

## **REASONABLE ACCOMMODATION POLICY**

### **A. Statement of policy**

SUNY Potsdam is committed to assuring equal employment opportunity and equal access to services, programs and activities for persons with disabilities. It is the policy of SUNY Potsdam to provide reasonable accommodation to a qualified person with a disability to enable such person to perform the essential functions of the State government position for which he or she is applying or in which he or she is employed. This policy is based on the New York State Human Rights Law, Sections 503/504 of the Federal Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA), Executive Order 6, and Executive Chamber Memorandum, entitled *Equal Access to State Agency Employment, Programs and Services for Individuals with Disabilities*, issued in 1996, as well as *Executive Chamber Memorandum Technology Policy 96-13-Accessibility to Technology*, issued November 1996 and *Technology Policy 99-3: Universal Accessibility for New York State Web Sites*, issued September 1999.

The Policy applies to all employment practices and actions. It includes, but is not limited to, recruitment, the job application process, examination and testing, hiring, training, disciplinary actions, rates of pay or other compensation, advancement, classification, transfer and reassignment, and promotions.

The provision of reasonable accommodation assists the College to:

- Overcome otherwise exclusionary employment practices, policies and consequences;
- Provide equal opportunities for participation in education and training programs;
- Enhance the retention and upward mobility of qualified employees with disabilities; and
- Ensure the accessibility of procedures for swift and judicious resolution of complaints with this policy and other already existing policies and procedures

To date, most employee requests for reasonable accommodations have been addressed directly by the employee's supervisor or department chair. While department chairs and supervisors are encouraged to continue responding directly to requests from individuals with disabilities, there may be occasions when making a decision about accommodations is complicated by other factors. For instance, the need for an accommodation may be obvious, or it may be difficult to determine what constitutes a reasonable accommodation, or a department's budget may be unable to absorb the total cost of providing the accommodation requested. The following procedure has been developed to ensure that employee request for reasonable accommodations are treated in as consistent and equitable a fashion as possible.

### **B. Procedure for Requesting and Receiving Reasonable Accommodations**

1) The employee requesting an accommodation obtains, completes, and forwards to his or her department chair or supervisor an *Application for Reasonable Accommodation(s)*.

2) The department chair or supervisor completes the second half of the *Application for Reasonable Accommodation*, returns one copy to the individual requesting the accommodation, and forwards one copy to the Dean, who will forward the request to the Affirmative Action Officer in the Human Resources Office. The Affirmative Action Officer notifies the employee of the disposition of the *Application for Reasonable Accommodation* within two weeks of receiving the application.

3) If the department chair or supervisor states on the *Application for Reasonable Accommodation* that the department can provide the requested accommodation directly without additional documentation or assistance, the application process is complete, and the department proceeds with necessary arrangement. The *Application for Reasonable Accommodation* remains on file in the Human Resources Office for record keeping purposes only.

4) If the department chair or supervisor states on the *Application for Reasonable Accommodation* that the Department or unit is prevented from directly accommodating the request due solely to budgetary considerations, and if it is determined that the request or some mutually agreed upon variation thereof may be accommodated without undue financial hardship to the institution as a whole, the Affirmative Action Officer contacts the appropriate dean or director, who then assists in locating funds through channels within his or her own division. It is expected that required job accommodations will usually be funded directly by the employee's department or unit.

5) If the department chair or supervisor states on the *Applications for Reasonable Accommodation* that the department lacks information necessary for making a decision about the request, the request is referred to the Affirmative Action Officer, who notifies the applicant of the need for additional information.

6) If the procedure for requesting and receiving reasonable accommodations is not completed before step 5, the *Application for Reasonable Accommodation*, as well as all additional information and supporting documentation, is reviewed by the Affirmative Action Officer.

If, based on the review, the Affirmative Action Officer determines that the employee is entitled to an accommodation and that the proposed accommodation is reasonable as defined by the ADA, she will consult with the employee's supervisor about appropriate methods of implementing the requested accommodation or some variation thereof.

7) If a review of the request and of supporting documentation is inconclusive, or if it is determined that medical documentation is inadequate or otherwise problematic, the Affirmative Action Officer, after consulting with the Dean, will specify to the applicant why the documentation is unacceptable, and the applicant will be allowed to submit additional supporting documentation. If, after this additional documentation has been submitted, the need for an accommodation is still not clearly established, the employee may be asked to submit to a medical examination by an appropriate medical professional designated and paid for by the College.

