



Reasonable Accommodation And Return To Work

Adopted 1990
Revised 11/94, 06/98, 06/05
March 2006

Human Resources

Administrative Procedure P90-1

Page 1 of 6

1.0 Reasonable Accommodation Objective and Responsibilities

Columbia Basin College (CBC), being aware of its obligations under Executive Order 96-04, Chapter 49.60 RCW, other state guidelines, the American's with Disabilities Act of 1990 (hereafter referred to as the "ADA"), Board Of Trustee (BOT) Policies, and negotiated collective bargaining agreement has prepared this reasonable accommodation policy and supporting procedures 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 Act's intent, beyond what is provided in CBC policy and procedure. The President has been delegated authority for implementation of Board Policy and the Vice President of Human Resources and Legal Affairs has been given the responsibility for CBC compliance.

- 1.1 The Vice President of Human Resources and Legal Affairs is responsible for coordinating CBC efforts toward compliance with Title I of the Act. Title I prohibits the discrimination of a qualified person with a disability in any condition or aspect of employment.
- 1.2 This policy affects all employees and candidates for employment with CBC. Persons with disabilities have the right to request and receive reasonable accommodation in all aspects of employment.
- 1.3 The Vice President of Administration is responsible for coordinating CBC efforts toward compliance with Title II of the Act. Title II prohibits discrimination in the form of facility and service accessibility.

2.0 Definitions

- 2.1 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 show that he or she has a sensory, medical, or physical abnormality and such abnormality has a substantially limiting effect upon his/her ability to perform a job.
- 2.2 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.
- 2.3 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.
- 2.4 Essential Function(s): A function(s) of a particular job which, if removed, would fundamentally change the job.

- 2.5 Reasonable Accommodation(s): Modification or adjustment 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'.
- 2.6 Direct Threat: A significant risk of substantial harm that cannot be eliminated or reduced to an acceptable level by a reasonable accommodation.
- 2.7 Undue Hardship: When an accommodation for an employee with a disability, taking into account CBC's overall resources, would be unduly costly, expensive, substantial, and disruptive or fundamentally alter the nature or operation of the department or institution.
- 2.8 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.
- 2.9 Health Care Professional: 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.
- 2.10 Grievance: A disagreement between CBC and an employee, group of employees, or member of the general public concerning the interpretation, application, or perceived violation of the Act and/or this procedure.
- 2.11 Interactive Process: Good faith effort by both CBC and a qualified individual with a disability seeking reasonable accommodation to engage in discussion and exchange information and ideas necessary to administrate this procedure.

3.0 Accommodation Requests

All requests for accommodation must be made to the Vice President of Human Resources and Legal Affairs or his/her designee, either verbally or in writing, at the following address:

Corey Osborn
MS-A2
2600 North 20th Avenue
Pasco, WA 99301
(509) 547-0511, ext. 2749

- 3.1 When an applicant or employee makes a request for a reasonable accommodation, and the disability is not readily apparent and has not been previously documented, CBC may request that the applicant or employee provide verification from a health care professional that she or he has the disability as claimed and that it has the effect of necessitating the reasonable accommodation requested. CBC 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 employee's claims, except that CBC may also request that the health care professional suggest possible effective alternative accommodations.
- 3.2 Upon receiving a reasonable accommodation request, the College 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.

- 3.3 The College shall consult with the employee, and may consult with other knowledgeable sources, to identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
- 3.4 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 may select the accommodation to be provided.
- 3.5 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, she or he will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.
- 3.6 When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, CBC shall attempt to accommodate the employee through reassignment to another vacant position, at the same pay range or lower, for which she or he is qualified. The employee is responsible for providing current information showing skills, abilities, training, and experience; identifying the types of jobs she or he is interested in and qualified for; and applying for vacant positions. CBC is responsible for informing the employee of these responsibilities.
- 3.7 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.

4.0 Identification of Essential Functions

Job descriptions are the preferred document for identifying the essential functions of a position. Essential functions are included in job descriptions or advertisements and only persons who can perform such essential functions are qualified to perform the job.

- 4.1 Job descriptions are maintained as described in CBC's Classification Procedure. A working conditions analysis will also be conducted in conjunction with a position analysis to analyze a position's working conditions. It is CBC's contention that accurately analyzing the working conditions of every current position all at once would be extremely time-consuming and may be unduly cumbersome. Therefore, CBC will analyze the working conditions of a position when requested in a reallocation or when a position becomes vacant or as otherwise directed by CBC's Classification Procedure.
- 4.2 In consultation with others, part of CBC's Personnel Selection Procedure will continue to require that individuals meet skill, experience, education, and other job-related requirements for any position. CBC's classification system will also be reviewed on an on-going basis and revised as necessary to ensure that all relevant qualification standards and competencies will be re-examined periodically to ensure job-relatedness and compliance.

5.0 Application Process

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.

- 5.1 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, bulletins and recruitment efforts.
- 5.2 Timeliness of response is essential in providing equal opportunity. Ability to provide the requested and appropriate accommodation by the scheduled application/selection process date shall be

justification, at the Vice President of Human Resources and Legal Affairs discretion, for extension of application and other deadlines.

6.0 Employment Tests

The ADA requires employment tests that do not screen out an individual with a disability or a class of such individuals on the basis of a disability unless it is job-related and consistent with business necessity. The ADA also requires that tests given to people who have impaired sensory, speaking, or manual skills be given in a format and manner that does not require use of the impaired skill, unless the test is designed to measure that skill.

