

 JOHNS HOPKINS MEDICINE JOHNS HOPKINS HOME CARE GROUP	The Johns Hopkins Home Care Group Human Resources Policy Manual	Policy Number	IV-102
		Effective Date	01/01/03
		Revised	10/01/14
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Key Words: Disability, Reasonable Accommodation, Undue Hardship, ADA, Americans with Disabilities Act

POLICY

Johns Hopkins Home Care Group (JHHCG) complies with the Americans with Disabilities Act of 1990 (ADA), as amended, and other related federal, state, or local laws that prohibit discrimination against a qualified individual on the basis of disability by doing the following:

1. Ensuring that qualified individuals are treated in a non-discriminatory manner during the application process and in all aspects of the employment relationship.
2. Conducting medical exams or giving questionnaires (a) to applicants only after conditional offers of employment have been extended, and (b) to employees only when job-related and consistent with business necessity or otherwise permissible under the ADA (e.g., when documentation is necessary to support a request for a reasonable accommodation, as part of an annual physical examination program, or when a fitness-for-duty exam is necessary).
3. Keeping all medical information confidential and retaining such information in files separate from the Human Resources and departmental employment files.
4. Notifying all applicants, new hires, and employees that JHHCG provides reasonable accommodations to qualified individuals who have disabilities.
5. Making an individualized assessment of whether an impairment substantially limits a major life activity.
6. Providing applicants, new hires, and employees who have disabilities with reasonable accommodations, except when such accommodations impose undue hardship on JHHCG.
7. Engaging applicants, new hires, and employees who have disabilities in an interactive process to identify and evaluate reasonable accommodations.
8. Providing a way for individuals to address concerns about complying with this policy.

Johns Hopkins Home Care Group (JHHCG) is required to make reasonable accommodations for known disabilities only. Reasonable accommodations take a variety of forms. The following are examples of accommodations that may be considered reasonable under the circumstances: (a) equipment or services; (b) physical modification of the workspace; or (c) managerial actions, such as restructuring job tasks, modifying policies, or approving or extending a leave of absence. JHHCG makes resources available to

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help managers/supervisors, applicants, new hires, and current employees identify an effective accommodation. JHHCG may deny a request for an accommodation if the accommodation is unreasonable, ineffective, or imposes undue hardship on [Insert Employer]. [Insert Employer] may choose among reasonable accommodations as long as the chosen accommodation is effective.

If an employee requests an accommodation because of a disability caused or contributed to by pregnancy, JHHCG will explore the following as possible reasonable accommodations: (1) changing the employee’s job duties; (2) changing the employee’s work hours; (3) relocating the employee’s work area; (4) providing mechanical or electrical aids; (5) transferring the employee to a less strenuous or less hazardous position; or (6) providing leave.

SCOPE

This policy applies to applicants, new hires, and current employees of JHHCG. “Employee” means any person for whom JHHCG has the right to exercise control over the means and manner of the person’s work performance, regardless of the label used to describe the employment or contractual relationship the person has with JHHCG.

For purposes of this policy, a covered employee may include a temporary worker assigned to [Insert Employer] through a staffing firm or an agency. All aspects of the temporary worker’s relationship with JHHCG must be examined to determine whether the person is covered by this policy.

DEFINITIONS

1. **Disability** means a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment (history of or misdiagnosed); or being regarded as having such an impairment (treated unlawfully because of an actual or perceived impairment that is not both transitory and minor).
2. **Major Life Activities** include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, sitting, standing, lifting, reaching, and major bodily functions. Major bodily functions include, but are not limited to, functions of the immune system, normal cell growth, and digestive, neurological, respiratory, or cardiovascular functions.
3. **Qualified** describes an individual who satisfies the needed skill, experience, education and other job-related requirements of the position. The individual must be able to perform the essential functions of the position with or without a reasonable accommodation. The term may apply to an applicant, a new hire, or a current employee who has a disability.
4. **Reasonable Accommodation** means any change in the work environment or the way things are

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usually done that enables an individual with a disability to enjoy equal employment opportunities. There are three categories of reasonable accommodation: (a) accommodations required to ensure equal opportunity in the application process; (b) accommodations that enable employees to perform essential job functions; and (c) accommodations that enable employees to enjoy benefits and privileges of employment equal to those enjoyed by similarly situated employees without disabilities.

