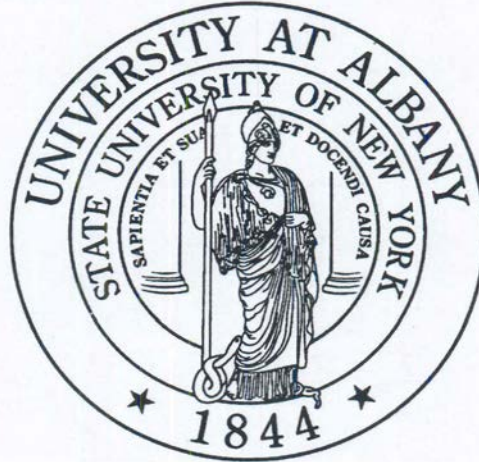


University at Albany
State University of New York



**Policy and Procedure To
Request A Reasonable
Accommodation
For
University Employees and
Applicants**

Office of Human Resources Management

UAB 300

437-4700

May 2013

Revised October 2013

Policy:

The State University of New York at Albany (“University”) is committed to assuring equal employment opportunity and equal access to services, programs and activities for persons with disabilities. It is the policy of the University to provide reasonable accommodation(s) to a qualified person with a disability to enable such person to perform the essential functions of the position for which he/she is employed or is applying for employment.

Scope:

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

Employees or applicants with disabilities may request reasonable accommodation, regardless of title, salary grade, or bargaining unit.

This Policy and Procedure applies to both temporary and permanent disabilities.

Purpose:

The purpose of this Policy and Procedure is to assist the University, as an employer and an integral campus in the SUNY System, an agency of the State of New York, to:

- Assure equal employment opportunities and practices;
- Provide equal opportunities for participation in education and training programs;
- Enhance the retention and upward mobility of qualified employees with disabilities;
- Ensure equal accessibilities to procedures for swift and judicious resolution of complaints arising out of this Policy.

Legal Authority:

This Policy and Procedure is based upon the federal Americans with Disabilities Act (ADA) of 1990 (42 USC 12101 et seq), as amended, which mandates that employers make reasonable accommodations for otherwise qualified employees with disabilities, unless it can be demonstrated that providing such accommodations would result in undue financial or operational hardships, together with the Rehabilitation Act of 1973, Parts 503 & 504, as amended. This Policy and Procedure is also based upon the New York State Executive Law, Article 15, more commonly known as the “New York State Human Rights Law” (NYS DHRL), as amended,

Key Terms:

Below is a summary of certain key terms to assist employees in understanding this Reasonable Accommodation Policy and Procedure. However, both the ADA and the NYSDHRL set forth specific statutory definitions of a number of key terms for determining whether an employee has a qualified disability for which a reasonable accommodation must be made under the statutes. The University is bound to abide by all laws and regulations that are applicable at the time of the application of this Reasonable Accommodation Policy and Procedure to any given employee’s circumstances. Therefore, for the text of the statutory definitions of these key terms, please see www.ADA.gov and www.dhr.ny.gov, respectively.

Disability

Under the ADA, a disability is a physical or mental impairment that substantially limits a major life activity (i.e., hearing, speaking, seeing, walking) or a record of substantially limiting impairment, or someone regarded as having a substantially limiting impairment.

Under the NYSDHR, a disability is a physical, mental, or medical impairment resulting from anatomical, physiological, genetic or neurological conditions that prevents the exercise of normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, or a record of such impairment, or a condition regarded by others as such impairment.

Essential Job Functions

These are the essential job duties that an employee must be able to perform with or without a reasonable accommodation. Usual characteristics of the essential functions of a job are time spent, consequences of error, skill or expertise involved, and the availability of other employees. Under normal circumstances the essential duties would be included in the employee's performance program.

Reasonable Accommodation

This is any change or adjustment to a job or work environment which allows an employee with a disability to perform the essential functions of a job. Typical accommodations

include job restructuring, reassignment, and equipment and furniture modifications.

Undue Hardship

This is an accommodation which would be unduly costly, extensive, disruptive, or would substantially alter operations. Such accommodations need not be provided. Nevertheless, please note that the University does have the obligation to explore and locate other suitable accommodations which would not constitute undue hardship if possible.

Light Duty

The University will continue its policy of requiring that employees be able to perform the essential duties of their position. With the exception of the temporary alternate duty assignments available in Worker Compensation cases, there are no enduring "light duty" assignments.

Procedure for Requesting a Reasonable Accommodation:

Job Applicant

A job applicant may request an accommodation from the Office of Human Resources Management by completing an Application for and Report of a Reasonable Accommodation form (Attachment 1, Section A) and submitting the same to the Office of Human Resources Management. The responsibility for requesting or initiating a request for a reasonable accommodation lies with the applicant with a disability. Upon receipt of the Application, the Office of Human Resources Management will determine whether an accommodation is appropriate, and if so, the accommodation. If there is an expense to the accommodation, it will work with the hiring department for that department to cover the expense, or at the University's discretion, for the expense to be paid from another budget line at the University.

Employee

Apply to Department Head or Supervisor

The employee requesting an accommodation obtains, completes, and forwards to his or her department head or supervisor an Application for and Report of a Reasonable Accommodation form (Attachment 1, Section A). The responsibility for requesting or initiating a request for a reasonable accommodation lies with the employee with a disability.

The department head or supervisor completes either Section B or Section C of the Application for and Report of a Reasonable Accommodation and forwards one copy to

the individual requesting the accommodation and one copy to the Office of Human Resources Management.

