Disability Accommodations Policy

I. PURPOSE

This policy provides guidelines and procedures to be followed when employees and applicants for employment request or require an accommodation due to a qualifying disability as defined by the Americans with Disabilities Act ("ADA") and the California Fair Employment and Housing Act ("FEHA").

II. SCOPE

This policy applies to all employees and applicants for employment.

III. POLICY

Harvey Mudd College ("HMC") will make reasonable accommodations whenever necessary for an otherwise qualified employee or applicant for employment with disabilities (as defined by applicable law), provided that (1) the individual is otherwise qualified to safely perform the essential functions of the job and (2) such accommodations do not impose undue hardship on HMC operations.

IV. DEFINITIONS

Direct Threat to Safety - A significant risk to the health or safety of the individual seeking accommodation or to others which cannot be eliminated by reasonable accommodation.

Individual with a Disability - For purposes of providing reasonable accommodations, an "individual with a disability" is defined as a person who has a physical or mental impairment that limits one or more of that person's major life activities, having a record or history of such impairment, or being perceived or regarded as having such impairment.

Responsible Manager - An individual who has authority to determine whether a requested accommodation will be provided. Where an employee requires reasonable accommodation, the Responsible Manager will typically be the employee’s supervisor/manager, the Director of Human Resources, and/or the Director’s designee. Where an applicant for employment requires reasonable accommodation, the Responsible Manager will typically be the hiring supervisor/manager, the Director of Human Resources, and/or the Director’s designee.

Essential Job Functions - The fundamental job duties that an employee must be able to perform in his or her assigned job, with or without reasonable accommodation. Factors to consider in determining whether a function is fundamental include: (a) whether the reason the position exists is to perform that function, (b) the number of other employees
available to perform the function or among whom the performance of the function can be
distributed, (c) the degree of expertise or skill required to perform the function, (d) the
time spent performing a function, and (e) the consequences of not requiring that
employee to perform the function. Essential functions do not include marginal functions
of a position. Determination of the essential functions of a position must be done on a
case-by-case basis, so that the determination is based on the job as actually performed,
and not simply on the components of a generic position description.

**Interactive Process** - The timely, good-faith process by which the individual requesting an
accommodation and the Responsible Manager discuss the request for accommodation,
whether an accommodation is required, and if so, how the person can reasonably be
accommodated.

**Qualified Individual with a Disability** - An employee or applicant for employment with a
disability who has the necessary skill, education, experience, and other job-related
requirements to perform the essential functions of a position with or without a
reasonable accommodation.

**Reasonable Accommodation** - Reasonable accommodation is any modification or
adjustment of a job, job schedule, or work environment which enables a qualified
employee or applicant for employment with a disability to participate in the employment
application process, to perform essential job functions, or to enjoy other benefits of
employment as are enjoyed by similarly situated employees without disabilities, and
which does not impose an undue hardship on HMC or impose a direct threat of safety to
the individual who requires accommodation or to others in the workplace. Examples of
reasonable accommodations may include making existing facilities used by employees or
applicants for employment readily accessible to and usable by an individual with a
disability, restructuring a job, modifying a work schedule, permitting an alteration of when
or how an essential function is performed, acquiring or modifying equipment, modifying
examinations, training, or other programs, providing paid and unpaid leave for treatment
and/or recovery, and/or modifying an employer policy. Where a current employee is
unable to do his or her original job with or without accommodation because of a
disability, reasonable accommodation also might include reassigning such employee to a
vacant position for which the individual is qualified. There is, however, no obligation to
create a position as an accommodation. Nor is HMC required to lower quality or quantity
standards.

**Undue Hardship** – Undue hardship is the point at which an accommodation would be
unduly costly, extensive, substantial or disruptive, or would fundamentally alter the
nature or operation of a school or department. Determination of undue hardship is
always made on a case-by-case basis, considering factors such as the nature and cost of
the reasonable accommodation needed and the impact of the reasonable
accommodation on the operations of HMC.

V. **PROCEDURES**
A. Requests for Accommodation

A request for accommodation is a statement that an individual needs an adjustment or change at work, in the employment application process, or in a benefit or privilege of employment for a reason related to a disability or medical condition. The reasonable accommodation process begins as soon as the request for accommodation is made or HMC otherwise becomes aware of the need for an accommodation through observation or through information provided by a third party.

