

REASONABLE ACCOMMODATION POLICY

PURPOSE

The overall intent of this policy is to ensure that the N.C. Department of Public Instruction (hereinafter referred to as the Department) fully complies with the Americans with Disabilities Act and N. C. General Statutes [168A-5 (b) (3); 126-4; 126-5 (c) (1)-(4); 126-16; and 126-36], and maintains equal opportunity in employment for all qualified persons with disabilities. The purpose of this policy as described herein is to assist the Department, its current employees, and applicants for employment in requesting and processing requests for reasonable accommodation when required.

POLICY

The Department recognizes that while many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process. Therefore, the Department is committed to equal opportunity in employment and will provide, as described in this policy, reasonable accommodation to qualified individuals with disabilities unless the accommodation would impose an undue hardship on the Department as described in this policy. The Department prohibits retaliation in any form against any individual who request reasonable accommodation according to this policy.

DEFINITIONS

The following terms and definitions apply to the understanding and implementation of this Reasonable Accommodation policy:

1. Disability means a physical or mental impairment that substantially limits one or more of an individual's major life activities; a record of such an impairment; or, being regarded as having such an impairment.
Note: "Regarded as having such an impairment" refers to an individual who establishes he/she has been subjected to a prohibited action, as defined in this policy, because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity (excluding transitory and minor impairments of six months or less duration).
2. Qualified Individual with a Disability is an employee or applicant with a disability who, with or without reasonable accommodation, can perform the essential functions of the job in question.
3. Reasonable Accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy equal employment opportunities.

4. Undue Hardship means an accommodating action by the employer requiring significant difficulty or expense when considered in light of factors such as the nature and cost of the accommodation(s) needed; the employer's overall size and financial resources; and the structure and functions of employer's operations.
5. Essential Functions refers to the fundamental duties of the position, or the primary reasons the position exists, based on the covered employer's type of operations.

COVERAGE

This policy applies to all qualified applicants and Department employees with disabilities, whether they are applying for, or employed in, work on a part-time or full-time basis, or have State career, non-career, probationary, or temporary employment status.

IMPLEMENTATION

The Department fully adheres to the requirement to make a reasonable accommodation for the known disability of a qualified applicant or employee, if requested; and if it would not impose an "undue hardship" as defined in this policy on Departmental business operations.

Reasonable accommodation may include, but is not limited to the following:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- Job restructuring, modifying work schedules, reassignment to a vacant position; or
- Acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; and providing qualified readers or interpreters, or other similar accommodations.

The following exceptions apply:

- The Department is not required to eliminate an essential function from a position, or reduce quality or production standards to make an accommodation when those standards are applied uniformly to employees with or without a disability.
- The Department is not required to create a new position to accommodate an employee.
- The Department is not required to provide personal use items needed in accomplishing daily activities both on and off the job (such as eyeglasses, hearing aids, prosthetic limbs, or a wheelchair), or provide personal use amenities (such as a refrigerator) if those items are not provided to employees without disabilities.

Reasonable Accommodation Request Process:

Employees and applicants covered by this policy may request reasonable accommodation, as described below, using the **Reasonable Accommodation Request Form** (accessible from **References** section). This form is confidential and should be submitted directly to the Human Resources Division.

Employees:

1. An employee who requires an accommodation should inform his/her supervisor, Equal Employment Opportunity (EEO) Officer in Human Resources (HR), or the HR Director of the need for an accommodation. Supervisors should contact the designated EEO Officer or HR Director for assistance.
2. The EEO Officer or HR Director will request documentation of the individual's functional limitations to support the request. Any medical documentation must be collected and maintained in accordance with appropriate confidentiality procedures. See the **Reasonable Accommodation Request Form**, which is accessible from the **References** section of this policy.
3. When a qualified individual with a disability has requested an accommodation, the Department's EEO Officer, in consultation with the employee, will do the following:
 - a. Discuss the purpose and the essential functions of the particular job involved;
 - b. Determine the precise job-related limitation;
 - c. Identify the potential accommodations and assess the effectiveness each would have in allowing the employee to perform the essential functions of the job; and
 - d. Select and implement the reasonable accommodation that is most appropriate for both the employee and the Department;
Note: While an employee's preference will be given consideration, the Department may choose among reasonably effective accommodations and may choose the one that is less expensive or easier to provide.
4. The EEO Officer or HR Director will work with the employee to obtain technical assistance, as needed.
5. The EEO Officer or HR Director will provide a written decision to the employee within a reasonable amount of time, not to exceed 30 days, from the employee's original request, unless a longer time is agreed upon by the employee and the Department.

Applicants:

1. A job applicant who requires an accommodation must inform the Department's designated hiring manager or Human Resources (EEO Officer or HR Director) of the need for an accommodation. Hiring managers who have been notified by an applicant of a need for accommodation should contact the EEO Officer or HR Director for assistance.

