

Eastern Washington University
Governance System
Human Resources

TOPIC: 600 Human Rights

SUBTOPIC: 600-080 DISABILITIES

600-080-020 Reasonable Accommodation—Disabilities.

- (1) **Definitions.** For the purposes of Subtopic 600-080, the following definitions apply.
- (a) ***Reasonable accommodation.*** Any change or adjustment to the work or university environment that makes it possible for a qualified person with a disability to perform the essential functions of the job or to participate in a program or activity or benefit from a service provided by the university but which does not result in undue hardship to the university.
 - (b) ***Person with a disability.*** A person who (1) has a physical or mental impairment that substantially limits one or more major life activities (such as seeing, hearing, walking, caring for oneself, performing manual tasks, speaking, breathing, learning and working); (2) has a record of such impairment, or (3) is perceived to have such an impairment.
 - (c) ***Undue hardship.*** An anticipated result which would be unduly costly, expensive, substantial or disruptive, taking into account the overall resources of the state of Washington, or that which would fundamentally alter the nature and operation of the business. This definition is intended to be consistent with the Americans with Disabilities Act of 1990, Section 503 of the Rehabilitation Act of 1973 and chapter 162-22 WAC.
 - (d) ***Qualified person 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.
 - (e) ***Qualified student with a disability.*** A student who, with or without reasonable accommodations, meets the academic and technical standards required for admission to, participation in, and/or fulfilling the essential requirements of university programs or activities.
 - (f) ***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.
 - (g) ***Essential functions.*** The fundamental job duties of the position that the individual with the disability holds or desires. It does not include the marginal functions of the position.
 - (h) ***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.

- (2) **Policy.** Persons with disabilities are an integral part of the Eastern Washington University community, and the provision of equal access to programs, services and activities through reasonable accommodation is a campus-wide responsibility and commitment. In accord with the Americans with Disabilities Act of 1990; the Washington State Law Against Discrimination, RCW 49.60; and Section 504 of the 1973 Rehabilitation Act which prohibits discrimination against individuals on the basis of disability, Eastern Washington University shall provide reasonable accommodation for disabled people and is committed to ensuring that discrimination against the disabled does not occur.
- (3) **Eligibility.** Eligibility is based on the existence of a disability, a record of such disability or being regarded as having such a disability. An individual is considered qualified if he/she: a) meets all eligibility criteria and b) is able to (with or without accommodation) perform the essential functions of the job program or activity, and c) is able to benefit from the service.
- (4) **Training.** EWU employees and their supervisors are expected to be aware of the EWU policy and procedure for reasonable accommodation. Training sessions are offered through the cooperation of the offices of disability support services, human resources, academic personnel and affirmative action. Notice of training opportunities will be posted in student information areas.
- (5) **Public Meetings: Access.** The state's office of general administration has specific requirements (General Administration 4.3.10.1) for scheduling events in state and non-state facilities. These policies and procedures pertain to access to conventions, conferences, meetings and formal training sessions, and are to ensure that individuals with disabilities are not excluded from participation. University employees are responsible for adhering to these policies and procedures when planning events.
- (6) **Policy Availability.** Copies of this policy and procedure are available through the governance office and are distributed during new employee orientation to hiring authorities. Revisions in existing policy are disseminated to all departments and programs for inclusion in the Eastern Washington University Policies and Procedures Manual available in each department and program area. Alternative formats for persons with disabilities may be requested from the ADA compliance officer.

(New 9/96, UGS-92-001)

600-080-030 Reasonable Accommodation—Policy for Students

- (1) **Students.** A student who seeks accommodation under this policy is responsible for providing timely notice and documentation to the disability support services

office from a health care provider. Documentation should set forth the nature and extent of the disability, including a description of the disability, names and results of tests administered, if any, effect of the disability on the student's access to university programs, services and activities, and recommended accommodations. Lack of advance notice and documentation of a disability may delay the availability of accommodation.