Employees seeking accommodation should contact their immediate supervisor/manager or Human Resources. Persons who require an accommodation in order to apply for a job should contact the hiring manager or Human Resources.

A request for accommodation may be submitted orally or in writing, by the employee/applicant or by someone associated with the employee/applicant. The request does not have to include any special words, such as "reasonable accommodation" or "disability."

An employee with a disability may request an accommodation whenever he or she realizes the disability's impact on his or her performance or work environment, even if he or she has not previously disclosed the existence of a disability.

If an employee with an obvious or known disability is having difficulty performing his or her job, the employee's supervisor/manager, in consultation with Human Resources, may ask the employee whether he or she is in need of accommodation. Any such inquiry must be framed so as to not require the employee to disclose confidential medical information (e.g., the underlying medical cause of the disability). If the employee then requests an accommodation, the processes and procedures stated in the following section of this Policy shall apply. If, however, the employee does not request reasonable accommodation, an accommodation will not be offered or provided.

To enable HMC to keep accurate records regarding requests for accommodation, employees and applicants seeking accommodation should be asked to complete a "Request for Accommodation" form. See Attachment A - Accommodation Worksheet. The failure of an employee or applicant to complete a Request for Accommodation form does not excuse HMC from responding to a request for accommodation.

Human Resources must be notified promptly of all requests for accommodation, and all requests for accommodation should be acknowledged in writing. Human Resources is responsible for maintaining a worksheet documenting the receipt of and steps taken in response to a request for accommodation. See Attachment B - Reasonable Accommodation and Interactive Process Worksheet.

B. Responding to Requests for Accommodation and the Interactive Process
In response to a request for accommodation, or whenever HMC otherwise becomes aware of the need for an accommodation through information provided by a third party or direct observation, HMC will engage in an interactive process as necessary to determine the precise limitations that necessitate the request for accommodation and explore potential reasonable accommodations that could overcome those limitations. See Attachment C - Reasonable Accommodation and Interactive Process Checklist.

Ongoing communication is particularly important when the specific limitation, problem, or barrier is unclear, when an effective accommodation is not obvious, or when the parties are considering different possible accommodations. The Responsible Manager and the employee/applicant requesting the accommodation should talk to each other to make sure that there is a full exchange of relevant information, and full consideration should be given to accommodations suggested by the employee/applicant.

If the existence of a disability or need for accommodation is not obvious, HMC may ask the employee/applicant requesting the accommodation to provide supporting medical documentation confirming the existence of a disability and that the disability necessitates a reasonable accommodation. (A disability is obvious or already known when it is clearly visible, or when the individual previously provided medical information showing the existence of the disability.) Any request for medical information must comply with the ADA, FEHA, Genetic Information Nondiscrimination Act (GINA) of 2008, California Confidentiality of Medical Information Act, and all other applicable laws and regulations. See Attachment D for a sample Healthcare Provider Certification form (General) and Attachment E for a sample Healthcare Provider Certification form (Pregnancy Related Disability).

If the information provided in response to this request is insufficient, HMC may require that the employee to see a health care professional of HMC’s choosing, at HMC’s expense. Any medical examination shall be job-related and consistent with business necessity.

Any failure by the employee/applicant to supply all relevant and requested medical information or to otherwise meaningfully cooperate in the interactive process may result in HMC’s denial of the accommodation or in delay in the process.

If the need for accommodation is obvious, or if medical and other information provided by the employee/applicant establishes the existence of a disability and/or need for a reasonable accommodation, Human Resources will work with the employee/applicant and Responsible Manager to identify and discuss reasonable accommodations that will enable the employee to perform the essential functions of the job or to participate in the same benefits and privileges of employment enjoyed by similarly situated employees without disabilities, and, in the case of an applicant, to apply for employment. When deciding on accommodations, consideration will be given to the preferences of the employee/applicant to be accommodated, but HMC
has the ultimate discretion to select and implement an accommodation that is effective.

