

# POLICY: REASONABLE ACCOMMODATIONS POLICY AND PROCEDURES

University Policy: Human Resources

## I. Policy Statement

It is the policy of The University of Wisconsin-Parkside to provide reasonable accommodations for qualified disabled individuals who are employees or applicants for employment. UW-Parkside will adhere to all applicable federal and state laws, regulations and guidelines with respect to providing reasonable accommodations as required to afford equal employment opportunity to qualified disabled individuals. If you have questions regarding this policy, contact the Human Resources Office, Talent Hall, 900 Wood Road, Kenosha, 262.595.2204

## II. Definitions

**ADA Coordinator:** The UW-Parkside Human Resource Office will designate a qualified person to be the ADA Coordinator for the institution.

**Disabled individual:** A disabled individual means an individual who:

- has a physical or mental impairment that substantially limits one or more of the major life activities of such an individual;
- has a record of such an impairment; or
- is regarded as having such impairment

**Essential Function:** A job function is essential if removal of that function would fundamentally change the job, the position exists to perform that function, the function is highly specialized, or there are a limited number of employees who can perform that function.

**Major Life Activities:** This includes, but is 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. A major life activity 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

**Physical or mental impairment:** is (a) a physiological disorder or condition, cosmetic disfigurement, or anatomical loss including but not limited to epilepsy, paralysis, HIV infection, AIDS, or substantial hearing or vision impairment or (b) a mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. Examples of conditions that would not be disabilities are short-term, non-chronic conditions such as a broken leg, a sprain or the flu. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

**Qualified disabled individual:** A person who with a disability who satisfies the requisite skills, experience, education, and other job-related requirements of the job he/she seeks to hold, and who, with or without a reasonable accommodation, can perform the essential functions of the position.

**Reasonable accommodation:** A reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation may include but

is not limited to, making facilities accessible, adjusting work schedules, restructuring jobs, providing assisting devices or equipment, and modifying work sites. A leave of absence may also be considered where necessary, in conjunction with the Federal and state family medical leave policy and UW sick leave policy.

### **III. Procedures to Request Accommodations**

#### **A. Applicants for Employment**

1. Applicants who may need an accommodation for a disability to participate in the selection process should contact the Human Resources Office.
2. The following paragraph will be added to all job postings:  
"It is the policy of UW-Parkside to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. If you need assistance or accommodations at any stage of the recruitment process because of a disability, please let us know. Employment opportunities will not be denied to anyone because of the need to make reasonable accommodations to a person's disability."

#### **B. Employees**

1. Employees are responsible for initiating requests for any desired disability related workplace accommodation, unless the need for the accommodation is obvious
2. All requests for reasonable accommodations must be in writing using the HR Ticket in BP logix. Employees can reach out to HR (262)595-2204 if they have difficulty accessing the form.
3. If the disability and/or the need for accommodation is not obvious, an ADA Accommodation Medical Certification form is required to be completed and faxed to HR by the employee's medical provider to HR fax: 262-595-2693.
4. The completed form goes to HR.
5. Additional information may be requested as part of the interactive process.
6. Refusal by an employee to provide additional information when requested amounts to refusal to engage in the interactive process. In such cases the request for accommodation may be denied.
7. The employee will be informed of the agency decision regarding the accommodation request within 20 working days of receiving all required documentation and any additional information requested. If the 20-day limit cannot be met, the AAO will meet with the employee to agree on a reasonable time limit. The employee will be informed in writing of the decision regarding the accommodation.

#### **C. Interactive Process**

The interactive process through which the employee provides any necessary medical documentation and the employer works with the employee to decide upon what accommodation is reasonable will occur between the Human Resources Office and the employee who is seeking the accommodation. The interactive process may include any or all of the following:

1. Meet with the employee to get more information concerning the request.
2. Consult with the supervisor to determine the essential functions of the job.
3. Consult with the reasonable accommodation's specialist in the State Division of Affirmative Action.
4. d)With the employee's permission, consult with any medical or rehabilitation specialists who may be working with the individual.
5. Consultation with other offices (such as CIT for technological solutions) will be made as necessary within the confidentiality requirements of the regulations.

## **D. Supervisor Responsibility**

Supervisors are responsible for notifying the Human Resources Office of any employee accommodation or request for accommodation brought to their attention. Accommodations should be provided in consultation with the Human Resources Office.

Once a reasonable accommodation has been agreed upon as noted in section C above, supervisors are responsible for implementing the reasonable accommodation. Supervisors have the responsibility to keep the request confidential except as necessary for the accommodation.

## **E. When a Reasonable Accommodation is not Required:**

The University is not required to provide a reasonable accommodation if it would impose undue hardship on the employer. Undue hardship refers to any accommodation that would be unduly costly, expensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the business. Employers are not required to provide reasonable accommodations to employees who are solely regarded as disabled and are not actually disabled.

The University is not required to employ an individual who poses a significant risk of harm to the health or safety of self or others and who cannot perform the job at a safe level even with reasonable accommodation. In determining whether an individual poses a significant risk of harm, the employer must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or the best available objective evidence, to ascertain:

- the nature, duration, and severity of the risk;
- the imminence of the risk;
- the probability that the potential injury will actually occur; and
- whether reasonable modification of policies, practices, or procedures will mitigate the risk.

