

**CLOVER PARK TECHNICAL COLLEGE
POLICY & PROCEDURE**

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CHAPTER	SECTION	TITLE	HISTORY:	
2	21	REASONABLE ACCOMMODATION AND RETURN TO WORK	Adopted: 2008	Revised:

POLICY

The purpose of the Reasonable Accommodations and Return to Work program is to provide, when possible, to eligible employees, accommodations in the workplace in compliance with ADA and/or an assignment for an eligible employee who is temporarily unable to return to his/her regular assignment until such time the employee is released for full-work duty by a licensed health care provider.

Clover Park Technical College (CPTC), being aware of its obligations under Executive Order 96-04, RCW 49.60, RCW 51, 32.090, other state guidelines, the American's with Disabilities Act of 1990 (hereafter referred to as the "ADA"), has prepared this reasonable accommodation policy and supporting procedures to comply in good faith with the requirements of applicable laws, rules, and regulations. Final rules established by the Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL) will serve to clarify elements of the Act's intent, beyond what is provided in CPTC policy and procedure.

The Human Resources and Employee Relations designee is responsible for coordinating CPTC efforts toward compliance with the Title I of the Act. Title I prohibits the discrimination of a qualified person with a disability in any condition or aspect of employment.

This procedure affects all employees and candidates for employment with Clover Park Technical College. Persons with disabilities have the right to request and receive reasonable accommodation in all aspects of employment.

The Human Resources and Employee Relations designee is responsible for coordinating CPTC efforts toward compliance with Title II of the Act. Title II prohibits discrimination in the form of facility and service accessibility.

DEFINITIONS

Disability: A physical or mental impairment that substantially limits one or more of an individual's major life activities. The individual with a disability must prove that he or she has a sensory, medical, or physical abnormality and such abnormality has a substantially limiting effect upon his/her ability to perform a job.

Substantially Limits: When a person is significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills, and abilities.

Qualified Individual with a Disability: An individual who, with or without reasonable accommodation, can perform the essential functions of the position that such individual holds or desires.

Essential Function(s): A function(s) of a particular job which, if removed, would fundamentally change the job.

Reasonable Accommodation(s): Modification or adjustment to a job, work environment, policies, practices, or procedures that enables a qualified individual with a disability to perform the essential functions of a job and that can be accomplished without “direct threat” to an individual or cause “undue hardship” to the employer.

Direct Threat: A significant risk of substantial harm that cannot be eliminated or reduced to an acceptable level by a reasonable accommodation.

Undue Hardship: When an accommodation for an employee with a disability, taking into account CPTC’s overall resources, would be unduly costly, expensive, substantial, disruptive, or fundamentally alter the nature or operation of the department or institution.

Need to Know: The basis upon which it is determined who should be made aware of medical restrictions, accommodation requests and analysis, and other pertinent information that may be confidential or protected by privacy rights or statutes.

Health Care Professional: A person who has completed a course of study and is licensed to practice in a field of health care which includes the diagnoses and assessment of the particular disability or disabilities in question.

Interactive Process: Good faith effort by both CPTC and a qualified individual with a disability seeking reasonable accommodation to engage in discussion and exchange information and ideas necessary to administrate this procedure.

PROCEDURE

Accommodation Requests:

All requests for accommodations must be made to the Human Resources and Employee Relations designee in writing, at the following address:

Office of Human Resources and Employee Relations
4500 Steilacoom Blvd SW
Lakewood WA 98499-4098

When an applicant or employee makes a request for a reasonable accommodation, and the disability is not readily apparent and has not been previously documented, CPTC may request that the applicant or employee provide verification from a health care professional that he/she has the disability as claimed and that it has the effect of necessitating the reasonable accommodation requested. CPTC may obtain a second opinion at its own expense from a health care professional of its selection. Such inquiries must be limited to verification of the employee's claims, except that CPTC may also request that the health care professional suggest possible effective alternative accommodations.

Upon receiving a reasonable accommodation request, CPTC shall begin consulting with the individual with a disability to find out his or her specific physical or mental abilities and limitations as they relate to the essential job functions, identify the barriers to job performance, and assess how an accommodation can overcome these barriers.

CPTC shall consult with the employee, and may consult with other knowledgeable sources, to identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.

If there are two or more effective accommodations that would allow the individual with a disability to perform essential job functions, after considering the preference of the individual with a disability, CPTC shall select the accommodation to be provided.

A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the accommodation, he/she will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.

When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, CPTC shall attempt to accommodate the employee through reassignment to another vacant position, at the same pay range or lower, for which he/she is qualified.

