

UNIVERSITY OF WISCONSIN-STOUT

DISABILITY ACCOMMODATION POLICY FOR EMPLOYEES

Policy No. 89-50

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1.0 STATEMENT OF POLICY

- 1.1 It is the policy of the University of Wisconsin-Stout (UW-Stout) to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment unless the accommodation will create an undue hardship or a danger or threat to the safety of the individual or others.
- 1.2 UW-Stout will adhere to all applicable federal and state laws, regulations, and guidelines with respect to reasonable accommodations in the workplace to provide equal employment opportunities to qualified individuals with disabilities.

2.0 DEFINITIONS

2.1 Disabled or Handicapped Individual:

2.1.1 State Law: The Wisconsin Fair Employment Act (s.111.32) defines a handicapped individual as an individual who:

- a. Has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work;
- b. Has a record of such an impairment; or
- c. Is perceived as having such an impairment.

2.1.2 Federal Law: The Americans with Disabilities Act of 1990 (42 U.S.C. 12102) and Section 504 of the Rehabilitation Act defines a disabled individual as an individual who:

- a. Has a mental or physical impairment which substantially limits one or more of such person's major life activities;
- b. Has a record of such impairment; or
- c. Is regarded as having such impairment.

2.2 Physical or mental impairment: A physiological disorder or condition, cosmetic disfigurement, or anatomical loss such as 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 bone, a sprain or a common cold. An impairment that is

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

- 2.3 Major life activities: The activity of 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.
- 2.4 Substantially limits: A material restriction of the duration, manner or condition under which an individual can perform a major life activity when compared to the average person's ability to perform that same major life activity. Temporary impairments that take significantly longer than normal to heal, long-term impairments, or potentially long-term impairments of indefinite duration may be disabilities if they are severe.
- 2.5 Record of such an impairment: An individual who has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities. Individuals who have been misclassified by a school or hospital as having mental retardation or a substantially limiting learning disability would be covered by this part of the definition of disability.
- 2.6 Is regarded as having an impairment: An individual who has an actual physical or mental impairment and the University is aware of such impairment, or an individual who the University perceives to have a physical or mental impairment (whether one exists or not).
- 2.7 Qualified employee with a disability: An individual who has a disability as defined by this policy and who has the experience, education, and/or training to enable him or her, with or without a reasonable accommodation, to perform the essential functions of the job.
- 2.8 Reasonable accommodation: A 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, perform the essential job functions and/or participate in the educational opportunities, programs and activities of the University. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.
- 2.9 Undue hardship: An accommodation that would be unduly costly, expensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the University's business.

2.10 Direct threat to health or safety: A condition, impairment or conduct that an employer has determined on the basis of legitimate and reasonable evidence that an individual's employment at UW-Stout poses a direct threat to the health or safety of the individual or others in the workplace. A determination of a direct threat may not be based solely upon speculation or unsubstantiated evidence.

3.0 REASONABLE ACCOMMODATIONS FOR APPLICANTS AND EMPLOYEES WITH A QUALIFIED DISABILITY

3.1 Qualified disability: In accordance with state and federal law, the University prohibits discrimination in employment against an individual with a qualified disability. In order to determine whether an individual has a disability that qualifies for protection under either state or federal law, the University shall evaluate an individual on a case-by-case basis. The definition of disability shall be construed in favor of broad coverage of individuals. If a qualified disability exists, an applicant or employee must be able to perform the essential functions of a position with or without a reasonable accommodation. What constitutes an appropriate accommodation will be determined on a case-by-case basis by the University, utilizing input from the affected applicant and/or employee whenever possible. The University is only required to accommodate a "known" disability of a qualified applicant or employee. Employing units/departments will provide reasonable accommodations in a timely manner.

3.2 Notification of Right to Reasonable Accommodation:

3.2.1 Applicants for employment:

3.2.1.1 All applicants who are invited for interviews will be informed of the University's policy to provide reasonable accommodations for applicants and employees with disabilities. Applicants will be notified that they may seek an accommodation(s) in order to participate in the application and interview process. The following paragraph will be added if a letter is used as part of the interview scheduling process: *"It is the policy of the University of Wisconsin-Stout to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. If you need assistance or accommodations to interview because of a disability (physical or mental impairment), please contact the Human Resources Office. Employment opportunities will not be denied to anyone because of the need to make reasonable accommodations to a person's disability."* If all interview arrangements are made by phone, this information will be given as part of the phone conversation.

3.2.1.2 If applicants are asked questions regarding their ability to perform required job duties, all applicants should be asked the same questions. Each question may be prefaced with a statement regarding the agency's willingness to provide

reasonable accommodations. Applicants may not be asked whether or not they have a disability.

3.2.1.3 If an applicant indicates during the interview process that he or she has a disability, follow-up questions regarding possible accommodations may be pursued.