2. The EEO Officer or HR Director will discuss the requested accommodation and possible alternatives with the applicant. See the **Reasonable Accommodation Request Form**, which is accessible from the **References** section of this policy.
3. The EEO Officer or HR Director will make a decision and inform the applicant within a reasonable period of time, not to exceed thirty (30) days from the request, and, if approved, take the necessary steps to ensure that the accommodation is provided.

Appeal Request Process:

Either an employee or applicant who is dissatisfied with the Department's decision(s) pertaining to his/her accommodation request may appeal as follows:

- An **employee** may file a grievance in accordance with the Department's *Grievance and Mediation Policy and Procedure* (see **References** section of this policy), or may file a petition for a contested case hearing with the Office of Administrative Hearings (OAH) no later than thirty (30) calendar days from receipt of the decision(s).
- An **applicant** may appeal directly with the OAH by filing a petition for a contested case hearing no later than thirty (30) calendar days from receipt of the decision(s).

Applicable forms and hearing procedures may be obtained from OAH at the following address:

Office of Administrative Hearings (OAH)
1711 New Hope Church Road
6714 Mail Service Center
Raleigh, NC 27699-6714
Phone: (919) 431-3000

COMMUNICATION AND TRAINING

This policy is intended to provide steps for consistent application of the reasonable accommodation process throughout the Department's workforce. Prohibitions on disability discrimination are included in the Department's *Equal Employment Opportunity (EEO) Plan* (see **References** section of this policy), which is reviewed annually and updated as needed.

The Department communicates and disseminates information and training on this Reasonable Accommodation Policy as follows:

1. Department's *Equal Employment Opportunity (EEO) Plan*;
2. Department of Public Instruction (DPI) Intranet;
3. New Employee Orientation;

4. All-employee training as needed, such as Americans with Disabilities Act (ADA);
5. Applicable literature, such as Office of State Personnel updates and changes to laws and policies; and
6. Human Resources Division Policy Manual.

All Department policies are reviewed annually, or as needed, to ensure full compliance with State and Federal statutes. Employees are notified of any updates via the DPI Intranet.

RESPONSIBILITIES AND ACCOUNTABILITY

The Department is committed to providing equal opportunity in employment to all applicants and employees to include reasonable accommodation for qualified individuals with disabilities as described in this policy. Retaliation against any individual requesting reasonable accommodation is strictly prohibited.

Superintendent, N.C. Department of Public Instruction, Responsibilities:

The Superintendent reviews and approves the Department's *Equal Employment Opportunity (EEO) Plan*, including this Reasonable Accommodation Policy.

Human Resources Division Responsibilities:

The Department's Human Resources Division (to include the HR Director, EEO Officer, or HR Director's designee) is responsible for the oversight and implementation of this policy as follows:

- Responding to requests for reasonable accommodation in a timely and effective manner as outlined in this policy;
- Disseminating and communicating the Department's *EEO Plan* and this policy to new employees during Employee Orientation or other employee training, and posting on the DPI Intranet;
- Providing training for all employees, as needed, on this policy and related policies, such as Americans with Disabilities Act;
- Responding promptly and effectively to any allegations of retaliation of any individual who requests reasonable accommodation;
- Advising all parties involved in the implementation of this policy according to applicable guidelines and procedures; and
- Reviewing the *EEO Plan*, this policy, and related policies on an annual, or as needed, basis to ensure continuing compliance with State and Federal guidelines.

Managers/Supervisors Responsibilities:

All Department managers and supervisors are responsible for the following:

- Adhering to and consistently administering all applicable Department policies and procedures, including Reasonable Accommodation Policy;
- Advising HR Director or EEO Officer upon receipt of a request for reasonable accommodation and working with Human Resources to respond promptly as outlined in this policy; and
- Attending relevant training, as needed, provided by Human Resources or Office of State Personnel.

Employees Responsibilities:

All Department employees are responsible for the following:

- Adhering to all Department policies and procedures;
- Refraining from and reporting any form of retaliation of an applicant or employee who requests reasonable accommodation; and
- Attending relevant training, as needed, provided by Human Resources or Office of State Personnel.

REFERENCES

This Reasonable Accommodation Policy and the following Department policies referenced in this policy are available on the Department's Intranet:

1. *Equal Employment Opportunity (EEO) Policy and Program,*
2. *Grievance and Mediation Policy and Procedure,* and
3. *Reasonable Accommodation Request Form.*

For questions or clarification on any of the information contained in this policy, please contact the N. C. Department of Public Instruction Human Resources office at 919-807-3798. For general questions about Department-wide policies and procedures, contact the HR office at 919-807-3385.

REVISION HISTORY

| Revision Date | Description of Changes |
|----------------------|---|
| 04/27/2007 | Effective Release Date. |
| 01/01/2012 | Equal Employment Opportunity (EEO) Plan annual review, update, and release, which includes this policy. |
| 03/15/2013 | EEO Plan annual review and update; revisions to this policy include adding accommodation request and appeal processes, and expanding content in new format to enhance clarity and implementation. |