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Cancels: WSC Policy # 8  
See Also:

## POLICY

Approved by:  
*Mark Duncan*

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# POL – 140

## MANAGING REASONABLE ACCOMMODATION REQUESTS FOR MEMBERS

This policy applies to reasonable accommodation requests for Washington Service Corps (WSC) applicants and members.

A reasonable accommodation is a modification or adjustment that enables a qualified member with a disability to perform the essential functions of the position during his/her term of service and/or to enjoy equal benefits and privileges offered to other members during his or her term of service.

If a member is uncomfortable at his or her workstation and needs a modification or adjustment that is comfort-related or intended to prevent an illness or injury, the member should contact their supervisor to arrange an ergonomics assessment.

### MEMBERS:

**1. Reasonable accommodation applies to disabilities as defined by the Washington Law against Discrimination at RCW 49.60 (7).**

For the purpose of this policy, “disability” means “the presence of a sensory, mental or physical impairment that is medically cognizable or diagnosable”.

This policy also applies to disabilities resulting from industrial (during term of service) injuries that are not being accommodated by the Department of Labor and Industries.

**2. Washington Service Corps subgrantees will provide reasonable accommodation to qualified members with a disability.**

WSC subgrantees will offer reasonable accommodations to members with known sensory, mental or physical impairment that has a substantially limiting effect upon 1) the individual’s ability to perform the essential functions of their term of service, or 2) the individual’s ability to enjoy equal benefits and privileges of their service, unless doing so would impose an undue hardship.

The accommodation process may be ongoing and may reopen any time and might occur when the member’s disability or essential functions change.

The need for accommodation shall not adversely affect the consideration of a qualified individual with a disability for a position or the opportunity to enjoy equal benefits and privileges offered to other members during his or her term of service.

A qualified member with a disability has the right to refuse accommodation. However, if the individual without the accommodation cannot perform the essential functions of the position, then they would not be considered a qualified individual with a disability. It is the responsibility of WSC sub-grantees, in consultation with WSC, to determine the appropriate action after the refusal of an accommodation.

**3. WSC provides information on a member's right to request accommodations for disabilities defined in this policy.**

All members will have access to review this policy and be informed of their rights and responsibilities by their supervisor.

There are a number of ways members can request a reasonable accommodation for disabilities:

- complete with the request form with their supervisor;
- contact their Program Coordinator directly;
- or call the WA Service Corps toll-free at 1-800-713-6080 to request assistance.

**4. Members are responsible for notifying their supervisor of their need for accommodation.**

Members who have not previously notified their supervisor of the need for an accommodation shall do so after the member becomes aware of the need. Current members shall communicate their accommodation needs to their supervisor, or WSC Program Coordinator.

If a supervisor determines that a member is having difficulties in performing the essential functions of their position due to a physical or mental impairment that is presenting a barrier, the supervisor should engage in a confidential discussion with the member to determine if this is the case.

A supervisor or member may contact the Program Coordinator at the WA Service Corps office to seek assistance or make inquiry regarding a member's potential reasonable accommodation.

**5. Members will be provided reasonable accommodations for their disabilities unless doing so would result in undue hardship.**

If providing an accommodation would impose an undue hardship on the operation of the host site, alternate accommodations will be considered.

If it is determined, after all the options have been exhausted, that no reasonable accommodation can be made without undue hardship, the supervisor will consult with the WSC to consider a disability termination. Separations due to disability can only be authorized by the WSC Director or its designee and are not considered a release for cause.

**6. Documentation of efforts to provide accommodations to members will be maintained by the subgrantee, available for review by the Corporation for National and Community Service, Serve Washington and/or Washington Service Corps staff in the event of an audit or monitoring visit.**

Upon completing the reasonable accommodation process, all supporting information is to be filed with the sub grantee in a secure location, separate from a member's official file. Information about an individual's disability is limited to designated personnel and only provided on a need- to-know basis.

**7. Members who believe they have been discriminated against based on their disability have a right to file a discrimination complaint.**

A member who believes that they have been subjected to discrimination in violation of nondiscrimination provisions applicable laws, regulations, or this policy may raise their concerns with the Corporation for National & Community Service's Office of Civil Rights and Inclusiveness. However, discrimination claims not brought to the attention of the Office of Civil Rights and Inclusiveness within 45 days of their occurrence may not be accepted in a formal complaint of discrimination. The Office of Civil Rights and Inclusiveness may be reached at [eo@cns.gov](mailto:eo@cns.gov), (202) 606-7503 (VOICE), (202) 606-3465 (FAX), or (202) 606-3472 (TDD). The Office of Civil Rights and Inclusiveness attempts to resolve concerns about discrimination promptly and when possible, uses an informal conciliation process to do so. The Corporation for National & Community Service (CNCS) encourages, but does not require, volunteers, service participants, and other beneficiaries to first bring concerns about discrimination to the director or appropriate personnel of the program or project. CNCS encourages directors of programs and projects to facilitate prompt resolution of these concerns.