- 6.1 The Vice President of Human Resources and Legal Affairs or his/her designee has reviewed, and will continue to review on an on-going basis, all selection criteria to ensure continued compliance.
- 6.2 CBC will continue, as is allowed under the ADA, to 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).
- 6.3 If an accommodation is determined to be reasonable and will eliminate or reduce the risk to an acceptable level, CBC will provide that accommodation. Requesting an accommodation is the full responsibility of the person seeking it and CBC reserves the right to provide the accommodation that it determines most effectively accommodates the individual's disability, given the specific situation.
- 6.4 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.

7.0 Employee Accommodation Procedures

All requests for reasonable accommodation will be reviewed and evaluated, based upon the ADA's definitions of 'reasonable', 'direct threat' and 'undue hardship' to determine whether or not a request can be granted. CBC will interactively engage with the employee and/or the employee's treating physician/health care provider to determine needs, options and factors.

- 7.1 When an employee cannot be reasonably accommodated in his or her current job, CBC will endeavor to transfer the employee to any vacant position for which he or she is qualified and can perform, with or without accommodation. This reassignment is noncompetitive and limited to lateral transfers or voluntary demotions. The ADA does not require, and CBC will not ensure promotion or creation of a position as a form of accommodation.
- 7.2 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, she or he will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.

8.0 Training of Managers, Supervisors, and Others as Needed

Managers and supervisors will receive periodic training related to their responsibilities under this policy and procedure. Additionally, this subject is being incorporated into general employee harassment/discrimination training, which will emphasize general awareness of Federal/State laws and Board Policy as well as reporting procedures related to complaints. CBC is committed to proactively raising these subjects and building an employee awareness of policy, procedure and complaint processes.

- 8.1 Students are made aware through campus-based programs administered by student services programs and are not covered by this procedure or guideline.

9.0 Confidentiality

All information regarding the presence, or nature of an employee's or 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.

- 9.1 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 effect an employee's work or is otherwise work related. The Human Resources Office 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 consistent with the individual's right to medical privacy.

10.0 Temporary Disability Determination

Temporary disabilities are not covered by the ADA, but are covered under Washington's Law Against Discrimination (Chapter 49.60 RCW). Under the ADA, the inquiry is whether the employee has an impairment that substantially limits major life activity. Under the WLAD, the inquiry is whether the employee has an impairment that substantially limits one's ability to perform his/her work; thus temporary disabilities are included. The Human Resources Office, in consultation with appropriate resources, is charged with making determinations regarding temporary disabilities on a case-by-case basis.

- 10.1 CBC seeks to temporarily accommodate employees in a manner which keeps them productive, orientated to the workplace, and maintain needed skills. To this end, CBC considers all requests or inquires very seriously and actively engages with the employee in analyzing the need for, and when necessary, proper application of modified duty assignment.
- 10.2 Modified duty assignments may be utilized up to 45 calendar days and may be re-certified for an additional 45 calendar days if necessary. A modified duty assignment cannot extend beyond 90 calendar days. For certain situations, CBC may transfer an employee temporarily, at the employee's 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.
- 10.3 CBC 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, estimate of the expected schedule and duration of the leave. The Medical Certification form is maintained in Human Resources.

11.0 Return from a Medical Leave

When an employee returns from a medical leave, the employee is required to provide a doctor's note stating she or he is fit for duty. If the employee's doctor believes the employee may return to work but with limitations/restrictions, the limitations/restrictions must be noted with the expected schedule and duration of the restrictions. When an employee returns to work with restrictions, temporary modified duties must be written out, reviewed, and signed by both supervisor and employee to ensure that both are aware of the temporary accommodations. This form is then routed to Human Resources for review and approval to ensure the temporary modified duties do not violate the doctor's restrictions or any applicable law, rule or

regulation. In cases of continued medical treatment, the employee will make a reasonable effort to schedule the treatment so as not to unduly disrupt the department's operations.

12.0 Complaint/Grievance Procedure

It is the intent of CBC to internally review and resolve all ADA-related grievances or complaints made by or on behalf of the complainant. The goal of this policy is to provide for the resolution of grievances or complaints at a level that will allow for the least disruption of CBC functions or services. This procedure will function independently of any other resolution method appropriately sought by the grieving party; however, CBC encourages all parties to utilize this procedure prior to seeking resolution through any other administrative sources. The Vice President of Human Resources and Legal Affairs or his/her designee will coordinate compliance efforts and is assigned to investigate complaints. Grievances or complaints should be documented on CBC's Harassment/Discrimination Incident Notification form and sent to:

Corey Osborn
MS-A2
2600 North 20th Avenue
Pasco, WA 99301
(509) 547-0511, ext. 2749

A grievance/complaint may be filed either verbally or in writing. In either case, the grievance must identify the name and address of the person filing it and should briefly describe the alleged violation of CBC policy or the Disability Act(s).

- 12.1 Filing a Complaint: Any employee or student who believes she or he has been subject to harassment/discrimination has the right to file a complaint. Any supervisor or administrator is authorized to accept or take a complaint. If the complainant does not feel comfortable with filing a written complaint, every effort will be made to take the complaint verbally. The supervisor/administrator will then document the verbal complaint on the Incident Notification Form and route to the Vice President of Human Resources and Legal Affairs.
- 12.2 Complaint Consideration: Although isolated incidents of harassment and discrimination may not violate federal or state law, such complaints will be taken seriously and considered under this procedure.
- 12.3 Complaint Investigation: The Human Resources Office is solely authorized to receive complaints of harassment and discrimination and to investigate them for CBC. All complaints, regardless of the perceived merit or basis, are to be forwarded to the Human Resources Office for review and processing, without exception.