

CUNY Procedures for Implementing Reasonable Accommodations and Academic Adjustments

I. Policy Statement

The City University of New York (“CUNY”) is committed to providing reasonable accommodations and academic adjustments to allow qualified individuals the opportunity to participate in programs, activities and employment. CUNY recognizes that there may be times when employees and their supervisors, as well as students¹ and their instructors, can resolve accommodation requests informally. However, in many cases, such requests require a more formal process with the request being made to and considered by a designated decision-maker, with the opportunity for an appeal, as provided for in these procedures.

The following procedures apply to reasonable accommodations and academic adjustments in connection with:

- a disability,
- pregnancy, childbirth, or a medical condition related to pregnancy or childbirth,
- religious practices, and
- status as a victim of domestic violence, sex offense or stalking.

CUNY will thoroughly review all requests on a case-by-case basis in accordance with applicable federal, state and New York City law.

CUNY prohibits retaliation against individuals for requesting reasonable accommodations or academic adjustments, appealing decisions concerning such requests, or for making or participating in claims of discrimination.

All requests for accommodations and academic adjustments, and all supporting documentation, including but not limited to medical information, are considered confidential and will be shared with college officials only on a need-to-know basis. Such documentation will only be used to evaluate the requested accommodation. Employee and applicant accommodation documentation will be kept in a separate file in the Office for Human Resources or the Office of Recruitment and Diversity, depending on which office is evaluating the accommodation request. Student accommodation documentation will be kept in the Office for Student Disability Services, the Office of Student Affairs, or the Office of Recruitment and Diversity, depending on which office is evaluating the accommodation request.

II. Definitions

- A. Academic Adjustments: Section 504 of the Rehabilitation Act of 1973 (“Section 504”) requires CUNY to provide academic adjustments to qualified students with disabilities by (a) modifying academic requirements unless such requirements are essential to the instruction being pursued or to any directly related licensing requirement; (b) ensuring that course examinations for students with disabilities reflect their achievement in the course and not their disabilities; (c)

¹ For the purpose of these procedures, “students” refers to students and prospective students.

taking steps to ensure that a qualified student is not excluded from participation or discriminated against because of the absence of educational auxiliary aids; and (d) ensuring that no rules have the effect of limiting the participation of students with disabilities in any educational program or activity.

- B. ADA: The Americans with Disabilities Act (“ADA”) guarantees individuals with disabilities access to employment, public accommodations, transportation, public services and telecommunications and provides such individuals with civil rights protections. Title II of the ADA, which applies to public entities such as CUNY, prohibits discrimination on the basis of a disability in all services, programs, and activities provided to the public by state and local governments.
- C. 504/ ADA Coordinator: Each College or unit at CUNY, including the University’s Central Office (the “Central Office”), has a 504/ADA Coordinator whose contact information is available on the College or University website. The 504/ADA Coordinator is responsible for ensuring that disability accommodation requests from employees, prospective employees, students and visitors are processed in accordance with CUNY procedures, addressing appeals of accommodations/academic adjustment decisions through mediation or investigation, as necessary, monitoring the CUNY College or unit for 504/ADA compliance, collecting data, and providing information and guidance.
- D. Chief Diversity Officer: Each College or unit at CUNY, including the Central Office, has a Chief Diversity Officer whose contact information is available on the College or University website. The Chief Diversity Officer is responsible for overseeing the unit’s compliance with all laws and regulations related to diversity and inclusion and CUNY’s Policy on Equal Opportunity and Nondiscrimination, providing guidance and information, and investigating complaints of unlawful discrimination. The Chief Diversity Officer also is responsible for addressing, through mediation or investigation, appeals of accommodations/academic adjustment decisions based on religion and employee/ job applicant appeals of accommodation decisions based on pregnancy, childbirth, or a related medical condition.
- E. Disability: CUNY recognizes as a disability any physical, medical, mental or psychological impairment, or a history or record of such impairment, that constitutes a disability under applicable federal, state and New York City law.
- F. Essential functions of the job: Job duties typically, but not exclusively, found on a job description, which are considered fundamental such that the individual cannot do the job without performing them. Qualified employees must be able to reasonably perform the essential functions of a job either with or without a reasonable accommodation.
- G. Interactive Process/Cooperative Dialogue: The interactive process is the procedure through which an employer and an individual requesting an accommodation work together to identify what barriers exist to the individual’s performance of essential functions of a particular job with

