

**MARSHALL UNIVERSITY**  
**JOAN C. EDWARDS SCHOOL OF MEDICINE**  
**GRADUATE MEDICAL EDUCATION**

**POLICY ON ACCOMODATIONS FOR TRAINEES WITH DISABILITIES**

**Effective Date:** June 8, 2020

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**SECTION 1. PURPOSE AND SCOPE OF POLICY**

1.1. This policy is set forth to comply with the standards set by Accreditation Council for Graduate Medical Education (ACGME) Common Program Requirements regarding accommodations for trainees with disabilities.

1.2. This policy applies to all graduate medical education (GME) training programs at the Marshall University Joan C. Edwards School of Medicine (MUJCESOM).

**SECTION 2. POLICY STATEMENT**

2.1. As a Sponsoring Institution, Graduate Medical Education is committed to providing equal opportunity and access to all programs, services, and activities for trainees with disabilities. While many individuals with disabilities can work without accommodation, other qualified applicants face barriers without the accommodation process. This policy derives from the school's commitment to nondiscrimination for all persons in employment, academic programs and access to facilities, programs, activities and services.

2.2. It is the Marshall University Joan C. Edwards School of Medicine's Graduate Medical Education (GME) policy that no qualified person be excluded from consideration for employment, participation in a residency or fellowship program, be denied the benefits of any GME program, or otherwise be subjected to discrimination with regards to any GME or MUJCESOM program or activity.

**SECTION 3. POLICY STATEMENT**

3.1. This policy recognizes that graduate medical education training is a structured educational activity. Each residency and fellowship program is charged with developing specialty specific policies to address providing reasonable accommodations to a trainee who is expected to be able to practice independently without supervision at the completion of training.

3.2. This policy recognizes that individual programs may require more stringent or more extensive abilities as appropriate to the requirements for training in specific specialties. Because of the nature of certain specialties, specific technical standards associated with each specialty may be more or less essential and vary across specialties.

3.3. All house staff, with or without reasonable accommodation, must be able to meet the clinical and academic standards of their individual training programs as set forth by their responsive program, the Marshall University School of Medicine and appropriate training/participating sites, ACGME and Residency Review Committee (RRC). All trainees must also be able to meet the General Duties and Responsibilities listed within their Notice of Appointment and all Graduate Medical Education Committee policies. Those requirements include, but are not limited to:

3.1.1. The intellectual, behavioral, social capacity to observe and communicate;

3.1.2. Sufficient motor and sensory abilities to perform physical examinations and basic laboratory and diagnostic procedures;

3.1.3. Emotional stability to exercise good judgment and work effectively in stressful situations; and

3.1.4. Intellectual ability to synthesize data and solve problems.

## **SECTION 4. DEFINITIONS**

For the purpose of this policy, the following definitions will apply:

4.1. Disability: For the purpose of considering an accommodation, according to the Americans with Disabilities Act of 1990, the term "disability" means, with respect to an individual, a person with a physical or mental impairment that substantially limits one or more of the major life activities. The term "person(s) with disability (ies)" means any person who:

4.1.1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities;

4.1.2. Has a record of such impairment; or

4.1.3. Is regarded as having such impairment. A person with disabilities is "substantially limited" if there is a significant restriction on his or her ability to perform his or her duties as a trainee in a reasonably independent manner. Whether a person has a substantial limitation will be determined under applicable law, based on the specific facts and circumstances.

4.2. A person *does not have a disability* for purposes of this policy if he or she:

4.2.1. Has a current condition of addiction; or

4.2.2. Has a currently communicable disease or infection that is a direct threat to the safety of patients or other persons or makes the trainee unable to perform the essential functions of the residency/fellowship training position.

4.3. Major Life Activities: The ADA Amendments Act of 2008 (ADA-AA) expands the ADA definition of "major life activities" from walking, seeing, speaking, breathing, learning, working, etc. to also include eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, as well as the "operation of a major bodily function."

4.3.1. Transitory or minor conditions (<6 months duration) do not qualify as a disability under the laws.

4.3.2. Further information can be obtained from the ADA website (<http://www.ada.gov>)

4.4. Reasonable Accommodation: Modifications or adjustment to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enables qualified individuals with disabilities to perform the essential functions of that position.

4.4.1. An accommodation is NOT considered reasonable if it imposes an undue hardship, alters the fundamental nature or requirements of the residency or fellowship program, or poses a direct threat to the health or safety of others.

4.4.2. Financial considerations may be considered should they limit the ability to accommodate the trainee.

4.5. Trainee (s): An intern, resident or fellow enrolled in the graduate medical education at the Marshall University Joan C. Edwards School of Medicine.

