

EMPLOYEE ADA

I. Purpose

Western Dakota Technical College (WDTC) recognizes and supports the standards set forth in Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the ADA Amendment Act of 2008 (ADAAA), and all state laws, which are designed to eliminate discrimination against qualified individuals with disabilities. WDTC's policy may provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment.

WDTC may reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to WDTC.

All employees are required to comply with the company's safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation.

The Human Resources Office is responsible for implementing this policy, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

II. General Statement of Policy

A. Eligibility

Any otherwise qualified employee or applicant may be eligible for reasonable accommodation under this policy. An otherwise qualified employee or applicant is an employee or applicant who meets the skill, experience, education, and other job-related requirements of the position they hold or seek, and who is able to perform the essential functions of the position with or without reasonable accommodation.

Individuals who are currently using illegal drugs or who are in violation of the College's Drug Free Schools and Communities policy are excluded from coverage under the company ADA policy.

B. Reasonable Accommodations

A reasonable accommodation is a modification or adjustment to the job application process and/or the position or work environment to enable an individual to be considered for the position sought, to perform the essential functions of the job, or to enjoy the benefits and privileges of employment substantially equal to those enjoyed by others without disabilities, unless an accommodation would cause undue hardship. Determination of undue hardship is assessed on a case-by-case basis.

There are three categories of reasonable accommodations:

1. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
2. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
3. Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

There are accommodation requests that may not be considered forms of reasonable accommodation; including, but not limited to, eliminating an essential function, lowering production standards, providing personal use items needed in accomplishing daily activities both on and off the job or providing personal use amenities. Additionally, if the accommodation causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to WDTC the accommodation may be denied.

The ADAAA does not entitle a qualified individual with a disability to an accommodation of choice, but rather to an effective accommodation.

C. Roles and Responsibilities

1. Applicants: Provide timely notification when a reasonable accommodation is required for the job application process by contacting the Human Resources Office verbally or in writing.
2. Employees: Provide timely notification when a reasonable accommodation is required by initiating request for any desired disability workplace accommodation by contacting the Human Resources Office verbally or in writing.
3. Manager/Supervisor:

- a.) Immediately notify the Human Resources Office for any staff accommodation request brought to their attention.
 - b.) Implement any reasonable accommodation that is approved by the Human Resources Office.
 - c.) Keep the accommodation request confidential.
 - d.) Ensure all interactions with the requesting individual cannot be construed as discrimination or retaliation.
4. Human Resources Office:
- a.) Inform applicants and employees of disability accommodation request process.
 - b.) Meet the employee and conduct an interactive discussion regarding disability and/or requested accommodation.
 - c.) Coordinate requests for reasonable disability accommodations.
 - d.) Involve appropriate offices for assistance in evaluating and fulfilling requests.
 - e.) Oversee the disability accommodation process for employment-related requests.
 - f.) Provide advice, guidance, and assistance in ADA accommodation requests, including determining what type of medical documentation is necessary.
 - g.) In consultation with employee, other appropriate offices, and other resources as needed, decide if requested accommodations are reasonable, appropriate, and effective.
 - h.) Oversee the implementation of the approved accommodation(s) and continue to monitor the effectiveness.

D. Request for Accommodations

The Human Resource Office is responsible for addressing the needs of qualified individuals with disabilities. Individuals with disabilities must provide Human Resources with a completed Request for Accommodations form. The form may be obtained through the Human Resources Office.

WDTTC may require medical-related documentation when considering a request for accommodation. If so, the Human Resources Office will provide the individual with an Employee Request for Accommodations Medical Inquiry form. In accordance with the requirements of the ADA, WDTTC will keep all such information confidential and preserve such information in separate confidential files.

Once the required forms are completed and submitted, the Human Resources Office shall review the request. Each disability accommodation request is reviewed on a case-by-case basis to honor the uniqueness of each circumstance. The accommodation process is intended to be a supportive and interactive dialogue between the individual and Human Resources. The goal is to identify and implement an accommodation(s) that reduce access barriers and enable employees to

successfully perform the duties associated with their position. The following will be considered:

- The nature/extent of the employee's limitations;
- Whether any major life functions are affected;
- The job functions the employee is having difficulty performing;
- The employment benefit that the employee is having difficulty accessing;
- The limitation/barrier(s) interfering with the employee's ability to perform the essential functions of their job;
- The specific accommodation being requested.

After the request is reviewed and the interactive process has occurred, the Human Resources Office will provide the employee with written notification of the determination within a reasonable period of time (generally within 7 business days). The complexity of an employee's situation, the nature of the request, or the need for additional information may necessitate additional time for a response.

E. Implementation of Approved Accommodation

If the accommodation is approved, the Human Resources Office will contact any other appropriate departments to engage in implementation and contact the employee to re-engage in the interactive process in which the employee will be provided with an estimated date of completion of the accommodation. Due to the variances in requested accommodations, the barriers which are being removed, and the limitations individuals experience due to a disability; the amount of time implementing an accommodation will vary. However, the College is committed to acting in an expeditious manner in carrying out this process.

Reasonable accommodation under the ADA is an ongoing process. At any point in time, the individual receiving the reasonable accommodation may request a reevaluation of their request from Human Resources. Human Resources will engage the individual in an interactive process to consider the reasonableness of any new requests and/or revisions to the initial requests.

F. Appeals and Complaints

If an individual disagrees with the accommodation decision made by Human Resources, they can reach out to WDTC's Compliance Officer, the VP for Institutional Effectiveness and Success, for a reevaluation of the request.

Individuals who believe that there is a violation of this policy or who believe they have been treated in a discriminatory manner may file a grievance pursuant to the College's grievance policy and procedures –Policy 9040 and 9040.Procedure.01.

Complaints may also be filed with the U.S. Department of Education's Office for Civil Rights at:

Office for Civil Rights (OCR), *South Dakota Regional Office*
One Petticoat Lane
1010 Walnut Street, Third Floor, Suite 320, Kansas City, MO 64106
Phone: (816)268-0550 FAX: (816)268-0599
TDD: (800)877-8339
Email: OCR.KansasCity@ed.gov Web: www.ed.gov/ocr

Complaints may be filed online, using the form available, at
www.ed.gov/ocr/complaintintro.html.

III. Definitions

- A. "Disability" means an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
- B. "Major Life Activities" mean basic activities that the average person in the general population can perform with little or no difficulty such as 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, working, and major bodily functions, such as 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.
- C. "Interactive Process" means the method by which an employee and employer explore whether reasonable accommodations can enable the employee to perform the essential functions of a position. The interactive process should involve open dialogue that allows full participation by both employer and employee.
- D. "Qualified Individual" means an individual who 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.
- E. "Undue Hardship" means significant difficulty or expense with focuses on the resources and circumstances in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to

reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business.

IV. Reporting Procedures – None

V. Dissemination of Policy and Training

- A. This policy shall appear on the WDTC website on the policy page.
- B. The College shall train employees when hired.

Legal References: Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the ADA Amendment Act of 2008 (ADAAA)

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