CDU Policy I.E.00340 Americans with Disabilities – Reasonable Accommodation

ISSUING OFFICER: Director of Human Resources

RESPONSIBLE OFFICE: Department of Human Resources

EFFECTIVE DATE: September 1, 2004

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SUPERSEDES: CDU Policy I.E.00340, dated September 1, 2004

REFERENCES AND RELATED POLICIES

CDU-APM I.E00490 (Recruitment)
CDU-APM I.E.00680 (Leave of Absence)
CDU-APM I.E.00740 (Work Incurred Illness and Injury)
CDU-APM I.E.00760 (Medical Separation)
CDU-APM I.E.00740 (Reasonable Accommodation)

POLICY I.E.00340 Americans with Disabilities – Reasonable Accommodation

A. GENERAL

It is the policy of Charles R. Drew University to comply with all federal and state laws concerning the employment of persons with disabilities. The Americans with Disabilities Act (ADA) requires employers to reasonably accommodate qualified individuals with disabilities. It is the University’s policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment.

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. ADA also applies to the United States Congress. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. The ADA does not specifically name all of the impairments that are covered.
B. GENERAL

The University provides reasonable accommodation to otherwise qualified employees who are disabled or become disabled and need assistance to perform the essential functions of their positions. Reasonable Accommodation is addressed through the use of the interactive process to determine what, if any, reasonable accommodation will be made. The Department of Human Resources is responsible for implementing and facilitating resolutions of reasonable accommodations, safety and undue hardships.

C. THE INTERACTIVE PROCESS

The interactive process is an ongoing dialogue between the employee and appropriate representatives (e.g., a department or unit head, HR, and Risk Management) of the University about possible options for reasonably accommodating the employee's disability. Options may include, but are not limited to: a modified work schedule; a leave of absence; reassignment; modified equipment; assistive devices; modification of existing facilities; and restructuring the job. Both the University and the employee are expected to participate in the interactive process.

During the interactive process the University considers information related to: the essential functions of the job, functional limitations; possible accommodations; the reasonableness of possible accommodations; and implementation of a reasonable accommodation. This information will be used by the University to determine what, if any, reasonable accommodation will be made.

University wide and local procedures provide further guidance on the implementation of the interactive process.

An employee may start the interactive process by asking for an accommodation. A request for reasonable accommodation is a statement that an employee needs a work-related adjustment or change for a reason related to a mental or physical disability. A request may be made orally or in writing by the employee, or by someone on his or her behalf.

The supervisor should attempt to engage in the interactive process if he or she becomes aware of the disability and the possible need for an accommodation (e.g., an employee mentions a difficulty in performing work duties due to medical treatment for a health condition).

Once the University is informed or becomes aware of the need for an accommodation, the University will coordinate the interactive process. Participants in the process should include the employee, the employee's health care provider, and other appropriate University representatives.

The employee must respond to reasonable requests for information in a timely manner and must engage in the interactive process. The interactive process includes the following steps:

1. Analyze the job requirements and identify essential and non-essential job functions
A job function is essential if the job exists to perform that function. For example, for a position as a proofreader, the ability to read documents accurately is an essential function because that is the reason the position exists.

Additionally, a job function may be essential because of the limited number of employees available to perform the function, or among whom the function can be distributed.

2. Identify job-related limitations by consulting with the employee and by reviewing documented functional limitations

The employee and his or her health care provider must provide documented information concerning the employee's work restrictions. A current job description that outlines essential and non-essential job functions must be used by the health care provider to determine functional capabilities information and as a basis for recommendations for the University to consider.

3. Identify possible reasonable accommodations

Generally, a reasonable accommodation is one that effectively enables an employee to perform the essential functions of the job. The University and the employee should identify possible reasonable accommodations. Examples include, but are not limited to:

- transfer of non-essential job functions to another employee;
- ergonomic adjustments;
- time off for medical visits;
- modification of work tools or equipment;
- modified work schedule;
- leaves of absence;
- assistive devices; and
- modification of existing facilities

When other accommodations are not effective, reassignment to an active, vacant position for which the employee is qualified with or without accommodations, may be required.