The Human Resources Office will consult with legal counsel before denying a reasonable accommodation.

## **F. Recordkeeping**

All employee and employment records must be kept for period of two years, as required by the ADA and the Rehabilitation Act. Centralized recordkeeping of requests for and implementation of reasonable accommodations should be kept in a confidential file in the Human Resources Office.

## **IV. Other Guidelines**

1. Factors that will be considered when determining reasonableness include:

- Are the job functions for which the accommodation is required essential to the overall performance of the job?
- Is the applicant or employee otherwise qualified to perform the essential job functions?
- Does the accommodation accomplish the desired result, i.e., allowing the individual to effectively perform the functions of the job?
- Is the cost of the accommodation feasible within the budget of the university?
- Are there other more cost-effective options that will allow the individual to perform the essential functions of the job?

2. **Purchase of Equipment:** As a general rule, UWP will purchase equipment only if it is determined that the use of the equipment is necessary in the transaction of the official business of the agency. The equipment may not be of a personal nature (e.g., eyeglasses, hearing aids, etc.) which the employee can reasonably be expected to provide. In determining whether the purchase of a device should be authorized, consideration will be given to how well the employee could perform the job without the equipment and whether the principal benefit will be better job performance by the employee.

NOTE: Devices may also be available from other sources. The State Division of Vocational Rehabilitation can provide funds or equipment in some instances. Community organizations and service clubs also sponsor the purchase of equipment, as do some foundations and insurance companies working with individuals disabled as a result of an on-the-job injury or personal injury.

3. Employees will be given an opportunity to provide or arrange for their own accommodations; for example, using volunteer drivers or readers, or providing their own adaptive equipment. However, the procedures in these policies must be followed (written request, approval, etc.) even if employees provide or arrange their own accommodations. This gives documentation of accommodations and ensures that the accommodations are not disruptive to the workplace.
4. If an employee of UWP acquires a disability and the University is not able to make reasonable accommodations which will allow the individual to continue his or her current position, the University will explore possibilities for placement in other positions at UWP. The movement to another position may be a transfer, a demotion, or change to part-time employment, and must be made in accordance with applicable collective bargaining agreements, Chapter 230 of state statutes, and Administrative Rules for Chapter 230.

NOTE: Under the Federal Rehabilitation Act, accommodation is only required to permit an individual to perform his or her particular job. Recent court decisions indicate that under the Wisconsin Fair Employment Act there is some responsibility to explore transfer possibilities. The extent of the responsibility has yet to be clearly developed by the courts, but the responsibility to look for alternative positions is clear in s. 230.37 (2), Stats.:

"When an employee becomes physically or mentally incapable of or unfit for the efficient and effective performance of the duties of his position by reason of infirmities due to age, disabilities, or otherwise, the appointing authority shall either transfer the employee to a position which requires less arduous duties, if necessary demote the employee, place the employee on a part-time basis and at a part-time rate of pay or, as a last resort, dismiss the employee from service. The appointing authority may require the employee to submit a medical or physical examination to determine fitness to continue in service . . ."

5. After accommodations are provided, the employee and his/her supervisor need to evaluate the effectiveness of the accommodation. If modifications to the accommodations are needed, they should be requested using the procedures outlined in this policy.

## **V. The Appeal Process**

If an employee disagrees with a decision regarding an accommodation request, s/he have a right to appeal the decision

1. When an accommodation request is denied, an employee may, within 30 calendar days, appeal the decision to the Chief Human Resources Officer or designee. The appeal must be in writing, stating the reason for the disagreement.
2. The Chief Human Resources Officer or designee will:

- Re-evaluate the decision, considering any additional information from medical or vocational rehabilitation experts).
  - May consult with staff from outside agencies (e.g., DER/DAA, DHSS/DVR, or DOA 504 Coordinator) in the appeal process - taking care to provide confidentiality for the employee.
  - Discuss all information regarding the appeal with the Chancellor. The Chancellor makes the final decision regarding the appeal.
3. The employee will receive in writing the final decision regarding the appeal within 30 calendar days after the appeal was filed.

## VI. Technical Assistance Resources

1. WI Division of Vocational Rehabilitation Field Office Supervisors or Placement Coordinators, 608-266-3655 (TDD 608-267-7772) (East), or 608-266-4551 (TDD 608-267-2090) (West).
2. Easter Seal Society of Wisconsin (Access Wisconsin). Assistance regarding persons with physical disabilities, 608-257-3411.
3. Job Accommodation Network (JAN), a computerized database of accommodation information which relates directly to job situations, 1-800-526-7234.
4. Director, Technical Assistance; Federal Department of Health and Human Services, 300 Wacker Drive, Chicago, IL 60606, 312-353-5160.
5. State of Wisconsin Disabilities Rights Coordinator, 608-267-0509.
6. Disabilities and Business Technical Assistance Center (ADA), 1-800-949-4232.

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