

Reasonable Accommodation

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Purpose

The purpose of this policy is to assist agency and university employers, current employees, and applicants for employment in requesting and processing reasonable accommodation requests. The overall intent of this policy is to ensure that the State of North Carolina fully complies with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendment Act, (ADAA) and maintains equal opportunity in employment for all qualified persons with disabilities. This policy also prohibits retaliation against employees.

Policy

It is the policy of the State of North Carolina to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process.

Definitions

Disability – a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or being regarded as having such an impairment.

Reasonable Accommodation (continued)

Qualified Individuals with Disabilities - a qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Reasonable Accommodation – a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy equal employment opportunities.

Undue Hardship - an action requiring significant difficulty or expense when considered in

light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

Essential Functions – the fundamental duties of the position or the primary reasons the position exists.

Coverage

This policy applies to all qualified applicants and employees with disabilities. If requested, reasonable accommodations must be provided to qualified employees regardless of whether they work part-time or full-time, or are considered “probationary” or “non-career status”, as well as temporary employees.

Reasonable Accommodation

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if requested and if it would not impose an "undue hardship" on the operation of the employer's business.

Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- Job restructuring, modifying work schedules, reassignment to a vacant position; or
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

Reasonable Accommodation (continued)

There are several modifications or adjustments that are not considered forms of reasonable accommodation. An employer does not have to eliminate an essential function from the position, nor is an employer required to lower quality or production standards to make an accommodation, as long as those standards are applied uniformly to employees with or without a disability. An employer does not have to create a new position to accommodate an employee.

An employer is not obligated to provide personal use items needed in accomplishing daily activities both on and off the job (i.e. eyeglasses, hearing aids, prosthetic limbs, or a wheelchair). Furthermore, an employer is not required to provide personal use amenities, such as a refrigerator, if those items are not provided to employees without disabilities.

Process to Request Reasonable Accommodation

EMPLOYEES:

1. The employee shall inform their supervisor, EEO Officer, or HR Director or designee of the need for an accommodation. Supervisors who have been notified by an employee of an accommodation need should contact the designated EEO or HR official for assistance.
2. The EEO Officer or HR Director/Designee may request documentation of the individuals' functional limitations to support the request. Any medical documentation must be collected and maintained in accordance with appropriate confidentiality procedures.
3. When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the employee:
 - a. Discuss the purpose and the essential functions of the particular job involved.
 - b. Determine the precise job-related limitation.
 - c. Identify the potential accommodations and assess the effectiveness each would have in allowing the employee to perform the essential functions of the job.
 - d. Select and implement the reasonable accommodation that is the most appropriate for both the employee and the employer. While an employee's preference will be given consideration, the employer is free to choose among reasonably effective

Reasonable Accommodation (continued)

accommodations and may choose the one that is less expensive or easier to provide.

4. The EEO Officer or HR Director/Designee will work with the employee to obtain technical assistance, as needed.
5. The EEO Officer or HR Director/Designee will provide a written decision to the employee within a reasonable amount of time, not to exceed 30 days from original employee request, unless a longer time is agreed upon by the employee and the employer.

APPLICANTS

1. The job applicant shall inform the supervisor, EEO Officer, or HR Director/Designee of the need for an accommodation. Hiring officials who have been notified by an applicant of a need for accommodation should contact the designated EEO or HR official for assistance. The EEO Officer or HR Director/Designee will discuss the needed accommodation and possible alternatives with the applicant.
2. The EEO Officer or HR Director/Designee will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

Appeals

Applicants or employees who are dissatisfied with the decision(s) pertaining to his/her accommodation request may file a grievance in accordance with the North Carolina State Government employee grievance policy within 15 calendar days of receiving the decision. Applicants or employees may also elect to file a grievance directly with the Equal Employment Opportunity Commission (EEOC). Individuals who file a grievance directly with the EEOC may not, however, file a contested case with the Office of Administrative Hearing if the internal process has not been completed.

NOTE: This policy is intended to provide steps for consistent application of the reasonable accommodation process throughout the state workforce. Prohibitions on disability discrimination are included in the existing Equal Employment Opportunity policy of the state.

**SUMMARY OF CHANGES
REASONABLE ACCOMMODATION**

11-1-06

New policy to assist agencies and employees in requesting and processing reasonable accommodation requests and to assure compliance with the ADA.

10-6-16

- Updated the policy to include the amendment to the Americans with Disabilities Act, which is indicated as the “Americans with Disabilities Act Amendments Act.”
- Updated the appeal process. Removed language that the decision could be appealed directly to the State Personnel Commission by filing a petition for a contested case with the Office of Administrative Hearings.
- Added language that a grievance may be filed within 15 calendar days of receiving the decision from the agency. The new language is aligned with the current North Carolina State Government Employee Grievance Policy (eff. 12-3-2015).