

*Review History: Reviewed by the Policy Review Committee 05/29/20.*

## **ELIZABETH CITY STATE UNIVERSITY Reasonable Accommodation Policy**

### **Preamble**

The purpose of this policy is to assist Elizabeth City State University (ECSU) current employees and applicants for employment in requesting and processing reasonable accommodation requests. The overall intent of this policy is to ensure that Elizabeth City State University fully complies with the Americans with Disabilities Act (ADA) Amendments Act of 2008 and maintains equal opportunity in employment for all qualified persons with disabilities. This policy also prohibits retaliation against employees. To the extent that any provision of this policy conflicts with the Office of State Human Resources (OSHR) policy on Reasonable Accommodation, Section 1, of the State Personnel Manual shall control.

### **1. Policy Statement**

Elizabeth City State University is required under federal and State law to reasonably accommodate qualified individuals with disabilities as identified under the ADA unless the accommodation would impose an undue hardship. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process.

### **2. Definitions**

Under this policy, the following terms are defined accordingly:

#### **A. Disability**

A disability is defined as a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

#### **B. Qualified Individuals with Disabilities**

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

#### **C. Reasonable Accommodation**

A reasonable accommodation is defined as 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 employment opportunities.

#### **D. Undue Hardship**

An undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

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E. Essential Functions

Essential Functions are the fundamental duties of the position or the primary reasons the position exists.

**3. Coverage**

This policy applies to all qualified applicants and employees with disabilities. If requested, reasonable accommodations shall be considered for qualified employees regardless of whether they work part-time or full-time, or are considered probationary or non-career status, as well as temporary employees.

**4. Reasonable Accommodation**

- A. ECSU is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if requested or if it would not impose an “undue hardship” on the operation of the university.
- B. Reasonable accommodation may include, but is not limited to:
- i. Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
  - ii. Job restructuring, modifying work schedules, reassignment to a vacant position; or
  - iii. Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.
- C. There are several modifications or adjustments that are not considered forms of reasonable accommodation. ECSU does not have to eliminate an essential function from the position, nor is ECSU required to lower quality or production standards to make an accommodation, as long as those standards are applied uniformly to employees with or without a disability. ECSU does not have to create a new position to accommodate an employee.
- D. ECSU is not obligated to provide personal use items needed in accomplishing daily activities both on and off the job (i.e. eyeglasses, hearing aids, prosthetic limbs or wheelchairs.) ECSU is not required to provide personal use amenities, such as a refrigerator, if these items are not provided to employees without disabilities.

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**Procedures for Requesting a Reasonable Accommodation**

**1. Employee Accommodations**

Under this policy, the following process shall be followed by employees:

- A. The employee shall inform their supervisor or the Chief Human Resources Officer/designee of the need for an accommodation under the Americans with Disabilities Act (ADA). This initial request is occasionally accompanied by a medical note that the employee received from a physician.
- B. Supervisors who have been notified by an employee of an accommodation need should contact the designated EEO or HR official for assistance.
- C. The EEO/ADA Officer or the Chief Human Resources Officer /designee shall inform the supervisor and/or the employee that a Request for Reasonable Accommodation Form (200.1.19 [F1]) must be completed in order to request an accommodation under the ADA.
  - i. When a qualified employee with a disability has requested an accommodation, ECSU shall, in consultation with the employee regarding the Request for Reasonable Accommodation Form:
    - a) Discuss the purpose and the essential functions of the particular job involved.
    - b) Determine the precise job-related limitation.
    - c) Identify the potential accommodation(s) and assess the effectiveness each would have in allowing the employee to perform the essential functions of the job.
- D. After the Request for Reasonable Accommodation Form is submitted to the EEO/ADA Officer or the Chief Human Resources Officer, the employee shall then complete a Release of Information and Acknowledgment Form (200.1.19 [F2]). The employee must either attach a list of the diagnosing physician(s) or health care provider(s) associated with the condition prompting the accommodation request, or submit a fully executed Release of Information and Acknowledgment Form for each diagnosing physician or health care provider.
  - i. The employee has ten (10) calendar days after the EEO/ADA Office or the Chief Human Resources Officer has received the Request for Reasonable Accommodation Form in which to submit the Release of Information and

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Acknowledgment Form and diagnosing physician information. If the employee does not submit the Release of Information and Acknowledgment Form within ten calendar days, the university shall presume that the employee does not wish to pursue a request for reasonable accommodation under the ADA, and will consider the request closed at this time.