**APPLICANTS:**

**1. Reasonable accommodation applies to disabilities as defined by the Washington Law against Discrimination at RCW 49.60.**

For the purpose of this policy, disability means "the presence of a sensory, mental or physical impairment that is medically cognizable or diagnosable."

**2. Applicants are responsible for notifying the Washington Service Corps or partner organizations of their need for accommodation regarding the recruitment process.**

Individuals applying directly to the subgrantee and in need of accommodations relating to the application, recruitment, and/or testing process shall identify the need for accommodation at the time of application and/or interview.

The need for accommodation shall not adversely affect the consideration of a qualified individual with a disability for service.

**3. Washington Service Corps and subgrantees will provide applicants with notification of the right to request and receive accommodations based on disabilities.**

Notification of the right to request an accommodation and information on how to initiate such a request will be included with all announcements, bulletins, and recruitment efforts by the subgrantee. Timeliness is essential, and failure to provide accommodations in a timely manner may be justification for granting an extension of application and other deadlines.

**4. Disability inquiries during pre-service (the pre-offer stage) are prohibited.**

During the pre-offer stage, before an applicant is offered a position, inquiries to applicants should be limited to whether the applicant is able to perform the essential functions of the position. A supervisor may not ask disability-related questions.

During the pre-offer stage, requesting applicants to voluntarily self-identify as individuals with disabilities is asked for affirmative-action reporting purposes only and is maintained confidentially. We recommend this being stated on application questionnaires.

**5. Applicants who believe they have been discriminated against based on their disability have a right to file a discrimination complaint.**

An applicant who believes that he or she has been subjected to discrimination in violation of nondiscrimination provisions applicable laws, regulations, or this policy may raise their concerns with the Corporation for National & Community Service's Office of Civil Rights and Inclusiveness. However, discrimination claims not brought to the attention of the Office of Civil Rights and Inclusiveness within 45 days of their occurrence may not be accepted in a formal complaint of discrimination. The Office of Civil Rights and Inclusiveness may be reached at [eo@cns.gov](mailto:eo@cns.gov), (202) 606-7503 (VOICE), (202) 606-3465 (FAX), or (202) 606-3472 (TDD). The Office of Civil Rights and Inclusiveness attempts to resolve concerns about discrimination promptly and when possible, uses an informal conciliation process to do so. The Corporation for National & Community Service (CNCS) encourages, but does not require, volunteers, service participants, and other beneficiaries to first bring concerns about discrimination to the director or appropriate personnel of the program or project. CNCS encourages directors of programs and projects to facilitate prompt resolution of these concerns.

**DEFINITIONS**

*Under Washington state law, [RCW 49.60.040\(7\)](#):*

- (a) "Disability" means the presence of a sensory, mental, or physical impairment that:
  - (i) Is medically cognizable or diagnosable; or
  - (ii) Exists as a record or history; or
  - (iii) Is perceived to exist whether or not it exists in fact.
  
- (b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.
  
- (c) For purposes of this definition, "impairment" includes, but is not limited to:
  - (i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or
  - (ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
  
- (d) Only for the purposes of qualifying for reasonable accommodation in a position, impairment must be known or shown through an interactive process to exist in fact and:

- (i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her position, or the individual's ability to apply or be considered for a position; or
  - (ii) The member must have put the program on notice of the existence of impairment, and medical documentation must establish a reasonable likelihood that engaging in position functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.
- (e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

Under federal law, the Americans with Disabilities Amendments Act of 2008:

(1) Disability

The term "disability" means, with respect to an individual:

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment (as described in paragraph (3)).

