

 Wharton County Junior College	ADMINISTRATIVE PROCEDURE MANUAL	
WCJC Title: Americans with Disabilities Act (ADA) for Employees	Section D: Personnel	Page(s): 5
BASED ON BOARD OF TRUSTEES POLICY		
Policy Title: Freedom from Discrimination, Harassment, and Retaliation-Other Protected Characteristics	Policy: DIAB (Legal), DIAB (Local)	
Subtitle: Americans with Disabilities Act (ADA) for Employees	Date Adopted: 8-01-20	

Purpose

This procedure sets forth the commitment of WCJC to prevent discrimination in the employment of persons with disabilities.

Procedure

WCJC prohibits discrimination on the basis of disability in all aspects of the application process and the employment relationship. WCJC will provide equal access and opportunity to employees having a known physical or mental impairment as defined under the Rehabilitation Act of 1973 and amendments, the Americans with Disabilities Act (ADA) and Amendments, and the Texas Commission on Human Rights Act.

WCJC shall make reasonable workplace accommodation for any employee with a disability that does not constitute an undue hardship on his/her department and/or the College. It is the institution's policy, in compliance with Title IX as implemented, to provide equal employment opportunities without regard to race, color, religion, national origin, gender, age, or disability.

Accommodation

Reasonable accommodation will be made, as determined by the College, unless accommodation will cause an undue hardship for the department and/or the College.

Undue hardship shall conform to definitions provided by the courts, the Americans with Disabilities Act, and the Texas Commission on Human Rights Act. In determining whether an accommodation would impose an undue hardship, factors to be considered include, but are not limited to the nature of the accommodation, financial considerations, the impact of the accommodation upon the nature and operation of the department and/or College, and how the request affects the health and safety of other College employees.

Confidentiality of ADA Records

WCJC offices and employees responsible for reviewing and analyzing ADA requests will maintain the confidentiality of all medical/diagnostic documentation and all other ADA information concerning employees, to the extent permitted by law.

ADA records will be maintained in the Payroll and Benefits Department. These records will be kept separate from personnel files and will be accessible only to authorized personnel.

Release of Information

Information in WCJC employee's ADA file may be released in accordance with 1) federal and state laws; 2) pursuant to court orders or subpoenas; and/or 3) pursuant to official WCJC grievance/complaint process, with the employee's written permission.

A copy of the information contained in the individual's ADA file may be released back to that individual upon completion of the *Request for Access of Personnel Records* form and submission of that request form to the appropriate department/office. The Payroll and Benefits Department may charge a reasonable fee to the employee for costs incurred in copying materials connected with the release of this information.

Employees may request, in a typed letter to the President, that their ADA materials be expunged. Documents contained in the individual's payroll and benefits file, maintained in the Payroll and Benefits Department may only be returned to an employee with the written prior approval of the President. Employees requesting the return and/or removal of a document(s) contained in their payroll and benefits file must submit a typed letter to the President. It will be the decision of the President to determine if the document (original or copy) should remain the property of the College or be returned to the employee. It will also be the decision of the President if the Payroll and Benefits Department will retain a file copy of the document for the Payroll and Benefits Department files. Expunction of ADA materials will be completed in compliance with state and federal law.

Complaints

An *Employee Complaint Form* (Reference Policy DGBA (Legal), DGBA (Local), DGBA (Exhibit)) should be submitted to the Human Resources Department, if an employee feels he/she has been denied a reasonable accommodation, discriminated against on the basis of disability, or retaliated against due to an accommodation request.

Process

1. Any employee seeking an ADA accommodation shall first complete the WCJC *Employee Reasonable Accommodation Request* form indicating the workplace accommodation sought, and attaching medical/diagnostic documentation to the form including:

diagnosis, prognosis, and the description of the specific impairment(s), the major life functions or activities affected by the impairment and the degree of limitation to those functions and activities caused by the impairment. The form is then forwarded to the Dean of Human Resources. WCJC will be unable to grant a request for accommodation unless all the requested medical/diagnostic information is provided.

2. The Dean of Human Resources, the Dean of Student Success, and the Director of Counseling and Disability Services comprise the ADA committee. (To hold an ADA committee meeting, at least two members must be present.) They are responsible for analyzing the *Employee Reasonable Accommodation Request* form. The committee will confer with the employee and the supervisor, if necessary, to ascertain the employee's requirements and input on a reasonable accommodation.

The ADA Committee, using the *Employer's Reasonable Accommodation Request for Additional Information* form, may request that the employee submit additional medical/diagnostic information if information submitted is incomplete, unclear, or inconsistent.