3.2.1.4 Qualified applicants shall not be denied employment solely on the basis of a need to provide a reasonable accommodation. However, if an applicant who receives a tentative job offer cannot reasonably be accommodated, the offer must be rescinded.

3.2.1.5 Upon receipt of an offer of employment from the UW-Stout, a successful candidate for employment may seek an accommodation by completing and submitting the Disability Accommodation Request Form to the Affirmative Action Office.

3.2.2 Employees:

3.2.2.1 Individuals employed by UW-Stout shall be informed of their right to request a reasonable accommodation(s) in the following manner:

- a. By means of the Disability Self-Identification Survey Form included in their new hire packet provided by Human Resources.
- b. During the orientation for all new employees.

3.3 Request for Accommodation:

3.3.1 Request Form: An employee who seeks a reasonable accommodation shall complete a Disability Accommodation Request Form and submit to his or her direct supervisor, or designee. (Request for Accommodation procedures are described in Appendix A.)

However, if a supervisor becomes aware of a potential need for an accommodation by an employee, the supervisor may discuss the issue with the employee to determine whether a request for an accommodation may be appropriate. If so, the supervisor will work in conjunction with the AAO in accordance with this section.

3.4 Rendering a Decision: Upon a review of the request for an accommodation (along with supporting documentation) and conducting the interactive discussion with the applicant or employee, the AAO shall render a decision in the form of approving the requested accommodation, denying the request but offering an alternative accommodation, denying the request with no alternative accommodation or staying the decision until further information is obtained. The AAO shall notify the employee and his or her supervisor of the decision regarding the accommodation request within twenty (20) working days from the date of the original request, unless additional time is necessary and reasonable. The decision

shall be issued in writing by completing a Disability Accommodation Request Form and submitting a copy to the employee and his or her supervisor, as well as a copy to the appropriate dean and division administrator.

- 3.5 Outside Employment Opportunities: If a reasonable accommodation is not available and the employee will be subject to removal on the basis of such decision, the Human Resources Director/Affirmative Action Officer, or his/her designee, will assist the employee, upon request, in determining whether there are alternative and available employment opportunities at UW-Stout.
- 3.6 Periodic Review of Accommodation: If a reasonable accommodation is granted, the employee and his or her supervisor and/or the AAO shall meet on a periodic basis to review and evaluate the effectiveness of the accommodation. If modifications to the accommodation are required in order to remain reasonable and effective, such modification shall be processed in accordance with the procedures detailed herein above.
- 3.7 Confidentiality: The University shall make all efforts to maintain the confidentiality of an employee disability and/or accommodation, if granted. If inquiries occur in regard to an employee's disability or accommodation, the University or its officials shall refrain from discussing the issue in detail and in the alternative may respond by stating that the subject is a personnel matter and that the University's actions are necessary and reasonable.
- 3.8 Undue Hardship: The University is not legally required to provide an accommodation if such accommodation would impose undue hardship on the employer. In order to determine whether an accommodation will create an undue hardship on the University, the University may consider the size of the University, the impact on its operations and the impact on its financial resources. Even if an undue hardship is determined to exist, the University shall be responsible for providing a portion of the accommodation that would not cause an undue hardship if other funding sources will pay for the remainder of the accommodation.

4.0 THE APPEAL PROCESS

- 4.1 Written Request: An employee may appeal the Affirmative Action Officer's decision regarding an accommodation request by submitting a written request to the AAO within twenty (20) working days from the date the decision was rendered. The appeal must include the specific reason(s) why the employee believes the decision was improper. (Appendix B describes the Appeal Review Process.)
- 4.2 No Internal Appeal Right for Applicants: An applicant for employment shall not have an administrative appeal process in regard to an accommodation decision. However, a review may be sought under any applicable internal or external complaint process.

5.0 IMPLEMENTATION

The Affirmative Action Officer (AAO) has responsibility to coordinate the University's efforts to comply with and fulfill its responsibilities under Title II of the ADA and Section 504 and to investigate any complaints alleging the institution's non-compliance with Title II of the ADA and Section 504.

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APPENDIX A: REQUEST FOR ACCOMMODATION

1.0 REQUEST FORM:

- 1.1 The submitted Disability Accommodation Request Form shall be distributed to the pertinent individuals in the following manner:
 - a. Original to employee
 - b. Copy 1 to employee personnel file
 - c. Copy 2 to agency AAO confidential file

- 1.2 Interactive discussion: Upon receipt of the request, the supervisor shall review the nature of the request with the University's Affirmative Action Officer (AAO). Within a reasonable period of time, the supervisor and AAO shall offer to meet with the employee to engage in an interactive discussion in regard to the nature of the request, the qualifying disability, the essential functions of the position, how the accommodation will assist the employee in performing the essential functions of the job; and other alternative accommodations, if any.