the intention of finding a reasonable accommodation that would enable the employee to perform the job. The interactive process is a flexible and individualized approach and often includes a review of the individual's abilities and limitations (including supporting documentation), the essential functions of the job, factors or job tasks that may pose a difficulty, and how the person may be accommodated without creating an undue hardship on the employer. Similarly, with students, the interactive process is when a decision-maker at the campus works with the student to identify existing barriers to the student's access to academic and non-academic programs and activities at the College with the intention of finding an academic adjustment or reasonable accommodation to address those barriers. CUNY provides an interactive process for all accommodation requests, including requests related to disability, religious practices, pregnancy, childbirth or a related medical condition, and an individual's status as a victim of domestic violence, sex offense or stalking. For employee requests related to pregnancy, childbirth or a related medical condition, the New York City Commission on Human Rights refers to the interactive process as a "cooperative dialogue".

- H. New York Education Law § 224-a: New York State Education Law § 224-a provides rights to students who are unable because of religious beliefs to register or attend classes on certain days. The law provides that a student, who is absent from school because of a religious belief, is entitled, without any additional fees, to an equivalent opportunity to register for classes or make up any examination, study or work requirements that the student may have missed because of such absence on any particular day or days.
- I. Qualified Individual with a Disability: An employee or applicant for employment with a disability who satisfies the skill, experience, education, and other job-related requirements for the position and who can perform the essential functions of the job with or without a reasonable accommodation. Similarly, for students, a qualified individual with a disability is a student who meets the academic and technical standards required for admission or participation in the chosen program with or without a reasonable accommodation or academic adjustment.
- J. Reasonable Accommodation: Although each accommodation request will be assessed individually, reasonable accommodations, in a general sense, are modifications made to remove workplace barriers and enable qualified individuals to perform their jobs. For qualifying students, reasonable accommodations are adjustments to policy, practice, and programs that "level the playing field" and provide equal access to CUNY's academic and non-academic programs and activities. Reasonable accommodations are addressed on a case-by-case basis.
- K. Religion: An individual's sincerely held religious belief or practice of a creed or religion, including all aspects of religious observance, practice and belief, and moral or ethical beliefs as to what is right or wrong, which are sincerely held with the strength of traditional religious views. Religion is defined broadly and includes religious beliefs and practices that may be unfamiliar. "Religion" may consist of a belief system that does not include a traditional concept of God.

- L. Section 504: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against qualified individuals with disabilities in federally-funded programs and activities.
- M. Title IX Coordinator: Each College or unit at CUNY, including the Central Office, has a person who is designated the Title IX Coordinator, whose contact information is available on the College or University website. The Title IX Coordinator is responsible for compliance with Title IX of the Educational Amendments of 1972, which prohibits sex discrimination in educational programs. The Title IX Coordinator has overall responsibility for implementing CUNY's Policy on Sexual Misconduct, including overseeing the investigation of complaints related to sexual misconduct. The Title IX Coordinator also is responsible for addressing (a) requests for accommodations or academic adjustments based on an individual's status as a victim of domestic violence, sex offense or stalking and,(b) through mediation or investigation, student appeals of accommodation/academic adjustment decisions based on pregnancy, childbirth or a related medical condition.
- N. Undue Hardship: An undue hardship is an action that would require significant difficulty or expense when considered in light of a number of factors, including the nature and cost of the accommodation in relation to the size, resources, nature and structure of the employer's operation, or an action that would fundamentally alter policy and procedures, the nature of a job function, and/or the fundamental nature of the academic program. An accommodation need not be granted where it would impose an undue hardship on the College or the University. If a particular accommodation imposes an undue hardship, the College or unit should consider whether an alternative accommodation is available that would not impose an undue hardship.
- O. Pregnancy, Childbirth or a Related Medical Condition: The condition of being pregnant, having a child, or a medical condition related to pregnancy or childbirth.
- P. Victim of Domestic Violence: A person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse or domestic partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.
- Q. Victim of a Sex Offense or Stalking: A person who has been subjected to acts that would constitute violations of the New York Penal Law concerning sex offenses or stalking.