5. **Effective** means the accommodation allows the individual to do the following: (a) enjoy equal opportunity in the application process; (b) perform the essential functions of the position held or sought; or (c) enjoy benefits and privileges of employment equal to those enjoyed by similarly situated employees without disabilities.
6. **Substantially Limits** means substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment that is episodic or in remission is a disability if it limits a major life activity when active.
7. **Undue Hardship** is significant difficulty or expense incurred by an employer. The analysis of what constitutes undue hardship is a case-by-case inquiry, requiring consideration of financial cost, additional administration burden, complexity of implementation, and any negative impact the accommodation may have on the operation of the employer’s business.
8. **Applicant** means, for the purpose of administering this policy, an individual who submits an application for employment according to the employer’s application procedure and requests an accommodation for the application or interview process. An applicant has not received or accepted an offer of employment.
9. **New Hire** means an individual who has accepted an offer of employment, but has not completed the pre-employment process, has not completed new hire orientation or training, and has not started his or her regular duties.
10. **Employee** means an individual who has accepted an offer of employment, completed the pre-employment process, completed new hire orientation and training, and has started to perform his or her regular duties.

PROCEDURE

The reasonable accommodation procedure may be started by a new hire, a current employee, the current employee’s manager/supervisor, or an applicant. A representative may request an accommodation on behalf of a new hire, current employee, or applicant. The reasonable accommodation procedure is described below. Appendix I shows the details of the procedure for new hires, and Appendix II shows the details of the procedure for current employees.

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1. New Hires

- (a) Complete the Confirmation of Request for Reasonable Accommodation form and submit the form to Occupational Health Services. The form is available in Occupational Health Services and the Human Resources department JHHCG may request additional information from the employee, or the employee’s health care provider, to establish the existence of a disability that is not obvious or to establish the need for an accommodation.
- (b) Within 14 calendar days of the date the Confirmation of Request for Reasonable Accommodation form is submitted, or as soon as possible under the circumstances, a Human Resources representative, the employee’s manager/supervisor, and the employee will hold the first interactive consultation. The interactive process is described below.
- (c) As soon as possible following the interactive consultation(s), Human Resources will notify the employee of JHHCG’s decision regarding the accommodation request. The notice will be in writing and will include the following: (a) An explanation of the basis for the decision; (b) The types of accommodations considered; and (c) The nature and duration of any accommodation offered.

2. Current Employees

- (a) Complete the Confirmation of Request for Reasonable Accommodation form and submit the form to the employee’s manager/supervisor or Human Resources. The form is available in the Human Resources department. The manager/supervisor or Human Resources forwards the form to Occupational Health Services for review. JHHCG may request additional information from the employee, or the employee’s health care provider, to establish the existence of a disability that is not obvious or to establish the need for an accommodation.
- (b) Within 14 calendar days of the date the Confirmation of Request for Reasonable Accommodation form is submitted, or as soon as possible under the circumstances, a Human Resources representative, the employee’s manager/supervisor, and the employee will hold the first interactive consultation. The interactive process is described below.
- (c) As soon as possible following the interactive consultation(s), Human Resources will notify the employee of JHHCG’s decision regarding the accommodation request. The notice will be in writing and will include the following: (a) An explanation of the basis for the decision; (b) The types of accommodations considered; and (c) The nature and duration of any accommodation offered.

