

Reasonable Accommodations for Employees with Disabilities

I. Introduction

It is the policy of Goucher College to provide reasonable accommodations upon request for qualified individuals with a disability who are employees or applicants for employment. Goucher will adhere to all applicable federal and local laws, regulations, and guidelines with respect to providing reasonable accommodations in order to provide equal employment opportunity to qualified individuals with a disability.

II. Definitions

Disability: Disability means, with respect to an individual:

- A physical or mental impairment that substantially limits one or more of the major life activities of such an individual;
- A record of having such an impairment; or
- Being regarded as having such impairment.

Essential Function: The term “essential function” means the fundamental job duties of the employment position the individual with a disability holds or desires. A job function is essential if the position exists to perform that job 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:

(i) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working;

(ii) The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Physical or mental impairment is:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine;

(2) Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Qualified The term “qualified,” with respect to an individual with a disability, means that the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation: A reasonable accommodation is any modification or adjustment to a job or to the work environment that will enable a qualified applicant or employee with a disability to participate in the application process, to perform essential job functions, and to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Reasonable accommodations do not include the elimination of a primary job function, the provision of personal use items, such as a wheelchair, hearing aid or similar device, or the excuse of violations of uniformly applied conduct rules that are job-related and consistent with business necessity. Reasonable accommodations may include but are not limited to: making facilities accessible, adjusting work schedules, restructuring jobs, reallocating or redistributing non-essential, marginal job functions, providing assistive devices or equipment, and modifying work sites.

Substantially limits means substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting.

- An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability;
- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and
- The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment, or appliances, low-vision devices (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, and oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or “auxiliary aids or services;” learned behavioral or adaptive neurological modifications; or psychotherapy, behavioral therapy, or physical therapy.

III. Policy and Procedure

A. Designated Campus Contact for Accommodation Requests

The Department of Human Resources is responsible for working with applicants for employment and employees who have requested or are in need of accommodations and shall have sole authority to approve workplace accommodations. For example, Human Resources will evaluate completed medical forms and may follow up with the health care provider for clarification and additional information, if necessary.

B. The Accommodation Process

1. Employee or Applicant Request for Accommodation

Employees are responsible for initiating requests for any desired disability-related workplace accommodation. An employee should make a request for a reasonable accommodation by submitting a **Disability Accommodation Request Form** to Human Resources. The employee making the request is required to cooperate throughout the process by attending meetings to discuss the needed accommodation and providing timely medical documentation when necessary. The employee may be asked to have his/her doctor complete a **Documentation of Disability Form** and return the form to Human Resources.

Human Resources can also act to provide a reasonable accommodation to an employee with a known disability based on an oral request. In these cases, however, the Disability Accommodation Request form should be submitted for recordkeeping purposes.

Applicants for employment who may need an accommodation for a disability to participate in the selection process should contact the Department of Human Resources. Any information that applicants provide will be treated confidentially, maintained separately from application materials, and used only in accordance with the Americans with Disabilities Act.

Supervisors are responsible for notifying Human Resources of any request for accommodation brought to their attention. If the employee has not requested an accommodation and the supervisor believes that the employee may need an accommodation, the supervisor should provide this information to Human Resources. Supervisors are not authorized to grant or deny accommodation requests.

2. Interactive Process

Upon receipt of the employee's request for accommodation and medical information, or information from a supervisor that an employee may need an accommodation, Human Resources will engage in an interactive process with the employee in order to determine a reasonable accommodation. Human Resources may consult with other offices (such as IT for technological solutions) as necessary. In addition, Human Resources may require an individual to go to an appropriate health professional of Goucher's choice if Human Resources determines, in its sole discretion, that the employee has provided insufficient information from his/her treating physician (or other health care professional) to substantiate that s/he has an ADA disability and needs a reasonable accommodation.

What constitutes a reasonable accommodation will be determined on a case by case basis, utilizing input from the affected employee whenever possible. Human Resources is responsible for documenting all reasonable accommodations and will ask the employee to sign documentation of the final agreed-upon accommodation.

3. Implementation of Accommodation

Once a reasonable accommodation has been agreed upon between the employee and Human Resources as noted above, supervisors are responsible for implementing the reasonable accommodation. Supervisors have the responsibility to keep the request

confidential except as necessary for implementing the accommodation. Supervisors are also responsible for monitoring the effectiveness of the accommodation, in consultation with the employee and Human Resources.

4. Denial of Accommodation Request

The college is not required to provide a reasonable accommodation if (i) providing the accommodation would impose undue hardship to the college; (ii) performance of the job with the accommodation poses a significant risk of substantial harm to the health or safety of the employee or others; or (iii) the employee is not actually disabled and does not have a record of having a disability.

a. Undue hardship

An accommodation would create an undue hardship to the college if providing the accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the college's operations.

b. Risk of Substantial Harm

In determining whether an individual poses a significant risk of substantial harm to himself or others, Goucher will 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.

c. The employee is not actually disabled and does not have a record of having a disability

An individual is entitled to an accommodation under the ADAAA only if the individual has an actual disability or has a record of having a disability. S/he is not entitled to accommodation if s/he has an impairment that is transitory and minor.

Human Resources will consult with the Office of General Counsel before denying a reasonable accommodation.

5. Appeal to ADA Appeals Committee

The ADA Appeals Committee shall consist of three individuals. One member shall be the Vice President for Government and Community Relations, who is also co-chair of the ADA Advisory Council. Two other members and one alternate member, to include at least one faculty member and one staff member, shall be appointed for two-year terms by the president of the college. At least one of the individuals appointed should be a full-

time 12-month employee and preference shall be given to individuals who are members of the ADA Advisory Council. The alternate member shall serve on the committee when one of the appointed members is unavailable or must be recused from a particular case due to conflict of interest.

The employee may appeal the decision of Human Resources denying an accommodation requested by the employee if the denial is based on undue hardship or substantial harm. The employee may not appeal the decision if it is based on the determination that the employee is not actually disabled or does not have a record of a disability. The appeal shall be in writing and shall be delivered to the Vice President for Government and Community Relations within seven (7) working days of the date the decision of Human Resources is communicated to the employee.

The Committee shall meet with such parties as it deems necessary to make a fair and equitable decision and shall consult with other individuals on campus, in a confidential fashion, as the Committee deems necessary. The Committee shall render its decision in writing within seven (7) working days of the receipt of the appeal. All committee decisions shall be made by majority vote.

The decision of the Committee shall be final.

C. Recordkeeping

All employee and employment records must be kept for a period of two years, as required by the ADA. These records shall be maintained separately from the employee's personnel file in a confidential manner.

IV. Non-Retaliation

No person who has requested a workplace accommodation shall be subject to intimidation, threats, coercion, or discrimination for requesting such accommodation. Complaints of such retaliation or interference may be filed and processed under the college's Non-Discrimination Policy.

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