III. **Requesting a Disability Accommodation or Academic Adjustment**

- A. Student Accommodations and Academic Adjustments

Students seeking accommodations or academic adjustments should contact the Office of Student Disability Services at the CUNY College or unit they attend. Contact information is available on the college website. Students may be asked to complete an intake form and provide supporting documentation. The Director of Student Disability Services, or a designee, and the student will engage in an interactive process, which may include a consideration of a number of factors, such as the student's limitations and the academic or other program requirements, with the goal of finding an acceptable accommodation or academic adjustment. Reasonable accommodations and academic adjustments may include, but are not limited to, providing the student with assistive technology or other auxiliary aides, extra time for tests or papers, access to an elevator where available, a note taker during lectures, or permission to bring a personal aide to assist the student during class. The Director of Student Disability Services, or a designee, may, when necessary and in a confidential manner, consult with appropriate college officials, such as the instructor or Provost, to determine program requirements and appropriate accommodations. A grant or denial of the request must be made as soon as practicable, taking into account the urgency of the request, and sent to the student in writing, either stating the accommodation or academic adjustment to be provided, or for denials, the reason(s) the request was denied.

B. Employee Accommodations

1. Applicants for Employment

Applicants are given an opportunity to self-identify as disabled.

Applicants for employment seeking accommodations to participate in the application/interview process should contact the Director of Human Resources at the College or unit to which they are applying. Applicants may be asked to complete an intake form and provide supporting documentation concerning their disability. The Director of Human Resources, or a designee, and the applicant will engage in an interactive process, which may include a consideration of a number of factors, such as the applicant's limitations and the application process and requirements, with the goal of finding an acceptable accommodation. Possible accommodations include, but are not limited to, providing adaptive furniture, equipment, or lighting, scheduling and room changes, a sign language interpreter, enlarged print or screen reader computer accessibility services, or other assistive technology or equipment. A grant or denial of the applicant's request must be made as soon as practicable, taking into account the urgency of the request, and sent to the applicant in writing, either stating the accommodation to be provided, or for denials, the reason(s) the request was denied. The Director of Human Resources, or a designee, is responsible for implementing all approved accommodations during the application and interview process. Classified civil service candidates who are required to take an exam or attend a hiring pool and are seeking an accommodation should follow the written instructions provided on the exam application, hiring pool instructions, or contact the HR Advisory Services unit in the Office of Human Resources Management in the Central Office.

2. Current Employees

Employees are given an opportunity to self-identify as disabled upon their initial hire and throughout their employment.

Current employees seeking accommodations should contact the Office of Human Resources at the College or unit where they are employed. Employees may be asked to complete an intake form and provide supporting documentation. The Director of Human Resources, or a designee, and the employee will engage in an interactive process, which may involve a consideration of a number of factors, such as the employee's limitations and the job requirements, essential duties, and office size and structure, with the goal of finding an acceptable accommodation. Reasonable accommodations may include, but are not limited to, modifying work schedules, granting breaks or providing leave, relocating the employee, reconfiguring work spaces or equipment, providing assistive technology or equipment, or reassigning the employee to a vacant position for which the employee is qualified. The Director of Human Resources is responsible for accommodation determinations. A grant or denial of the employee's request must be made as soon as practicable, taking into account the urgency of the request, and sent to the employee in writing, either stating the accommodation to be provided, or for denials, the reason(s) the request was denied.

C. Visitor Accommodations

Visitors seeking accommodations should contact in a timely manner the 504/ADA Coordinator at the College or unit they are visiting. The 504/ADA Coordinator may refer the request to the relevant campus office(s) for processing. Notices about campus events should include contact information for the 504/ADA Coordinator of the College or unit where the event is being held.

