

**MAINE COMMUNITY COLLEGE SYSTEM**

**PERSONNEL AND EMPLOYEE RELATIONS**

**Section 407**

**SUBJECT: DISABILITY ACCOMMODATIONS IN EMPLOYMENT**

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**PURPOSE: To establish guidance for accommodating disabled employees**

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**A. Introduction**

Pursuant to the Rehabilitation Act, the Americans with Disabilities Act and the Maine Human Rights Act, the MCCS is committed to providing reasonable accommodations to those employees and employment applicants (hereinafter collectively referred to as “employees) who are both disabled and otherwise qualified within the meaning of those laws. The goal of the MCCS is to balance on a case-by-case basis the specific needs of its employees with the operational integrity and administrative resources of the System.

**B. Application and Definition**

This Policy shall apply to all institutions of the MCCS. For purposes of this policy, an “institution” includes the MCCS colleges, campuses, off-campus or satellite locations and the System Office.

**C. Request for Accommodation**

An employee must make a request for accommodation to the appropriate institution representative in order to start the interactive process. A request for accommodation is a statement that an employee needs a work-related adjustment or change in working conditions, benefits or privileges of employment for a reason related to a mental or physical disability. A request for accommodation may be made orally or in writing by the employee, the employee’s health care provider or other person authorized by the employee to act on the employee’s behalf.

**D. Interactive Process**

A request for accommodation will be evaluated and addressed through an interactive process. The interactive process is an exchange of information between the employee who has made the request and the appropriate representatives of the MCCS or the college for the purpose of making an individualized assessment of what, if any, reasonable accommodation may be made that will allow the employee to perform the essential functions of the job. The process is coordinated by the MCCS or the college as employer and involves appropriate and relevant MCCS representatives and the employee. Depending on the circumstances of an individual case, the process may also involve authorized health care professionals who have or can provide relevant information about the employee’s disability, ability to perform the essential functions of the job and/or need for accommodation, as well other professionals with knowledge or expertise relevant to the process.

## **E. Employee's Responsibilities**

An employee who has requested or is otherwise in need of reasonable accommodation is expected to engage fully and in good faith in the interactive process. In addition to other requirements imposed by law, an employee requesting any accommodation from the M CCS must:

1. Be an individual with a disability who is otherwise qualified, with or without reasonable accommodation, to perform the essential functions of the job in question;
2. Make a timely request for accommodation to the appropriate institution representative. A timely request is one that gives the college or M CCS a meaningful opportunity to review and consider a request for accommodation; and
3. Upon request, provide current and valid medical information concerning the condition that the employee believes is a disability. If the employee declines to provide appropriate information or to authorize the M CCS to obtain medical information or contact the appropriate health care provider, the M CCS will assess the request for accommodation based on the information available. The failure to provide appropriate medical information or to cooperate in the M CCS' efforts to obtain such information may result in a denial of the request for reasonable accommodation.

## **F. Institution's Responsibilities**

In addition to other requirements imposed by law, the institution's representative responsible for applying this policy ("representative") must:

1. Promptly review information regarding the employee's disability, the requested accommodation and any other pertinent information. The representative may consult confidentially with any person(s) assessing the employee's condition provided the employee so consents. The representative may also consult with other institution personnel who are necessary to the appropriate decision and consideration;
2. Discuss with an eligible employee any accommodations that will permit the employee to perform the essential functions of the job and that are reasonable and do not constitute an undue hardship for the institution;
3. Through the interactive process, attempt in good faith to reach agreement with the employee on whether there is a reasonable accommodation and, if so, the nature of the accommodation. If the employee and the representative do not agree on the form of reasonable accommodation, the employee may be offered an alternative reasonable accommodation that has been identified; and

4. Keep a record of the interactive process, any accommodations that have been considered, the response or result of the offer of reasonable accommodation, and a description of the reasonable accommodation that has been offered to the employee. The institution and the employee will enter into a written agreement that memorializes the accommodation that has been determined to be reasonable and the plan for its implementation.

## **G. Implementation**

If a reasonable accommodation has been identified and agreed upon by the institution and employee, information regarding the agreement and accommodation will be given to the employee's supervisor or other personnel on a limited basis and as necessary to implement the accommodation.

## **H. Complaints**

An employee who has a complaint regarding disability discrimination, including but not limited to a claim that the MCCS or a college has failed to make reasonable accommodation, must attempt to resolve that complaint through the following complaint procedure:

### **1. Contents of the Complaint**

A complaint must be in writing; contain the name, address and telephone number of employee; and the location, date and description of the complaint. Alternative means of complaining, such as personal interview or tape recording, may be used if required because of an individual's disability.

### **2. Filing the Complaint**

The complaint must be submitted to the person designated by the institution's president ("Complaint or Grievance Officer" or "Officer"; typically the EEO/AA and/or Non-Discrimination Officer) as soon as possible, and no later than twenty (20) calendar days after the occurrence of the event that is the subject of the complaint unless there is a compelling reason why the employee could not meet this time period.

### **3. Officer's Decision**

As soon as practical after receipt of the complaint, the Complaint or Grievance Officer will meet with the employee to discuss the complaint. As soon as practical after the meeting, the Officer will respond in a format accessible to the employee. That response will explain the position of the College and, where practical, offer options for substantive resolution.

#### **4. Employee Appeal to Institution President**

Within ten (10) calendar days after receiving the Officer's decision, the employee may appeal to the institution's president or designee.

#### **5. Decision of the Institution President**

As soon as practical after the receipt of the appeal, the institution president or designee will meet with the employee to discuss the appeal. As soon as practical after the meeting, the institution president or designee will issue in a format accessible to the employee a final decision regarding the complaint.

### **I. Other**

#### **1. Postings**

Each institution shall post in conspicuous places the right of employees to request and receive reasonable accommodations and the procedure by which they may do so in that institution.

#### **2. Confidentiality**

All persons participating in assessments and decisions relating to issues of disability and reasonable accommodation shall keep confidential all information related to such matters, except as disclosure is required in order to make such an assessment or decision or determine or implement a reasonable accommodation.

#### **3. Record Retention**

Each institution must retain all documentation relating to disability determinations, including but not limited to records of interactive process, grievances, appeals and institutional responses for at least seven (7) years for employees and three (3) years for employment applicants.

#### **4. Other**

No portion of this Policy is intended to expand or diminish any right or obligation imposed by external law, collective bargaining agreement or other contract or binding obligation.

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REFERENCES: 5 M.R.S.A. §4553-A; 29 U.S.C. §794; 42 U.S.C. §12182; 34 C.F.R. Pt. 104; 29 C.F.R. §1630

DATE ADOPTED: June 24, 2009

DATE(S) AMENDED: