

Syracuse University
Reasonable Accommodation Process

Purpose

The purpose of the Reasonable Accommodation Process is to explore possible workplace accommodations for employees who request accommodations. The process starts when an employee advises either the supervisor or Diversity & Resolution Processes in the Office of Human Resources that they are requesting an accommodation; or the need for an accommodation is apparent. The first step is for the employee to complete a Reasonable Accommodation Request Form (this may initiate the process or occur shortly after the process is initiated). The purpose of the form is to record accommodations requested and the University's response, and to provide a means of reviewing such requests. More detailed information regarding the steps of the process can be found on the web under "Initiating the Reasonable Accommodations Process" at <http://humanresources.syr.edu/Resources/forms/resaccom.doc>

Who is Covered

The Americans with Disabilities Act (ADA) and the New York Human Rights Law prohibit discrimination against a qualified person with a disability in employment practices such as job application procedures, hiring, promotion, discharge, compensation, training, benefits, and other conditions of employment. These laws also require that employers provide reasonable accommodations to qualified individuals with disabilities. A person is considered to have a disability if (1) he or she has a physical or mental impairment that substantially limits one or more major life activities such as hearing, seeing, speaking, breathing, performing manual tasks, walking, caring for oneself, learning, or working; (2) 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 diagnosis techniques; or (3) has a record of one of the impairments set forth above; or (4) is regarded as having one of the impairments set forth above.

Reasonable Accommodations

It should be noted that in addition to the University's obligations under the nondiscrimination provisions of the ADA and NY Human Rights Law, the University is also required to provide reasonable accommodations to the known physical or mental limitations of qualified persons with disabilities. A known disability is a disability that is either visible or made known by information volunteered by the person with the disability. The employee should in most cases initiate a request for an accommodation. A "qualified person with a disability" is a person who, with or without reasonable accommodation, is able to perform the essential functions of the position. The ADA and NY Human Rights Law require employers to provide reasonable accommodations to the known physical or mental limitations of qualified individuals with disabilities.

When a qualified individual with a disability requests an accommodation, the University will make a good faith effort to provide an accommodation that is effective for the individual. Accommodations must be made on a case-by-case basis because the nature and extent of a disabling condition and the requirements of the job may vary. In many cases, an accommodation will be obvious and can be made without difficulty and at little or no

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cost. The University, typically through the involved department, should consult with the employee as it considers the reasonableness of the requested accommodation.

A reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process; to perform the essential functions of a job; or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include:

- acquiring or modifying equipment or devices,
- job restructuring (but not the elimination of essential functions of a job),
- modified work schedules,
- reassignment to a vacant position,
- adjusting or modifying examinations, training materials, or policies, and
- making the workplace readily accessible to and usable by people with disabilities.

The reasonableness of an accommodation involves an analysis of how the employee's condition affects his or her ability to perform the essential (as distinguished from marginal) functions of the job. Therefore, the University must, as an initial step, analyze the essential functions of the position and how each function is performed. For example, does the position exist to perform a specific task, how much time is spent performing the functions that comprise the job, what are the consequences of not performing the functions, etc?

In determining whether job functions are essential, departments should consider the following:

- (A) *In general.* The term *essential functions* means the fundamental job duties of the job the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.
- (B) A job function may be considered essential for any of several reasons, including but not limited to the following:
 - (i) The function may be essential because the reason the position exists is to perform that function;
 - (ii) the function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or
 - (iii) the function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
- (C) Evidence of whether a particular function is essential includes, but is not limited to:
 - (i) The employer's judgment as to which functions are essential;
 - (ii) written job descriptions prepared before advertising or interviewing applicants for the job;
 - (iii) the amount of time spent on the job performing the function;
 - (iv) the consequences of not requiring the incumbent to perform the function;

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- (v) the terms of a collective bargaining agreement;
- (vi) the work experience of past incumbents in the job; and/or
- (vii) the current work experience of incumbents in similar jobs.

Assessing Reasonableness

Department heads, along with the employee, should analyze each request (as set forth in (1)-(4)) and make a good faith effort to provide a reasonable accommodation to an individual with a disability covered by the ADA and NY Human Rights Law. This part of the process is known as the interactive discussion phase and staff from Diversity & Resolution Processes are available to attend the meetings and assist in the determination of reasonableness.