IV. **Appeal of Disability Accommodation and Academic Adjustment Decisions**

A. Student Accommodations and Academic Adjustments

Students may appeal determinations concerning requested accommodations and academic adjustments by filing a written complaint with the 504/ADA Coordinator. The 504/ADA Coordinator, or a designee, will mediate to try to resolve the issues between the student and the College to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the 504/ADA Coordinator, or a designee, will investigate the complaint and make a recommendation to the College President, who will make the decision concerning the complaint. If the student believes that a decision to deny the request was based on unlawful discrimination, then the student may exercise any and all rights available under law without fear of retaliation, including filing a complaint with the United States Department of Education's Office for Civil Rights ("OCR").

B. Applicants for Employment

Applicants for employment may appeal determinations concerning requested accommodations by filing a written complaint with the 504/ADA Coordinator. The 504/ADA Coordinator, or a designee,

will mediate to try to resolve the issues between the applicant and the College or unit to find a reasonable accommodation. If a mutually acceptable accommodation cannot be determined, then the 504/ADA Coordinator, or a designee, will investigate the complaint and make a recommendation to the President or, if the applicant is applying to a position at the Central Office, then to the Vice Chancellor for Human Resources Management. Such President or Vice Chancellor for Human Resources Management will make the final determination concerning the complaint. If the applicant requesting the accommodation believes that a decision to deny the request was based on unlawful discrimination, then the applicant may exercise any and all rights available under law without fear of retaliation, including filing a complaint with outside agencies, such as the Equal Employment Opportunity Commission (“EEOC”), the New York State Division of Human Rights (“NYSDHR”) or the New York City Commission on Human Rights (“NYCCHR”).

C. Current Employees

Employees may appeal decisions concerning requested accommodations by filing a written complaint with the 504/ADA Coordinator. The 504/ADA Coordinator, or a designee, will mediate to try to resolve the issues between the employee and College or unit to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the 504/ADA Coordinator, or a designee, will investigate the complaint and make a recommendation to the President, or if the employee works at the Central Office, then to the Vice Chancellor for Human Resources Management. Such President or Vice Chancellor for Human Resources Management will make the final determination concerning the complaint. If the employee is covered by a collective bargaining agreement, the employee may discuss the matter with a union representative and exercise any rights available under such agreement. If the employee requesting an accommodation believes that a decision to deny the request was based on unlawful discrimination, then the employee may exercise any and all rights available under law without fear of retaliation, including filing a complaint with an outside agency, such as the EEOC, the NYSDHR, or the NYCCHR.

D. Visitors

Visitors who have questions or concerns regarding an accommodation should contact the 504/ADA Coordinator, who will make the final determination concerning the requested accommodation.

V. Accommodations based on Pregnancy, Childbirth or a Related Medical Condition.

A. Student Accommodations and Academic Adjustments

Students requesting an accommodation or academic adjustment based on pregnancy, childbirth or a related medical condition should contact the Office of Student Disability Services. Students may be asked to complete an intake form and provide supporting documentation. The student and the Director of Student Disability Services, or a designee, will engage in an interactive process, which may include considering a number of factors, such as the student’s limitations and the nature and requirements of the academic program, with the goal of finding an acceptable accommodation or academic adjustment. The Director of Student Disability Services may, when necessary, consult with

appropriate college officials, such as the instructor or Provost, to determine program requirements and possible accommodations and adjustments. Reasonable accommodations or academic adjustments may include, but are not limited to, granting leaves of absence, providing take-home tests to students who are bedridden or homebound, allowing make-up tests and papers, or scheduling a meeting with the instructor for a student who had to miss class because of medical appointments or medical complications in order to make up missed content. A grant or denial of the request must be made as soon as practicable, taking into account the urgency of the request, and sent to the student in writing, either stating the accommodation, or for denials, the reason(s) the request was denied.

B. Applicant Accommodations.

Applicants for employment requesting an accommodation based on pregnancy, childbirth or a related medical condition should contact the Office of Human Resources at the College or unit where they are applying. Classified civil service candidates who are required to take an exam or attend a hiring pool and are seeking an accommodation should follow the written instructions provided on the exam application, hiring pool instructions, or contact the HR Advisory Services unit in the Office of Human Resources Management in the Central Office.

