

**WALLA WALLA COMMUNITY COLLEGE
REASONABLE ACCOMMODATIONS
ADMINISTRATIVE POLICY 5605**

I. INTRODUCTION

- A. Walla Walla Community College (WWCC), being aware of its obligations under Executive Order 96-04, RCW 49.60, other state guidelines, and the American's with Disabilities Act of 1990 (hereafter referred to as the "ADA"), has prepared this reasonable accommodation procedure to comply in good faith with the requirements of applicable laws, rules, and regulations. Final rules established by the Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL) will serve to clarify elements of the ADA's intent, beyond what is provided herein.
- B. The College President delegates authority for implementation of this Administrative Procedure to the Human Resources Director, who has been given the responsibility for WWCC compliance.
- C. The Vice President of Administrative Services is responsible for coordinating WWCC efforts toward compliance with facility accessibility and the Vice President of Student Services is responsible for coordinating WWCC effort towards compliance with student services accessibility.

II. APPLICABILITY

- A. This Administrative Procedure applies to all employees and candidates for employment with WWCC. Persons with disabilities have the right to request and receive reasonable accommodation in all aspects of employment. This Administrative Procedure, however, should not be construed as providing rights or obligations not provided under applicable laws.
- B. Students are made aware of reasonable accommodations through campus-based programs administered by student services and are not covered by these guidelines.

III. DEFINITIONS

- A. Disability: A physical or mental impairment that substantially limits one or more of an individual's major life activities. The individual with a disability must prove that he or she has a sensory, mental, or physical abnormality and such abnormality has a substantially limiting effect upon his/her ability to perform a job.
- B. Substantially Limits: When a person is significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills, and abilities.
- C. A Qualified Individual with A Disability: An individual who, with or without reasonable accommodation, can perform the essential functions of the position that such individual holds or desires.
- D. Essential Function(s): Function(s) of a particular job that, if removed, would fundamentally change the job.
- E. Reasonable Accommodation(s): Modification(s) or adjustment(s) to a job, work environment, policies, practices, or procedures that enables a qualified individual with a disability to perform the essential functions of a job and that can be accomplished without 'direct threat' to an individual or cause 'undue hardship'.

- F. Direct Threat: A significant risk of substantial harm that cannot be eliminated or reduced to an acceptable level by a reasonable accommodation.
- G. Undue Hardship: When an accommodation for an employee with a disability, taking into account WWCC's overall resources, would be unduly costly, expensive, substantial, disruptive, or would fundamentally alter the nature or operation of the department or institution.
- H. Need to Know: The basis upon which it is determined who should be made aware of medical restrictions, accommodation requests and analysis, and other pertinent information that may be confidential or protected by privacy rights or statutes.
- I. Health Care Professional: A person who has completed a course of study and is licensed to practice in a field of health care that includes the diagnoses and assessment of the particular disability or disabilities in question.
- J. Grievance: A disagreement between WWCC and an employee, group of employees, or member of the general public, concerning the interpretation, application, or perceived violation of the ADA and/or this Administrative Procedure.
- K. Interactive Process: A good faith effort, by both WWCC and a qualified individual with a disability seeking reasonable accommodation, to engage in discussion and exchange information and ideas necessary to administrate this procedure.

IV. ACCOMODATION REQUESTS

- A. All requests for accommodation must be made to the Human Resources Director or his/her designee.
- B. When an employee or candidate for employment makes a request for a reasonable accommodation, and the disability is not readily apparent and/or has not been previously documented, WWCC may request that the individual provide verification from a health care professional that s/he has the disability as claimed and that it has the effect of necessitating the reasonable accommodation requested.
- C. WWCC may obtain a second opinion, at its own expense, from a health care professional of its selection. Such inquiries must be limited to verification of the individual's claims, except that WWCC may also request that the health care professional suggest possible effective alternative/reasonable accommodations.
- D. Upon receiving a reasonable accommodation request, WWCC shall begin consulting with the individual with a disability to find out his or her specific physical or mental abilities and limitations as they relate to the essential job functions; identify the barriers to job performance; and, assess how an accommodation can overcome these barriers.
- E. WWCC shall consult with the individual, 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.
- F. If there are two or more effective accommodations that would allow the individual with a disability to perform the essential job functions, after considering the preference of the individual with a disability, WWCC shall select the accommodation to be provided.
- G. 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.
- H. When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, WWCC shall attempt to accommodate the employee through

reassignment to another vacant position, at the same pay or lower, for which s/he is qualified.