4. Assess whether the proposed accommodation poses an undue hardship

The University need not provide a requested accommodation if to do so would pose an undue hardship. This determination is made on a case-by-case basis. Undue hardship is defined as any action requiring significant difficulty or expense, taking into account such factors as:

- the nature and cost of the accommodation;
- the overall financial resources of the campus;
- the number of persons employed in the facility;
- the effect of the reasonable accommodation on resources; and
- the impact of the accommodation on operations
No single factor is intended to have any particular weight. Rather, all the factors are considered together in determining whether providing an accommodation imposes an undue hardship on the campus.

5. Implement the reasonable accommodation

Once the reasonable accommodation is implemented, the employee and supervisor (and co-workers, where appropriate) should become fully familiar with any changes in their roles and responsibilities so that the accommodation plan may be fully realized.

6. Monitor effectiveness of the reasonable accommodation

Any changes in circumstances, whether in the employee's condition or in workplace factors, may warrant a re-evaluation of the reasonable accommodation. For example, the receipt of new information regarding functional limitation generates a dialogue between the University and the employee to determine next steps based on the new information.

The interactive process is an ongoing obligation. If a given accommodation is not effective or no longer effective, the University and the employee must continue to engage in the interactive process to identify possible alternatives, or additional accommodations.

7. Documentation

A written record should be kept of the interactive process and any reasonable accommodation that is considered and/or implemented.

D. MEDICAL DOCUMENTATION

The employee is responsible for providing medical documentation to assist in assessing the extent of the employee's functional limitations and facilitate the interactive process to determine possible reasonable accommodations.

This documentation may be subject to confirmation by a University-appointed licensed healthcare provider. When necessary, the University may require that the employee be examined by a University-appointed licensed healthcare provider. In such a case, the University pays the costs of any medical examinations requested or required by the University.

E. SPECIAL SELECTION

Any employee who becomes disabled may be selected for a position which has not been publicized (see CDU-APM I.E.00490, Exceptions to Recruitment).

An employee who becomes disabled may be selected for an open position for which they qualify, and may be considered for open positions over non-disabled applicants. The local Vocational Rehabilitation Counselor, or an appropriate University representative, will assist the disabled employee with alternate job placement.
F. GENERAL

The University shall make reasonable accommodation for all known disabilities of a qualified individual with a disability (QID) or any employee who has been injured on the job. The decision to offer reasonable accommodation to a QID/QIW shall be made on a case-by-case basis after evaluation of the relevant facts.

Reasonable accommodation may include:

a) Making existing facilities used by employees readily accessible to QID/QIWs;

b) Job restructuring, i.e., modifying a job so that a person with a disability can perform the essential functions of the position through the elimination of non-essential elements of the job, re-delegation of assignments, exchanging assignments with other employees or redesigning procedures;

c) Initiating part-time or modified work schedules;

d) Acquiring or modifying equipment or devices;

e) Appropriately adjusting or modifying employment examinations, training materials or local practices;

f) Providing qualified readers or interpreters; or

g) Reassigning or referring a QID/QIW to an active vacant position

G. MEDICAL DOCUMENTATION

Refer to CDU-APM I.E.00490 (Reasonable Accommodation) Section C.

H. VOCATIONAL REHABILITATION

In the process of determining reasonable accommodation, HR or Risk Management may:

a) Conduct a job analysis to determine essential job functions;

b) Determine, with information obtained from management and the employee, how the disability limits performance of the essential functions;

c) Identify options for reasonable accommodations;

d) Propose appropriate accommodations for the QID/QIW based on the relevant facts; and/or

e) Submit findings to management
I. LIMITATIONS

The University is not required to accommodate any disability if it creates an undue hardship or poses a direct threat to the University or its employees. The finding of undue hardship or direct threat shall be made by the University. Applicability: All Employees and Faculty

J. GENERAL

A regular status employee who becomes unable to perform essential functions of his or her position with or without reasonable accommodation, due to a disability, may be separated. Prior to medical separation, the University will engage in the interactive process in accordance with the provisions of CDU – APM I.E.0740 Reasonable Accommodation.

