

## Policy 4114 – Reasonable Accommodation

### Procedural Guidelines

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

#### **I. DEFINITIONS**

A. "Individual with a disability" refers to any person who: (1) has a physical or mental impairment that substantially limits one or more major life activities (i.e., caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working); (2) has a record of such an impairment (has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities); (3) is regarded as having such an impairment; or, (4) who has an abnormal condition that is medically recognizable or diagnosable.

B. "Reasonable accommodations" in college employment are reasonable modifications or adjustments to a job, work environment, policies, practices, and/or procedures that enable qualified individuals with a disability to enjoy equal employment.

C. "Undue hardship" is any excessively costly, extensive, substantial or disruptive modification, or one that would fundamentally alter the nature or operation of the institution or any of its programs or services, or threaten the health or safety of the College community.

D. "Health Care Professional" means a person who has completed a course of study and is licensed to practice in a field of health care which includes the diagnoses and assessment of the particular disability, or disabilities, in question.

E. "Equal employment opportunity" means an opportunity to perform the essential job functions or to enjoy equal benefits and privileges of employment as are available to similarly situated applicants or employees without a disability.

F. A "qualified individual with a disability," with respect to employment, is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job in question.

G. "Essential functions" refers to the fundamental job duties of the position that the individual with the disability holds or desires. The term does not include the marginal functions of the position.

## **II. OBLIGATIONS OF THE COLLEGE**

### **General:**

A. Comply with Section 504 of the Rehabilitation Act of 1973; Section 202 of the Americans with Disabilities Act of 1990, as amended; and the Law Against Discrimination, Chapter 49.60 RCW.

B. Notify individuals of the College's policy of non-discrimination on the basis of disability and of the steps s/he may take if s/he believes discrimination has taken place. This notice shall be included in all formal correspondence that communicates decisions or policies adversely affecting the individual's status or rights with the institution of higher education. This notice shall include the phone numbers of the United States Department of Education, U.S. Office of Civil Rights, and the Washington State Human Rights Commission.

C. Work with the individual, on a case-by-case basis, to select and provide those reasonable accommodations appropriate for the qualified individual with a disability.

D. When an applicant/employee makes a request for a reasonable accommodation, and the disability is not readily apparent and has not been previously documented, the College ADA Compliance Officer (Vice President for Human Resources/Employee Relations) may request that the applicant/employee 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. The College 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 applicant/employee's claims, except that the employer may also request that the health care professional suggest possible effective alternative reasonable accommodations.

E. The College's internal or negotiated grievance procedure for addressing disputes shall be used for issues related to requests for reasonable accommodation.

#### To Applicants/Employees:

A. The obligation of the College to provide reasonable accommodation applies to all aspects of employment. This duty is ongoing and may arise any time that a person's disability or job changes.

B. 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.

C. A qualified individual with a disability has the right to refuse a reasonable accommodation. However, if the individual cannot perform the essential functions of the job without the reasonable accommodation, s/he will not be considered to be an otherwise qualified individual with a disability after refusing the reasonable accommodation.

D. All information regarding the disability of an individual 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.

E. Information on reasonable accommodation, including Policy 4114, the College's internal procedures (as outlined above), and the external enforcement mechanisms and remedies available shall be disseminated to employees in employee orientations and by other appropriate methods.

### **III. OBLIGATIONS AND RIGHTS OF THE QUALIFIED INDIVIDUAL**

The College is obligated to provide reasonable accommodation to a qualified individual with a known disability. What is appropriate for the individual is on a case-by-case determination. It is the obligation of the individual to seek reasonable accommodation.

An applicant/employee who seeks reasonable accommodation under Policy 4114 is responsible for documenting the nature and extent of the disability. The College will work collaboratively with the qualified individual in determining the appropriate reasonable accommodation.

