


	Policy Name	Policy Number	Policy Dates	Responsible Unit
	Policy for Employees to Request Reasonable Accommodation	HR-003	College Approval Date: 10/27/2011 Board Approval Date: November 15, 2011, September 18, 2024 Revised: March 3, 2013,	Office of the President

Policy for Employees to Request Reasonable Accommodation

I. Introduction

The Americans with Disabilities Act and the Americans with Disabilities Amendment Act of 2008 (ADA), prohibit discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. Qualified individuals are protected from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

A reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things are usually done during the hiring process. The ADA requires reasonable accommodations as they relate to three aspects of employment: 1) ensuring equal opportunity in the application process; 2) enabling a qualified individual with a disability to perform the essential functions of a job; and 3) making it possible for an employee with a disability to enjoy equal benefits and privileges of employment.

To be protected by the ADA, one must have a disability or have a relationship with an individual with a disability. An individual with a disability is defined by the ADA as someone who has a physical or mental impairment that substantially limits one or more major life activities, a person

who has a history or record of such impairment, or a person who is perceived by others as having such impairment.

Section 504 of the Rehabilitation Act (Section 504) prohibits discrimination on the basis of disability in programs receiving federal financial assistance and in the employment practices of federal contractors. Each federal agency has its own set of § 504 regulations but all include reasonable accommodation for employees with disabilities, program accessibility, effective communication for individuals who have hearing or vision disabilities, and accessible new construction.

Both the ADA and Section 504 prohibit retaliation for raising a complaint under these acts or for advocating for a right this act protects.

Information pertaining to an employee's disability is considered confidential under the ADA and the College will take the necessary steps to keep the information confidential to the fullest extent possible under the law.

II. Policy

SUNY Niagara is committed to adhering to all applicable federal and local laws, regulations, and guidelines with respect to providing reasonable accommodations, as required by Section 504 of the Rehabilitation Act and the Americans with Disabilities Amendments Act of 2008, and is committed to providing equal employment opportunity to qualified individuals with a disability.

Reasonable accommodations will be provided to qualified employees with disabilities to enable the performance of the essential functions of the positions for which they are applying and in which they are employed.

The College will not:

- Treat any employee or applicant adversely due to a disability, record of a disability, perceived disability, or because of a relationship with an individual who has a disability
- Inquire if an applicant for employment has a disability except as required by federal laws and regulations; however, in the application process, the college may invite applicants who require accommodations to disclose the need for such accommodations on a confidential basis
- Use any qualification standards or selection criteria that would have the effect of screening out individuals with disabilities, unless the standards or criteria are directly related to and necessary for the job
- Release information regarding disability-related requests except as necessary to process the request; medical information will be collected and maintained in accordance with the Reasonable Accommodation procedure

Reasonable accommodations can only be implemented from the time the determination of a reasonable accommodation is made and cannot undo any previous consequences. The determination of whether an accommodation is reasonable is dependent upon the specific limitations of the individual's disability and the specific functions of the job. All employees must be able to perform the essential functions of their position with or without reasonable accommodation.

The College does not have to provide the accommodation the employee or job applicant wants. If more than one accommodation effectively meets the disability-related needs, the College may choose which one to provide as long as an effective reasonable accommodation is provided.

The College is not required to provide a reasonable accommodation if it would impose undue hardship on the employer. Undue hardship is defined as an "action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and

cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. Undue hardship is determined on a case-by-case basis.

The College is not required to employ an individual who poses a direct threat i.e. a significant risk of harm to the health or safety of the individual or others and who cannot perform the job at a safe level even with reasonable accommodation. In determining whether an individual poses a direct threat, the College will make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or the best available objective evidence, to ascertain:

- the nature, duration, and severity of the risk;
- the imminence of the risk;
- the probability that the potential injury will occur; and
- whether reasonable modification of policies, practices, or procedures will mitigate the risk.

Complaints that a program, service, or activity of SUNY Niagara is not accessible to persons with disabilities, or complaints regarding discrimination, should be directed to the Assistant Vice President of Human Resources/Title IX Coordinator. Details on SUNY Niagara's discrimination/harassment grievance procedures can be found in the Policy Manual. Employees can obtain further information about the College's internal complaint procedure from the Assistant Vice President of Human Resources/Title IX Coordinator.

III. Responsibility

The oversight and implementation of this policy is the responsibility of Human Resources. The Assistant Director of Human Resources is responsible for the administration of the process, facilitating a decision, and documenting all reasonable accommodations. The Assistant Director of Human Resources is:

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IV. Definitions

A. Qualified Individual with a Disability: a person who, with a disability, satisfies the requisite skills, experience, education, and other job-related requirements of the job he/she seeks to hold, and who, with or without a reasonable accommodation, can perform the essential functions of the position.

B. Essential Function: job duties that are fundamental to the position, they are the reason the job exists. Some of the factors for determining essential functions of a job include:

- Whether the position exists specifically to perform these essential functions.
- The number of other employees who are available to perform the same job duties.
- The expertise or skills required to perform the essential functions.

