

1.0 PURPOSE

This procedure is established in compliance with the [Americans with Disabilities Act \(ADA\) of 1990](#) and ADA Amendments Act of 2008 (ADAAA or Amendments Act), 42 U.S.C. 12101 et seq., the Rehabilitation Act of 1973 (P.L. 93-11), and [45 CFR Part 84](#); Revised Code of Washington (RCW) [Chapter 49.60](#); Washington Administrative Code (WAC) Chapters [162-22](#), and [357-46-160](#) through [357-46-175](#).

Big Bend Community College provides reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment. An individual with a disability may request reasonable accommodation in all aspects of employment. Requesting reasonable accommodation will not adversely affect an individual's consideration for employment, training, promotion, or opportunity to enjoy equal terms, benefits, privileges, or conditions of employment.

Information contained in communications regarding college activities or opportunities covered by this procedure will be made available to an employee with a disability in a manner or format that is accessible to that employee.

2.0 SCOPE

This procedure applies to all employees and candidates for employment with Big Bend Community College. Persons with disabilities have the right to request and receive reasonable accommodation in all aspects of employment. Employees covered by a collective bargaining agreement should refer to that agreement for specific reasonable accommodation procedures. This procedure also applies to individuals who wish to participate in college-sponsored events, which are open to the public. Reasonable accommodation for students is addressed in BP 6112 Reasonable Accommodation for Students.

The Vice President of Human Resources & Labor is responsible for coordinating college efforts toward compliance with Title I of the Americans with Disabilities Act of 1990. Title I prohibits the discrimination of a qualified person with a disability in any condition or aspect of employment.

The Vice-President of Finance & Administration is responsible for coordinating college efforts toward compliance with Title II of the Americans with Disabilities Act of 1990. Title II prohibits discrimination in the form of facility and service accessibility.

3.0 DEFINITIONS

3.1 Disability: The presence of a sensory, mental, or physical impairment, whether temporary or permanent, that has a substantially limiting effect upon the individual's ability to perform one or more major life activities, and is medically

cognizable or diagnosable, exists as a record or history, or the person is perceived to have an impairment. Solely for purposes of determining whether a person is entitled to a reasonable accommodation, an impairment must be known or shown through an interactive process to actually exist.

- 3.2 Impairment:** Includes, but it not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss of a major bodily system, and 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.
- 3.3 Substantially Limits:** A person's ability to perform a major life activity is limited when compared to most people in the general population. An impairment need not prevent or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every limitation will constitute a disability and a limitation is not substantial if it has only a trivial effect. Whether an impairment substantially limits a major life activity is determined without regard to the ameliorative effects of mitigating measures, such as medication, except for ordinary eyeglasses or contacts.
- 3.4 Major Life Activities:** Includes, but is 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. 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.
- 3.5 A 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 position.
- 3.6 Essential Function(s):** the fundamental job duties of the position that the individual with the disability holds or desires. It does not include marginal functions of the position.
- 3.7 Reasonable Accommodation(s):** Reasonable accommodation means modifying or adjusting practices, procedures, policies, job duties, or the work or application environment so that a qualified individual with a disability can perform a position's essential functions, and/or enjoy equal employment opportunity. Reasonable accommodation will be implemented as long as:
- 3.7.1** It is medically necessary (i.e., there is competent medical evidence establishing a relationship between the disability and the need for accommodation), and
 - 3.7.2** It does not impose an undue hardship on the college.

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- 3.8 Undue Hardship:** When an accommodation for an employee with a disability, taking into account BBCC's overall resources, would be unduly costly, extensive, substantial, disruptive, or fundamentally alter the nature or operation of the department or institution.
- 3.9 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.
- 3.10 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.
- 3.11 Grievance:** A disagreement between BBCC and an employee, group of employees, or member of the general public concerning the interpretation, application, or perceived violation of state or federal law and/or this procedure.
- 3.12 Interactive Process:** A good faith effort by both BBCC and a qualified individual with a disability seeking reasonable accommodation to engage in discussion and exchange information and ideas necessary to administrate this procedure.
- 3.13 Direct Threat:** A significant risk to the health, safety, or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

4.0 PROCESS

4.1 Accommodation Requests

All requests for accommodation must be made to the VP of Human Resources & Labor or designee at the address below.

VP of Human Resources & Labor
7662 Chanute Street, NE
Moses Lake, WA 98837
509-793-2010
hroffice@bigbend.edu

4.1.1 When an individual's disability is not readily apparent, the disability has not been previously documented, and/or the reasonableness of an accommodation request is not obvious, the College may request the employee provide information from an appropriate health care professional regarding the disability, its functional limitations, and need for reasonable accommodation.

4.1.2 If an individual provides insufficient information from their health care professional, the College may require the individual to go to a health care professional of its choice, and at its expense, to substantiate the

individual's disability and the functional limitations that require reasonable accommodation.

