

Berkeley College Accessibility Services Accommodations Policy for Associates

Scope

This Policy applies to any associate¹ (or prospective associate) of Berkeley College who has a disability and is employed by (or seeks to be employed by) the College, participates in College programs or activities, or visits any Berkeley College campus.

Purpose and Commitment

The purpose of this Policy is to reaffirm the commitment of Berkeley College to equal employment opportunity and equal access for all individuals and to maintain a diverse College community where, (1) in accordance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Americans with Disabilities Amendments Act of 2008 and applicable state and local laws, the College's employment opportunities, programs, services, activities and facilities are accessible to associates and prospective associates affected by disabilities, and (2) unlawful discrimination or harassment based upon a person's disability (or the perception of a disability) is strictly prohibited in accordance with the College Equal Opportunity Policy <https://berkeleycollege.edu/pdf/equal-opportunity-policy.pdf>.

The College shall provide reasonable accommodations, to otherwise qualified individuals with disabilities, unless doing so would fundamentally alter the nature of the programs, services, employment opportunities/requirements, facilities or activities, or create an undue burden.

Definitions

"Disability" - A physical, medical, psychological or mental impairment that substantially limits one or more major life activities or which is demonstrable by medically accepted clinical or laboratory diagnostic techniques. A person is considered to have a disability if he or she (1) has such an impairment, (2) has a record or history of such an impairment, or (3) is perceived by others as having such an impairment. "Disability" under this Policy includes a temporary disability.²

"Major life activities" - Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. (This list is not exhaustive.)

"Otherwise qualified individual" - An individual who satisfies the particular job requirements for educational background, employment experience, skills, licenses and any other job related qualification standards and who is able to perform those tasks that are essential to the job, with or without reasonable accommodation.

"Reasonable Accommodation" - Any change or adjustment to a job or work environment that permits a qualified applicant or associate with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by those without disabilities.

¹ "Associate" in this Policy includes all employees (staff and faculty) of the College and BES Inc., as well as student employees when the need for accommodation falls within the work/employment (as opposed to student/program related) context.

² Berkeley College will provide reasonable accommodations to associates who are experiencing a temporary disability, such as a broken limb, recovery from a medical procedure or a medical complication attributed to pregnancy, etc. The associate who is experiencing a temporary disability should contact the ADA Coordinator and follow the Procedures contained in Section I (B) of this Policy document.

Unlawful Discrimination Prohibited

In accordance with its Equal Opportunity Policy, Berkeley College prohibits unlawful discrimination on the basis of disability in regard to application processes, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment. For example, no member of the College community shall:

- Consider a disability in evaluating the possible employment at the College of otherwise qualified applicants with disabilities;
- Make pre-employment inquiries as to whether an applicant has a disability;
- Assess job performance using methods and procedures that adversely discriminate against an associate with a disability; or
- Implement regulations, rules, and policies that result in limiting participation of otherwise qualified associates/applicants with disabilities in opportunities, programs or activities available at the College.

I. Accessibility Services

A. The ADA Coordinator for Associates

An otherwise qualified associate who seeks a reasonable accommodation of a disability should submit the request, as soon as the need becomes apparent, along with appropriate medical documentation (see *below*), to the ADA Coordinator for Associates, Justin Robertson, Human Resources, justin-robertso@berkeleycollege.edu, 201-291-1111 x5104.

B. Procedures for Requesting Reasonable Accessibility Accommodations

Associates with a disability, who are seeking reasonable accommodations, shall provide to the ADA Coordinator for Associates, at the associate's expense, documentation to support the disability and the reasonable accommodation, to include documentation from an appropriate licensed health care professional setting forth: 1) the nature, severity and duration of the medical or psychological impairment at issue; 2) limitations caused by the impairment, and how those limitations impact the associate's ability to perform the essential function of the job; and 3) how the accommodation requested or recommended will enable the associate to perform the essential functions of the job or otherwise to enjoy the benefits and privileges of employment.

Upon receipt of an associate's request for a reasonable accommodation and medical documentation, the ADA Coordinator will engage in a prompt interactive process with the associate and all appropriate parties (including, but not limited to, consulting with the associate's immediate supervisor), all in an effort to assess how the requested accommodation, or alternative accommodations, may help the associate to perform the essential functions of his/her position and otherwise enjoy the benefits and privileges of employment. As part of the interactive process, additional medical or other relevant documentation may be requested and the College may, at its discretion, require the associate to submit to an examination by an appropriate health care provider selected by the College and at the College's expense.

Requests for accommodation will be considered carefully and promptly in light of all relevant circumstances and documentation. Once a decision has been made, the accommodation determination shall be provided to the associate, in writing, and shall describe, and specify the duration of any approved accommodation. The College shall make reasonable accommodations when applicable and modifications to its policies, practices, and procedures unless, in the sole discretion of the College, doing so would fundamentally alter the nature of the service, program, or activity, or pose an undue administrative or financial burden.

The need for a reasonable accommodation may, and often does, change. Therefore, an associate who receives a reasonable accommodation may be required to establish their eligibility for an accommodation again, as needed.

Confidentiality: Specific details of the disability will remain confidential as between the associate and the ADA Coordinator, unless the associate chooses to disclose, or there is a legitimate need for disclosure, on a case-by-case basis. The ADA Coordinator/Human Resources department shall maintain disability records in a confidential manner, separate and apart from an associate's personnel file, for at least seven (7) years after the associate has separated from the College.

C. Appeals & Grievances

Any associate who wishes to appeal accommodation determinations made by an ADA Coordinator should submit a written Notice of Appeal and accompanying documentation to the Director in the Office of Accessibility Services at AccessibilityServices@BerkeleyCollege.edu or call (914) 377-5545 no later than ten (10) calendar days after the issuance of the subject accommodation determination. The official hearing the appeal (the "Official") may request such additional documentation, investigation, or testimony as the Official deems appropriate to the decision. The Official shall endeavor to determine an appeal within seven (7) calendar days after receiving an associate's written Notice of Appeal and complete documentation. Decisions on appeal shall be in writing, and shall state the grounds for the disposition. The decision of the Official shall be final. If circumstances suggest that the Official has a conflict of interest and cannot therefore determine an appeal in an impartial manner, another member of executive management designated by the President, shall determine the appeal.

D. Emergency Management

Berkeley College recognizes that associates with disabilities might require some assistance in the case of a natural disaster, a fire emergency, and/or an unwanted intruder on campus. Therefore, when necessary and appropriate, the ADA Coordinator for Associates shall furnish the Office of Public Safety (PS) and the appropriate Campus Operating Officer (COO) with a complete list of all associates with disabilities who have consented to sharing with PS and the COO that they might require assistance in an emergency. Promptly upon receiving such information, the Office of Public Safety shall take any steps necessary to include such information in emergency management and response planning and execution, for the health and safety of associates with disabilities.

E. Service/Emotional Support Animals

Associates with service or emotional support animals should be guided by the College *Service Animal and Emotional Support Animal Policy*. <https://berkeleycollege.edu/pdf/service-emotional-support-animal-policy.pdf>

II. Enforcement

Failure to follow this Policy may subject the associate to disciplinary measures, up to and including suspension or termination of employment.

Related Policies:

Equal Opportunity Policy: <https://berkeleycollege.edu/pdf/equal-opportunity-policy.pdf>