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| <b>NUMBER:</b><br>3.17   | <b>POLICY/OPERATIONAL PROCEDURE NAME:</b><br>Accommodations for Employees with Disabilities  |
| <b>SPONSOR:</b><br>Angela Davis,<br>Special Assistant for Equity & Inclusion   | <b>CUSTODIAN:</b><br>Human Resources   |
| <b>EFFECTIVE DATE:</b><br>February 12, 2019  | <b>NEXT REVIEW DATE:</b><br>2019-2020  |
| <b>LOCATION:</b><br><a href="http://durhamtech.edu/policies-and-procedures/accommodations-employees">durhamtech.edu/policies-and-procedures/accommodations-employees</a> | <b>CITATION:</b><br><a href="#">Americans with Disabilities Act</a> ; <a href="#">Rehabilitation Act of 1973</a> ; <a href="#">Title VII of the Civil Rights Act of 1964</a> |

## POLICY STATEMENT

Durham Technical Community College provides reasonable and appropriate accommodations to qualifying individuals with a documented disability who are otherwise able to satisfy the requirements related to their status as employees at the College.

## PURPOSE

Durham Technical Community College (Durham Tech) provides **qualified individuals** with disability accommodations and services designed to create equal access to the many aspects of College employment. Employees have the opportunity to voluntarily self-identify with the College as having a disability or medical condition that may impact access to activities, programs, and services. The Americans with Disabilities Act (ADA) protects any current or prospective employee with a permanent, long-term, or chronic disability against discrimination because of a disability. This protection extends to all work-related (from the job application process through separation) activities and includes working conditions and benefits.

Employees with disabilities may request **reasonable accommodations** and achieve professional access through the effective use of accommodations and services. Through a process of individual planning, employees are encouraged to use their diverse abilities to succeed.

## PROCEDURE

This procedure guides employees through the reasonable accommodations process and the important steps that must be taken to ensure accommodations are documented, communicated, and provided in a timely fashion. This procedure attempts to provide equal opportunity for prospective and current employees with disabilities.

Durham Tech is committed to processing requests and providing reasonable accommodations, when appropriate, in a prompt and efficient manner in accordance with the timeframes set forth in the following procedures.

The College will provide reasonable accommodations to any qualified employee with a disability when the disability affects the performance of job functions. The College will attempt to reasonably accommodate qualified individuals with a temporary or long-term disability so that they can perform essential functions. However, in providing reasonable accommodations, the College shall not fundamentally alter the nature of programs, services, or activities; require waiver of essential job functions; violate accreditation requirements; or unnecessarily intrude on academic freedom.

Any employee who wishes to request a reasonable accommodation must notify Human Resources via confidential [email](#) (see *Confidentiality* section below) or in person (White (Building 1), room 1-160; 919-536-7244) so that an **interactive discussion** can begin about a proposed accommodation. Each request for a reasonable accommodation will be evaluated on a case-by-case basis.

### *Establishing Eligibility*

Durham Tech provides services to employees with disabilities including, but not limited to, attention deficit hyperactivity disorder, learning disabilities, psychological disorders, Autism Spectrum Disorder and other pervasive developmental disorders, blindness or low vision, deafness or hardness of hearing, mobility impairment, and chronic health issues.

Although pregnancy itself is not a disability, pregnant employees may have impairments related to their pregnancies (e.g., gestational diabetes, preeclampsia) that qualify as disabilities under the ADA and as covered under Title IX. An individual who requires pregnancy-related accommodations should contact Disability Services.

An employee who has requested a reasonable accommodation must provide current documentation (within the past five (5) years) from a **qualified health care professional**. The employee is responsible for any associated expenses, and the information provided must be sufficient to substantiate that he or she has a disability and requires the requested accommodation. The supporting documentation must accomplish the following:

- Establish that the employee has a disability;
- Describe and document the functional impact of the disability; and
- Assist Human Resources in establishing the need for and design of accommodations.