- 4.1.3** To the extent possible and in accordance with applicable laws and regulations, all information regarding the presence or nature of an individual's disability is treated as a confidential medical record and is maintained in a secure manner, apart from personnel files and with access restricted to designated personnel on a need to know basis.
- 4.1.4** Upon receiving a reasonable accommodation request, BBCC shall begin the interactive accommodation process. Employee cooperation and participation is necessary throughout the accommodation process. Among other things, employees may be asked to attend meetings to discuss their accommodation needs, provide relevant documentation about the disability and its functional limitations, and provide documentation of skills, abilities, training, and/or work experience.
- 4.1.5** A supervisor or manager may not approve or deny an individual's request for reasonable accommodation without first consulting with the Vice-President of Human Resources & Labor. A supervisor or manager with questions about the nature of a request or whether a request has actually been made should consult with the Human Resources Office as soon as possible.
- 4.1.6** 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, they will not be considered an otherwise qualified individual with a disability after refusing the accommodation.
- 4.1.7** When an accommodation in an employee's present position is not reasonable, or would cause an undue hardship, BBCC shall attempt to accommodate the employee through reassignment to another vacant position, at the same pay range or lower, for which they are qualified. This reassignment is noncompetitive and limited to lateral transfers or voluntary demotions. The ADA does not require, and BBCC will not ensure promotion or creation of a position as a form of accommodation.
- 4.1.8** All resources of BBCC should be taken into consideration to determine if an accommodation would be an undue hardship for the college. A denial based on undue hardship must be approved by the Vice President of Finance & Administration.
- 4.1.9** The employee is responsible for providing current information showing skills, abilities, training, and experience; identifying the types of jobs they are interested in and qualified for; applying for vacant positions; and advising BBCC of any change of address/contact information. BBCC is responsible for informing the employee of these responsibilities.

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

4.2 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

4.3 Job 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.

4.3.1 Job announcements and advertisements include notification of the right to make an accommodation request and information as to how to make one.

4.3.2 Timely response to an accommodation request is essential to providing equal opportunity. If a request for reasonable accommodation does not receive timely response, the College may extend application or other deadlines.

4.3.3 Qualification standards, employment tests, or other selection criteria may not screen out or tend to screen out an individual with a disability unless the tests or selection criteria are job-related and consistent with business necessity.

4.3.4 The VP of Human Resources & Labor or designee has reviewed, and will continue to review, on an on-going basis, all selection criteria to ensure continued compliance.

4.3.5 An individual with a disability may be prohibited from participating in a program, activity, or job duty if the individual poses a direct threat to the health and safety of others, to the extent permitted by law.

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

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

4.3.8 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

4.4 Training of Managers, Supervisors, and Others as Needed

Managers and supervisors will receive periodic training related to their responsibilities under this procedure. BBCC is committed to proactively raising these subjects and building an employee awareness of policy, procedure, and complaint processes.

- 4.4.1** Students are made aware through campus-based programs administered by student services administration and are not covered by this procedure. Reasonable accommodation for students is addressed in BP 6112, Reasonable Accommodation for Students.

4.5 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.

- 4.5.1** 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 effect an employee's work or is otherwise work related. The Human Resources 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.

4.6 Temporary Disability Determination

BBCC seeks to accommodate employees with temporary disabilities in a manner which keeps them productive, connected to the workplace, and in a position to maintain needed skills. To this end, BBCC 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.

- 4.6.1** Modified duty assignments may be utilized up to 45 calendar days and may be re-certified for an additional 45 calendar days, if necessary. A modified duty assignment may not extend beyond 90 calendar days, except in extraordinary circumstances as determined by the employer. For certain situations, BBCC may transfer an employee temporarily, at the employee's current pay, to a position that would accommodate a leave of absence or work restriction that could not be accommodated within their current position.

4.6.2 BBCC 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. The medical certification form is maintained in Human Resources.

4.7 Return from a Medical Leave

Prior to returning to work from a medical leave, the employee will be required to provide a Medical Certification – Release to Return to Work form completed by the medical provider. The Medical Certification – Release to Return to Work must be job related and consistent with business necessity. The completed form is to be delivered to the Human Resources Office during regular business hours by the employee prior to returning to the workplace.

4.7.1 If the employee's doctor believes the employee may return to work but with limitations/restrictions that will be permanent, 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 unduly disrupt the department's operations.

4.7.2 BBCC may require the employee to bring an updated doctor's note with any new restrictions. The updated medical information must be delivered to the Human Resources Office prior to any implementation of modified duty.

4.8 Public Access

The VP of Finance & Administration is the college point of contact for issues regarding an accommodation for architectural access or to remove barriers to access on campus.

4.8.1 Section 50.50 of the State Administrative and Accounting Manual (SAAM) includes specific requirements for scheduling events in state and non-state facilities. The intent of the section is to ensure that state agencies and institutions conduct hearings, conventions, conferences, meetings and formal training sessions in barrier-free facilities so that individuals with disabilities are not excluded from participation. College employees are responsible for adhering to these requirements when planning events.