1. 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 WWCC of any change of address. WWCC is responsible for informing the employee of these responsibilities.
- I. 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 that would constitute an undue hardship.

V. IDENTIFICATION OF ESSENTIAL FUNCTIONS

- A. Job descriptions are the preferred document for identifying the essential functions of a position. Essential functions in a job description or position announcement will be labeled and only persons who can perform the essential functions, with or without accommodation, are qualified to perform the job.
- B. Job descriptions are maintained in the Human Resources department. A working conditions analysis will also be conducted in conjunction with a job analysis to analyze a position's working conditions. It is WWCC's belief that accurately analyzing the working conditions of every current position, all at once, would be extremely time-consuming and unduly cumbersome. Therefore, WWCC will analyze the working conditions of a position when a position is reallocated or when a position becomes vacant.
- C. In consultation with subject matter experts, part of WWCC's recruitment and selection process will continue to require that individuals meet competencies, skill, experience, education, and other job-related requirements for any position.

VI. APPLICATION PROCESS

- A. Reasonable accommodation will be provided in every stage of the recruitment, application, and selection process to enable a qualified applicant with a disability to have an equal opportunity to be considered for a job.
- B. Notification of the right to make an accommodation request and information on how to initiate such a request will be included with all job announcements.
- C. WWCC will make the job description and the position's working conditions analysis available to applicants during the recruitment and/or accommodation process, for the purpose of outlining what essential duties or physical and mental acuity abilities the job requires.
- D. It is the applicant's obligation to notify the Human Resources Director or his/her designee of the duty statement or working condition s/he will require accommodation to perform.
- E. The timeliness of a response is essential in providing equal opportunity. The ability to provide the requested and appropriate accommodation by the scheduled application/selection process date shall be justification, at the Human Resources Director's discretion, for extension of the application and/or other deadlines.
- F. The Human Resources Director or his/her designee will continue to review, on an on-going basis, all selection criteria to ensure continued compliance.

VII. ACCOMODATIONS

- A. If an accommodation is determined to be reasonable and will eliminate or reduce the risk to an acceptable level, WWCC will provide that accommodation.

- B. Requesting an accommodation is the full responsibility of the person seeking it and WWCC reserves the right to provide the accommodation that it determines most effectively accommodates the individual's disability, given the specific situation.
- C. The need for a reasonable accommodation shall not adversely affect the consideration of an individual with a disability for employment, training, promotion or opportunity to enjoy equal terms, benefits, privileges and conditions of employment.
- D. WWCC will, as allowed under the ADA, prohibit the hiring or continuation of employment of an individual who poses a direct threat to themselves or others that cannot be eliminated or acceptably reduced by reasonable accommodation(s).

VIII. EMPLOYEE ACCOMMODATION PROCEDURES

- A. A current employee's request for reasonable accommodation is the full responsibility of the individual who is seeking the accommodation.
- B. All requests will be reviewed and evaluated, based upon this Administrative Procedure's definitions of 'reasonable', 'direct threat', and 'undue hardship', to determine whether or not a request can be granted.
- C. WWCC will interactively engage with the employee and/or the employee's treating physician/health care provider to determine needs, options, and factors.
- D. When an employee cannot be reasonably accommodated in his/her current job, WWCC will endeavor to transfer the employee to a vacant position for which s/he is qualified and can perform, with or without accommodation.
 - 1. This reassignment is noncompetitive and limited to lateral transfers or voluntary demotions.
 - 2. The ADA does not require, and WWCC will not ensure, promotion or creation of a position as a form of accommodation.
- E. 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.

IX. TRAINING OF MANAGERS, SUPERVISORS, AND OTHERS, AS NEEDED

- A. Managers and supervisors will receive periodic training related to their responsibilities under this Administrative Procedure.
- B. This Administrative Procedure is discussed in new employee orientation.
- C. WWCC is committed to proactively raising the subject and building an employee's awareness of this procedure and complaint processes.