C. Employee Accommodations.

1. Employees requesting an accommodation based on pregnancy, childbirth or a related medical condition should contact the Office of Human Resources at their College or unit. Employees may be required to submit an intake form. The employee and the Director of Human Resources, or a designee, will engage in an interactive process, also called a cooperative dialogue, which may include a consideration of a number of factors, such as the employee's limitations and the job functions and requirements, with the goal of finding an acceptable accommodation. The Director of Human Resources, or a designee, will initiate a cooperative dialogue even when an employee does not make an accommodation request when the College has (1) knowledge that the employee's performance at work has been affected or that her behavior at work could lead to an adverse employment action and (2) a reasonable basis to believe that the issue is related to pregnancy, childbirth or a related medical condition. Reasonable accommodations may include, but are not limited to, granting frequent bathroom breaks, providing the employee with a specialized chair, granting leaves of absence, changing work schedules to accommodate doctor's visits, temporary shift reassignments, providing light duties or assistance with manual labor for a period of time, or temporarily reassigning the employee to a vacant position for which she is qualified. A grant or denial of the employee's request must be made as soon as practicable, taking into account the urgency of the request, and sent to the employee in writing, either stating the accommodation, or for denials, the reason(s) the request was denied.
2. Employees may be required to submit medical documentation when requesting: (a) time away from work, including for medical appointments, other than the presumptive six (for a vaginal delivery) to eight (for a caesarian section) week period following childbirth for recovery from

childbirth, or (b) to work from home, either on an intermittent or a long-term basis. This requirement does not affect medical documentation requirements related to leave taken pursuant to the Family Medical Leave Act or other disability plans or policies.

D. Appeals

Employees and job applicants may appeal a denial of a request for an accommodation by filing a complaint with the Chief Diversity Officer. Students may appeal a denial of a written request for an accommodation and/or academic adjustment with the Title IX Coordinator. The Chief Diversity Officer, Title IX Coordinator, or a designee, will mediate to try to resolve the issues between the individual and the College or unit to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the Chief Diversity Officer, Title IX Coordinator, or a designee, will investigate the complaint and make a recommendation to the College President, or if the employee works at the Central Office, then to the Vice Chancellor for Human Resources Management. Such President or Vice Chancellor for Human Resources Management shall make the final determination concerning the complaint. If the employee is covered by a collective bargaining agreement, she may discuss the matter with her union representative and exercise any rights available under such agreement.

VI. **Religious Accommodations**

A. Requests for Accommodations

1. Students requesting a religious accommodation should contact the Office for Student Affairs at the College or unit in which they are enrolled. The Chief Student Affairs Officer, or a designee, and the student will engage in an interactive process with the goal of finding an acceptable accommodation.
2. Consistent with New York State Education Law § 224-a, students who are absent from school because of a religious belief will be given the equivalent opportunity, without any additional fee charged, to register for classes or make up any examination, study or work requirements missed because of such absence on any particular day or days.
3. Employees and applicants requesting a religious accommodation should contact the Office of Human Resources at the College or unit where they are employed or applying. The Director of Human Resources, or a designee, and the employee/applicant will engage in an interactive process with the goal of finding an acceptable accommodation. Classified civil service candidates who are required to take an exam or attend a hiring pool and are seeking an accommodation should follow the written instructions provided on the exam application, hiring pool instructions, or contact the HR Advisory Services unit in the Office of Human Resources Management in the Central Office.

4. Individuals requesting accommodations may be required to submit an intake form. In the case of requests for religious accommodations, the interactive process may include a consideration of a variety of factors, such as the individual's religious practices and the functions and requirements of the academic program or job. Reasonable accommodations may include, but are not limited to, flexible arrival and/or departure times, permission to make up a test or lecture, leave or assignment changes, time and/or space to pray, or an accommodation relating to appearance or dress.
5. CUNY generally will not question that a request for religious accommodation is based on a sincerely held belief. However, if CUNY has genuine reason to doubt that a belief qualifies as religious, or is sincerely held, CUNY may make a limited inquiry, asking for supporting documentation. The documentation submitted may include the requestor's first-hand explanation, or explanations from others, such as a religious official or clergy member, who are aware of the religious practice or belief.
6. A grant or denial of the request must be made in as soon as practicable, taking into account the urgency of the request, and sent in writing to the individual making the request, either stating the accommodation, or for denials, the reason(s) the request was denied.

