# 1500.400 REASONABLE ACCOMMODATION PROCEDURE

## A. PURPOSE AND DESCRIPTION

This procedure defines terms associated with the issue of reasonable accommodation and delineates related procedures and responsibilities. This procedure should not be construed as providing rights or obligations not provided under applicable laws. Authority for this procedure is outlined in:

### 1. [Americans with Disabilities Act of 1990](https://www.ada.gov/pubs/ada.htm)

### 2. [Rehabilitation Act of 1973](https://www.eeoc.gov/laws/statutes/rehab.cfm)

### 3. [Chapter 49.60 RCW](https://apps.leg.wa.gov/RCW/default.aspx?Cite=49.60)

### 4. [Chapter 357-26 WAC](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-26)

### 5. [Governor's Executive Order 96-04](https://www.digitalarchives.wa.gov/GovernorGregoire/execorders/eoarchive/eo96-04.htm)

## B. SCOPE

This policy affects all employees and candidates for employment with Wenatchee Valley College. Persons with disabilities have the right to request and receive reasonable accommodation in all aspects of employment with Wenatchee Valley College including but not limited to: application; recruitment; selection/hiring; promotion; testing; medical examinations; layoff/recall; assignments; termination; evaluation; compensation; disciplinary actions; leave; training; the terms, conditions and benefits of employment including insurance benefits; and employer supported activities.

## C. DEFINITIONS

**Reasonable accommodation:** A modification or adjustment to a job, work environment, policies, practices, or procedures that enables a qualified individual with a disability to enjoy equal employment opportunity.

**Equal employment opportunity:** An opportunity to perform the essential job functions or to enjoy equal benefits and privileges of employment as are available to a similarly-situated applicant or employee without a disability.

**Person with a disability:** A person having physical or mental impairment that substantially limits one or more major life activities or a person who has an abnormal condition that is medically cognizable or diagnosable, and who is denied reasonable accommodation or is discriminated against on the basis of that condition.

**Qualified individual with a disability:** An individual with a disability who meets the skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job.

**Undue hardship:** an excessively costly, extensive, substantial, or disruptive modification, or one that would fundamentally alter the nature of the operation of the agency/institution.

**Essential functions:** the fundamental job duties of the position that the individual with the disability holds or desires. The term “essential functions” does not include the marginal functions of the position.

**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.

## D. OBLIGATIONS/RIGHTS OF EMPLOYER

### 1. The college must provide reasonable accommodation to the known physical, mental or sensory limitations of an otherwise qualified individual with a disability.

### 2. The obligation to provide a reasonable accommodation applies to all aspects of employment. This duty is ongoing and may arise any time that a person’s disability or job changes.

### 3. 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.

### 4. All information regarding the presence or nature of an employee's or applicant's disability must 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.

### 5. The college's internal grievance procedures as set forth in its collective bargaining agreements and the college’s complaint procedure used for addressing disputes related to requests for reasonable accommodation, discrimination and harassment complaints.

### 6. Information regarding this procedure and related regulations will be disseminated/discussed during employee orientations and through other appropriate methods. Employees will be notified of the college's obligation to provide reasonable accommodations and be instructed as to how to initiate such a request.

### 7. The institution may request verification by the employee's or applicant's health care provider when an applicant/employee requests a reasonable accommodation when a disability is not readily apparent and has not been previously documented. The college may request that the applicant or employee provide verification from a health care professional that s/he has the disability as claimed and that it has the effect of necessitating the reasonable accommodation requested. The college may obtain a second opinion at its own expense from a health care provider of its choice. Such inquiries must be limited to verification of the employee's/applicant's claims, except that the college may also request that the health care professional suggest possible effective alternative accommodations.

## E. OBLIGATION/RIGHTS OF EMPLOYEE/APPLICANT

### 1. Generally, it is the obligation of an individual with a disability to request a reasonable accommodation.

### 2. 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, s/he will not be considered to be an otherwise qualified individual with a disability after refusing the accommodation.

## F. RECRUITMENT SELECTION

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

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

### 3. The college will respond to such requests in a timely way and may extend application and other deadlines if necessary.

### 4. Qualification standards, employment tests or other selection criteria must not screen out or tend to screen out an individual with a disability unless they are job related and necessary for the employer.

### 5. Employment tests must be used in the most effective manner to measure actual abilities. Tests must accurately reflect skills, aptitude, or other factors being measured, and not the impaired sensory, manual, or speaking skills of an employee or applicant with a disability (unless those are the skills the test is designed to measure).

### 6. The human resource office staff are the designated contact point for information about job openings and the application process. They have the authority to initiate the college's process for the provision of reasonable accommodations for applicants.

## G. TO ALLOW APPLICANT/EMPLOYEE TO PERFORM THE ESSENTIAL FUNCTIONS OF THE JOB

### 1. Determination of essential functions: This is generally done when the position is established, becomes vacant and/or when the duties change. The following criteria should be considered in identifying the essential functions of a job:

#### a. Are employees in the position actually required to perform the function?

#### b. Would removing that function fundamentally change the job?

#### c. Was the position established to perform the function?

#### d. Are there a limited number of other employees available to perform the function, or among whom the function can be distributed; and

#### e. Is the function highly specialized, and is the person in the position hired for special expertise or ability to perform it?