- (2) **Verification.** Diagnosis and supporting documentation is subject to verification by the university. The university may require additional specific documentation from the student's physician or other health care provider.
- (3) **Student Records.** Documentation is kept in the student's confidential file in the disability support services office.
- (4) **Student Services.**
 - (a) **Obligations of Students.** If costly auxiliary aids are required, the university encourages students to apply for funding through resource agencies that assist specific disabilities. If the student is not eligible for these services, the university is responsible for funding reasonable accommodations. The student requesting reasonable accommodation must do the following:
 - (i) Be admitted and/or enrolled in the university. This does not prohibit potential students from requesting information on programs, services and activities.
 - (ii) Make the disability support services office aware of his/her need for accommodation in a timely manner.
 - (iii) Work with the faculty and/or staff member to determine how the accommodation will most effectively be provided.
 - (iv) Initiate contact with the disability support services office.
 - (v) Follow the policies and procedures established by the disability support services office and promptly notify disability support services of any problems with the agreed-on accommodations.
 - (b) **Obligations of Faculty and Staff.** When working with students with disabilities, faculty and staff must do the following:
 - (i) Inform students of academic and programmatic standards established by the department and make these available in written and alternative format.
 - (ii) Designate a person in each department/program to act as a contact person for students with disabilities who have concerns related to reasonable accommodation and the academic and programmatic standards established by the department/program. This designated person will act as a liaison with the disability support services office.
 - (iii) Coordinate efforts regarding accommodations for students with the disabilities support services office.

- (c) **Obligations of Disability Support Services (DSS) Office.** The responsibilities of the DSS office and the ADA compliance coordinator are as follows:
- (i) Assessing, on a case-by-case basis, the effect of a student's disability on his/her ability to access programs, activities and services based on appropriate documentation.
 - (ii) Identifying, through documentation and discussion with the student, the reasonable accommodation(s) that the university will provide;
 - (iii) Establishing the procedures that outline:
 - (A) student and university responsibilities, and
 - (B) set time lines for requests and delivery of reasonable accommodations.
 - (iv) Identifying resources to reproduce print in an accessible media, facilitating the provision of sign language interpreters and/or other auxiliary aids.
 - (v) Providing technical assistance to departments and programs in developing departmental policies and procedures to comply with requirements.
 - (vi) Assisting with the acquisition of auxiliary aids and adaptive equipment that will provide equal educational opportunities for students with disabilities.
 - (vii) Consulting with faculty regarding reasonable and appropriate classroom adjustments and with established service delivery programs to assist faculty and staff to accommodate the needs of students with disabilities.

(New 9/96, UGS-92-001)

600-080-040 Reasonable Accommodation—Policy for Applicants and Employees.

- (1) **Policy Statement.** Title I of the Americans With Disabilities Act of 1990 (ADA); the Washington state law against discrimination, chapter 49.60 RCW; and Section 504 of the Rehabilitation Act of 1973; prohibit discrimination based on disability during the application process or in any aspect of employment against persons with disabilities. In its program of equal employment opportunity, Eastern Washington University is committed to providing reasonable accommodations for all applicants and employees with a disability.
- (2) **Purpose.** This policy identifies the rights and responsibilities of applicants and employees under state and federal law and established clear procedures for requesting and receiving reasonable accommodation.
- (3) **Reasonable Accommodation Procedures.**
 - (a) **Determination of Essential Functions.** Each position should be examined to determine its purpose and its essential functions. Appropriate times to examine a position include when the position is established, when it becomes vacant, and when the duties are changed.

The following criteria should be considered in identifying the essential functions of a job.

- (i) Are employees in the position actually required to perform the function?
- (ii) Would removing that function fundamentally change the job?
- (iii) Was the position established to perform the function?
- (iv) Are there a limited number of other employees available to perform the function, or among whom the function can be distributed? And
- (v) Is the function highly specialized, and is the person in the position hired for special expertise or ability to perform it?

(b) Employees. The following procedures outline the actions to be taken to ensure that individuals are protected from discrimination on the basis of disability in the hiring process.

- (i) Pre-recruitment.** Job descriptions will be reviewed for discriminatory language prior to posting the position for recruitment. 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.
- (ii) Recruitment Process.** Recruitment and advertising literature will set forth legitimate requirements for all positions. All recruitment bulletins will describe the process by which applicants with disabilities may request accommodation in the application process. Information about job openings shall be accessible to people with disabilities. On request, printed materials will be provided in an accessible format, i.e. Braille, large print, or audio tape.
- (iii) Reasonable accommodation.** Applicants requesting accommodations are responsible for initiating contact with the human resources office (civil service, administrative and coach positions), or Academic Personnel (faculty positions). The applicant provides documentation that includes the nature and extent of the disability, and suggestions of specific accommodations that would provide access to the application process.
- (iv) Pre-employment testing.** Pre-employment tests may be used at any phase of the application process to determine if an applicant possesses the requisite skills to perform an essential function of the job. Alternative or accessible testing shall be made available, if feasible, on request.
- (v) Pre-employment inquiries.** Pre-employment inquiries shall be made based on an individual's ability to perform the essential functions of a position, and not be phrased in terms of the existence, nature or severity of a disability. Under no circumstance shall medical examinations be made prior to a conditional offer of employment.