C. Disability: an individual with a disability is a person who:

- has a physical or mental impairment that substantially limits one or more of the major life activities; or
- A record of having such an impairment; or
- Being regarded as having such impairment.

A medical condition does not need to be long-term, permanent, or severe to be substantially limiting. Also, if symptoms come and go, what matters is how limiting the symptoms are when they are active.

D. Major Life Activity: Major life activities are those functions that are important to most people's daily lives. Examples include but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

E. Reasonable Accommodation: A reasonable accommodation is a modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation may include but is not limited to: making existing facilities accessible; job restructuring; part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, or policies; and providing qualified readers or interpreters. Here are some more examples. A leave of absence may also be considered a reasonable accommodation where necessary, in conjunction with the FMLA policy and any sick leave policy or collective bargaining agreement.

V. Process to Request a Reasonable Accommodation

These procedures describe the process by which the College determines a reasonable accommodation is warranted when requested by an employee with a disability.

1. The determination of a reasonable accommodation is an interactive process through which the employee and the employer work to determine what accommodation is reasonable and will be made on a case-by-case basis utilizing input from the affected employee. The employee is required to provide any necessary medical documentation that is requested. Consultation with other offices will be made as necessary within the confidentiality requirements of the regulations.

2. Employees are responsible for initiating requests for any desired disability-related workplace accommodation. A request is any communication in which an individual asks or states that he or she needs SUNY Niagara to provide or change something because of a medical condition. Once a supervisor has been informed that an accommodation may be needed they should inform the employee to fill out and submit a Reasonable Accommodation Request Form and submit to the Assistant Director of Human Resources. The employee does not have to first inform their Supervisor of the request he/she can submit the Reasonable Accommodation Request form to the Assistant Director of Human Resources initially if more comfortable. If the employee needs an accommodation in completing the written request, the Assistant Director of Human Resources will provide assistance. The employee making the request is required to cooperate throughout the process, to discuss the needed accommodation, and to promptly provide medical documentation where necessary (the interactive process).

3. If a supervisor or manager is notified by an employee that a disability and/or medical condition is causing difficulties with attending or performing the job, this should be treated as a request to initiate the interactive process to determine if reasonable accommodations are warranted. Supervisors are responsible for notifying the Assistant Director of Human Resources of any employee accommodation or request for accommodation that is brought to their attention. If a supervisor believes that a need for an accommodation is obvious and wants to initiate the accommodation process he or she should contact the Assistant Director of Human Resources immediately. The granting of an accommodation may only be done in consultation with the Assistant Director of Human Resources. If a supervisor or manager believes that a recommended accommodation would present an undue hardship, the supervisor should consult with the Assistant Director of Human Resources.

The supervisor or manager may not request or review the employee's medical documentation. The employee will provide HR with appropriate documentation to establish the disability, including the functional limitations of the condition and/or a clear explanation of the need for a reasonable accommodation, and to substantiate any recommendations for accommodating the

employee. The supervisor or manager will provide HR with information concerning the essential functions of the position and other information relevant to assist in developing an accommodation recommendation.

Once a reasonable accommodation has been agreed upon, supervisors are responsible for implementing the reasonable accommodation. Supervisors have the responsibility to keep the request confidential except as necessary for the accommodation. Supervisors are also responsible for monitoring the effectiveness of the accommodation, in consultation with the employee.

The Assistant Director of Human Resources may not refuse to process a request for reasonable accommodation, and a reasonable accommodation may not be denied, based on a belief that the accommodation should have been requested earlier (e.g., during the application process).

VI. Appeals

For an informal resolution, an employee dissatisfied with the resolution of a reasonable accommodation request can ask the Assistant Director of Human Resources to reconsider that decision. An employee must request reconsideration within ten (10) business days of receiving the denial.

Persons denied reasonable accommodation may appeal the decision. An appeal must be submitted no later than ten (10) business days following the denial of accommodation or reconsideration. All appeals must be submitted to the Assistant Vice President of Human Resources/Title IX Coordinator. Within fifteen (15) business days of receiving the appeal a final determination of the accommodation request will be provided to the employee in writing. If the Assistant Vice President of Human Resources acted as the decision maker of the accommodation request, then the appeal shall be submitted to the President.

An individual's receipt or denial of an accommodation does not prevent the individual from making another request at a later time if circumstances change and he or she believes that an

accommodation is needed due to limitations from a disability (e.g., the disability worsens or an employee is assigned new duties that require an additional or different reasonable accommodation).

VII. Recordkeeping

All employee and employment records related to the ADA and Section 504 must be kept for a period of two years, as required by the ADA and the Rehabilitation Act. Information regarding an employee's disability is considered confidential under the ADA. Centralized recordkeeping of requests for and implementation of reasonable accommodations will be maintained and all information will be kept confidential to the fullest extent possible under the law.