

Policy Number: 400.6

Policy Title: Employee/Applicant Disability Accommodations Policy

Subject: 400 - Personnel

Responsible Office: Human Resources

Date Adopted:

Date(s) Revised:

Date(s) Reviewed:

Approved by:

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Dean/CEO
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PURPOSE:

Helena College aims to create an environment that welcomes all individuals. The College is committed to providing accommodations that allow qualified individuals with disabilities the opportunity to work and participate in its programs and activities. This policy sets forth Helena College's disability accommodations and review process.

POLICY STATEMENT:

Helena College follows all applicable state and federal laws regarding accommodations for qualified individuals with disabilities. The College will make good faith efforts to engage in the interactive process with employees and applicants to determine reasonable accommodations consistent with its obligations under the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and various other provisions of state and federal law.

This policy sets forth steps employees/applicants should follow to access accommodations, seek review of accommodations provided or declined, and raise concerns regarding the implementation of provided accommodations.

EXCLUSIONS:

This policy does not apply when an individual believes they have experienced discrimination, harassment, or retaliation because of a disability. These matters fall under [Policy 100.3.1 Discrimination Harassment Retaliation Policy](#), and such individuals should contact Human Resources.

DEFINITIONS:

Accommodation Letter

The written letter issued by Human Resources outlining the reasonable accommodations the qualified employee/applicant may receive, or a decision that an employee/applicant is not eligible for an accommodation.

Human Resources

Human Resources works with employees and job applicants with disabilities and with those who seek pregnancy-related accommodations to identify reasonable accommodations through the interactive process and will address any changes to established accommodations.

Disability

Any physical, medical, mental, or psychological impairment, or a history or record of such impairment, that constitutes a disability under applicable federal or state law.

Employee

Any employee of the College including full-time, part-time, or temporary employees and student employees. For purposes of this policy, the term 'employee' shall also include applicants for employment with the College.

Essential Functions

The essential functions of a position an employee holds or desires. The essential function will be determined by reviewing an employee's job description and the actual duties performed by the employee. A non-exclusive list of factors that can be considered determining essential functions includes:

1. A supervisor's judgment as to the essential job duties;
2. Written job descriptions and specifications prepared before advertising or interviewing applicants for a job;
3. The employee's job duties and responsibilities as listed on their performance appraisal or other performance documentation;
4. The amount of time spent performing the function;
5. The consequences of not requiring the employee to perform the function;
6. The number of employees among whom the performance of a specific function can be distributed;
 - If the employee was hired for their expertise or ability to perform the function; and/or
7. The actual duties the employee performs.

Final Review

Next step after reconsideration if concerns are not resolved.

Fundamental Alteration

An accommodation that would alter the essential requirements or essential functions of employment.

Interactive Process

A collaborative effort between an employee with a disability and Human Resources to consider barriers or limitations and to identify the accommodation(s) that will enable the employee to perform the essential functions of their job. It generally requires the individual requesting an accommodation to provide specific information, such as medical documentation. The interactive process may include confidential consultation

with a representative from the relevant field such as a supervisor, department Director, or Dean/CEO, if necessary.

Qualified Employee

An employee or applicant for employment who meets a legitimate skill, experience, education, and other requirements of an employment position that they hold or seek, and who can perform the “essential functions” of the position with or without reasonable accommodation.

Reasonable Accommodations

Any change, adjustment or accommodation in the work environment, policy or practice that enables an employee to enjoy equal opportunities and that does not create an undue hardship on the operation of the College.

Reconsideration

Process for employees who disagree with the accommodation(s) provided in the final determination. This process is described in the procedure section below.

Review Committee

If the reconsideration process does not resolve concerns, as a next-step the employee may notify the Human Resources Specialist to request a review of the final determination. Human Resources will convene a review committee to address the concerns.

Undue Hardship

Significant difficulty or substantial expense incurred by the College in 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 or academic program.

Workers Compensation Manager and ADA Accommodation Coordinator

The Workers Compensation Manager and ADA Accommodation Coordinator is employed at the University of Montana and serves as the primary resource for ensuring that the College complies with the ADA and applicable provisions of the Rehabilitation Act.

PROCEDURE:

The following procedure details the process employees should follow in requesting, implementing, and challenging reasonable accommodations. This procedure in no way limits individuals’ rights under College policy or applicable law.

Step 1: Requesting Reasonable Accommodations

Employees: An employee should initiate the process by informing their supervisor or Human Resources personnel they require a reasonable accommodation. Interim reasonable accommodations will be approved when reasonable and where a delay would result in negative impacts.

Job Applicants: Job applicants should initiate the process by informing Human Resources they require a reasonable accommodation. Interim reasonable accommodations will be approved when reasonable and where delays would result in negative impacts.