3. Applicants

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- (a) Complete the Confirmation of Request for Reasonable Accommodation form and submit the form to Human Resources. The form is available in the Human Resources department. JHHCG may request additional information from the applicant, or the applicant’s health care provider, to establish the existence of a disability that is not obvious or to establish the need for an accommodation.
- (b) Within 14 calendar days of the date the Confirmation of Request for Reasonable Accommodation form is submitted, or as soon as possible under the circumstances, a Human Resources representative and the applicant will hold the first interactive consultation. The interactive process is described below.
- (c) As soon as possible following the interactive consultation(s), Human Resources will notify the applicant of JHHCG’s decision regarding the accommodation request. The notice will be in writing and will include the following: (a) An explanation of the basis for the decision; (b) The types of accommodations considered; and (c) The nature and duration of any accommodation offered.

4. Interactive Process

Both JHHCG and the individual with a disability have a role in identifying effective reasonable accommodations. The interactive process involves the following:

- (a) Reviewing the essential functions of the position, or the benefits and privileges of employment, and identifying barriers to performance or participation;
- (b) Identifying reasonable accommodations and determining whether each accommodation is effective;
- (c) Determining whether additional information is required, from the employee or other sources, for JHHCG to reach a decision regarding any reasonable accommodation(s);¹
- (d) Discussing any additional information with the individual once the information becomes available; and
- (e) Consulting other resources as appropriate.²

¹ Additional information may be required to establish the existence of a disability that is not obvious, to establish the need for an accommodation, or to identify effective accommodations. Resources may include, but are not limited to, the ADA/Accessibility Consultant; Occupational Health Services; FASAP; Health, Safety & Environment; the Legal Department; the Office of Organizational Equity; or third party specialists, including the individual’s physician.

² Resources may include, but are not limited to, the Legal Department, the ADA/Accessibility Consultant, FASAP, the Office of Organizational Equity, and Occupational Health Services. Health, Safety & Environment may perform an essential function/job analysis, if necessary.

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5. Accommodation Review

If an accommodation is provided, a follow-up evaluation must be completed by the manager/supervisor, in consultation with Human Resources. The evaluation must be completed within 30 calendar days, or as soon as possible under the circumstances, and a Reasonable Accommodation Review Form must be completed. If the individual believes there has been a change in the individual's disability or limitations, the functions of the job, the benefits or privileges of employment, the effectiveness of an accommodation, or a change in other relevant factors that have an impact on the continuing effectiveness of the accommodation provided, the individual may submit a new Confirmation of Request for Reasonable Accommodation form to request a different or modified accommodation. The form may be submitted any time following the implementation of an accommodation and will be treated as a new request.

6. Reconsideration

An individual may request reconsideration of the decision regarding an accommodation if the individual is not offered any accommodation, or if the individual believes the accommodation offered is ineffective. The reconsideration process is as follows:

- (a) The Request for Reconsideration form must be submitted to Human Resources within five business days of the receipt of JHHCG's written decision, or as soon as reasonably possible given the individual's impairment, limitations, or medical treatment. The request must be submitted in writing on the Request for Reconsideration form, which is available from Human Resources.
- (b) Human Resources will conduct a timely and thorough review of a request received by the filing deadline. Human Resources will review the determination in consultation with an attorney in the Legal Department (Employment and Labor Affairs), and other resources as necessary. JHHCG may request additional information from the employee or the employee's health care provider.
- (c) Human Resources will notify the individual of JHHCG's final decision on the requested accommodation. The notice will be in writing and will include the following: (a) An explanation of the basis for the decision; (b) The types of accommodations considered; and (c) The nature and duration of any accommodation offered.

7. Confidentiality, Acquisition, and Disclosure of Medical Information

JHHCG may require documentation that is sufficient to establish that an individual has a disability and needs the reasonable accommodation requested. JHHCG instructs individuals and health care providers not to disclose any genetic information when responding to a request for medical information.

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The medical information an individual provides during the accommodation process is considered a confidential record that will be retained in a file separate from the individual's employment file JHHCG may release information to the following persons, to the extent necessary: (a) first aid and safety personnel, if emergency treatment is necessary; (b) individuals who have responsibilities under the emergency evacuation plan; (c) managers and supervisors, to discuss necessary work restrictions or reasonable accommodations; or (d) government officials, to investigate compliance with the law. Information may also be released as otherwise required by or permissible under federal law, court order, or a subpoena approved by a court.