Documentation should be as descriptive as possible and should include the following information:

- A diagnostic statement identifying the disability, date of the most current diagnostic evaluation, and the date of the original diagnosis;
- A description of the diagnostic tests, methods, and/or criteria used;
- A description of the current functional impact of the disability which includes specific test results and the examiner's narrative interpretation;
- Treatment, medications, and/or assistive devices/services currently prescribed or in use;
- A description of the expected progression or stability of the impact of the disability over time, particularly during the employee's expected time at Durham Tech;
- Recommended accommodations/services (i.e., flexibility in hours/duties, specialized furniture/equipment) for the work environment; and
- The name, credentials, and license number of the diagnosing professional.

All documentation must be typed, signed by a qualified health care professional, submitted on the health care professional's letterhead, and include the date the documentation was completed. If the employee provides incomplete or inadequate documentation to substantiate his or her disability and/or the need for the requested reasonable accommodation, the College may, at its discretion, require the employee to provide additional information at his or her expense.

Documentation review may take as long as five (5) **working days**. To avoid a delay in receiving a requested accommodation, employees should submit their documentation as early as possible once the need for an accommodation is identified. Employees requiring major accommodations (e.g., accessible furniture, etc.) must submit their request at least six (6) weeks in advance.

The need for a reasonable accommodation may, and often does, change. Therefore, an employee who receives a reasonable accommodation may be required to establish his or her eligibility annually or more frequently, as appropriate.

#### *Reasonable Accommodations Request Process*

Step 1: To request a reasonable accommodation, an employee must complete a Disability Accommodations Request Form (attached below) and submit it to Human Resources. The employee must also provide documentation from a qualified health care professional demonstrating that he or she is eligible for reasonable accommodations. (See "Establishing Eligibility" above.)

Step 2: Human Resources will acknowledge the employee's request within three (3) working days. If the employee does not receive a response within three (3) working days, the employee should contact the ADA Coordinator (Educational Resources Center (Building 5), room 5-213; 919-536-7200, ext. 6002).

Step 3: Human Resources will review the request for reasonable accommodations (including supporting documentation and information). To the extent permitted by law, the College may consult with the employee's health care provider to evaluate the information provided in support of the request. Human Resources will provide the employee a status update within three (3) working days and will continue to update him or her until there is a resolution. Human Resources will determine what a reasonable accommodation is based on interactive discussions with the employee and the supervisor. The implementation of an accommodation may take up to six (6) weeks from the time the employee submits his or her request.

Step 4: After an accommodation is determined, Human Resources will follow up with the employee and the supervisor

as agreed upon during the interactive discussion to ensure the accommodation is meeting the needs of the employee and his or her department. If the accommodation is not meeting the employee's or department's needs, an additional interactive discussion will be scheduled.

If an employee's temporary accommodations need to be adjusted due to his or her condition becoming permanent, a new interactive discussion must be held. Reasonable temporary accommodations may not be reasonable or accommodable if the accommodations must become permanent; if the accommodations cannot reasonably be provided, the employee could be subject to job reassignment or dismissal from the College.

### *Service Animal Requests*

The ADA defines a service animal as any dog that is individually trained to do work or perform tasks for the benefit of an **individual with a disability**, including physical, sensory, psychiatric, intellectual, or other mental disabilities. Other species of animals, with the exception of miniature horses, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The College complies with all US Department of Justice regulations regarding miniature horses.

Generally, therapy animals, support animals, and companion animals, which provide comfort and/or companionship, are not service animals and are not afforded the same privileges in public places. The ADA and the state of North Carolina generally do not recognize therapy dogs, emotional support dogs, and companion dogs as service animals.

The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, the following:

- Assisting individuals who are blind or have low vision with navigation and other tasks;
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds;
- Alerting individuals of dangerous changes in blood glucose levels;
- Providing non-violent protection or rescue work;
- Pulling a wheelchair;
- Assisting an individual during a seizure;
- Alerting individuals to the presence of allergens;
- Retrieving items such as medicine or the telephone;
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities; and
- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

North Carolina law also recognizes animals in training as service animals. Training organizations and people training a service animal have the same access rights as people with disabilities using a service animal. The animal must wear a collar and leash, harness, or cape that identifies it as a service animal in training. The trainer is liable for any damage caused by the animal while in a place of business.

