

ACCOMMODATION OF EMPLOYEES WITH DISABILITIES

POLICY

Northern Virginia Community College is committed to providing equal employment opportunities for persons with disabilities. NOVA provides reasonable accommodations to qualified employees with disabilities in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

The College has procedures for responding to requests for workplace accommodations that allow the College to process requests in a prompt, fair and efficient manner. The procedures also provide guidance to employees with disabilities on how to request accommodations and what to expect.

DEFINITIONS

For purposes of this policy, the following definitions apply:

Disability:

1. Any physical or mental impairment that substantially limits one or more major life activities; or
2. Having a record of such an impairment; or
3. Being regarded as having such impairment.

Major life activities are defined as functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and experiencing leisure.

Substantially limits means when one is unable to perform a major life activity that the average person can perform; or when one is significantly restricted in the manner or duration under which one can perform a particular major life activity as compared to the average person.

Qualified individual with a disability is a person with a disability who meets the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job.

Essential functions are those job duties that are fundamental and central to the purpose of the position. NOVA provides reasonable accommodations to qualified employees with disabilities to allow the employees to accomplish the essential functions of their jobs, but never exempts employees with disabilities from having to perform the essential functions of their jobs.

A function may be essential if:

- The position exists to perform that function
- There are a limited number of employees available who could perform that function
- The function is highly specialized

Factors in determining whether a task is an essential function include:

- The employer's judgment;
- Position description written before the job was advertised and filled;
- Amount of time the employee spends performing the function;
- Functions performed by others in the same or similar job classifications;
- Work performed by current and past incumbents;
- Consequences if this position did not perform the function; and
- Number of available employees who could perform the function.

Marginal functions are useful job responsibilities that are not central to the purpose of the position. These functions can be reassigned without destroying the basic purpose of the position and other marginal duties may be assigned to balance out the workload.

Reasonable Accommodation means modifying or adjusting practices, procedures, policies, job duties, or the work environment so that a qualified individual with a disability can perform a position's essential functions, and/or enjoy equal employment opportunity. Reasonable accommodation will be implemented as long as it is medically necessary (i.e., there is competent medical evidence establishing a relationship between the disability and the need for accommodation), and it does not impose an undue hardship on the College.

Undue Hardship means, among other things, an excessively costly, extensive, substantial, or disruptive modification, or one that would fundamentally alter the nature or operation of the institution or program.

REQUESTING ACCOMMODATIONS

1. It is the responsibility of the individual with a disability to request a reasonable accommodation from the College and to provide documentation of the disability, if necessary. Requests for accommodation should be made as early as possible to allow time to assess the request and provide reasonable accommodation. Requests should be submitted to the ADA Coordinator.
2. Requests for accommodation should be in writing. When requesting an accommodation, the College strongly encourages the use of its **Accommodation Request Form**.
3. The ADA Coordinator will also accept requests in alternate written form where the complaint includes the following minimum information:
 - a. the condition and its duration;
 - b. the limitations caused by the condition and how those limitations impact the employee's performance of the essential functions of the job;
 - c. the accommodation the employee and/or the employee's medical professional believe will enable the employee to perform the essential functions of the job.

4. If both the disability and the need for the accommodation are obvious and the requested reasonable accommodation does not present an undue hardship, in order to eliminate unnecessary delay in providing the reasonable accommodation, the employee may make a request for reasonable accommodation to his or her supervisor. The supervisor may provide the reasonable accommodation after discussing the request with the employee. The supervisor should document in writing the request and the reasonable accommodation provided. The documentation should be forwarded to the ADA Coordinator.
5. When an individual's disability is not readily apparent, the disability has not been previously documented, and/or the reasonableness of an accommodation request is not obvious, the College will ask the employee to provide medical documentation of his or her disability.
6. The employee making the accommodation request is required, among other things, to cooperate throughout the accommodation process by attending meetings to discuss the employee's accommodation needs, timely provide current medical information, and provide documentation of skills, abilities, training, and/or work experience, as requested.

MEDICAL DOCUMENTATION

1. When the disability is not obvious, an employee who requests an accommodation will be asked to provide documentation from a physician or other qualified health care professional explaining the employee's functional limitations. The statement must be from a licensed practitioner (medical, clinical psychologist, etc.) who is qualified to make an assessment of the specific disability. Documentation must be current (no more than three years old).
2. The employee should provide the **Medical Professional's Documentation of Disability** to his/her medical provider along with a copy of the employee's EWP. The EWP may be obtained from the employee's supervisor or Human Resources.