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RESPONSIBILITIES

1. Human Resources Department

- (a) Ensure that qualified individuals are treated in a non-discriminatory manner during the application process and in all aspects of the employment relationship.
- (b) Notify all applicants, new hires, and current employees that JHHCG provides reasonable accommodations to qualified individuals who have disabilities.
- (c) Provide applicants, new hires, and current employees who have disabilities with reasonable accommodations, except when such accommodations would impose an undue hardship on JHHCG.
- (d) Consult with appropriate resources to ascertain the availability and the effectiveness of a reasonable accommodation.
- (e) Engage applicants, new hires, and current employees in an interactive process to determine whether a reasonable accommodation can be provided.
- (f) Provide a way for applicants, new hires, and current employees to address concerns regarding compliance with this policy.
- (g) Respond to inquiries regarding this policy and compliance with this policy.
- (h) Provide guidance regarding the reasonable accommodation process and the scope of this policy and consult the Legal Department (Employment and Labor Affairs) as necessary to provide such guidance.
- (i) Facilitate and monitor the reasonable accommodation process to ensure requests are addressed within a reasonable period.
- (j) Maintain data regarding reasonable accommodation requests for tracking and reporting purposes.
- (k) Submit data regarding all requests for accommodations to the Office of Organizational Equity on a quarterly basis.
- (l) Document all actions taken regarding the accommodation process.
- (m) Comply with recordkeeping requirements under all applicable laws.

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2. Supervisor/Manager

- (a) Ensure that qualified individuals are treated in a non-discriminatory manner during the application process and in all aspects of the employment relationship.
- (b) Inform all applicants, new hires, and current employees of the reasonable accommodation procedure.
- (c) Provide applicants, new hires, and current employees who have disabilities with reasonable accommodations, except when such accommodations would impose an undue hardship on JHHCG.
- (d) Consult with appropriate resources to ascertain the availability and the effectiveness of a reasonable accommodation.
- (e) Engage applicants, new hires, and current employees in an interactive process to determine whether a reasonable accommodation can be provided.
- (f) Refer current employees to Occupational Health Services when performance indicates the need for an evaluation. Consult Human Resources before making a referral.
- (g) Provide a way for applicants, new hires, and current employees to address concerns regarding compliance with this policy.
- (h) Document all actions taken regarding the accommodation process.
- (i) Comply with recordkeeping requirements under all applicable laws.

3. Occupational Health Services

- (a) Conduct medical exams or give questionnaires in compliance with the law.
- (b) Make an individualized assessment of whether an impairment is substantially limiting.
- (c) Consult with Human Resources and management regarding accommodations for qualified individuals with disabilities.
- (d) Keep all medical information confidential and retain such information in separate, confidential files.
- (e) Document all actions taken regarding the accommodation process.

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4. New Hire/Current Employee/Applicant

- (a) Participate in the interactive process and all other aspects of the accommodation process once an accommodation is requested.
- (b) Provide the information necessary to confirm a disability and the need for an accommodation, if the individual wants to continue the interactive process.
- (c) Consent to appropriate medical assessments.
- (d) Ensure any request for reconsideration is timely filed.
- (e) Notify a manager or supervisor as soon as possible if a change to the accommodation provided is required or if a change to the emergency evacuation plan is required.
- (f) Notify a manager or supervisor as soon as possible if the accommodation provided is no longer needed.

REFERENCES

Americans with Disabilities Act of 1990, as amended
Rehabilitation Act of 1973, as amended
Applicable local, state, and other federal laws and regulations
Independent Contractor, IV-127
Leaves of Absence, II-107
Equal Employment Opportunity & Anti-Harassment Policy and Complaint Procedure, IV-108
Retention, Disclosure, and Disposition of Employee Records, IV-118

SPONSOR

Director of Human Resources

REVIEW CYCLE

3 years

APPROVAL