- 1.3 Verification of disability and medical documentation: In order to adequately respond to a request for an accommodation, the AAO may request written verification from a treating physician or licensed health care provider which verifies the physical or mental impairment of the applicant or employee and its impact on his or her ability to perform the duties of the position. Factors that may be considered when deciding whether or not to require verification include, but are not limited to:
 - a. Is it general knowledge that the applicant or employee has a disability that would qualify for protection under state and federal law?
 - b. Does the applicant or employee have an observable qualifying disability?
 - c. Does the request seek to enhance or modify an existing accommodation or previously provided accommodation for which a verification was required? (For example: an employee with a seizure disorder who needs a driver due to recurring seizures which had previously been under control.)

The verification shall include written documentation from a treating physician or health care provider which discusses the diagnosed physical or mental impairment, the manner in which it substantially limits a major life activity, and the type of accommodation recommended in order to allow the applicant or employee to perform the essential functions of the job. The applicant or

employee shall be responsible for the cost of such verification by his or her treating physician or health care provider. If the University requires additional information from a third party or independent examiner, the University shall be responsible for such cost.

1.4 Additional information: If additional information is required in order to render a decision, the AAO may do any of the following:

- a. Meet with the employee and the supervisor to get more information concerning the request; or
- b. Consult with the supervisor and the Director of Human Resources to determine the essential functions of the job; or
- c. Consult with agency budget and purchasing specialists; or
- d. With the employee's permission, consult with any medical rehabilitation specialists who may be working with the individual.

1.5 Factors considered: The following factors may be considered in order to determine whether an accommodation is reasonable:

- a. Are the job functions for which the accommodation is required essential to the overall performance of the job?
- b. Is the applicant or employee otherwise qualified to perform the essential job functions?
- c. Does the accommodation accomplish the desired result, i.e., allowing the individual to effectively perform the essential functions of the job?
- d. Would a modification of certain job duties allow the applicant or employee to perform some of the job duties?
- e. Will the accommodation adversely affect the productivity or disrupt the work environment or other employees in the work unit?
- f. Is the cost of the accommodation feasible within the budget of the employing department/unit/university?
- g. Are there any other factors or evidence that may be relevant and pertinent to the employee's ability to perform the essential functions of a position?

1.6 Types of accommodations:

1.6.1 As determined on a case-by-case basis in accordance with this policy, one or more of the following types of accommodations may be applicable to a particular request as deemed reasonable by the University. *(Note: This list is non-exhaustive in nature and is not intended to provide an exact set of accommodations in each and every case. In addition, it may contain an accommodation that is not reasonable under certain circumstances.)*

- a. Providing reasonable access to the workplace;
- b. Adjusting work schedules or break periods;

- c. Restructuring job duties or functions;
- d. Transferring or reassigning an individual to a vacant position or job function that he or she is otherwise qualified to perform;
- e. Providing assisting devices or equipment (*Note: The University will purchase equipment or devices in order to provide a reasonable accommodation upon the determination that the use of the equipment is directly related to an employee's fulfillment of his or her duties and/or responsibilities. Equipment that is utilized for personal reasons outside of work are considered personal in nature and shall not be required as an accommodation, such as eyeglasses or hearing aids. In determining whether the purchase of equipment or a device should be authorized, the University will consider whether the principal benefit is for job performance and the fulfillment of essential functions of the job.*);
- f. Providing readers or interpreters;
- g. Modifying the work site;
- h. Authorizing a leave of absence for a set period of time;
- i. Authorizing self-initiated accommodations (*Note: Upon request, employees may provide or arrange for their own self-initiated accommodation (such as using volunteer drivers, readers, or adaptive equipment). Under such circumstances, the general procedures must be followed (written request, approval, etc.) in order to verify that the accommodation is necessary and reasonable in light of the job requirements and will not be disruptive to the workplace or operations.*).

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APPENDIX B: APPEAL REVIEW PROCESS

1.0 APPEAL PROCESS:

Within twenty (20) working days from the date the appeal was received, the AAO shall be responsible for conducting a review of the appeal and rendering a report and recommendation to the Chancellor, or his designee, in regard to the appeal.* Specifically, the AAO will review and consider all relevant information and factors used in rendering the decision (including any existing medical or vocational rehabilitation information or documentation, and any additional information or statements supplied by either the employee or the University). In addition to the above information, the AAO may consult with other University officials, staff members or individuals from outside agencies in his or her review of the appeal.

2.0 FINAL DECISION:

Within ten (10) working days from the date that the Chancellor, or his designee, receives the AAO's report and recommendation, the Chancellor, or his designee, shall review all relevant materials and render a final decision in writing as to whether the University's decision is affirmed, reversed in part, or reversed and remanded back to the University for further consideration.* This decision is final.

***The time frame for this review may be extended if circumstances warrant the need for additional time.**