- (vi) **Confidentiality.** All information pertaining to an applicant's disability shall be maintained in the human resources office in accordance with ADA confidentiality requirements.
- (4) **Reasonable Accommodation for New Employees.** The following procedures outline steps to be taken to accommodate new employees.
 - (a) **Documentation.** If the potential employee has a disability, it is his/her responsibility to provide to other human resources office documentation that includes the results and names of all tests used to diagnose the disability, describes the nature and effect of the disability, and makes suggestions of specific accommodations that would make it possible for the potential employee to do the job. The human resources office will verify the legitimacy of the disability and the request for accommodation and forward pertinent information to the principal budget authority or his/her designee. Documentation provided by the employee is confidential medical information and shall be maintained in separate files in the human resources office.
 - (b) **Accommodation.** The principal budget administrator or his/her designee shall work with the potential employee and the supervisor of the position to identify reasonable accommodations. Technical assistance is available from the disability support services office and the ADA compliance coordinator. All decisions with regard to reasonable accommodation shall be made on an individual case-by-case basis. Two persons with the same type of disability may require different accommodations to do the same job. The principal budget administrator or his/her designee is responsible for determining what accommodations will be provided.
 - (c) **Qualification as reasonable.** An accommodation is considered reasonable if it:
 - (i) makes it possible for the employee to do the essential functions of the job. A reasonable accommodation does not have to be the best or most expensive accommodation, it only has to be effective;
 - (ii) does not fundamentally alter the nature of the job; and/or
 - (iii) does not result in an undue administrative or financial hardship. All resources of the university should be taken into consideration to determine if an accommodation would be an undue hardship for the university. A written rationale must be provided detailing the factors that were taken into consideration if an accommodation is determined not to be reasonable based on either (b) or (c) of this section. This statement shall be signed by the principal budget administrator or the president of the university.
 - (d) **Failure to qualify.** If a reasonable accommodation that would allow the potential employee to do the essential functions of the job cannot be identified, the potential employee is not qualified.
 - (e) **Provision of accommodation(s).** After determining how to accommodate a potential employee, the principal budget administrator or his/her designee is responsible for ensuring that needed accommodations are provided.

(f) **Grievance Procedure.** Any individual who believes that he/she has experienced discrimination on the basis of disability may seek resolution through the university's internal ADA/504 grievance procedure. Information and consultation on these procedures are available through the ADA compliance officer, or by calling the disability support services office, Pence Union Building, Room 215. At any time, individuals also have the right to file a complaint with the appropriate state and/or federal enforcement agencies.

(5) **The Undue Hardship Limitation.** Eastern Washington University's responsibility to make a particular reasonable accommodation is limited to those that do not impose an undue hardship on the operation of the institution. However, if a particular accommodation would impose an undue hardship, Eastern Washington University will consider whether there are alternative accommodations that would not impose such hardship.

- (a) Written justification, signed by the president of the university, or designee, will 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 Washington State Department of Personnel, and should explore the practical and available limits of the institution's ability to draw on resources available elsewhere within state government.
- (b) 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.
- (c) The following criteria shall be considered in determining undue hardship:
 - (i) The nature and net cost of the accommodation needed, taking into consideration the availability of outside funding;
 - (ii) 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 expenses and resources;
 - (iii) The overall financial resources of the covered entity with respect to the number of employees and the number, type and location of its facilities;
 - (iv) The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of such entity, and the geographic separateness, and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and
 - (v) 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.

(6) Employee Instructions/Disability Accommodation Requests.

