

Chapter 132A-350 WAC
GRIEVANCES—DISCRIMINATION

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WAC

132A-350-040 Reasonable accommodations/academic adjustment for persons with disabilities.
132A-350-045 Definitions.
132A-350-050 Reasonable accommodations/academic adjustment disputes.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132A-350-015 Nondiscrimination and antiharassment policy. [Statutory Authority: RCW 28B.50.140(13). WSR 16-08-109, § 132A-350-015, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 05-14-142, § 132A-350-015, filed 7/5/05, effective 8/5/05; WSR 99-15-072, § 132A-350-015, filed 7/20/99, effective 8/20/99.] Repealed by WSR 21-15-033, filed 7/13/21, effective 8/13/21. Statutory Authority: Chapter 34.05 RCW, and RCW 28B.50.140(13); 20 U.S.C. Section 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 et seq.

132A-350-020 Discrimination and harassment complaint procedure. [Statutory Authority: RCW 28B.50.140(13). WSR 16-08-109, § 132A-350-020, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-020, filed 7/20/99, effective 8/20/99.] Repealed by WSR 21-15-033, filed 7/13/21, effective 8/13/21. Statutory Authority: Chapter 34.05 RCW, and RCW 28B.50.140(13); 20 U.S.C. Section 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 et seq.

132A-350-030 Disciplinary action. [Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-030, filed 7/20/99, effective 8/20/99.] Repealed by WSR 16-08-109, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 28B.50.140(13).

WAC 132A-350-040 Reasonable accommodations/academic adjustment for persons with disabilities. Peninsula College shall provide to individuals qualifying with a disability an equal opportunity to access the benefits, rights, and privileges of college services, programs, activities, and employment in the most integrated setting appropriate to the individual's needs, in compliance with the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act Amendment Act (ADAAA) of 2008, the state of Washington laws against discrimination, and appropriate collective bargaining agreements. No individual shall, based on disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any program or activity.

In accordance with the ADAAA of 2008, persons with disabilities have the right to request and receive reasonable accommodations that:

- (1) Are necessary to ensure that employment/academic requirements do not discriminate or have the effect of discriminating against a qualified individual with a disability based on that disability; and
- (2) Do not impose an undue hardship on the college or require alteration of academic requirements demonstrated as essential to the program of instruction being pursued.

It shall be the obligation of the individual with a disability to request reasonable accommodation.

[Statutory Authority: RCW 28B.50.140(13). WSR 16-08-109, § 132A-350-040, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-040, filed 7/20/99, effective 8/20/99.]

WAC 132A-350-045 Definitions. Essential functions: The fundamental job duties of the position that the individual with a disability holds or desires.

Essential requirements: The fundamental student learning outcomes and course curriculum requirements or activities.

Qualified student: A student with a disability who, with or without reasonable accommodations, meets the academic and technical standards required for admission to, participation in, and/or fulfills the essential requirements of college programs or activities.

Qualified employee: An employee with a disability who meets the skill, experience, education, and other job related requirements for the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job.

[Statutory Authority: RCW 28B.50.140(13). WSR 16-08-109, § 132A-350-045, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-045, filed 7/20/99, effective 8/20/99.]

WAC 132A-350-050 Reasonable accommodations/academic adjustment disputes. Reasonable accommodation shall be provided to any qualified individual with a disability for accessing the benefits, rights and privileges of college services, programs, activities, and employment in the most integrated setting appropriate to the individual's needs. Employees and campus visitors should go to the human resources office to request reasonable accommodation. Enrolled students should go to the services for students with disabilities office to request reasonable accommodation.

(1) **Reasonable accommodation**

Any individual who requests reasonable accommodation shall:

(a) Provide timely notice and documentation of the nature and extent of the disability and the accommodation requested to the college's disability support staff. Since some accommodation may require considerable time to arrange, requests should be made well in advance of need. Lack of advance notice may delay the availability of an accommodation.

(b) Provide any additional documentation on the nature and extent of the disability that the college may require in order to determine appropriate accommodation. This may include a second opinion from a health care professional of the college's choosing and at the college's expense.

(c) Cooperate with the college's disability support staff to develop an appropriate plan for reasonable accommodation. The individual must:

(i) Accept the plan as developed. Any problems encountered in receiving the agreed-upon accommodation must be promptly reported to the college's disability support staff (human resources office for employees and campus visitors/services for students with disabilities office for students); or

(ii) Decline the proposed accommodation. If the individual refuses an accommodation and cannot perform the essential function of the job/program without the accommodation, the individual may not be considered a qualified individual with a disability.

(2) **Process of accommodation**

(a) For employees or applicants for employment:

(i) Essential job functions shall be determined when a position is established, when it becomes vacant, or when duties are changed. The process of selecting reasonable accommodation for each qualified individual with a disability shall be made on a case-by-case basis, appropriate to the essential job functions of the position and the nature and extent of the individual's disability.