### 2. Upon receiving a reasonable accommodation request, the director of human resources or designee shall consult with the individual with a disability to find out about his or her specific physical or mental abilities and specific limitations as they relate to the essential job functions, identify the barriers to job performance and assess how an accommodation can overcome these barriers. As defined above, verification of the disability/limitations and/or a second opinion may be appropriate.

### 3. The director/designee will consult with the employee/applicant and may consult with other knowledgeable sources, to identify potential accommodations and assess how effective each would be in enabling the individual to perform the essential job functions.

### 4. 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, the employer may select the accommodation to be provided.

### 5. When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, the college will attempt to accommodate the employee through reassignment to a vacant position, at the same pay range or lower, for which s/he is qualified. Within practical limitations, the college may also assist the employee in identifying and applying for vacant positions, for which s/he is qualified, within other agencies/institutions. The employee is responsible for providing current information showing skills, abilities, training, and experience; identifying the types of jobs s/he is interested in and qualified for; applying for vacant positions; and advising the employer of any change of address. The college is responsible for informing the employee of these responsibilities.

## H. TO ALLOW AN EMPLOYEE TO ENJOY EQUAL TERMS, BENEFITS, PRIVILEGES, AND CONDITIONS OF EMPLOYMENT

### 1. Reasonable accommodations must be provided to enable an employee with a disability to enjoy terms, benefits, privileges and conditions of employment equal to those enjoyed by similarly situated non disabled employees.

### 2. The need to provide a reasonable accommodation must not be a factor in the selection of an employee for promotion, training, travel, participating in projects, committees, developmental work assignments or any opportunity which may have an impact on an employee’s career development.

### 3. Reasonable accommodation must be provided to enable an employee with a disability the opportunity to enjoy all employer supported social or recreational activities.

### 4. Timelines for all activities and opportunities covered under this section shall allow adequate opportunity for arranging reasonable accommodation.

### 5. Information contained in communications regarding activities or opportunities covered under this section must be provided to an employee with a disability in a manner or format which is readily accessible to that employee; and employee must be notified about the employer’s obligation to provide reasonable accommodations, and instructed as to how to initiate such a request.

## I. THE UNDUE HARDSHIP LIMITATION

### 1. The college’s responsibility to make a particular reasonable accommodation is limited by the defense that doing so would impose an undue hardship on the operation of the college. However, if a particular accommodation would impose an undue hardship, the employer must consider whether there are alternative accommodations that would not impose such hardship.

### 2. Written justification, signed by the president, must be provided for any decision not to provide a reasonable accommodation because of undue hardship. The justification should demonstrate a consideration of the Disability Accommodation Revolving Fund at the Department of Personnel and should explore the practical and available limits of the institution's ability to draw upon resources available elsewhere within state government.

### 3. If the cost of a reasonable accommodation would impose an undue hardship, 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.

### 4. The following criteria shall be considered in determining undue hardship:

#### a. The nature and net cost of the accommodation needed, taking into consideration the availability of outside funding.

#### b. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of employees, and the effect on the expenses and resources.

#### c. The overall financial resources of the college with respect to the number of employees and the number and type and location of its facilities.

#### d. The type of operation or operations of the college, including the composition, structure and functions of the workforce of the college, and the geographic separateness, and administrative or fiscal relationship of the facility or facilities in question to the college.

#### e. The impact of the accommodation on the operation of the facility including the impact on the ability of other employees to perform their duties and the impact on the facility’s ability to conduct business.

## J. SEPARATION FOR DISABILITY REASONS

A separation for disability reasons may be initiated if the employee is unable to perform the duties of his or her position or class after the institution has made a good faith effort to reasonably accommodate the employee’s disability per [WAC 357-46](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-46). A permanent classified employee being separated due to disability shall be provided with a pre-separation notice that includes information regarding the employee's option to apply for return to employment. A separated classified employee may appeal his/her separation, as provided by [WAC 357-52](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-52). Separations due to disability shall not be considered disciplinary actions.

### 1. Written notice of separation is provided to the employee. Notice includes, in part, reason for separation. Classified employees will be notified of their option to apply for return to employment and appeal rights.

### 2. A classified employee being separated due to disability shall also be provided with the following information: provisions governing reemployment , assistance provided by the institution when seeking reemployment, information pertaining to a probationary period for employees returning from disability separation ([WAC 357-19-465](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-465), [470](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-470), [475](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-475) and [480](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-480)), information pertaining to examination and eligibility for current and returning permanent employees of the classified service, information pertaining to the definition and composition of eligible lists ([WAC 357-16](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-16)), information pertaining to training and development for employees returning from separation ([WAC 357-34-030](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-34-030)), copies of applicable civil service rules and college procedures.

### 3. In addition to the information listed above, the employee will be provided with a list of benefit assistance programs offered by other agencies (i.e. public assistance, disability retirement, social security, etc.) and information concerning COBRA.

## K. DISSEMINATION

This procedure will be readily available in the human resource office. A copy of this procedure will be given to an employee at the time of a request for accommodation or when steps to accommodate are initiated by the institution. Information concerning this procedure will be shared during new employee orientation and supervisor training programs.

Supersedes 2.A.47

Moved from old manual and updated

Approved by the president’s cabinet: 8/1/07

Presented to the board of trustees: 10/17/07

Last reviewed: \_\_/\_\_/\_\_

Procedure contact: Human Resources

Related policies and procedures

 500.400 [Reasonable Accommodation Policy](https://www.wvc.edu/humanresources/policies-procedures/500-human-resources/500.400-reasonable-accommodation.html)