Reassignment to a vacant position is an accommodation of last resort. Reassignment will be considered only if a determination is made that (i) no other reasonable accommodations are available to enable the individual to perform the essential functions of his or her current job, or the only effective accommodation would cause undue hardship, and (ii) the employee is qualified to perform the essential functions of the new position with or without reasonable accommodation. Information concerning an employee’s educational background and work experience may be required. Preferential consideration for reassignment to a vacant position over other applicants and employees will be provided, so long as such preferential treatment is not inconsistent with the terms of an applicable collective bargaining agreement or bona-fide seniority system. HMC is not obligated to create a position for the purpose of reassignment.

In instances where there is no reasonable accommodation that would enable the employee to perform the essential functions of the job, including unpaid leave and assignment to a vacant position, the employee may be terminated, but only with the express authorization of the Director of Human Resources.

C. **Response to Reasonable Accommodation Request**

All requests for accommodation must be promptly addressed (typically within ten (10) days of receipt, or as soon thereafter as possible). A response to a request for reasonable accommodation (grant or denial) should be memorialized in writing. See Attachment F for a sample Response to Reasonable Accommodation Request – Approved, and Attachment G for a sample Response to Reasonable Accommodation Request – Denied.

D. **Confidentiality of Medical Information**

All medical information obtained in connection with a request for reasonable accommodation, including information about functional limitations and reasonable accommodation needs, must be kept confidential. The information shall be kept in files separate from the individual’s official personnel file. In addition, employees who obtain or receive such information are strictly bound by these confidentiality requirements. The information may be disclosed only to the following individuals:

1. Human Resource staff in connection with the discharge of official duties.

2. Administrators, supervisors, managers, and others who need to know may be told about necessary restrictions on the work or duties of the employee and the necessary accommodation(s), but medical information should only be disclosed if absolutely necessary.
3. Medical and safety personnel, when appropriate, if the disability might require emergency treatment or special arrangements in emergency situations such as building evacuations.

4. In certain circumstances, to workers' compensation claims administrators, insurance carriers, or the Workers’ Compensation Appeals Board.

5. Government officials, when the information is necessary to investigate compliance with applicable law.

E. Non-Retaliation Protection

HMC prohibits retaliation against an employee/applicant who makes a request for reasonable accommodation and against participants in the reasonable accommodation process. Any employee found to have engaged in such retaliation may be subject to discipline, up to and including termination.
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REASONABLE ACCOMMODATION REQUEST FORM

The following information is needed to consider a request for employment related accommodation(s). All requests are treated as confidential information and will be considered on a case-by-case basis. Reasonable accommodations are defined as those changes or adaptations which enables a qualified employee or applicant for employment with a disability to participate in the employment application process, to perform essential job functions, or to access a benefit of employment. In most cases, you will be asked to provide documentation of your disability from a qualified medical professional.* Please feel free to attach additional pages if necessary.

Check one: ☐ Applicant  ☐ Employee

Name ____________________________ Phone ______________________

School/Department ______________________ Position __________________

1. Identify and describe any limitations on your ability to apply for employment, perform essential job functions, or interfere with your ability to access job benefits? YOU NEED NOT DISCLOSE THE NATURE OF THE DISABILITY OR INFORMATION REGARDING AN UNDERLYING MEDICAL DIAGNOSIS.

2. Identify and describe the essential function(s) of your job (or the job you are applying for) which you are unable to perform or a benefit(s) of employment you are unable to access without reasonable accommodation(s):

3. Is the need for accommodation ☐ permanent or ☐ temporary [if temporary, expected duration ____________________________]?

4. Identify and describe the reasonable accommodation(s) needed to participate in the employment application process, enable you to properly and/or safely perform the essential functions of your job (or the job you are applying for), or access a benefit(s) of employment:

5. If you are not sure what accommodation is needed do you have any suggestions about what options we can explore?

* Disability” includes a physical or mental impairment or medical condition that limits one or more major life activities, having a record or history of such impairment, or being perceived or regarded as having such impairment. Major life activities include such things as caring for oneself, performing manual tasks, walking, sitting, standing, lifting, reaching, seeing, hearing,
breathing, learning, and working. This definition is provided only as a guide for completing this form. Nothing in this form is intended to alter the legal definitions of this term or impose obligations on HMC not required by law.

6. Identify the name, address and telephone number(s) of the licensed physician, other qualified medical professional, or individual who can help us determine the appropriate reasonable accommodation based on your current limitations:

7. Please provide any additional information that might help us evaluate your request:

Signature ___________________________________________ Date: __________________________