The submitted medical documentation and reports from medical exams will be used solely to assist the appropriate College officials in making an informed decision about the employee's request for accommodation. All such documentation will be held in the strictest of confidence and kept separate from personnel records.

8) While the College may seek technical assistance from a medical professional, State or local rehabilitation agencies or disability constituent organizations in determining how to accommodate a particular individual in a specific situation, the decision as to what is and what is not an appropriate accommodation is made by the College.

### **C. Channels for Complaints**

If the request for accommodation is denied, the individual may either accept the denial and end the process or elect to use the external review process with the New York State Compliance Review Board, responsible for review of denials. The Compliance Review Board is first accessed through the Reasonable Accommodations Unit of the New York State Department of Civil Service (518-457-8023).

If the individual requesting an accommodation believes that a decision to deny the request was based on illegal discrimination, complaints may be filed in several ways. The individual may choose to use the College's internal grievance procedure, available in the Office of Human Resources.

A complaint may also be filed externally with any of the following:

- the New York State Division of Human Rights under the Human Rights Law;
- Compliance agencies designated under Sections 503/504 of the Rehabilitation Act of 1973;
- The Equal Employment Opportunity Commission (EEOC) under the Americans with Disabilities Act (ADA);
- Or initiating a private right of action to challenge an alleged discriminatory practice

The Office of Human Resources can provide addresses and telephone numbers of regional offices.

### **D. Definitions**

The following definitions are based on the New York Human Rights Law. Unlike both the Americans with Disabilities Act and the Rehabilitation Act of 1973, the New York State Human Rights Law protects all individuals with physical, mental or medical impairments that either impede normal bodily function or are demonstrable by medically accepted diagnostic technique. The protection of the federal statutes is limited to those impairments that substantially limit one or more major life activities.

***Essential job functions:*** Essential functions are those fundamental to the position; a function is essential if not performing that function would fundamentally change the job or occupation for which the position exists.

***Person with a Disability:*** A person who has "a physical, mental, or medical impairment," who, upon provision of reasonable accommodation if needed, is able to perform in a reasonable manner, the activities involved in the job or occupation sought or held.

Individuals with a disability also include persons who have a record or history of impairment, even if they do not currently have impairment. These individuals are protected from bias, but only current impairments need to be reasonably accommodated.

Persons who have a condition regarded by others as an impairment, or who are incorrectly perceived as having an impairment, are also protected from discrimination. However, only actual impairments need to be reasonably accommodated.

***Physical, Mental or Medical Impairment:*** Any 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.”

**Qualified Person with a Disability:** A person with a disability who, as defined below, can reasonably perform the activities involved in the job, and who satisfies the requisite skill, experience, education and other job-related requirements of the position which the individual holds or desires.

**Reasonable Accommodation:** The New York Human Rights Law, the Rehabilitation Act of 1973, and The Americans with Disabilities Act (ADA) of 1990 require that employers provide reasonable accommodation to the known physical or mental limitations of otherwise qualified applicants or employees with disabilities, unless it can be demonstrated that providing such accommodations would result in undue financial or operational hardships.

Reasonable accommodation refers to the modifications or adjustments to a job application process which enables a qualified individual with a disability to be considered for the position sought and to modifications or adjustments to the work environment or the manner in which a job is performed. An accommodation is reasonable if it removes or mitigates the barriers to performance caused by the individual's impairment, and does not cause undue hardship to the employer.

**Reasonable Performance:** The Human Rights Law protects from discrimination those who can reasonably perform the job, with reasonable accommodation, if needed, despite the person's impairment. Reasonable performance is not perfect performance or performance unaffected by the disability, but reasonable job performance reasonably meeting the employer's needs to achieve its business goals. Ability to reasonably perform the “activities involved in the job or occupation” means the ability, with or without accommodation, to satisfactorily perform the essential functions of the job as established by the employer. The employer's judgement as to what is minimum acceptable performance will prevail, so long as standards for performance are applied equally to all employees in the same position.

**Undue hardship:** This means significant difficulty or expense to the employer. In determining whether an accommodation would result in undue hardship, any relevant factor may be considered.