- E. Elizabeth City State University shall forward to the diagnosing physician(s) or health care provider(s) the fully executed Release of Information and Acknowledgment Form, Documentation of Disability Form (200.1.19 [F3]), and the job description or classification specification for the employee requesting an accommodation under the ADA.
- F. Upon receipt of the Documentation of Disability Form from the diagnosing physician(s) or health care provider(s), the university shall review the clinical information provided. The EEO Officer or Chief Human Resources Officer /designee shall provide the written decision to the employee within a reasonable amount of time, not to exceed thirty (30) days from the original employee request; the signed Acknowledgment section of the Release of Information and Acknowledgment Form represents the agreement from the employee that the university may take more than thirty (30) days to render a decision.
- G. If the determination is that a reasonable accommodation will be made, the EEO Officer or Chief Human Resources Officer /designee will notify the appropriate supervisor. The department or division shall seek funding for the reasonable accommodation in the same manner as any other departmental or divisional expenditure.
- H. If the department or division has insufficient funds for the accommodation(s), the department or division shall seek financial support through other administrative channels.
- I. The final determination of what reasonable accommodation(s) will be afforded, if any, remains with the university. The university may select and implement the reasonable accommodation that is the most appropriate for both the employee and ECSU. While an employee's preference will be given consideration, ECSU is free to choose among the one that is less expensive or easier to provide.
- J. Final determination as to whether an accommodation creates an undue hardship shall rest with the Chancellor after consultation with the General Counsel and the Provost or Vice Chancellor for the applicable department or division, or their designated representatives.

## **2. Job Applicants**

Under this policy, the following process shall be followed for job applicants requesting a reasonable accommodation under the ADA:

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- A. ECSU may provide accommodations for job applicants, upon request, during the application and interview process. Examples might include providing an interpreter during a job interview, or providing employment forms or tests in an alternative format (large print or Braille).
- B. The job applicant shall inform the hiring officials, the ECSU EEO Officer or the Chief Human Resources Officer /designee of the need for an accommodation under the ADA. Hiring officials who have been notified by an applicant of a need for accommodation should contact the designated EEO or Human Resources official for assistance.
- C. The EEO Officer or the Chief Human Resources Officer /designee will discuss the needed accommodation(s) and shall inform the applicant that a Request for Reasonable Accommodation Form (200.1.19 [F]) must be completed in order to request an accommodation under the ADA.
- D. The EEO Officer or Chief Human Resources Officer /designee will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

### **3. Appeals**

- A. Employees or applicants who are dissatisfied with the decision(s) pertaining to his/her accommodation request may file a grievance in accordance with ECSU's grievance procedures for SHRA employees: the UNC SHRA Employee Grievance Policy <https://files.nc.gov/ncoshr/documents/files/Employee%20Grievance%20Policy%20%E2%80%93%20University.pdf>; for EHRA employees: the Grievance Procedures for Employees Exempt from the State Personnel Act (200.3.4); and for faculty: the Faculty Grievance Procedure (300.2.3).
- B. Employees or applicants may also file charges of discrimination directly with the Equal Employment Opportunity Commission (EEOC).
- C. This policy is intended to provide steps for consistent application of the reasonable accommodation process throughout the ECSU workforce. Prohibitions on disability discrimination are included in the existing Equal Employment Opportunity policy of ECSU and the state.