- (a) In many cases, job modifications can be arranged easily by talking directly with the supervisor. If assistance is needed or the employee is unable to perform one or more of the job duties due to a disability, the employee should talk with the supervisor, department manager or human resources office about the need for accommodation. Employees are not required to disclose the medical basis for a requested accommodation to the immediate supervisor and should contact the human resource office with questions.
- (b) If more information is needed to consider a request, the employee may be asked to complete a disability accommodation request form. The form should also be completed to request assistive equipment or devices. Completed forms should be returned to the supervisor or department chair, who will review the request with the human resources office and inform the employee of its status.
- (c) If more specific information is needed from the health care provider in order to respond to a request, job analysis of the position will be prepared. Typically, the supervisor works with the human resources office to prepare the analysis. A copy of the completed analysis is shared with the employee.
- (d) The health care provider may be asked to review the job analysis and specify any restrictions or modifications recommended due to disability. The completed health care provider's statement and job analysis should be returned to the human resources office, and not returned to the supervisor. It is the employee's responsibility to see that the health care provider returns the required information to the university. A medical examination may be required.
- (e) A response to the request for accommodation is made as soon as possible following the return of all requested information. Requesters should contact human resources with questions regarding disability accommodation.

(7) Supervisor Instructions: Employee Requests for Accommodation Due to Disability.

- (a) Supervisors must consider carefully an employee's request for accommodation due to disability. In many cases, job modifications can be arranged easily by talking directly with the employee. The employee is not required to disclose to the supervisor the medical basis for the requested accommodation. Employees should not be asked for personal medical information if it is not volunteered. Any questions about the department's ability to make the requested accommodation must be reviewed with human resources before a determination is made.
- (b) If more information is needed in order to evaluate the employee's request, the employee should be asked to complete and return the disability accommodation request form. Employee requests for adaptive devices or equipment should also be provided to the supervisor on a completed,

disability accommodation request form. When the completed request for is submitted to the supervisor, the material should be reviewed with the next-level supervisor and human resources.

- (c) If information is needed for the employee's health care provider in order to evaluate the request, human resources will work with the supervisor and department manager to develop a job analysis of the position. The job analysis is shared with the employee and the employee's health care provider(s) with a request for clarification regarding the employee's job restrictions due to disability.
 - (d) Information obtained through the accommodation process must be treated with sensitivity and care. While an employee may choose to discuss such matters with friends and associates on the job, as supervisor, all information must be treated in a sensitive and confidential manner. Medical records are treated confidentially and are maintained in the university's personnel office, not in departmental files. Questions regarding disability accommodation should be reviewed with the department manager or human resources.
- (8) **Separation Due to Disability.** If the employee can no longer perform the essential functions of the job, with or without reasonable accommodation, or if there is not reasonable accommodation possible or available, the employee may be separated from employment at the university. For classified staff employees, separation is in accordance with Higher Education Personnel Board (HEPB) rules; for administrative employees and faculty, separation is in accordance with applicable provisions of the Eastern Washington University Policies and Procedures; and for faculty according to the collective bargaining agreement.
- (9) **Opportunity to Apply for Reemployment Following Separation from Classified Staff Employment Due to Disability.** A permanent classified employee who is separated due to disability is eligible for special consideration when applying for reemployment within three years of the effective date of the separation. To be eligible for reemployment consideration, the former employee must submit to human resources a formal request for consideration, and acceptable medical documentation affirming the individual's ability to return to work and specifying any restrictions due to disability. The human resources office arranges and/or provides such assistance as assessment of job classes for which the former employee is qualified.
- (10) **Return to Work.** Applications by former employees seeking to return to classified employment within three years following separation due to disability shall be considered in the same manner as those of promotional applications. An individual who is reemployed under these rules serves as a probationary period on rehire. On successful completion of the probationary period, the time between separation and reemployment is treated as leave without pay and is not considered a break in service.

Former employees seeking to return to classified service more than three years following separation due to disability are considered on an open, competitive basis.

- (11) **Higher Education Coordinating Board Rules.** As of April 1, 1993, HEPB rules pertaining to reasonable accommodation included: WACs 251-10-070, 251-10-080, 251-10-080, 251-17-090, 251-18-180, 251-19-100, 251-19-105, 251-24-030. Copies of the rules (as appendices to this procedure) are available in the human resources office. Questions regarding the application of these rules may be directed to human resources.