The ADA Coordinator may accept alternative written documentation, provided it includes at a minimum the following information:

- a. the condition and its duration;
- b. the limitations caused by the condition;
- c. how it impacts the performance of the essential functions of the individual's job; and
- d. the accommodation the employee and/or the employee's doctor/medical professional believe will enable the employee to perform the essential functions of the job.

3. To the extent possible and in accordance with applicable laws and regulations, all information regarding the presence or nature of an individual's disability is treated as a confidential medical record and is maintained in a secure manner, apart from personnel files and with access restricted to designated personnel on a need to know basis.

ASSESSMENT AND INTERACTIVE PROCESS

1. The ADA Coordinator will review the medical documentation to determine whether or not the employee is a qualified individual with a disability.
2. If so, the ADA Coordinator will assess how the requested accommodation or alternative accommodations may allow the employee to perform the essential functions of the position. The ADA Coordinator may consult with the employee's supervisor and other knowledgeable sources as necessary.
3. The employee and ADA Coordinator are expected to engage in a cooperative and interactive process with the goal of reaching agreement on reasonable accommodations.
4. The ADA Coordinator will consider the requestor's preference. The final determination of appropriate accommodations rests with NOVA based on the review of all the provided documentation.
5. When accommodations are granted, the ADA Coordinator will complete the **Accommodation Worksheet Evaluation Form** to document the accommodations provided.
6. If the College determines that it is not possible to accommodate an employee in his/her current position and the employee can work at least half time or more, the College will attempt to place the employee in a vacant position that meets the following requirements:
 - a. The position has the comparable or lower salary range or grade as the current position;
 - b. The employee meets the position's minimum qualifications and special skill requirements; and,
 - c. The employee is able to perform the position's essential functions with or without accommodation.

The College is not required to create new positions, displace other employees, or offer a promotion as a form of accommodation. The position will normally be of the same type (e.g., regular, hourly, or student).

7. If an employee cannot be accommodated, including placement in an alternative position, the employee will be separated from College employment after the employee's entitlements under the Family and Medical Leave Act (FMLA), if any, are exhausted.

TIME LIMITS

1. Absent extenuating circumstances, requests for reasonable accommodations should be processed within fifteen (15) work days of receipt of the request and medical documentation by the ADA Coordinator.
2. If there is a delay in processing the request, the ADA Coordinator should notify the employee in writing of the date on which the ADA Coordinator expects the process to be completed.

PROVIDING ACCOMMODATION

1. In general, the costs associated with providing reasonable accommodation for employees comes from the regular operating budget for a given College department or program. Departments should consider that accommodations will be needed from time to time and should plan accordingly in their budget process.
2. The College may determine that providing an accommodation would cause undue hardship. The following criteria, although not an exhaustive list, may be considered in determining undue hardship:
 - a. The nature and net cost of the accommodation needed;
 - b. The overall resources and structure of the program involved, and the requested accommodation's impact on them;
 - c. The overall financial resources of the College with respect to the number of employees and the number, type, and location of its facilities; and
 - d. The impact of the accommodation on the operation of the program, including the impact on the ability of other employees to perform their duties and the impact on the College's ability to conduct business.
3. Before concluding that a particular accommodation would impose an undue hardship, the College will consider whether there are alternative accommodations that would not constitute an undue hardship.

REGULAR REVIEW AND CONTINUED ACCOMMODATION

1. Within 30 days after accommodations are granted, the ADA Coordinator will consult with the employee and supervisor to assess their effectiveness. The ADA Coordinator will document the result of the assessment on the **Accommodation Worksheet and Evaluation Form**.

2. The ADA Coordinator may conduct reviews of employee accommodations on an as needed basis to determine whether updated documentation is needed and whether accommodations remain appropriate and sufficient. Either the employee or the supervisor may request such a review.
3. Individuals with disabilities, whether or not receiving accommodations, are held to the same standards of conduct and job performance as other employees.

COMPLAINTS

1. An employee who believes he/she has been discriminated against on the basis of disability or that a request for reasonable accommodation has been unfairly denied, may file a complaint with the Equal Opportunity Officer or use the applicable faculty or staff grievance procedures to address the complaint.

September 26, 2016