4.6. Working Day(s): Any day other than Saturday, Sunday or legal holiday on which legal business can be conducted. The day of receipt of an appeal shall not be counted in calculating working days.

## **SECTION 5. REASONABLE ACCOMMODATION**

5.1 For the purpose of this policy, reasonable accommodation applies to three aspects:

5.1.1. To assure equal opportunity in the application process;

5.1.2. To enable a qualified individual with a disability to perform the essential functions of a job; and,

5.1.3. To enable a trainee with a disability to enjoy equal benefits and privileges.

5.2. Reasonable accommodations for trainees may include but not be limited to:

5.2.1. Job restructuring;

5.2.2. Acquiring or modifying equipment or devices;

5.2.3. Modifying training materials;

5.2.4. Making facilities readily accessible;

5.2.5. Modifying work schedules; and,

5.2.6. Reassignment to a vacant position as eligible and permitted by the accrediting requirements of the program.

5.3. Reasonable accommodations, when necessary, will be made for current and future activities, but cannot be made retroactively to remove remediation, probation or termination.

5.4. While the use of accommodations may enable the trainee to better demonstrate his/her abilities, accommodations do not guarantee improved academic or clinical performance.

## SECTION 6. PROCEDURE FOR REQUESTING ACCOMODATIONS

- 6.1 A request for accommodation may be submitted at any time during residency or fellowship training. To receive maximum benefit from training, trainees are to submit request for accommodation as early in the training process as possible.
- 6.2 Trainees requesting accommodations must submit such request in writing to the Program Director, who must in turn notify the Graduate Medical Education (GME) office of the request. Programs may require a detailed, comprehensive written report from a qualified professional describing the trainee's disability and its severity and explaining the need for the requested accommodations(s).
- 6.3 The training program, under the guidance of the Marshall Health and Marshall University's ADA Compliance Officers, will review the request and meet with the trainee to:
  - 6.3.1 Discuss the purpose and the essential functions of the particular job involved. Completion of a step-by-step analysis may be necessary.
  - 6.3.2 Determine the precise job-related limitation.
  - 6.3.3 Identify the potential accommodation and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.
  - 6.3.4 Provide a decision to the trainee within a reasonable amount of time.
  - 6.3.5 Work with the trainee to obtain technical assistance, as needed.
  - 6.3.6 Select and implement the accommodation that is the most appropriate for both the trainee the training program, and Sponsoring Institution. An individual's accommodation preference will be given consideration. However, should an equally effective accommodation be available, the Sponsoring Institution reserves the right to choose the one that is less expensive or is easier to provide.
- 6.4 Should the request of reasonable accommodation be denied or the trainee feel more accommodation is needed than granted, the appeal process is outline in Section 9 below.
- 6.5 Patient safety must be assured as a top priority in the determination for accommodations.

## SECTION 7. FAILURE TO SUCCESSFULLY ACHIEVE COMPETENCIES

- 7.1 Should it become apparent that despite reasonable training accommodations, the nature of the disability may prohibit the trainee from successfully achieving the educational, academic and/or clinical standards of the training program, the trainee is encouraged to seek career counseling from a mentor, faculty

member, Program Director or Vice Dean, GME for advice regarding alternate career options.

- 7.2. Alternate career options may include but not be limited to transferring to another training program or withdrawal from residency.

#### **SECTION 8. APPEAL OF REASONABLE ACCOMMODATIONS REQUEST**

- 6.3 Should the trainee not be satisfied with the reasonable accommodations offered, the trainee may appeal to the Vice Dean, Graduate Medical Education. An appeal must be made within five (5) working days of receipt of the reasonable accommodations offer.
- 6.4 The Vice Dean's shall render a final decision upon ten working days of receiving the appeal.

#### **SECTION 9. RETALIATION PROHIBITION**

- 6.4. No individual may retaliate against a trainee or any person who assist the trainee in the receipt of accommodations of a reasonable accommodation request or the appeal process.
- 6.5. Those who retaliate against an employee or applicant for making a report of disability discrimination and/or harassment, for attempting to secure a reasonable accommodation or otherwise acting in accordance with this policy will be subject to severe discipline, up to and including termination of employment.
- 6.6. If a trainee or applicant believes that he or she has been retaliated against, he or she should immediately request assistance from their supervisor or the appropriate (Marshall Health or Marshall University) Human Resources Department.

#### **SECTION 10. CONFIDENTIALITY OF RECORDS**

All records will be maintained in a confidential manner.