(New 9/96, UGS-92-001)

600-080-050 Reasonable Accommodation Policy for the Public. It is the responsibility of the EWU faculty, staff or student who oversees a program or activity to do the following:

- (1) Collect information regarding access needs, and to provide reasonable accommodations as well as incur the costs, if any, for events and activities that they sponsor.
- (2) Ensure that all notices, e.g., fliers, advertisements, posters or brochures, which publicize a program, activity or service, include a reasonable accommodation statement. For example, "Persons with disabilities may make arrangements for reasonable accommodations by calling (NAME OF CONTACT PERSON) and (PHONE NUMBER) by (DEADLINE FOR REQUESTING ACCOMMODATION)." All notices for meetings open to the public are subject to this requirement.
- (3) Ensure that registration forms include the university's equal opportunity and affirmative action policy, Section 600-080-020, and reasonable accommodation statements.
- (4) Ensure that the facility where the program, activity or event is held is accessible.
- (5) Work with the person with a disability to determine the most appropriate and reasonable accommodation.
- (6) Document all actions pertaining to addressing the need for accommodation.
- (7) Ensure that the principal budget administrator or designee has been involved with identifying reasonable accommodations and has authorized any accommodation that has budgetary impact. Technical assistance is available from the ADA compliance officer in the disability support services office.

(New 9/96, UGS-92-001)

600-080-060 ADA Section 504 Internal Grievance Procedure.

- (1) **Introduction.** These rules are construed to protect the substantive rights of interested people, meet appropriate due process standards and assure that Eastern Washington University complies with the ADA and Section 504 and their implementing regulations.

- (2) **Alternative remedies.** The right of a person to a prompt and equitable resolution of the complaint filed thereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA or Section 504 complaint with the appropriate federal department or agency. Using this grievance procedure is not a prerequisite to the pursuit of other remedies.
- (3) **ADA/504 Grievance Committee.** An ADA/504 grievance committee exists for the purpose of informal but thorough investigation of complaints of discrimination on the basis of disability. The committee is comprised of representation from the administration, faculty, staff, student body and the community, including people with disabilities. The ADA coordinator serves on the committee as an ex-officio member.
- (4) **Filing complaints.** The following criteria must be followed when filing an internal complaint:
 - (a) Complaints should be addressed to the university's ADA coordinator, who is designated to coordinate ADA and Section 504 compliance efforts. These complaints will be distributed to the grievance committee.
 - (b) A complaint should be filed within 90 days after the date of the alleged violation. (Processing allegations of discrimination that occurred prior to adoption of this grievance procedure are considered on a case-by-case basis).
 - (c) Complaints must be submitted in writing, contain the name and address of the individual or representative filing the complaint, describe the university's alleged discriminatory action in sufficient detail to inform the ADA 504 grievance committee of the nature and date of the alleged violation, and must be signed by the complainant or his/her authorized representative.
- (5) **Investigations.** An investigation, as may be appropriate, will follow a filing of complaint. The rules contemplate informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint. Under the department of justice regulations, Eastern Washington University need not process complaints from applicants for employment or from applicants for admission to post-secondary educational institutions.
- (6) **Determination.** A final internal written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the ADA/504 grievance committee and a copy forwarded to the complainant no later than 90 days after its filing, unless continuance is agreed on by both parties.
- (7) **Record Keeping.** The ADA compliance officer maintains the files and records of the university relating to complaints in accordance with the ADA confidentiality requirements. The release of such records is governed by state public disclosure law, chapter 42.17 RCW.

(New 9/96, UGS-92-001)

600-080-070 External Agencies. Discrimination on the basis of a disability may be resolved through the university. 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:

Equal Employment Opportunities Commission
(206) 442-0968

Washington State Human Rights Commission
916 West Riverside Avenue, Suite 416
Spokane, WA 99201
(509) 456-4473 (voice, TDD)

Washington State Human Rights Commission
402 Evergreen Plaza
711 South Capitol Way
Olympia, WA 98504
(360) 753-6770

Office on the Americans with Disabilities Act
Civil Rights Division
US Department of Justice
POB 66118
Washington, DC 20035-6118
(202) 514-0301 (voice)

US Department of Education
Office of Civil Rights, Region X
Jackson Federal Building
M/C 10-90101
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
(206) 220-7920
(206) 220-7907

(New 9/96, UGS-92-001)

600-080-080 Temporary Disability—Return to Work Policy—Faculty and Staff.

Eastern Washington University is committed to preserving the human resources of the state of Washington and to complying with WAC 251-19-155 through 158 which requires the establishment of a return to work policy for temporarily disabled employees.

Employees disabled temporarily due to a work-related injury will be encouraged to return to work at the earliest feasible, medically authorized time.