X. CONFIDENTIALITY

- A. All information regarding the presence or nature of an employee's or an applicant's disability will 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.
- B. When an individual is hired, or an employee is returned to work with medical restrictions, the supervisor may have a need-to-know regarding the nature of the restrictions and possible reasonable accommodations. However, a supervisor may not necessarily need-to-know the medical diagnosis or a detailed description of the condition/s if unrelated to the work limitations. There is no inherent right-to-know simply because the medical condition may affect an employee's work or is otherwise work related.

- C. The Human Resources department maintains secure medical files that protect this confidentiality, and will release only information determined relevant given the definition of need to know, reasonable accommodation, and is consistent with the individual's right to medical privacy.

XI. TEMPORARY DISABILITY DETERMINATION

- A. Temporary disabilities are not covered by the ADA, but may be covered under other laws.
- B. Under the ADA, it is not the name of an impairment or condition that determines whether an individual is protected, but rather the effect of an impairment or condition on the life of a particular individual.
- C. How long an impairment lasts is a factor to be considered, but it does not by itself determine whether an individual has a disability under the ADA.
- D. The Human Resources department, in consultation with appropriate resources, is charged with making such determinations on a case-by-case basis.
- E. WWCC seeks to temporarily accommodate employees in a manner that keeps them productive; orientated to the workplace; and, maintaining needed skills. To this end, WWCC considers all requests or inquiries very seriously and actively engages with the employee in analyzing the need for, and when necessary, proper application of modified duty assignment.
- F. Modified duty assignments may be utilized up to sixty (60) calendar days and may be extended for an additional sixty (60) calendar days, if necessary. A modified duty assignment should generally not extend beyond 120 calendar days.
 - 1. For certain situations, WWCC may, at its discretion, transfer an employee temporarily, at their current pay, to a position that would accommodate a leave of absence or work restriction that could not be accommodated within his/her current position.
- G. WWCC requires proof from the employee that a leave is necessary, including certification by a qualified health care provider stating the date the condition commenced; the probable duration of the condition; any appropriate medical facts regarding the condition; and, an estimate of the expected schedule and duration of leave. The Medical Certification form is maintained in the Human Resources department.

XII. RETURN FROM MEDICAL LEAVE

- A. Prior to returning to work from medical leave, the employee will be required to provide a 'fitness for duty' certification, also known as a 'doctor's release' from a health care provider.
- B. If the employee's health care provider believes the employee may return to work, but with limitations/restrictions that will be permanent, the limitations/restrictions must be noted.
 - 1. When an employee returns to work with such restrictions, an interactive process will begin under this Administrative Procedure to determine the need for accommodation and the ability to provide those accommodations.
- C. In cases of continued medical treatment, the employee is asked to make a reasonable effort to schedule the treatment so as not to unduly disrupt the department's operations.
 - 1. WWCC may require the employee to bring an updated 'fitness for duty' certification with any new restrictions.

XIII. GRIEVANCE/COMPLAINT PROCEDURE

- A. It is the intent of WWCC to internally review and resolve all ADA-related grievances or complaints made by or on behalf of a complainant.
- B. The goal is to provide for the resolution of grievances or complaints at a level that will allow for the least disruption of WWCC functions or services.
- C. The Human Resources Director or his/her designee will coordinate compliance efforts and may be assigned to investigate complaints.
- D. Grievances or complaints should be handled in compliance with the WWCC Grievance Procedure.
- E. A grievance/complaint may be filed either verbally or in writing. In either case, the name and address of the person filing the grievance/complaint must be identified and it should briefly describe the alleged violation of WWCC policy or the ADA.

XIV. ASSOCIATED FORMS

- 1. Employee Questionnaire
- 2. Physician Questionnaire
- 3. Fitness for Duty/Return to Work Medical Evaluation
- 4. Authorization to Release Medical Information

XV. AUTHORITY

WWCC established a Procedure for Reasonable Accommodation in compliance with State Policy Guidelines on Reasonable Accommodation of Persons with Disabilities Related to State Employment. This Administrative Procedure supersedes the last. The authority for this Administrative Procedure comes from the Board of Trustees Delegation of Authority Policy approved April 20, 2005.

This Administrative Procedure was reviewed by the Diversity Committee, Faculty Senate, College Council and Admin. Council.

<p>Policy Contact: <u>VP of Human Resources</u></p> <p>Approved by (Department/Body): <u>President</u></p> <p>Date Originally Approved: <u>November 16, 2010</u></p> <p>Last Reviewed/Revised on: _____</p>