The employee is responsible for providing current information showing skills, abilities, training, and experience; identifying the types of jobs he/she is interested in and qualified for; applying for vacant positions; and advising CPTC of any change of address. CPTC is responsible for informing the employee of these responsibilities.

If the cost of a reasonable accommodation would impose an undue hardship to the employer, and there are no other financial resources available, the individual with a disability must be given the option of providing the accommodation, or paying that portion of the cost which would constitute an undue hardship.

Identification of Essential Functions:

Job descriptions are the preferred document for identifying the essential functions of a position. Essential functions in a job description or advertisement will be labeled and only persons who can perform those essential functions, with or without accommodation, are qualified to perform the job.

A working conditions analysis may also be conducted in conjunction with a position analysis to analyze a position's working conditions. It is CPTC's contention that accurately analyzing the working conditions of every current position all at once would be extremely time-consuming and may be unduly cumbersome. Therefore, CPTC will analyze the working conditions of a position when requested in a reallocation or when a position becomes vacant or as otherwise directed by CPTC's classification plan.

In consultation with subject matter experts, part of CPTC's recruitment and selection procedure will continue to require that individuals meet competencies, skill, experience, education, and other job-related requirements for any position. CPTC's classification system will also be reviewed on an on-going basis and revised as necessary to ensure that all relevant qualification standards and competencies will be re-examined periodically to ensure job-relatedness and compliance.

Application Process:

Reasonable accommodation will be provided in every stage of the recruitment, application, and selection process to enable a qualified applicant with a disability to have an equal opportunity to be considered for a job.

Notification of the right to make an accommodation request and information on how to initiate such a request will be included with all job announcements, bulletins, and recruitment efforts.

CPTC will make the job description available to all applicants during the recruitment and/or accommodation process, for the purpose of outlining, respectively, what essential duties or physical and mental acuity abilities the job presently requires. It is the applicant's obligation to notify the Office of Human Resources and Employee Relations for which duty statement or working condition he/she will require accommodation to perform. Job Descriptions and Reasonable Accommodation Request forms in support of these requests are available from the Human Resources office.

Timeliness of response is essential in providing equal opportunity. Ability to provide the requested and appropriate accommodation by the scheduled application/selection process date shall be justification, at the discretion of the Human Resources and Employee Relations designee, for extension of application and other deadlines.

Employment Tests:

The ADA does require that tests do not screen out an individual with a disability or a class of such individuals on the basis of a disability unless it is job-related and consistent with business necessity. The ADA also requires that tests given to people who have impaired sensory,

speaking, or manual skills be given in a format and manner that does not require use of the impaired skill, unless the test is designed to measure that skill.

The Human Resources and Employee Relations designee has reviewed, and will continue to review on an on-going basis, all selection criteria to ensure continued compliance.

CPTC will continue, as is allowed under the ADA, to prohibit the hiring, or continuation of employment, of an individual who poses a direct threat to themselves or others that cannot be eliminated or acceptably reduced by reasonable accommodation(s).

If an accommodation is determined to be reasonable and will eliminate or reduce the risk to an acceptable level, CPTC will provide that accommodation. Requesting an accommodation is the full responsibility of the person seeking it and CPTC reserves the right to provide the accommodation that it determines most effectively accommodates the individual's disability, given the specific situation.

The need for a reasonable accommodation shall not adversely affect the consideration of an individual with a disability for employment, training, promotion, or opportunity to enjoy equal terms, benefits, privileges, and conditions of employment.

Employee Accommodation Procedures:

Current employee's request for reasonable accommodation is the full responsibility of the individual who is seeking the accommodation. All requests will be reviewed and evaluated, based upon this procedure's definitions of "essential functions", "reasonable", "direct threat", and "undue hardship" to determine whether or not a request can be granted. CPTC will interactively engage with the employee and/or the employee's treating physician/health care provider to determine needs, options, and factors.

When an employee cannot be reasonably accommodated in his/her current job, CPTC will endeavor to transfer the employee to any vacant position for which he/she is qualified and can perform, with or without accommodation. This reassignment is noncompetitive and limited to lateral transfers or voluntary demotions. The ADA does not require, and CPTC will not ensure promotion or creation of a position as a form of accommodation.

A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the accommodation, he/she will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.

Training of Managers, Supervisors, and Others as Needed:

Managers and supervisors will receive periodic training related to their responsibilities under this policy and procedure. Additionally, this subject is incorporated into general employee harassment/discrimination training, which emphasizes general awareness of federal/state laws and College Policy as well as reporting procedures related to complaints. This material is also

incorporated into new employee orientation. CPTC is committed to proactively raising these subjects and building an employee awareness of policy, procedure, and complaint process.

