

Policy Number: 400.7

Policy Title: Pregnancy Accommodations Policy Campus Review

Subject: 400 - Personnel

Responsible Office: Human Resources

Date Adopted:

Date(s) Revised:

Date(s) Reviewed:

Approved by:

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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 who experience pregnancy or a related medical condition the opportunity to study, work, and participate in its programs and activities. This policy sets forth Helena College's reasonable accommodations and review process.

POLICY STATEMENT:

Helena College follows all applicable state and federal laws regarding accommodations for qualified individuals with a known limitation related to, due to, or arising out of pregnancy or a related medical condition. The College will make good faith efforts to engage in the interactive process with employees to determine reasonable accommodations consistent with its obligations.

This policy sets forth steps employees should follow to access pregnancy or related medical condition 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 may receive, or a decision that an employee is not eligible for an accommodation.

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.

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.

Essential Functions

The essential functions of a position will be determined by reviewing an employee's role 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;
 - i) Written role descriptions and specifications prepared before advertising or interviewing applicants for a job;
 - ii) The employee's duties and responsibilities as listed on their performance appraisal or other performance documentation;
2. The amount of time spent performing the function;
3. The consequences of not requiring the employee to perform the function;
4. The number of employees among whom the performance of a specific function can be distributed;
5. If the employee was hired for their expertise or ability to perform the particular function; and/or
6. 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.

Pregnancy

Includes an employee's current, past, potential or intended pregnancy, as well as childbirth and labor.

Qualified Employee

An employee 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. An employee will be considered qualified if:

1. Inability to perform essential function is only for a temporary period
2. The essential function could be performed in the future

3. The inability to perform the essential function can be reasonably modified

Related Medical Condition

A medical condition related to pregnancy or childbirth. Medical conditions include lactation.

Reasonable Accommodations

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

Routine Accommodations

Requests for accommodations that can be easily made in the work environment such as flexibility with frequency and duration of break times for lactation, use of restrooms, or need to drink/eat; ability to sit instead of stand and vice versa; changes to departmental food or drink policies to allow for a water bottle or food; etc. Documentation is not required for routine accommodations.

Undue Hardship

Significant difficulty or substantial expense incurred by the College in providing a specific accommodation to a qualified employee. 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.

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

An employee should initiate the process by informing their supervisor or human resources personnel they require a reasonable accommodation for pregnancy or a related medical condition.

Interactive Process by Role

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

Supervisors

1. When made aware an employee is pregnant or has a related medical condition resulting in a limitation at work, the supervisor should immediately engage the employee in the interactive process to determine if the employee needs a routine accommodation which is reasonable for the specific work environment.

2. The supervisor should document the interactive communications and any accommodations which are implemented.
3. If the employee indicates additional accommodations are needed, the supervisor should inform Human Resources that the employee is requesting additional accommodations and requests Human Resources to outreach. The supervisor should also inform Human Resources of any accommodations the employee and supervisor have agreed upon.

Human Resources

1. After the accommodation process has been initiated, Human Resources will conduct outreach to the employee or applicant, and provide information about:
 1. Scheduling a meeting to discuss needed accommodations
 2. What documentation, if any, is necessary for the employee to provide
 3. If appropriate, information about break time and locations for expressing and cool storage of breast milk
2. After the meeting between Human Resources and the employee, Human Resources will work with the employee's supervisor/department to assess any barriers to access, job requirements, technical standards, etc. and determine what reasonable accommodations will be provided
3. Human Resources will issue an accommodation letter that documents all accommodations granted as well as any requests by the employee that were not implemented.

Employees

1. Engage in the interactive process with Human Resources by explaining their need for accommodations and providing any medical information or documentation requested by Human Resources;
2. Work with supervisor to implement reasonable accommodation(s), and
3. Promptly communicate with the supervisor or Human Resources if a new or additional accommodation is needed or if there is a concern about accommodation implementation.
4. Should an employee have a change in supervisor, it is the employee's responsibility to notify Human Resources and their new supervisor to ensure no disruptions to accommodations and/or review accommodations with the new supervisor.

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, an employee may proceed with the steps for reconsideration by following the process outlined in the 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.

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/applicant shall meet with Human Resources to discuss their concerns. 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, 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 the Director of Human Resources, Workers Compensation Manager and ADA Accommodations Coordinator, and a relevant unit 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 on the basis of pregnancy, childbirth or related medical conditions should report to the 504 Officer and follow the procedures in the College's Discrimination, Harassment, and Retaliation policy.

CONFIDENTIALITY

That an employee is pregnant, has recently been pregnant, or has a related medical condition is medical information. Such medical information will be kept confidential by any individual with access to the information authorized by this policy pursuant to state and federal law. Moreover, personally identifiable information will not be disclosed except to carry out the purposes of this policy and procedure and/or as required by applicable law. Pursuant to applicable law, supervisors will be informed only to the extent necessary to implement reasonable accommodations.

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