K. BASIS FOR SEPARATION

Analysis and evaluation of the employee's ability to perform the essential job functions should be made in consultation with the Department of Human Resources and the Vocational Rehabilitation Counselor in the Office of Risk Management. The employee's ability to perform essential job functions with reasonable accommodation, in accordance with the federal Americans with Disabilities (ADA) Act, shall be considered in the analysis.

If it is determined that an employee will be unable to return to work for an indefinite period due to a medical condition that is not work-incurred, the department is encouraged to evaluate, on a case-by-case basis, whether medical separation should occur after the employee has been on medical leave for six (6) months. This evaluation should be made in consultation with the Department of Human Resources and the Vocational Rehabilitation Counselor.

L. NOTICES

The employee should be advised in the medical separation notification of his or her eligibility for special reappointment procedures following medical separation. Refer to CDU – APM I.E.00490 (Recruitment), CDU – APM I.E.00740 (Reasonable Accommodation). Employees must also be advised of their COBRA rights.

Copies of all notices of medical separation must be provided to the Department of Human Resources. The Department of Human Resources will review each notice to determine if the employee is eligible for any continuing University-sponsored benefits (for example Disability Income).

PROCEDURE I.E.00340 Americans with Disabilities – Reasonable Accommodation

A. GENERAL

Prior to any medical separation, the University will engage in the interactive process in accordance with the provisions of CDU – APM I.E.00740 Reasonable Accommodation.
B. BASIS FOR SEPARATION

A medical separation is based on:

1. A written statement by the department head describing the essential functions the employee is unable to perform, and
2. A written review by a vocational rehabilitation counselor, or the Department of Human Resources, determining that no reasonable accommodation exists without causing an undue hardship.

The written statement by the department head should contain the following:

1. The essential functions of the position that the employee is unable to perform, with or without reasonable accommodation, due to their disability or medical condition;
2. An explanation of why the employee cannot be reasonably accommodated within the department, including, where applicable, whether reasonable accommodations were attempted and failed;
3. Written documentation of the Interactive Process within the department; and
4. Other pertinent information.

A current job description, documentation of functional limitations, and any other information relevant to the medical separation will accompany the written statement. All documents will be submitted to the local vocational rehabilitation counselor, or the Department of Human Resources for review.

The vocational rehabilitation counselor, or the Department of Human Resources, reviews and analyzes the written statement and accompanying materials to ensure that the Interactive Process was appropriately completed at the Departmental level.

The vocational rehabilitation counselor, or appropriate University representative, is responsible for continuing the Interactive Process until a review for reasonable accommodation is completed. This effort will be documented and include an explanation of why the employee cannot be reasonably accommodated.

If the employee cannot be reasonable accommodated at the end of the interactive process, the department may propose medical separation.

A medical separation may also be based on:

1. the employee's receipt or approval of disability payments
2. a written review by a vocational rehabilitation counselor, or the Department of Human Resources, determining that no reasonable accommodation exists without causing undue hardship. (Employee may waive this review.)

Note: An employee may not be separated under this policy while on sick leave. However, an employee may be separated if the date of separation was set prior to the commencement of sick leave.
C. MEDICAL DOCUMENTATION

Proof of the employee's disability or medical condition is required and is subject to verification by the Department of Human Resources, a University-appointed licensed healthcare provider, or Legal Counsel. The University pays the costs of any medical examinations requested or required by the University. Under no circumstance should management verify an employee's disability, medical condition, or medical documentation.

D. NOTICES

The notice will:
1. State the reason for medical separation;
2. Include a copy of the department head's statement and any other pertinent material, including documentation related to the interactive process and reasonable accommodation, if any;

A copy of the final notice of medical separation is placed in the employee's personnel file. Any associated medical documentation should be treated as confidential medical records for purposes of record storage.

Applicability: All Staff Members