An employee seeking permission to use a service animal on campus should request an interactive discussion with his or her supervisor and Human Resources. During the discussion, the employee must identify the animal as a service animal and describe what the animal is trained to do for the employee requesting the accommodation. The employee must also provide medical documentation from a qualified health care professional to support the need for a service animal.

Any employee who brings a service animal onto campus is responsible for its care and behavior at all times and must ensure that the animal is housebroken. The employee must carry supplies to properly and immediately clean up and dispose of any animal feces, urine, or vomit. If the employee is unable to perform the clean-up, he or she must request assistance from Facility Services or another College employee who will request housekeeping assistance. Failure to meet these requirements could result in the barring of the service animal from College property.

Members of the College community who regularly come into contact with a service animal on campus and experience reactions to the animal (as a result of allergies or fear of dogs, for example) should contact Human Resources (employees and visitors) or Disability Services (students).

### *Responsibilities*

The College is responsible for:

- Eliminating barriers that prevent prospective and current employees from accessing or being included in the work space;

- Minimizing the need for individual accommodations by regularly reviewing policies, procedures, processes, and rules to ensure that they are not discriminatory;
- Ensuring that all prospective and current employees are advised of their right to be accommodated;
- Handling accommodation requests in a timely, confidential, and sensitive manner;
- Providing individual accommodations to the point of undue hardship on the College;
- Ensuring that this policy is effectively and equally implemented;
- Training supervisors on making notifications;
- Providing overall ADA training for all employees; and
- Fostering an inclusive working environment by treating all students with respect and dignity.

Supervisors of employees requesting accommodations are responsible for:

- Fostering an inclusive work environment by treating all employees and job applicants with respect and dignity;
- Identifying and eliminating barriers that prevent individuals from accessing, or being included in, the workplace;
- Handling accommodation requests in a timely, confidential, and sensitive manner;
- Involving individuals requiring accommodations in the search for accommodations;
- Informing individuals requiring accommodations of supporting documentation needed to substantiate the need for accommodations; and
- Initiating a discussion when they are aware that an employee or job applicant may have a need for accommodations, but is unable, for any reason, to articulate that need.

Employees and job applicants requesting accommodations are responsible for:

- Making their accommodation needs known in a timely, complete, and specific manner;
- Helping to identify potential accommodation options and communicating to Human Resources any questions or concerns related to the implementation of specific adjustments;
- Providing documentation in support of their accommodation request, including information about any restrictions or limitations; and
- Working with the College to identify and utilize reasonable accommodations to meet the employee's needs.

Employees will have their needs accommodated up to the point of undue hardship on the College and will be provided an explanation if their accommodation request is denied. Even if an employee's accommodation request is approved, he or she may decide at any time not to use the accommodation.

#### *Facility Services Work Requests, Environmental Maintenance, and Construction Notifications*

Facility Services work requests related to accommodations will be designated as high priority. Whenever possible, the College will provide notice (typically 24-48 hours prior) of environmental maintenance (lawn care, fertilization, etc.) and construction projects via College-wide emails and the [Facility Services page](#) of the Durham Tech website. Employees with special access needs or special sensitivity to noise, chemical odors, and other maintenance-related factors should check the Facility Services page of the website regularly.

#### *Confidentiality*

Confidential information obtained, reviewed, and/or prepared relating to a request for reasonable accommodations will be maintained separately from employees' other College records. Information about matters such as an individual's impairment, disability, medical condition and status, request for a reasonable accommodation, and the College's response to the request shall be maintained and marked as confidential information. Electronic messages must be marked as confidential, state within the body that the email is confidential/privileged, and include a public records disclosure statement alerting all parties that the information contained within is subject to [North Carolina's Public Records Law](#).

Confidential information shall not be disclosed to any individual except on a need-to-know basis or as required by law.

