

## **EMPLOYMENT OF THE DISABLED**

Chancellor's Office Policy

Effective: January 1, 2009

### **Applicability**

All Chancellor's Office unclassified employees and applicants for employment.

### **Policy**

- A. It is the policy of the Chancellor's Office to comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, and other applicable federal and state regulations that prohibit discrimination on the basis of disability.
- B. The Chancellor's Office makes employment-related decisions such as, but not limited to, hiring, promotion, demotion, transfer, termination, compensation, benefits, layoff, training, and performance evaluation based on an individual's qualifications to perform the essential functions of a position, with or without reasonable accommodation.
- C. Requests for reasonable accommodation (1) from applicants to ensure equal opportunity during the application process; or (2) from employees to enable the performance of duties; eliminate safety risks; or provide access to benefits of employment should be directed to the Human Resources Division. The Human Resources Division will evaluate the request in collaboration with management from the respective department or division, the Risk Manager, and other offices as appropriate. Requests for a reasonable accommodation will be evaluated on a case-by-case basis and may include factors such as, but not limited to, the following:
  - Documentation that supports the reasonable accommodation
  - Dialogue with the individual making the request
  - A determination of whether a proposed accommodation would cause the Chancellor's Office an undue hardship
  - A review of the position description and essential functions
  - An inspection of the work area or facility
- D. An applicant or employee may voluntarily request a specific accommodation, as soon as the need is known. The Chancellor's Office reserves the right to select the reasonable accommodation provided.
- E. An applicant who has concerns regarding the application of this policy during the hiring process may contact the Chancellor's Office Human Resources Division, however, an applicant does not have access to Chancellor's Office dispute resolution procedures. Chancellor's Office employees who have concerns have access to informal and formal procedures described in the Chancellor's Office Policy on Conduct Related to Discrimination and Harassment.

- F. Nothing in this policy prohibits an individual from filing a complaint in accordance with the regulations of the Oregon Bureau of Labor and Industries or the U.S. Equal Employment Opportunity Commission.

### **Additional References:**

Oregon Administrative Rules – Oregon State Board of Higher Education:

- 580-021-0006, Affirmative Action Goals: Employment
- 580-022-0050, Employment Discrimination

### **Employment of the Disabled Procedure**

The Chancellor's Office employment of the disabled procedure complies with the reasonable accommodation requirements of the Americans with Disabilities Act ("ADA") of 1990, and the ADA Amendments Act of 2008. Title I of the ADA prohibits discriminatory employment practices against qualified individuals and requires employers to make a reasonable accommodation unless it poses an undue hardship.

The Chancellor's Office will respond to a request for reasonable accommodation:

- when an applicant with a disability requests an accommodation in order to be considered for a job;
- when an employee with a disability needs an accommodation to enable the employee to perform the essential functions of the job, gain access to the workplace; and/or enjoy equal benefits and privileges of employment.

### **Definitions**

- **Qualified Individual** under the ADA is an individual with a disability who (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) can perform the essential functions of the position, with or without reasonable accommodation.
- **Disability** means, with respect to an individual a physical or mental impairment that substantially limits, without regard to the ameliorative effects of mitigating measures, one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.
- **Applicant** is an individual who is meets the minimum qualifications of a position; applied for the position; and was considered by the employer.
- **Reasonable accommodation** is any change in the work environment or in the way work is done that enables a qualified individual with a disability to perform the essential functions of the position; gain access to the workplace; and/or enjoy equal benefits and privileges of employment.
- **Essential Functions** are a position's primary and intrinsic duties for which the position exists. Duties that are marginal or merely incidental to job performance are not essential.

- **Undue hardship** is an action requiring significant difficulty or expense in, or resulting from, the provision of the accommodation.
- **A request for accommodation** is a statement that an individual needs an adjustment or change at work or in the application process. A request may be made orally or in writing to a supervisor or other manager, or a staff member in the Human Resources Division. The request may be made directly by the applicant or employee, or another individual on behalf of the applicant or employee. The employer may initiate the reasonable accommodation procedure if the employer knows the employee has a disability; knows that the employee is experiencing workplace problems because of the disability; and knows that the disability prevents the employee from requesting a reasonable accommodation. A request need not contain any reference to the ADA or use the phrase “reasonable accommodation.”

### **Requests for Accommodation**

- The accommodation procedure begins as soon as an applicant or employee makes a request for accommodation, or the Chancellor’s Office, as the employer, recognizes a need for accommodation.
- Staff in the Human Resources Division will coordinate the evaluation of the request with the respective Chancellor’s Division, and consult with personnel, as needed, in the Offices of Risk Management, Budget, Capital Construction & Planning, and Legal Counsel.
- Each request for accommodation will be evaluated individually.
- In evaluating a request for accommodation or recognition of a need for accommodation, a Chancellor’s Office representative and the employee or applicant will engage in an interactive dialogue about the need for accommodation and possible solution.
- Evaluation of the request may include some or all of the following:
  - a request for medical information or other documentation related to the disability and accommodation;
  - a review of the position description;
  - an inspection of the work area or facility;
  - a referral to a medical provider other than the applicant’s or employee’s;
  - a determination of whether a proposed accommodation would cause an undue hardship;
  - a determination if there is any direct threat to the individual’s safety or the safety of others;
  - consultation with state or local agencies;
  - if applicable, the impact of the accommodation on any collective bargaining agreement.
- Any medical information obtained in connection with the reasonable accommodation process will be kept confidential.
- A request for accommodation will be handled in a prompt, fair and efficient manner.
- While an applicant or employee may request a specific accommodation, the Chancellor’s Office has no obligation to grant the request if there are other reasonable accommodations that may be made.