Interactive Process by Role

The following sections detail the obligations of different individuals and entities throughout the interactive process:

Supervisors

1. Collaborate and communicate with Human Resources as needed, to implement reasonable accommodations listed on the accommodations letter
2. Implement reasonable accommodations provided on the accommodations letter consistently and promptly,
3. Immediately consult with Human Resources if questions or concerns about the accommodations letter arise, including the implementation of accommodations that may be a fundamental alteration, and
4. Respond promptly to Human Resources requests for information and collaboration.

Human Resources

1. After the accommodation process has been initiated, Human Resources will conduct outreach to the employee, and provide information about scheduling a meeting to discuss needed accommodations and what documentation, if any, is necessary for the employee to provide
2. After the meeting between Human Resources and the employee, Human Resources will work with the employee's supervisor/ department to assess barriers, essential functions and any other necessary information to determine what reasonable accommodations will be provided
3. Issue an accommodation letter, and document all accommodations as well as any that an employee has requested but have not been implemented. The accommodation letter will outline if an accommodation has not been implemented because it amounts to a fundamental alteration of the job.
4. When necessary, work with the supervisor/department to implement accommodations, and
5. Assist employees if new or additional accommodation is needed or if there is a concern about an accommodation's implementation.

Employees

1. Initiate the accommodation request with Human Resources,
2. Engage in the interactive process with Human Resources by completing necessary forms and providing essential information, which may include medical information,
3. Work with supervisor, as needed, to implement accommodations,
4. Promptly communicate with Human Resources if a new or additional accommodation is needed or if there is a concern about an accommodation's implementation, and
5. Inform Human Resources if your job changes, or there is a change in supervisor to ensure no disruptions to provided accommodations and/or, as needed, to review accommodations with the new supervisor.

Job Applicant

1. Job applicants should request an accommodation by following guidance in the recruitment materials or contacting Human Resources.

Step 2: Accommodation Follow-Up

Human Resources carefully evaluates all available information when determining reasonable accommodations.

If the employee disagrees with the accommodation(s) provided in the accommodation letter or believes an accommodation has not been properly implemented, the employee must notify Human Resources. If the concern is not resolved, at that point the employee may proceed with reconsideration by following the process outlined in the reconsideration section below.

Step 3: Reconsideration

If concerns remain after completion of Step 2, the employee may begin the reconsideration process. The employee must initiate reconsideration within 14 calendar days of the issuance of the accommodation letter. Outlines of the reconsideration processes for employees are provided below.

**Note: If the employee has a concern with the implementation of a reasonable accommodation that had been granted in their accommodation letter, they should follow directions outlined in the Implementation Complaint Section below and not the Reconsideration Process.*

Employee Reconsideration:

The employee shall email Human Resources with a request to meet and a description of their concern(s) and/or reason(s) for requesting reconsideration.

The employee shall meet with Human Resources when concerns may be discussed, and additional information and/or documentation may be presented.

Human Resources may also seek information from the supervisor and/or appropriate College administrators as well as seek external expertise as necessary.

Human Resources will issue a written decision on the reconsideration and email it to the employee and supervisor. The time required for a decision on reconsideration will depend on various factors, including the nature and scope of the matter. A reasonable effort will be made to resolve the matter as promptly as possible.

Upon issuance of a written decision to the employee, the employee should notify their supervisor about accommodation(s) that must be provided. Supervisors are required to implement any accommodation(s) determined by this process to be reasonable.

Step 4: Final Review

If the issue is not resolved through the reconsideration process, within 5 calendar days of the issuance of the reconsideration decision, the employee may notify Human Resources to request a committee review of the reconsideration decision. The employee shall submit a written request for review which identifies:

1. the issue of disagreement;
2. the substantive reason(s) the individual disagrees with the decision; and
3. the desired outcome.

Review Committee

Human Resources will convene a Review Committee to address the matter.

Employee Review Committee

Review of employee matters will be heard by a review committee consisting of Human Resources personnel, Workers Compensation and ADA Accommodation Coordinator, and a relevant department official. The Human Resources Generalist will serve as ex officio. If one of these members is unavailable or otherwise cannot serve on the review committee, Human Resources will appoint a replacement member. The committee may appoint an additional ex officio member, such as a representative from the relevant employment unit if deemed appropriate by a majority vote of the committee.

The employee review committee will review all submitted information. It may meet with the employee to discuss the concern(s) and obtain clarifying information if necessary. The review committee also has the discretion to request additional documents and information and to consult with other College officials as appropriate.

The time required for a decision on a review will depend on various factors, including the nature and scope of the matter. Human Resources will issue the review committee's written decision on the reconsideration. The written decision is final and not appealable.

Discrimination & Harassment Complaints

Employees who have complaints related to discrimination, harassment, or retaliation based on disability should report to the 504 Officer and follow the procedures in the College's Discrimination, Harassment, and Retaliation policy.

Confidentiality

The College will maintain confidentiality as required under relevant laws and policies. Only information necessary to identify and implement the agreed-upon reasonable accommodations and to carry out the purposes of this policy and procedure and/or as allowed or required by applicable law shall be released to the appropriate entities. Medical information will remain confidential.