#### *Retaliation and Discrimination*

No employee will be retaliated against because he or she requests a reasonable accommodation due to a protected disability. Retaliatory actions will be considered violations of the College's standards of conduct and may result in disciplinary action as outlined in the [Disciplinary Actions, Suspension, and Termination of Employment policy](#). Any employee who has questions about this policy, believes he or she has been discriminated against based on a disability, or wishes to appeal a denied accommodation request should notify the ADA Coordinator.

Job applicants and visitors accompanying prospective or current employees should direct questions and concerns to Human Resources.

#### *Grievances and Appeals*

If an employee believes that a determination under this policy has been reached improperly; unfairly; or otherwise in violation of conditions of employment, regulations, policies, or procedures, the employee may file a grievance through the established procedures outlined in Employee Conflict Resolution and Grievance policy.

If an employee believes that exceptional circumstances justify reconsideration of a decision related to a reasonable accommodations request, the employee may request an appeal. The appeal must be requested in writing to the ADA Coordinator within seven (7) calendar days of notification of the request denial. The written request must state the grounds for the appeal and must include supporting evidence.

## **DEFINITIONS**

**504 Plan** – A plan developed to ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives accommodations that will ensure his or her academic success and access to the learning environment.

**Individualized Educational Plan (IEP)** – A document showing how a K-12 school complied with the Individuals with Disabilities Education Act (IDEA).

**Individual with a Disability** – Under the ADA, an individual with a disability is a person who has a physical or mental impairment that substantially limits a major life activity (such as seeing, hearing, learning, reading, concentrating, or thinking) or a major bodily function (such as the neurological, endocrine, or digestive system).

**Interactive Discussion** – For the purposes of this policy, an exchange between College officials, individuals requesting accommodations, and health care professionals (if necessary). The purpose of this discussion is to “identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.” Interactive communication should include the following:

- Dialogue and a meeting of the minds
- Constructive engagement
- Logic seeking
- Full trust and openness
- Understanding between participants
- Common language
- Openness to different perspectives

**Major Accommodations** – Reasonable accommodations that require significant time and/or resources to implement. Examples of major accommodations include note-taking, interpreting, accessible classroom locations, access assistants, accessible furniture, alternative media, and captioning.

**Qualified Health Care Professional** – An individual who is qualified by education, training, licensure/regulation (when applicable), and facility privileging (when applicable) who performs a professional service within his or her scope of practice and independently reports that professional service.

**Qualified Individuals** – At the postsecondary educational level, qualified individuals are students with disabilities who meet the academic and technical standards requisite for admission or participation in the institution's educational program or activity.

**Reasonable Accommodations** – A shared responsibility between the College and students to eliminate barriers that prevent students from accessing or being included in the learning environment. Includes any changes in physical locations or the way functions are customarily performed that provide an equal opportunity to individuals with a disability. Accommodations may include, but are not limited to, the following:

- Acquisition or modification of equipment;
- Changes in the physical layout of the learning environment to eliminate or reduce barriers;
- Modification of class schedules while continuing to meet educational requirements;
- Modifications to College facilities;
- Relocation of classes; and
- Testing accommodations.

**Work-Based Learning (WBL)** – An educational strategy that provides students with real-life work experiences where they can apply academic and technical skills and develop their employability. WBL may include the following on- and off-

campus experiences: clinical rotations, internships/externships, field work, simulated learning, laboratory activities, and skills/competency based testing.

**Working Days** – Days the College is open and operating under a normal schedule. This excludes weekends, closings due to adverse conditions, and holidays.



**CONFIDENTIAL**

## **Employee Disability Accommodations Request Form**

An employee who wishes to request a reasonable accommodation should complete this form with a qualified health care professional. The form and supporting documentation must be submitted to Human Resources. The form will be maintained separately from the employee's personnel file. For service animal requests and additional information, please refer to the [Accommodations for Employees with Disabilities policy](#).