When determining reasonableness:

- (1) Analyze the particular job involved and determine its purpose and essential functions (as distinguished from marginal functions);
- (2) Consult with the individual with a disability (and/or health care providers) to determine the precise job-related limitations (not the medical condition) imposed by the individual's disability and how those limitations could be overcome with a reasonable accommodation;
- (3) In consultation with the individual to be accommodated (and/or health care providers), identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position; and
- (4) Consider the preference of the individual to be accommodated and select the accommodation that best serves the needs of the individual and the University.

A department or employee needing assistance in assessing the essential job functions should contact Diversity & Resolution Processes, Office of Human Resources, Skytop Office Building. If the employee requesting accommodation(s) is covered by a collective bargaining agreement, departments should also consult with Human Resource's Staff Relations personnel regarding the role of the union in relation to potential accommodations and the impact of the collective bargaining agreement on the accommodations under consideration. Final accommodation decisions should not be made without Diversity & Resolution Processes, Office of Human Resources approval.

It is not necessary to provide a reasonable accommodation if doing so would cause an *undue hardship*. Undue hardship means that an accommodation would be unduly costly, extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the department or unit. Among the factors to be considered in determining whether an accommodation would pose an undue hardship are the cost of the accommodation, the employer's overall size, overall financial resources, and the nature and structure of its operation. If a particular accommodation would pose an undue hardship, you must try to identify another accommodation that will not pose such a hardship. In assessing whether or not an undue hardship exists, the Equal Employment Opportunity Commission and other enforcement agencies will look at the resources of the University. When two or more accommodations that would be effective are under consideration, the University is free to choose the least costly option.

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The ADA and New York State Human Rights Law permit an employer to require that an individual not pose a *direct threat to the health or safety* of the individual or others in the workplace. A direct threat means a significant risk of substantial harm. An employer cannot refuse to hire nor can it fire an individual because the employee poses a slightly increased risk of harm to himself or herself or to others. Nor can an employer refuse to hire or make employment decisions based on a speculative or remote risk. The determination that an individual poses a direct threat must be based on objective, factual evidence regarding the individual's present ability to perform essential job functions. If an applicant or employee with a disability poses a direct threat to his or her health or safety or to that of others, you must consider whether the risk can be eliminated or reduced to an acceptable level with a reasonable accommodation.

Medical Information/Confidentiality

In the context of assessing an accommodation request, a medical examination and/or medical documentation may be needed. Medical documentation is often needed to determine if the employee has a disability covered by law and is entitled to an accommodation, and if so, to help identify an effective accommodation.

Generally, in the context of an accommodation, medical inquiries related to an employee's disability and functional limitations are permissible and may include consultations with knowledgeable professional sources, such as doctors, occupational and physical therapists, rehabilitation specialists, and organizations with expertise in adaptations for specific disabilities. The Human Resources, Diversity and Resolution Processes Office is the University unit charged with coordinating the collection of medical documentation.

Because the Reasonable Accommodation Request Form may contain information that is considered of a medical nature and may constitute a medical record under the ADA and NY Human Rights Law, the form is to be handled confidentially and is not to be made a part of the employee's personnel file. The department head or supervisor is responsible for making sure that the Reasonable Accommodation Request Form, when completed by either the department or the employee, is forwarded to the Diversity & Resolution Processes Office. The form or information from the form should only be made available to those individuals who need to know the information in order to assess the reasonableness of the accommodation requested or to actually provide the accommodation. Only that information concerning an employee's ability to perform the essential functions of the job should be obtained and considered in determining the appropriateness of the accommodation. An employing unit may not use information obtained from an employee medical examination or inquiry to discriminate against the employee in any employment practice.

Accommodation Decisions and Appeals Process

After the form is forwarded to the Diversity & Resolution Processes Office, the request for accommodation will be reviewed to determine whether the department's desire to modify or deny the accommodation is reasonable before any decision is final. The Diversity & Resolution Process staff may change the decision if they feel the modification or denial is unreasonable. If either party is dissatisfied with the decision reached by the Diversity & Resolution Processes staff, the dissatisfied party may appeal to the Associate Vice President - Chief Human Resources Officer.