(2) Major life activities

- (A) In general. For purposes of paragraph (1), major life activities are activities an average person can perform with little or no difficulty and include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- (B) Major bodily functions. For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment For purposes of paragraph (1)(C):

- (A) An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this Act 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.
- (B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

- (4) Rules of construction regarding the definition of disability. The definition of “disability” in paragraph (1) shall be construed in accordance with the following:
- (A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.
  - (B) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.
  - (C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
  - (D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
  - (E) (i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:
    - (I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
    - (II) use of assistive technology;
    - (III) reasonable accommodations or auxiliary aids or services; or
    - (IV) learned behavioral or adaptive neurological modifications.
  - (ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
  - (iii) As used in this subparagraph:
    - (I) the term “ordinary eyeglasses or contact lenses” means lenses that are intended to fully correct visual acuity or eliminate refractive error; and
    - (II) the term “low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

**Essential Task Functions:**

The term “essential task functions” means the fundamental tasks of the position, and does not include marginal functions. Essential functions tend to be necessary or integral. Marginal functions tend to be incidental or peripheral.

All tasks have essential and marginal functions. Identifying the essential functions is crucial to determining whether a candidate or member is a qualified individual with a disability. Decisions about an individual’s need for accommodation must be based on the essential functions. Essential tasks are the key responsibilities which, if removed, would fundamentally alter the nature of the

position. They may not include tasks that would be helpful, tasks that were done once, or a wish list of future tasks.

A project site/sponsoring organization is not limited in its ability to establish or change the essential functions of a position, and should review them regularly. This review may occur when a position is first established or at the time a position is vacated. It also is recommended that a collaborative review occurs during the member's evaluation when adjustments can be made accordingly.

**Fundamental Alteration:**

“Fundamental alteration” is defined as a change in the essential nature of a program or activity, aid, benefit, service or training. A cost that the program can demonstrate would result in an undue burden.

**Health Care Professional:**

Under WAC 162-22-022(6), "health care professional" means a person whose license to practice includes diagnosis and assessment of the particular disability for which she or he issues a health care opinion.

**Qualified Individual With A Disability:**

With respect to service: a person who meets the requisite skill, experience, education and other service-related requirements of the position they hold or desire, and who, with or without reasonable accommodation of his/her disability, can perform the essential functions of the position for which he/she is considered;

With respect to programs and services: a person who, with or without a reasonable accommodation of his/her disability, meets eligibility requirements.

With respect to service: modifications or adjustments to a task, work environment, policies, practices, or procedures that enable a qualified individual with a disability to perform the essential functions of the service or to enjoy benefits and privileges of service equal to those enjoyed by similarly situated non-disabled members. Examples of benefits and privileges include equal access to training as well as to lunchrooms, restrooms, meeting rooms, and program-provided social events.

Examples of reasonable accommodations in the term of service include, but are not limited to: task restructuring; reassigning nonessential functions and modifying architectural barriers. Examples of reasonable accommodations or reasonable modifications for services include, but are not limited to: providing readers, interpreters, assistive listening devices, or other auxiliary aids; modifying architectural barriers; and, modifying policies, procedures or practices unless it causes a fundamental alteration of the program or activity.

**Undue Hardship:**

In general, “undue hardship” means accommodations that are excessively costly, difficult or disruptive, or would fundamentally alter business operations of the organization when considered in light of the following factors:

- The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding, for the accommodation;
- The overall financial resources of the office or facilities involved in providing the reasonable accommodation, including: (1) The number of people aided, benefited,

served, trained by or employed at the facility or facilities, and (2) the effect the accommodation would have on the expenses and resources of the facility or facilities;

- The overall financial resources of the program, including: (1) The overall size of the program, (2) the number of people aided, benefited, served, trained, or employed by the program, and (3) the number, type and location of the programs facilities;
- The type of operation or operations of the program, including: (1) The geographic separateness and administrative or fiscal relationship of the office or facilities in question to a possible parent organization, and (2) if the individual is seeking a service-related accommodation, the composition, structure and functions of the program's workforce;
- The effect of the accommodation upon the operation of the office or facilities, including:  
(1) The effect on the ability of other participants to receive aid, benefits, services, or training, or of other members to perform their duties, and (2) the effect on the facility's ability to carry out its mission;
- Other resources; and
- If the accommodation would impose an undue hardship on the program, the program must provide any level of accommodation that would not result in an undue hardship, when possible.

**LAWS/RULES/REGULATIONS:**

- Americans with Disabilities Act (ADA) of 1990, as amended (Pub. L. No. 101-336 and Pub. L. No. 110-325), 29 CFR Part 1630 and 28 CFR Part 35.
- Rehabilitation Act of 1973, as amended, Section 504 (Pub. L. No. 93-516) 29 U.S.C.

§794 and 29 CFR Part 32.

- Washington State Law RCW 49.60

Washington Administrative Code (WAC) Chapters 162-22 and [357-46](#).