



## **PROCEDURES FOR IMPLEMENTING REASONABLE ACCOMMODATION AT THE CITY UNIVERSITY OF NEW YORK**

### **SECTION I: OVERVIEW**

The City University of New York, in compliance with Sections 503 and 504 of the Federal Rehabilitation Act of 1973 (“Rehabilitation Act”), the Americans with Disabilities Act of 1990 (“ADA”), New York State Executive Law §296, and the New York City Human Rights Law, provides qualified individuals with disabilities the opportunity to participate in programs, activities, or employment.

### **SECTION II: RESPONSIBILITY FOR IMPLEMENTATION**

The President of each constituent college of The City University of New York, the Senior Vice Chancellor for the Central Office and the Dean of the Law School are responsible for the implementation of these procedures.

Each University unit has a 504/ADA Compliance Coordinator who has responsibility for coordinating efforts to ensure access and non-discrimination for individuals with disabilities.

The Human Resources Director along with supervisors of each constituent college of The City University of New York is responsible for making arrangements to provide reasonable accommodations to applicants for employment and current employees.

Each University unit has a Student Disabilities Services Coordinator who has responsibility for providing services and coordinating efforts to ensure access to programs and activities for students with disabilities.

### SECTION III: PROCEDURES FOR REQUESTING AN ACCOMMODATION

#### A. Applicants for Employment

As part of a standard acknowledgment letter, individual applicants are to be instructed to contact the college's Director of Human Resources if an accommodation is needed to participate in the application/interview process. The Human Resource Director will make arrangements with the appropriate individuals to provide a reasonable accommodation.

#### B. Current Employees

Upon initial hire, each employee is given the opportunity to self identify as a person with a disability and to request a reasonable accommodation. The self-identification form is to be circulated annually by Human Resources to all current employees to permit the self-identification of employees who may have become disabled subsequent to initial hire.

An employee should make any initial request for accommodation to her/his immediate supervisor. Alternatively, an employee may direct his/her request to the Director of Human Resources at the site. In either case, consultation between the employee's supervisor and the Director of Human Resources should take place to determine whether the requested accommodation, or an alternate accommodation, is appropriate and should be implemented. Appropriate supporting documentation should be provided to the Human Resources Director. If the proffered accommodation is acceptable to the employee, the Human Resources Director should inform the 504/ADA Compliance Coordinator of the nature of the accommodation.

When an accommodation is complex or requires college expenditures, the supervisor and the Human Resources Director are required to obtain the input of the 504/ADA Compliance Coordinator and/or other college officials. Such consultation shall be confidential, and limited to those officials whose input is necessary to the decision.

Employees may consult with the college's 504/ADA Compliance Coordinator at any time to discuss and understand their rights under the Rehabilitation Act, the ADA and state and local legislation, and they are encouraged to do so.

#### C. Visitors

Brochures/flyers announcing specific public programs should include a statement identifying the person to contact if an accommodation is needed. The time frame, by which such a request must be made, e.g. forty-eight

hours in advance, must be included in the statement. A visitor should make any initial request for accommodation to the individual designated on the flyer. The designee should consult with appropriate college officials to determine the feasibility of granting the requested accommodation. Such consultation shall be confidential, and limited to those officials whose input is necessary to the decision. If the proffered accommodation is acceptable to the visitor, the designee should inform the 504/ADA Compliance Coordinator of the nature of the accommodation.

#### D. Students

A student should make an initial request for accommodation to the Office of Services for Students with Disabilities, and provide appropriate supporting documentation. The Student Disabilities Services Coordinator may consult with appropriate college officials such as the instructor or provost to determine the appropriateness of the requested accommodation consistent with the program requirements. Such consultation shall be confidential, and limited to those officials whose input is necessary to the decision.

Students may consult with the Office of Services for Students with Disabilities or the 504/ADA Compliance Coordinator at any time to discuss and understand their rights under the Rehabilitation Act, the ADA, and state and local legislation, and they are encouraged to do so.

### SECTION IV: REVIEW OF ACCOMMODATION REQUESTS/DECISIONS

#### Applicants for Employment

Applicants whose request for accommodation is denied or who do not agree with a proposed accommodation for the application/interview process, will inform the Human Resource Director. The Human Resource Director will inform the 504/ADA Coordinator who will make the final decision and inform the applicant of the decision.

#### Current Employees

If an employee does not agree with a proffered accommodation, the employee may discuss the situation with the 504/ADA Compliance Coordinator who will review the matter and attempt to resolve it. The Compliance Coordinator may designate one or two members of the 504/ADA Committee to assist in this effort. If the matter is not resolved, the employee may exercise any and all rights available under law without fear of retaliation. If the employee is a union member, the employee may wish to discuss this situation with his/her union representative and exercise any rights available under the collective bargaining agreement.

The Compliance Coordinator will keep the President apprised of the matter.

#### Visitors

If a visitor finds a proffered accommodation unacceptable, the visitor may discuss the situation with the 504/ADA Compliance Coordinator. The Compliance Coordinator shall make the final decision after consultation with the college President.