Students are made aware through campus-based programs administered by student services administration and are not covered by this procedure or guideline. Procedures for student accommodations are outlined in the student handbook and in these Policies and Procedures under the Student Services Chapter.

Confidentiality:

All information regarding the presence, or nature of an employee's or applicant's disability will be treated as a confidential medical record and shall be maintained in a secure manner, apart from personnel files with access restricted to designated personnel on a need to know basis.

When an individual is hired, or an employee is returned to work with medical restrictions, the supervisor may have a need-to-know regarding the nature of the restrictions and possible reasonable accommodations. However, a supervisor may not necessarily need to know the medical diagnosis or a detailed description of the condition(s) if unrelated to the work limitations. There is no inherent right-to-know simply because the medical condition may affect an employee's work or is otherwise work related. The Human Resources and Employee Relations office maintains secure medical files that protect this confidentiality, and will release only information determined relevant given the definition of need to know, reasonable accommodation, and consistent with the individual's right to medical privacy.

Temporary Disability Determination:

Temporary disabilities are not covered by the ADA but may be covered under other laws. Under the ADA, it is not the name of an impairment or a condition that determines whether a person is protected, but rather the effect of an impairment or condition on the life of a particular person. How long impairment lasts is a factor to be considered, but it does not by itself determine whether a person has a disability under the ADA. The Human Resources Office, in conjunction with appropriate resources, is charged with making such determinations on a case-by-case basis.

CPTC seeks to temporarily accommodate employees in a manner which keeps them productive, orientated to the workplace, and maintain needed skills. To this end, CPTC considers all requests or inquiries very seriously and actively engages with the employee in analyzing the need for, and when necessary, proper application of modified duty assignment.

CPTC requires proof from the employee that a leave is necessary, including certification by a qualified health care provider stating the date the condition commenced, the probable duration of the condition, any appropriate medical facts regarding the condition, estimate of the expected schedule and duration of the leave.

Return From a Medical Leave:

Prior to returning to work from a medical leave, the employee will be required to provide a "fitness for duty certification" also known as a "doctor's release" from a health care provider. The "fitness for duty" certification must be job-related and consistent with business necessity. This statement is to be delivered to the Human Resources Office during regular business hours by the employee prior to returning to the workplace.

If the employee's doctor believes the employee may return to work but with limitations/restrictions, the limitations/restrictions must be noted. When an employee returns to work with such restrictions, an interactive process will begin under this procedure to determine the need for accommodation and the ability to provide those accommodations. In cases of continued medical treatment, the employee is asked to make a reasonable effort to schedule the treatment so as not to disrupt unduly the department's operations.

Complaint Procedure:

It is the intent of CPTC to internally review and resolve all ADA-related complaints made by or on behalf of the complainant. The goal of this policy is to provide for the resolution complaints at a level that will allow for the least disruption of CPTC functions or services. This procedure will function independently of any other resolution method appropriately sought by the party; however, CPTC encourages all parties to utilize this procedure prior to seeking resolution through any other administrative sources. The Human Resources and Employee Relations designee will coordinate compliance efforts and is assigned to investigate complaints. Complaints should be documented on CPTC's Harassment/Discrimination Complaint form and sent to:

Office of Human Resources and Employee Relations
4500 Steilacoom Blvd SW
Lakewood WA 98499-4098

A complaint must be filed in writing. The complaint must identify the name and address of the person filing it and should briefly describe the alleged violation of CPTC policy or the Act.

Incident Notification Form: CPTC has developed a complaint form on which any person may report complaints of harassment or discrimination, regardless of the complaint's basis. The form is made widely available and includes directions on how to complete and route. The form also identifies the limits of confidentiality and the CPTC non-retaliation policy. Any supervisor or administrator is authorized to accept and process the form.

Filing a Complaint: Any employee who believes he/she has been subject to harassment/discrimination has the right to file a complaint. Any supervisor or administrator is authorized to accept or take a complaint. If the complainant does not feel comfortable with filing a written complaint, every effort will be made to take the complaint verbally. The supervisor/administrator will then document the verbal complaint on the CPTC Harassment/Discrimination Complaint Form and route to the Human Resources and Employee Relations office.

Complaint Consideration: Although isolated incidents of harassment and discrimination may not violate federal or state law, such complaints will be taken seriously and considered under this procedure.

Complaint Investigation: The Human Resources Office is solely authorized to receive complaints of harassment and discrimination and to investigate them for all of CPTC. All complaints, regardless of the perceived merit or basis, are to be forwarded to the Human Resources Office for review and processing, without exception. Further guidelines regarding the investigative process can be found in the Harassment and Discrimination policy and procedures guideline.