B. Appeals

Students, employees, and applicants may appeal a denial of their accommodation request by filing a complaint with the Chief Diversity Officer at their College or unit. The Chief Diversity Officer, or a designee, will mediate to try to resolve the issues between the individual and the College to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the Chief Diversity Officer, or a designee, will investigate the complaint and make a recommendation to the College President, or if the employee works at the Central Office, then to the Vice Chancellor for Human Resources Management. The College President or Vice Chancellor for Human Resources Management will make the final determination concerning the complaint. If the employee is covered by a collective bargaining agreement, the employee may discuss the matter with a union representative and exercise any rights available under such agreement.

VII. Accommodations based on Status as a Victim of Domestic Violence, Sex Offense, or Stalking.

A. Requests for Accommodations

1. Individuals requesting an accommodation based on their status as a victim of domestic violence, sex offense, or stalking should contact the Title IX Coordinator at their College or unit. The Title IX Coordinator, or a designee, and the individual will engage in an interactive process with the goal of finding an acceptable accommodation. The Title IX Coordinator, or a designee, in appropriate situations, may develop a workplace safety plan as described in the CUNY Domestic Violence and The Workplace Policy.

2. Individuals may be required where appropriate to submit an intake form and/or provide appropriate documentation to support their status as a victim of domestic violence, sex offense or stalking and to help the College or unit determine a reasonable accommodation.
3. In cases involving a requested accommodation based on status as a victim of domestic violence, sex offense, or stalking, the interactive process may include a consideration of factors, such as the individual's personal safety and mental and physical health and the job or academic requirements. Reasonable accommodations may include, but are not limited to, a leave of absence, modified or flexible work schedules, confidentiality of addresses and phone numbers, transfer to another location, assisting in the enforcement of protective orders, such as posting a photograph of the abuser with the reception or security, or providing the individual with an escort into or out of buildings.
4. A grant or denial of the request must be made as soon as practicable, taking into account the urgency of the request, and sent in writing to the individual who made the request, either stating the accommodation, or for denials, the reason(s) the request was denied.
5. Victims of domestic violence, sex offense, or stalking should consult CUNY's Sexual Misconduct Policy, available on the CUNY website, to the extent they need immediate and supportive interim measures that are not addressed herein.

B. Appeals

Students may appeal the denial of their request for an accommodation or academic adjustment by filing a complaint with the Office for Student Affairs at the campus in which they are enrolled or applying. Employees and applicants may appeal the denial of their request for an accommodation by filing a complaint with the Office for Human Resources at the campus where they are employed or applying for employment. The Chief Student Affairs Officer or Director of Human Resources, as the case may be, or a designee, will mediate to try to resolve the issues between the individual and the College or unit to find an acceptable accommodation/academic adjustment. If a mutually acceptable accommodation/academic adjustment cannot be determined, then the Chief Student Affairs Officer or Director of Human Resources, or a designee, will investigate the complaint and make a recommendation to the College President, or if the employee works at the Central Office, then to the Vice Chancellor for Human Resources Management. Such College President or Vice Chancellor for Human Resources Management shall make the final determination concerning the complaint. If the employee is covered by a collective bargaining agreement, the employee may discuss the matter with a union representative and exercise any rights available under such agreement.

VIII. **Filing Complaints with Outside Agencies**

Students, employees, and applicants who believe that a decision to deny the request for a reasonable accommodation or academic adjustment was based on unlawful discrimination may avail themselves of any and all of their rights under law without fear of retaliation, including filing complaints with one or more of the outside agencies listed below.

- U.S. Department of Education, Office for Civil Rights
<http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>
- U.S. Equal Employment Opportunity Commission
https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm
- New York State Division of Human Rights
<http://www.dhr.ny.gov/how-file-complaint>
- New York City Commission on Human Rights
<http://www.nyc.gov/html/cchr/html/complaint/filing-complaint.shtml>