#### Students

If a proffered accommodation is unacceptable to the student, the student may discuss the situation with the 504/ADA Compliance Coordinator who will review the matter and attempt to resolve it. The college 504/ADA Compliance Coordinator may designate one or two members of the 504/ADA Committee to assist in this effort. If the proffered accommodation is still unacceptable, the college Compliance Coordinator will apprise the college President of the issues and the college Compliance Coordinator's recommendation. The President shall make the final decision.

### SECTION V: DATA COLLECTION/RECORD KEEPING/COMMUNICATION

The 504/ADA Compliance Coordinator is responsible for collecting the information on all accommodation requests including the number made and type of accommodation provided to employees. Likewise, the Student Disability Services Coordinator is responsible for collecting the information on all accommodation requests including the number made and type of accommodation provided to students. Whether records are maintained on paper or computer, they should be kept in a secure location and protected from damage or loss.

There are very strict limitations on the use of medical information obtained through the reasonable accommodation process. All requests for accommodation and all supporting information, including but not limited to medical information, are to be considered confidential and shared with college officials only on a need-to-know basis. Any medical documentation submitted or obtained may only be used to evaluate the request for accommodation. Medical records for employees must be kept in a separate file in the Human Resources Department. Medical records for students are to be kept in a separate file and maintained in the Office of Services for Students with Disabilities.

Applicants and employees, students and visitors may avail themselves of their legal rights to complain to non-CUNY agencies, without fear of retaliation. An updated list of these non-CUNY agencies may be obtained from the college's AA/EEO Office.

The University reserves the right to alter, change, add to, or delete any of these procedures at any time without notice.

## FREQUENTLY USED TERMS

### Disability Definitions –

**The Rehabilitation Act of 1973.** The term “**disability**” means...a physical or mental impairment that constitutes or results in a substantial impediment to employment; or...a physical or mental impairment that substantially limits one or more major life activities. 29 USC §705(9). **Individual with a disability**...[T]he term “**individual with a disability**” means...any person who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment, 29 USC §705(20)(B).

**The Americans with Disabilities Act.** The term “**disability**” means, with respect to an individual—(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. 42 USC §12102(2).

**New York State Human Rights Law.** The term “**disability**” means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held. Executive Law §292(21).

**New York City Administrative Code.** The term “**physical or mental impairment**” means a physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin and endocrine; or a mental or psychological disorder, such as mental retardation, developmental disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. It includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, alcoholism, substance abuse, and drug addition. Admin. Code §8-102(16)(b).

**Section 503** – Section 503 of the Rehabilitation Act of 1973, administered by the U.S. Department of Labor’s Office of Federal Contract Compliance Programs, applies to all federal contractors and subcontractors with contracts of \$10,000 or more. It mandates

affirmative action to employ and advance in employment, qualified people with disabilities. In addition, it requires all recipients with 50 or more employees and one or more federal contracts of \$50,000 or more to prepare and maintain affirmative action programs.

**Section 504** – Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against qualified individuals with disabilities in federally funded programs and activities. The Justice Department’s Disability Rights Section is responsible for coordinating government-wide efforts to comply with Section 504.

**The Americans with Disabilities Act** – The Americans with Disabilities Act (ADA) guarantees disabled people access to employment, public accommodations, transportation, public services and telecommunications. The ADA provides comprehensive federal civil rights protection for people with disabilities.

**New York State Human Rights Executive Law 296** – Executive Law §296(1)(a) makes it an unlawful discriminatory practice for an employer to refuse to hire or employ or to bar or to discharge from employment a disabled individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment. Executive Law §296(3)(a) requires an employer to provide reasonable accommodations to the known disabilities of an employee, prospective employee in connection with a job or occupation sought or held or participation in a training program. Executive Law §296(b) provides that nothing contained in this subdivision shall be construed to require provision of accommodations that can be demonstrated to impose an undue hardship on the operation of an employer’s business program or enterprise. Executive Law §296(7) makes it unlawful discriminatory practice for any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article.

**ADA/504 Compliance Coordinator** – The 504/ADA Compliance Coordinator is appointed by the President. This person is responsible for:

- Monitoring the college for 504/ADA compliance
- Resolving issues before they become potential grievances
- Making sure that disabled employees are accommodated
- Making sure that disabled students receive the same opportunities that other students receive in the most integrated fashion
- Providing training to those who must interact with the disabled.

**504/ADA Committee** – The 504/ADA Committee serves as an advisory committee to the 504/ADA Coordinator. The committee assists in formulating new ideas and monitoring the College for 504/ADA Compliance. The Committee is comprised of representatives from various divisions, departments, programs, and services that make up the College. The Coordinator for Disabled Student Services is a member of the committee.

**Reasonable Accommodations** – The term “reasonable accommodation” means actions taken which permit an employee or prospective employee with a disability to perform in a reasonable manner the activities involved in the job or occupation sought or held and include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring and modified work schedules; provided, however, that such actions do not impose an undue hardship on the business, program or enterprise of the entity from which action is requested. New York State Human Rights Executive Law §292(21-e)

(Effective June 1, 2005)

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