Whom to Contact

If you need assistance in assessing the reasonableness of a requested accommodation, locating auxiliary aids, or have general questions about the ADA, the Rehabilitation Act or the New York Human Rights Law, please contact the Diversity & Resolution Processes Office.

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If you have questions about the ADA or NY HUMAN RIGHTS LAW or issues relating to compliance with the ADA or NY HUMAN RIGHTS LAW and interpretation of its provisions, such as the obligation to provide reasonable accommodations, please contact the Diversity & Resolution Processes Office at 315-443-1520.

Funding

Funding for accommodations or auxiliary aids or services will be handled as any other expenditure is handled. The employing unit (e.g. department) is responsible for funding the accommodation or auxiliary aids or services.

Syracuse University is committed to the policy that all persons shall have equal access to programs, facilities, admission, and employment. Syracuse University does not discriminate against any person because of age, ancestry, color, disability or handicap, national origin, race, religious creed, sex, marital status, sexual orientation, or veteran status. Direct all inquiries regarding the non-discrimination policy to the Director, Diversity & Resolution Processes, Syracuse University, Skytop Office Building, Syracuse, NY 13244-5300; Tel. (315) 443-1520.

Adapted from Pennsylvania State University, Iowa State University and The University of Iowa

Initiating the Reasonable Accommodations Process

1. An employee initiates the reasonable accommodations process by completing a Reasonable Accommodations Request Form, which is then given either to the supervisor or provided to Diversity & Resolution Processes, Office of Human Resources. Copies of the form can be requested from Diversity & Resolution Processes or found at <http://humanresources.syr.edu/resources/forms>.
2. The Supervisor completes the list of Essential Job Functions for the job and sends it to Diversity & Resolution Processes, Office of Human Resources, along with a current job description. This will help the health care professional determine which essential functions of the job can be completed with or without accommodation.
3. In addition, the Health Care Professional's Release form must be completed, signed and sent to Diversity & Resolution Processes, Office of Human Resources. This releases the health care professional to provide medical information to Diversity & Resolution Processes, Office of Human Resources should it become necessary to substantiate the medical condition. Copies of the form can be found at <http://humanresources.syr.edu/resources/forms>.
4. Diversity & Resolution Processes sends the Essential Job Functions, the Reasonable Accommodations Request Form and the Health Care Professional Release to the health care provider who completes his or her part and returns the forms to Diversity & Resolution Processes who will provide only the necessary information to the supervisor.
5. If the health care provider documents the need for an accommodation, the employee, supervisor (and HR if requested) enter into and complete the interactive process. This process is an informal open discussion with the disabled employee to ascertain the precise job related limitation imposed by the employee's disability and how those limitations could be overcome with a reasonable accommodation.
6. An accommodation need not be the best accommodation available, as long as it is effective. Where there are multiple accommodations that would enable the employee to perform the essential functions of the job, the supervisor can choose to provide the less expensive accommodation or the accommodation that is easier to provide.
7. The interactive process should normally be completed within a week after receiving the completed paperwork, barring any unusual circumstances, and the agreed upon accommodations implemented as soon as possible thereafter. Even if the department's ability to accommodate the employee's disability seems doubtful, the department must still conduct a good-faith interactive process period of discovery. There may be some situations where there is no reasonable accommodation possible without causing an undue financial hardship.

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8. If an accommodation is agreed upon, the supervisor completes the form and sends it to Diversity & Resolution Processes, Office of Human Resources showing the accommodation that was or is being made. The accommodation may or may not be the one that was originally requested. The supervisor should also provide Diversity & Resolution Processes, Office of Human Resources with the timeline for implementation of the accommodation.
9. If no agreement on an accommodation can be reached between the employee and supervisor after two weeks, Diversity & Resolution Processes, Office of Human Resources should be notified by the supervisor or both the supervisor and the employee and become involved to help bring about resolution. Otherwise, Diversity & Resolution Processes, Office of Human Resources will make the determination about the reasonable accommodation.
10. Funding for the accommodation is provided by the responsible department unit.