Documentation should be as descriptive as possible. At minimum, it should include the following information:

1. A diagnostic statement identifying the disability, date of the most current diagnostic evaluation, and the date of the original diagnosis.
2. A description of the diagnostic tests, methods, and/or criteria used.
3. A description of the current functional impact of the disability which includes specific test results and the examiner's narrative interpretation.
4. Treatment, medications, and/or assistive devices/services currently prescribed or in use.
5. A description of the expected progression or stability of the impact of the disability over time, particularly during the employee's expected time at Durham Tech.
6. Recommended accommodations/services (i.e., flexibility in hours/duties, specialized furniture/equipment) for the work environment.
7. The name, credentials, and license number of the diagnosing professional.

All documentation must be typed, signed by a qualified health care professional, submitted on the health care professional's letterhead, and include the date the documentation was completed. If the employee provides incomplete or inadequate documentation to substantiate his or her disability and/or the need for the requested reasonable accommodation, the College may, at its discretion, require the employee to provide additional information. The employee is responsible for all associated expenses; the College is not financially responsible for any costs related to documentation required to support the need for an accommodation.

### **EMPLOYEE INFORMATION**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

ID Number: \_\_\_\_\_

Title: \_\_\_\_\_

Department: \_\_\_\_\_ Division: \_\_\_\_\_

### **HEALTH CARE PROFESSIONAL INFORMATION**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Practice/Hospital Name: \_\_\_\_\_

## To Be Completed by the Employee and a Qualified Health Care Professional

### A. Questions to help establish whether an employee has a disability.

A person has a disability under the ADA if the person has an impairment that substantially limits one (1) or more major life activities. The following questions may help determine whether an employee has a disability:

Does the employee have a physical or mental impairment? ☐ Yes ☐ No

Description of impairment:

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The impairment is: ☐ Temporary ☐ Long-Term ☐ Permanent ☐ Not Sure

If not permanent, how long will the impairment likely last? \_\_\_\_\_

Does the impairment affect a major life activity? ☐ Yes ☐ No

If yes, what life activity(ies) is/are affected?

- |  |  |                                       |
|--|--|---------------------------------------|
| <input type="checkbox"/> Caring for Self         | <input type="checkbox"/> Sleeping                | <input type="checkbox"/> Learning     |
| <input type="checkbox"/> Walking                 | <input type="checkbox"/> Performing Manual Tasks | <input type="checkbox"/> Reproduction |
| <input type="checkbox"/> Hearing                 | <input type="checkbox"/> Reaching                | <input type="checkbox"/> Working      |
| <input type="checkbox"/> Lifting                 | <input type="checkbox"/> Speaking                | <input type="checkbox"/> Toileting    |
| <input type="checkbox"/> Interacting with Others | <input type="checkbox"/> Concentrating           | <input type="checkbox"/> Sitting      |
| <input type="checkbox"/> Standing                | <input type="checkbox"/> Breathing               |                                       |
| <input type="checkbox"/> Seeing                  | <input type="checkbox"/> Thinking                |                                       |

Other (describe): \_\_\_\_\_

Is the employee substantially limited in one or more of these major life activities? ☐ Yes ☐ No

### B. Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability. The following questions may help determine whether the requested accommodation is needed because of the disability:

What limitation(s) is/are interfering with job performance?

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What job function(s) is/are the employee having trouble performing because of the limitation(s)?

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How does the employee's limitation interfere with his or her ability to perform the job function(s)?

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**C. Questions to help determine effective accommodation options.**

If an employee has a disability and needs an accommodation because of the disability, the employer must provide a reasonable accommodation, unless the accommodation poses an undue hardship. The following questions may help determine effective accommodations:

Do you have any suggestions regarding possible accommodations to improve job performance? If so, what are they?

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How would your suggestions improve the employee's job performance?

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**D. Comments**

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**Employee Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Health Care Professional Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**For Durham Technical Community College Use Only**

Immediate Supervisor Signature:  
Date Received:

Director, Human Resources Signature: \_\_\_\_\_  
Date Received: \_\_\_\_\_