3. The ADA Committee will arrive at a recommendation (approve, disapprove, or recommend a revision) of the employee's request, complete the *Employer Reasonable Accommodation Response* form, and the Dean of Human Resources will schedule a meeting with the President.
 - a. Meeting with the President will be within 15 College business days after a complete *Employee Reasonable Accommodation Request* form is received by the Dean of Human Resources. (This would include any additional medical/diagnostic documentation requested by the ADA Committee.)
 - b. The President will approve, disapprove, or revise by signature on the *Employer Reasonable Accommodation Response* form, the ADA Committee's recommendation of the employee's request for accommodation. The President retains final discretion on the established reasonable accommodation, if any.
 - c. The Dean of Human Resources, after meeting with the President, will meet with and provide the employee a copy of the *Employer Reasonable Accommodation Response* form within 15 College business days after the meeting. If the employee is unable to meet on a personal basis with the Dean, the form will be sent to the employee by certified mail.
4. Periodic Review - If a reasonable workplace accommodation is implemented, the ADA Committee may review the accommodation upon a formal request from the supervisor or the employee (receiving the accommodations). A change in an employee's position will necessitate a review of the employee's workplace accommodation. The ADA Committee will arrive at a recommendation to continue/discontinue the implemented workplace accommodation, complete the *Employer ADA Reasonable Accommodation Continuance/Discontinuance/Revision* form and the Dean of Human Resources will

schedule a meeting with the President.

- a. The meeting with the President will be within 15 College business days after the ADA Committee reviews the employee's ADA file, and if necessary, meets with the employee and/or employee's supervisor. The ADA Committee will then complete the *Employer ADA Reasonable Accommodation Continuance / Discontinuance / Revision* form.
- b. The President will approve, disapprove, or revise by signature on the *Employer ADA Reasonable Accommodation Continuance/Discontinuance/Revision* form, the ADA Committee's recommendation for continuation/discontinuance of the employee's request for accommodation. The President retains final discretion on the established reasonable accommodation, if any.
- c. The Dean of Human Resources, after meeting with the President will meet with and provide the employee a copy of the *Employer ADA Reasonable Accommodation Continuance/Discontinuance/Revision* form within 15 College business days after the meeting. If the employee is unable to meet on a personal basis with the Dean, the form will be sent to the employee by certified mail.

Guidelines

1. An employee must inform the ADA Committee that he/she has a disability and is requesting an accommodation under the Americans with Disabilities Act.
2. The employee must complete an *Employee's Request for Accommodation* form and have their credentialed medical/diagnostic professional submit medical/diagnostic documentation providing the following information:
 - a. A clear and specific diagnostic statement (including level of severity), with an explanation of the current manifestations or functional limitation of the condition. (Documentation that presents any questions as to authenticity may be followed up with a consultation with the credentialed medical/diagnostic professional to verify the information.)
 - b. The specific findings in support of this diagnosis, including relevant history, and a description of the diagnostic criteria or the diagnostic tests used, test results, interpretation of those test results, and dates tests were administered. Diagnostic methods used should be congruent with current professional diagnostic practices within the field. Non-standardized evaluations should be described in enough detail that a professional colleague could understand their role and significance in the diagnostic process.
 - c. A description of the individual's functional limitations as they are directly related to the stated disabilities. This documentation should include information regarding the impact of the disability condition on major life activities (e.g., walking, talking, learning, working, seeing, hearing), including the impact of

medication, other treatments, and the concomitant side effects.

- d. Specific recommendations for an employment accommodation, including an explanation of why these specific accommodations are needed.
 - e. The medical/diagnostic professional's name, address, telephone number, and professional credentials relevant to the diagnosis.
 - f. The documentation must be on letterhead, typed, dated, and signed by the credentialed medical/diagnostic professional. Documentation should be less than 3 years old. However, discretion may be used in accepting documentation of conditions that are permanent or non-varying (e.g., a sensory disability). Likewise, some chronic and/or changing conditions will warrant more current documentation and/or more frequent updates in order to provide an accurate picture of functioning.
3. The ADA Committee will review and analyze the *Employee's Request for Accommodation* form and will recommend appropriate action to the President.
 - a. The President will approve, disapprove, or revise the employee's request for accommodation.
 - b. The Dean of Human Resources will inform the employee of the President's approval/disapproval of the employee's request for accommodation using the *Employer Reasonable Accommodation Response* form.
 - c. The ADA Committee, upon the formal request from an employee, shall confer with the employee with disability regarding continuation/discontinuation/revision of a workplace accommodation. Additional medical/diagnostic documentation may be required for the review. The committee's recommendation will be submitted to the President for approval on the *Employer ADA Reasonable Accommodation Continuance/Discontinuance/Revision* form. The President will approve or disapprove continuing or revising the reasonable accommodation request.

Date Prepared: 08/14/20 RYB

Revised Date: