation is not reasonable. While the individual's preferences will be given consideration, the College is free to choose among reasonable accommodations.
- f. The individual may accept or reject the decision and/or the specific accommodations proposed. The individual may offer additional information and/or may propose alternative accommodations.
- g. The Director of Human Resources may consult with appropriate staff, managers, or technical specialists to decide if the proposed alternative is feasible or would cause an undue hardship for the College. The ultimate decision on which reasonable accommodation to provide shall, however, be the College's decision.
- h. The selected applicant, supervisor/manager/hiring authority or designee, and the College Director of Human Resources shall complete and sign a reasonable accommodation agreement detailing the accommodation to be provided. The employing department shall implement the agreed-upon accommodation.
- i. The individual may disagree with the decision or reject the accommodation offered and may appeal the decision to the College President. However, if the individual cannot perform the essential functions of the job as a result of the rejection, the accommodation process may cease.

#### **D. Current Employee Request for Accommodation:**



1. An employee who believes he/she needs reasonable accommodation to enable them to perform the essential functions of his/her job, or to enjoy the benefits and privileges of employment, shall inform the supervisor, or the College Director of Human Resources, of the need for an accommodation. When employee requests for accommodation are made to the supervisor, the supervisor shall contact the College Director of Human Resources for assistance.
2. The employee will meet with the College Director of Human Resources, who will explain the reasonable accommodation process and may request appropriate medical documentation if the disability and/or the need for accommodation is not obvious.
3. The College Director of Human Resources may request and evaluate information from the employee's medical professional to determine the existence of disability or the need for accommodations. Requests will include job-related limitation(s) created by the employee's disability. Medical records of the employee's condition shall be kept confidential in a locked file separate from the employee's personnel record. Limitations as a result of the condition will be provided to the employee's supervisor.
4. The College Director of Human Resources, in consultation with the employee and employee's supervisor, shall:
  - a. Discuss the purpose and essential functions of the particular job involved. Completion of a step-by-step job analysis may be necessary;
  - b. Identify the potential accommodation(s) and assess the effectiveness of each in enabling the employee to perform the essential functions of the job; and,
  - c. Recommend the accommodation(s) that is most appropriate for both the individual and the employer. While the individual's preference will be given consideration, the College is free to

choose among reasonable accommodations.

5. To ensure that all effective accommodations have been considered, the College Director of Human Resources shall talk to the individual requesting the accommodation where the specific limitation, problem, or barrier is unclear; where an effective accommodation is not obvious; or where the parties are choosing between different possible reasonable accommodations. The reasonable accommodation procedure is intended to be an interactive process, with the involvement of the employee requesting the accommodation.
6. The employee and the employee's supervisor and the College Director of Human Resources shall complete and sign a reasonable accommodation agreement detailing the accommodation to be provided. The employing department shall implement the agreed-upon accommodation, and make necessary adjustments.
7. If an employee who requested an accommodation disagrees with the recommended accommodation, he/she may appeal the decision to the College President.
8. After an accommodation is provided, the College Director of Human Resources will follow-up to evaluate the effectiveness of the accommodation.
9. If at any time there is a question about the continuing nature of an employee's reasonable accommodation, or if adjustments to the accommodation plan are necessary, the employee or the employee's supervisor shall contact the College Director of Human Resources.
10. Temporary conditions may be covered as disabilities depending on the duration and impact of the impairment and the extent it limits major life activities and shall be treated on a case-by-case basis.
11. Requests for leave or reassignment as a reasonable accommodation due to a disability will be considered on a case-by-case basis. Typically, these are considered the "accommodations of last resort" and only utilized in certain circumstances when other accommodations would

not be effective. Requests for leave or reassignment as an ADA accommodation should be directed to the College Director of Human Resources.

#### **E. Medical Documentation:**

1. Medical documentation may be requested by the Director of Human Resources only when the disability or need for accommodation is not obvious, or restrictions must be defined. Information from the employee's medical practitioner may be necessary to document the employee's job-related limitation(s) and to assist in determining an effective reasonable accommodation for the employee. The College Director of Human Resources will make all requests for medical documentation. The employee requesting an accommodation is responsible for providing the medical documentation requested. When additional information is needed, the College Director of Human Resources will request permission from the employee to contact their medical practitioner. Supervisors and managers may not request information about the employee's disability or have access to the employee's medical information other than restrictions imposed.
2. If the College Director of Human Resources finds the documentation insufficient to provide an accommodation, the College Director of Human Resources will explain why the documentation is insufficient and request more complete information from the employee and directly from the employee's medical practitioner if the employee provides a written release. If the employee still fails to provide sufficient documentation from their health care professional to substantiate that a disability exists and a reasonable accommodation is needed, The College may refuse to provide the accommodation or require the employee to be examined by an appropriate health care professional of the College's choice and at the College's expense.

3. An employee's failure to provide necessary documentation where it has been properly requested could result in a denial of reasonable accommodation.

#### **F. Dissemination of Reasonable Accommodation Procedures**

1. Copies of the reasonable accommodation policy shall be readily available to all College employees. The policy shall be posted on the College's intranet. It will also be available in a designated location such as the Director of Human Resources' office.
2. The College's reasonable accommodation policy shall be accessible to individuals with disabilities. Copies of the reasonable accommodation Policy will be made available in alternative formats, such as large print or Braille, on request by contacting the College Human Resources Director.