The strategies for returning a temporarily disabled employee to work are prioritized as follows:

- (1) Transitional modified work within the permanent employee's regular university job.
- (2) Temporary assignment to a different university job as permitted by the Higher Education Personnel board rules. (If the qualifying position pays less than the employee's regular pay, the return to work coordinator will assist the employee in obtaining "loss of earning power" compensation.)
- (3) Opportunities for employment in other state agencies or institutions of higher education.

(New 9/96, UGS-92-001)

600-080-090 Return to Work Procedures/Responsibilities.

- (1) **Eligibility.** Permanent university employees with a temporary disability which makes them temporarily unable to return to their previous work, but who are capable of carrying out work of a modified nature (as defined by a written statement from a physician or licensed mental health professional), will be eligible for the return to work program. Permanent employees receiving compensation under RCW 51.32.090 will remain eligible for return to work for a minimum of two years from the date the temporary disability commenced.
- (2) The appropriate personnel officer will be responsible for the coordination of the following:
 - (a) Verifying the injured employee's job task functioning ability in collaboration with the responsible supervisor and with approval of the employee's physician. (An employer may only request medical information that directly pertains to the occupationally related injury/illness.)
 - (b) Establishing a temporary modified work schedule with the supervising department.
 - (c) Scheduling review meetings for the case management team.
 - (d) Providing training of appropriate supervisors on the return to work policy and procedures.
- (3) The temporarily disabled employee's **immediate supervisor** will be responsible for the following:
 - (a) Providing a healthy and safe work environment for the employee.
 - (b) Becoming a participatory and cooperative member of the case management team; following establishment of the employee's task capabilities, extending and offering of work to the employee.
 - (c) Keeping the return to work coordinator updated on the progress of the injured employee.

- (d) Meeting with the employee and his/her work unit to explain the modified work, the employee's restrictions and any temporary changes in the work unit during the return to work period.
- (4) The **temporarily disabled employee** is responsible for:
- (a) Reporting all work-related incidents to the supervisor.
 - (b) Actively participating and cooperating with the return to work policies and procedures.
 - (c) Providing medical documentation when requested.
 - (d) Carefully working within the physician's restrictions.
- (5) The **case management team** will be composed of individuals able to contribute to the temporarily disabled employee's recover plan. At a minimum, the team will include the employee and his/her representative, the appropriate personnel officer and the employee's immediate supervisor. Additional participation may include the affirmative action officer, the benefits director and consulting health professionals. The case management team is responsible for assisting the injured worker to successfully return to work through monitoring and coordination of appropriate personnel and resources.

(New 9/96, UGS-92-001)

600-080-100 Disabilities and Students. Temporary disabilities involving student accommodations are handled on a case-by-case basis through the disability support services office. (New 9/96, UGS-92-001)

600-080-110 Limitations. This policy, Subtopic 600-080, does not provide rights or obligations not provided by applicable laws. (New 9/96, UGS-92-001)

SUBTOPIC: 600-090 DISCRIMINATION

600-090-020 Equal Opportunity and Affirmative Action.

- (1) **Introduction.** This policy applies at all levels and in all segments of the university involving both academic and staff personnel. Equal opportunity cannot be viewed simply as the university's only commitment. The university is committed to taking affirmative action to substantially increase the numbers of minority group members, women, handicapped, disabled veterans, and the veterans of the Vietnam era in positions where they have not traditionally been employed. The university develops an annual federal compliance affirmative action program and submits an annual affirmative action update to the Higher Education Personnel Board.
- (2) **Policy.** Eastern Washington University does not discriminate on the basis of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or status as a disabled veteran or Vietnam era veteran. Any discriminatory action can be a cause for disciplinary action. This policy applies to

all EWU programs and facilities, including, but not limited to, admissions, educational programs and employment. Such discrimination is prohibited by Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, Age Discrimination in Employment Act Amendments of 1978, Vietnam Era Veteran's Readjustment Assistance Act of 1974, the Americans with Disabilities Act (ADA), the Civil Rights Act of 1991 and other federal and state statutes and regulations, and EWU policy. All compliance efforts with respect to these laws and regulations are under the direction of the affirmative action officer.