To ensure that needed reasonable accommodations are provided in a timely manner, the individual shall:

A. Provide timely notice and documentation of the nature and extent of the disability and the request for reasonable accommodation to the ADA Compliance Officer. For pre-employment services, requests for reasonable accommodation should be received ten (10) working days prior to the date needed. Lack of advance notice may delay the availability of a reasonable accommodation.

B. Provide such additional documentation on the nature and extent of their disability as the College may require to determine appropriate reasonable accommodation. Such documentation must include, but is not limited to, identification of tests administered, test results, description of the covered disability and recommended reasonable accommodations.

C. Promptly notify the ADA Compliance Officer of any problems encountered in receiving the agreed-upon reasonable accommodation.

#### **IV. REASONABLE ACCOMMODATION IN RECRUITMENT/APPLICATION/SELECTION OF EMPLOYEES**

A. Reasonable accommodation must 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 a request for reasonable accommodation and information on how to initiate such a request must be included with all announcements, bulletins and recruitment efforts.

C. Timeliness of response is essential in providing equal opportunity. Failure to provide reasonable accommodation in a timely manner shall be justification for extension of application and other deadlines.

D. 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.

E. Employment tests must be used in the most effective manner to measure actual abilities. Tests must accurately reflect the 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).

F. Staff in the Office of Human Resources & Employee Relations are designated as contact persons for information about job openings and the application process. These staff members shall be given the training and authority necessary to initiate the College's process for the provision of the reasonable accommodation.

## **V. REASONABLE ACCOMMODATION AND THE ESSENTIAL FUNCTIONS OF THE JOB**

Determination of Essential Functions: Each position should be examined to determine its purpose and its essential functions. Appropriate times to examine a position include when the position is established, when it becomes vacant, and when the duties are changed. The following criteria should be considered in identifying the Essential Functions of a job:

Are employees in the position actually required to perform the function?

Would removing that function fundamentally change the job?

Was the position established to perform the function?

Are there a limited number of other employees available to perform the function, or among whom the function can be distributed?

Is the function highly specialized, and is the person in the position hired for special expertise or ability to perform it?

A. Upon receiving a request for reasonable accommodation, the College shall consult 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 a reasonable accommodation can overcome these barriers.

B. The College shall consult with the employee, and may consult with other knowledgeable sources, to identify potential reasonable accommodations and assess how effective each would be in enabling the individual to perform essential job functions.

C. If there are two or more effective reasonable accommodations that would allow the individual with a disability to perform essential job functions, after considering the preference of the individual with the disability, the employer may select the reasonable accommodation to be provided.

D. When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship to the College, the College shall attempt to accommodate the employee through reassignment to another vacant position within the college, at the same pay range or lower, for which s/he is qualified. The College should also, within the practical limitations of its ability, assist the employee in identifying and applying for vacant positions within other agencies/institutions for which s/he is qualified. 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 employer of any change of address. The College is responsible for informing the employee of these responsibilities.

## **VI. REASONABLE ACCOMMODATION AND EQUAL TERMS, BENEFITS, PRIVILEGES AND CONDITIONS OF EMPLOYMENT**

A. Reasonable accommodation must be provided to enable an employee with a disability to enjoy terms, benefits, privileges and conditions of employment equal to those enjoyed by similarly situated employees without a disability.

B. The need to provide a reasonable accommodation must not be a factor in the selection of an employee for promotion, training, travel, participation in projects, committees, developmental work assignments, or any opportunity which may have an impact on an employee's career development.

C. Reasonable accommodation must be provided to enable an employee with a disability the opportunity to enjoy all employer-supported social or recreational activities.

D. Timelines for all activities and opportunities covered under this section shall allow adequate opportunity for arranging reasonable accommodation.

E. Information contained in communications regarding activities or opportunities covered under this section must be provided to an employee with a disability in a manner or format which is readily accessible to that employee, and employees must be notified about the employer's obligation to provide reasonable accommodation and instructed as to how to initiate a request.