(ii) Possible accommodation shall be developed jointly with the individual requesting accommodation and the disability support staff. If there are two or more effective accommodations that would allow the individual with a disability to perform the essential job functions, the college shall consider the preference of the individual with a disability before selecting the accommodation(s) to be provided.

(iii) When an accommodation in an employee's present position is not reasonable or would cause an undue hardship, the college shall attempt to accommodate the employee through reassignment to another vacant position, at the same pay range or lower, for which the employee is qualified. The employee is responsible for identifying types of jobs he/she is interested and qualified for and shall work on the accommodation with human resources.

(b) For students: Possible accommodation shall be developed jointly with the person requesting accommodation and the services for students with disabilities office. The request for accommodation must be made to the services for students with disabilities office. The process of selecting accommodation(s) for each qualified student with a disability shall be made on a case-by-case basis, appropriate to the nature and extent of the student's qualified disability.

(3) **Course equivalency**

The college recognizes that certain disabilities may preclude a student from successfully completing a specific course requirement for a degree even when reasonable accommodation(s) are in place. The college recognizes its obligation to accommodate students with disabilities without compromising the integrity of the academic program. Therefore, every student enrolled in a degree program is required to meet the academic requirements demonstrated as essential to the program of instruction being pursued.

The college recognizes that altered methods of course delivery and/or providing reasonable accommodations will enable most students with disabilities to successfully complete course requirements except in unusual circumstances. Once given reasonable accommodation(s), the student must attempt to complete the required course. If the student attempted and was unable to complete the course, the student may request a course equivalency under this procedure.

Course equivalency shall only be approved when such equivalency is consistent with the academic requirements demonstrated as essential to the program of instruction being pursued. Requests for equivalency for a required course shall only be considered when a qualified student with a disability has demonstrated that, even with accommodations provided by the college, the student is unable to complete the course solely because of a disability.

All requests for course equivalency shall be submitted to the services for students with disabilities office within a year from the academic quarter that the course was attempted and shall include the following information:

(a) A description of the accommodations previously provided to the student for the course;

(b) An explanation of the relationship of the student's disability to the lack of success in completing the course;

(c) A proposed substitute course, if known;

(d) A statement by the student that a good faith effort has been made to complete the required course with accommodations; and

(e) A release signed by the student, authorizing the special needs academic advisory committee to review the documentation on the

student's disability and to contact the evaluating doctor or psychologist.

The dean of student services shall forward the request, with documentation, for review by the special needs academic advisory committee.

(4) Special needs academic advisory committee

All requests for course equivalency shall be submitted to the special needs academic advisory committee. The student or designated advocate requesting equivalency shall have an opportunity to address the committee.

The special needs academic advisory committee is comprised of the following:

- An instructional services administrator;
- A faculty member from the department in which the course is offered;
- A faculty member from a department other than the department in which the course is offered;
- A student services administrator; and
- A representative of the services for students with disabilities office.

Requests for course equivalency shall be approved if the committee agrees that the student has made a good faith effort to complete the required course with accommodations and if the proposed equivalency meets the learning objectives of the degree requirement.

The committee shall respond in writing to all requests for course equivalency within ten instructional days after receiving the request. The decision of the special needs academic advisory committee may be appealed to a senior level administrator within fifteen instructional days after receiving the decision to review it was not arbitrary or capricious. The decision of the senior level administrator's review is the final decision of the college.

(5) Reasonable assurance disputes

It is recommended but not required, that student and/or employee complainants who disagree with an accommodation request a review of the accommodation given or not given by first attempting, via an informal meeting to resolve the issue in the following manner, before seeking the formal grievance procedure in the following manner:

(a) **Informal meeting.** In an attempt to informally resolve the dispute, the complainant may request a meeting with the employee believed to have not been provided the reasonable accommodation or to request a meeting with the employee's supervisor or in his/her absence, a person designated by the president.

(b) **Formal grievance procedure.** If a complainant believes the human resources officer (for employees), the coordinator for students with disabilities, or an employee of the college, has not identified and/or has not provided reasonable accommodations, the complainant may seek review of the action by contacting the employee's supervisor. In this case, the following formal grievance procedure will be followed:

(i) The complainant will submit a written appeal to the supervisor within ninety calendar days of the incident(s);

(ii) The supervisor will review the complainant's position, and respond within five working days;

(iii) The response will be the decision of the college, or a notification that the college will need additional time to come to a decision and the amount of time needed to respond;

(iv) If resolution is not reached by the complainant and the supervisor, the supervisor will refer the appeal to his/her appropriate administrator;

(v) The senior level administrator will review the dispute and make recommendations in writing for appropriate resolution.

The decision of the senior level administrator is the final decision of the college. If desired, inquiries or appeals beyond the institutional level may be directed to:

Equal Employment Opportunity Commission at 800-669-4000

Washington State Human Rights Commission at 800-233-3247

Office of Civil Rights, Department of Education at 206-220-7900

[Statutory Authority: RCW 28B.50.140(13). WSR 16-08-109, § 132A-350-050, filed 4/5/16, effective 5/6/16. Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-050, filed 7/20/99, effective 8/20/99.]