(New as 590-080-020 7/92, UGS-91-057; renumbered 1/18/94)

600-090-025 Diversity Policy. Eastern Washington University is committed to promoting respect for the rights and privileges of others by creating an inclusive environment in which students, faculty and staff value and understand each individual's race, gender, ethnicity and other dimensions of difference. A diverse educational environment is essential in order to achieve our mission to prepare students to make contributions to a diverse society and to function in an increasingly diverse workforce. Our university has a compelling interest in attaining a diverse student body. "Student body diversity promotes learning outcomes and 'better prepares students for an increasingly diverse workforce and society. . . ." A diverse educational environment promotes understanding of others, invigorates classroom discussion and helps break down stereotypes. A diverse working environment will naturally enable all participants to contribute to their full potential in pursuit of the University's mission.

The university encourages all members of its community to constructively and responsibly express their opinions and feelings about diversity so that all may benefit from honest, open and equitable dialogue. When any member of the educational community is threatened by discriminatory acts, everyone's fundamental freedoms are threatened. No form of violence, intimidation or harassment will be tolerated.

The President shall create an office to implement the university's initiatives on Diversity in the Learning and Working Environment.

(New 4/96, UGS-92-018; revised 5/21/04, UGS-03-004))

600-090-030 Anti-discrimination Policy. Eastern Washington University does not discriminate on the basis of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or status as a disabled veteran or Vietnam era veteran. These discriminatory acts can be cause for disciplinary action. This policy applies to all EWU programs and facilities; admissions, employment and business practices; and university-sponsored activities. Such discrimination is prohibited by Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, Age Discrimination in Employment Act Amendments of 1978, Vietnam Era Veteran's Readjustment Assistance Act of 1974, Americans with Disabilities Act (ADA), Civil Rights Act of 1991, other federal and state statutes and regulations, and EWU policy. Compliance efforts

with respect to these laws and regulations are the responsibility of each member of the university community and under the direction of the affirmative action office. (New 1/96, UGS-92-045)

600-090-040 Discrimination Complaint Procedures. These procedures are available to all EWU faculty, students and staff. The university shall make every effort to protect individuals who follow these procedures from restraint, interference, discrimination or reprisal. Any complaints of discrimination shall be made in good faith.

- (1) **Informal Procedure.** Persons who believe they have been discriminated against are encouraged to seek confidential advice and assistance as soon as possible as follows: Students may contact either the dean of students or affirmative action officer; faculty and staff may contact the affirmative action officer.
- (2) **Formal Procedure.** Alternatively, the complainant may file a formal, written complaint with the university affirmative action officer, a copy of which will be provided to the accused. Within 90 days of receipt of the complaint, the affirmative action officer, or designee, will conduct an investigation into the complaint and provide a written response to the complainant and the accused that includes the findings of the investigation, any recommended actions and proposed disciplinary action. The recommended actions of the affirmative action officer will be submitted to the appointing authority. Disciplinary action, if any, imposed by the appointing authority as defined at WAC 251-01-035 may be appealable under the appropriate rules or university policy pertaining to the action taken; e.g., Student Conduct Code, Faculty Grievance Procedure, etc.
- (3) **Confidentiality.** All information will be maintained in a confidential manner. However, all files are subject to public disclosure and will be released only to the extent required by law. Files will be maintained for a period of five years or as required by appropriate statutes (chapter 40.14 RCW). Thereafter, they shall be destroyed by the officially designated records officer of the university or designee.

(Formerly chapter 172-149 WAC; Repealed from WAC 12/92, UGS-W050190-12; Implemented as internal procedure and renumbered as 590-080-040, pending adoption of new procedures, 1/18/94; New procedure adopted 1/96, UGS-92-045.)

600-090-050 External Resources. At any time, a complainant may file a discrimination complaint with an appropriate external agency. These federal and state agencies include the following:

Washington State Human Rights Commission
905 Riverside, Suite 416
Spokane, WA 99201
(509) 456-4473

US Office for Civil Rights

Department of Education
2910 Third Avenue, Mail Stop 106
Seattle, WA 98121
(206) 442-1636

Equal Employment Opportunity Commission
1321 Second Avenue, Seventh Floor
Seattle, WA 98101
(206) 442-0986

US Department of Labor
Wage and Hour Division
909 First Avenue, Room 1068
Seattle, WA 98174

(New 1/96, UGS-92-045)

600-090-060 Recruitment Advertisements. All advertisements must include one of the following statements. If the option at subsection (2) is used, it must be with cost justification.