4.8.2 It is the responsibility of BBCC faculty or staff who oversee a program or activity to ensure the program or activity is accessible and that proper notice regarding requests for accommodation have been made. Technical assistance is available from the VP of Human Resources & Labor/Section 504 Compliance Officer, the Accommodation & Accessibility Services Coordinator, or the VP of Finance & Administration.

- 4.8.3** The person(s) responsible for the event or activity shall:
- 4.8.3.1** Collect information regarding access needs and provide reasonable accommodations for events and activities that they sponsor.
 - 4.8.3.2** Ensure that all notices, e.g., fliers, advertisements, posters or brochures, which publicize a program, activity or service, include a reasonable accommodation statement. The approved statement is available by contacting the Communications Department or the Human Resources Office. All notices for meetings open to the public are subject to this requirement.
 - 4.8.3.3** Ensure that registration forms include reasonable accommodation statements.
 - 4.8.3.4** Ensure the facility where the program, activity, or event is held is accessible.
 - 4.8.3.5** Work with the person who requested the accommodation to determine the most appropriate and reasonable accommodation.
 - 4.8.3.6** Document all actions pertaining to addressing the need for accommodation.
Public accommodation features of facilities and equipment that are required to be readily accessible to persons with disabilities shall remain in operable working condition.
 - 4.8.3.7**
Individuals with disabilities shall be permitted to be accompanied by their service animals, not emotional support animals, in all areas of a public entity's facility where members of the public are allowed entry. BBCC shall not require an individual with a disability to pay a surcharge for their service animal. For information on service animals, see AP 8350-Service Animals on Campus.

4.9 Complaint/Grievance Procedure

It is the intent of BBCC to internally review and resolve all ADA-related grievances or complaints made by or on behalf of the complainant. The goal of this procedure is to provide for the resolution of grievances or complaints at a level that will allow for the least disruption of BBCC functions or services. This procedure will function independently of any other resolution method appropriately sought by the grieving party; however, BBCC encourages all parties to utilize this procedure prior to seeking resolution through any other administrative sources.

- 4.9.1** The VP of Human Resources & Labor or designee will coordinate compliance efforts and is assigned to investigate complaints under this procedure. A grievance/complaint may be filed either verbally or in writing at the address below. In either case, the grievance must identify the name and address of the person filing it and should briefly describe the alleged violation of BBCC policy, procedure or the Americans with Disabilities Act of 1990.

VP of Human Resources & Labor
7662 Chanute Street, NE
Moses Lake, WA 98837
509-793-2010

hroffice@bigbend.edu

- 4.9.2** Complaints may be resolved through the college using the complaint/investigation process described in AP 6115-Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Stalking, and Retaliation. However, an aggrieved individual also has the right to file a complaint with and/or seek additional information from one or more of the following agencies:

Equal Employment Opportunities Commission
Seattle Field Office
909 First Avenue
Suite 400
Seattle, WA 98104-1061
Telephone: (800) 669-4000
Fax: (206) 220-6911
TTY: 1 (800) 669-6820
ASL Video: (844) 234-5122

Washington State Human Rights Commission
Spokane District Office
1330 N. Washington St., Suite 2460
Spokane, WA 99201
Telephone: (509) 456-4473

Washington State Human Rights Commission
Olympia Headquarters
402 Evergreen Plaza
711 South Capitol Way, Suite 402
Olympia, WA 98504
Telephone: 1 (800) 233-3247
TTY 1 (800) 300-7525

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disabilities Rights Section – 1425 NYAV
Washington, DC 20530
Telephone: 1(855) 856-1247
TTY: 1 (202) 514-0716

Seattle Office
Office of Civil Rights
U.S. Department of Education
915 Second Avenue Room 3310

Seattle, WA 98174-1099
Telephone: (206) 607-1600
TDD: (800) 877-8339
Email: OCR.Seattle@ed.gov

4.10 Separation Due to Disability

If an employee can no longer perform the essential functions of their job, with or without reasonable accommodation, or if there is not reasonable accommodation possible or available, including placement in an alternative position, the employee will be separated from college employment. Such separations will comply with the provisions of all applicable laws, policies and labor agreements. A qualified employee with a disability can refuse an accommodation, but if the employee is unable or unwilling to perform the essential functions of a job at a satisfactory level without the accommodation, they will be separated from employment.

End of document: Legal References

This procedure is established in compliance with the [Americans with Disabilities Act \(ADA\) of 1990](#) and ADA Amendments Act of 2008 (ADAAA or Amendments Act), 42 U.S.C. 12101 et seq., the Rehabilitation Act of 1973 (P.L. 93-11), and [45 CFR Part 84](#); Revised Code of Washington (RCW) [Chapter 49.60](#); Washington Administrative Code (WAC) Chapters [162-22](#), and [357-46-160](#) through [357-46-175](#).