- (1) “Eastern Washington University is committed to increasing the diversity of its faculty, staff, students and academic program offerings and to strengthening sensitivity to diversity throughout the institution. We are an affirmative action/equal opportunity employer, and applications from members of historically underrepresented groups are especially encouraged.”
- (2) “Eastern Washington University is committed to affirmative action and equal opportunity. Applications from members of historically underrepresented groups are especially encouraged.”

(New 1/96, UGS-92-045)

600-090-070 Sexual Harassment Policy. Sexual harassment is a violation of basic tenets of human dignity. It violates Eastern Washington University’s policies, federal and state laws, civil rights and professional ethics. Sexual harassment will not be tolerated.

The University believes education is the best way to prevent sexual harassment. Because of differences in employees’ values and backgrounds, some individuals may find it difficult to recognize their own behavior as sexual harassment. Eastern Washington University will take all practical steps to educate the campus community about policies, grievance procedures, and possible disciplinary actions.

- (1) Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

- (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, or
 - (b) submission to or rejection of such conduct by an individual is used as the basis of employment or education decisions, or
 - (c) such conduct has the purpose or effect of unreasonably interfering with an individual's education or work performance or creating an intimidating, hostile or offensive educational or work environment.
- (2) Sexual harassment may include, but is not limited to, unwelcome actions such as the following:
- (a) use of position or authority to coerce a student or employee to provide sexual favors;
 - (b) sexually suggestive comments, demands or insults, or pressure for sexual activity.

The University will consider the circumstances and the context in which an incident occurred when determining if such action constitutes sexual harassment.

- (3) All members of the campus community are required to comply with this policy. The University will take appropriate action against any employee or student of Eastern Washington University who violates the policy. Persons with supervisor's responsibilities for employees or students are expected to report or take appropriate action when they know of sexual harassment. In determining supervisory responsibility, the extent of control over the circumstances, and corrective action, if any, taken by the supervisor, will be considered.
- (4) Violation of this policy will lead to disciplinary action which is appropriate to the circumstances and which address the goal of prompt and effective action to stop sexual harassment. Such disciplinary action shall follow the principles of progressive discipline. Depending on the circumstances, the punishment may include, but is not limited to, verbal and written reprimands, suspension with pay, suspension without pay, demotion, expulsion, or dismissal.

This policy is consistent with the Equal Employment Opportunity Commission's regulations on sexual harassment. (Adopted 4/23/87; Amended 6/28/04)

600-090-080 Sexual Harassment Complaint Procedure. Ideally, persons who believe they have been sexually harassed should communicate that to the perceived offender as soon as possible; however, because those harassed may find it difficult to do so; confidential advice can be provided, upon request, by any one of a list of approved individuals representing a variety of university constituencies. This list is available in the President's Office (SHW 214), Human Resource Services (SHW 314), the Women's Center (MON 207), and the Affirmative Action Office.

At the beginning of each fall quarter, the Affirmative Action Office will call together representatives from the administration, Faculty Organization, the Associated Student Body, exclusive bargaining representatives for classified staff, and administrative exempt employees to constitute this list of trained individuals. This action will be completed within four weeks of the start of the quarter. Copies of the approved list will be distributed to the President's Office, Human Resource Services and the Women's Center.

Any of the contact persons may act as an informal mediator between the complainant and the accused to reconcile the problem at an informal level.

No records will be kept of informal procedures.

Complaints should follow the procedure for filing in the Discrimination Complaint Procedures, Policy Subtopic 600-090-040. Alternatively, faculty may file sexual harassment grievances under the Faculty Employment Policies. Classified staff employees may alternatively file sexual harassment grievances under the procedures provided in supervisory and non-supervisory bargaining unit agreements with the University. This procedure shall not abrogate any appeal procedures under existing State law or University policy.

A complainant may also file a complaint with federal and state agencies, such as:

Washington State Human Rights Commission
905 Riverside, Suite 416
Spokane, WA 99201
(509) 456-4473

U.S. Office for Civil Rights
Department of Education
2910 3rd Avenue, Mail Stop 106
Seattle, WA
(206) 442-1636

Office of Federal Contract Compliance
Room 3038, Regional Office or
Room 1104, Area Office
909 First Avenue
Seattle, WA

Equal Employment Opportunity Commission
1321 2nd Avenue, 7th Floor
Seattle, WA 98101
(206) 442-0968

U.S. Department of Labor
Wage and Hour Division
909 First Avenue, Room 1068
Seattle, WA

(Adopted 4/23/87; Amended 3/23/90; Amended 6/28/04)