If the department head or supervisor states on the Application for and Report of a Reasonable Accommodation that the department can provide the requested accommodation directly without additional documentation or assistance, then the application process is complete, and the department proceeds with necessary arrangements. The Application for and Report of a Reasonable Accommodation remains on file in the Office of Human Resources Management for record keeping purposes only.

Assistance from the Office of Human Resources Management

If the department head or supervisor has difficulty determining if a reasonable accommodation should be made and/or what is a reasonable accommodation, then the Application for and Report of a Reasonable Accommodation as well as all additional information and supporting documentation, should be forwarded to the Office of Human Resources Management for review.

If, based on the review, the Office of Human Resources Management determines that the employee is entitled to an accommodation and that the proposed accommodation is reasonable as defined by the ADA and other applicable laws, regulations, rules and Executive Orders, as the case may be, then the Office of Human Resources Management will consult with the employee and the employee's supervisor about appropriate methods of implementing the requested accommodation or some variation thereof. The Office of Human Resources Management will conduct a job audit of the duties and responsibilities of the position in instances where the essential duties are an issue.

Based on all documentation, if the Office of Human Resources Management agrees that the requested accommodation is reasonable, the employee will receive written confirmation. If it is determined that the accommodation is not justified, or the accommodation is not reasonable given the disability, then the applicant will receive notification of the denial of her or his request for a reasonable accommodation. (See attachment 3.) If the denial is based upon undue hardship, the Office of Human Resources Management may explore an alternative accommodation that will not cause an undue hardship.

Assistance from Committee

At the discretion of the Office of Human Resources Management, it may convene a committee to review any application and make recommendations to the Office of Human Resource Management on the disposition of an application. The committee may consist of five (5) members representing the Office of Human Resources Management, the Office of Environmental Health and Safety, the Office of Diversity and Inclusion, the Disability Resource Center, and a representative from the department where the employee works, as chosen by the chair of the department.

Undue Hardship, Budgetary Considerations and Assistance

If the department head or supervisor states on the Application for and Report of a Reasonable Accommodation that the department or unit is prevented from directly accommodating the request due solely to budgetary considerations, and if it is

subsequently determined by the Office of Human Resources Management that the request or some mutually agreed upon variation thereof may be accommodated without undue financial hardship to the institution as a whole, then the Office of Human Resources Management will contact the appropriate Vice President, Dean, or Director, who will be asked to assist in locating funds through channels within his or her own division.

The University sets no funds aside specifically to pay for job accommodations; rather, it is expected that required job accommodations will typically be funded directly by the employee's department or division. Unresolved questions regarding undue financial hardship should be addressed through the usual reporting structure, and will ultimately be decided by the President.

In determining whether an accommodation would cause an undue hardship, the department head or supervisor may consider the impact of an accommodation on the ability of other employees to do their jobs. However, a supervisor or department head may not claim undue hardship solely because providing an accommodation has a negative impact on the morale of other employees; nor can an employer claim undue hardship because of "disruption" due to employee's fears about, or prejudices toward, a person's disability. For example: If restructuring a job to accommodate an individual with a disability creates a heavier workload for other employees, this may constitute an undue hardship. But if other employees complain because an individual with a disability is allowed to take additional unpaid leave or to have a special flexible work schedule as a reasonable accommodation such complaints or other negative reactions would not constitute an undue hardship.

Additional Information

If the department head or supervisor states on the Application for and Report of a Reasonable Accommodation that the department lacks information necessary for making a decision about the request, then the request is referred to the Office of Human Resources Management who will notify the applicant of the need for additional information using Attachment 2, Notification of Need for Additional Information Supporting Request for a Reasonable Accommodation.

Medical Documentation

If a review of the request and supporting documentation is inconclusive, or if it is determined that medical documentation is inadequate or otherwise problematic, then the Office of Human Resources Management will inform the applicant as to why the documentation is unacceptable, and the applicant will be allowed to submit additional supporting documentation. If, after this additional documentation has been submitted and the need for an accommodation is still not clearly established, then the employee may be asked to submit to a medical examination or see an appropriate medical professional designated and paid for by the University. If the department asks that an evaluation be performed, then the cost associated with an evaluation (if any) will be paid for by the department.

Technical Assistance

The University may seek technical assistance from a medical professional, State or local rehabilitation agencies or disability constituent organizations in determining how best to address an individual's specific request. **In addition**, the department may wish to have an employee's disability needs evaluated by an outside agency to determine what type of

accommodation, including equipment, is best suited for a particular type of disability.

Confidentiality, Use and Storage of Documentation

All documentation will be held in the strictest of confidence and kept separate from personnel records by the Office of Human Resources Management.

Documentation and reports from medical exams will be used solely to assist the Office of Human Resources Management in making an informed decision about the employee's request for an accommodation.

Notification

After a decision is made by the Office of Human Resources Management as to what is and is not an appropriate accommodation, then the employee will receive a written notification from the Office of Human Resources Management. The Office of Human Resources Management notifies the employee of the disposition of the request for an accommodation within two weeks of receiving all necessary information including medical documentation if appropriate.

Appeal Rights

The employee has the opportunity to appeal a decision regarding a reasonable accommodation by submitting a written complaint to the Office of Diversity and Inclusion. The Office of Diversity and Inclusion shall first mediate to try to resolve the issues informally between the employee and the University to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the Office of Diversity and Inclusion shall investigate the complaint and make a recommendation to the President of the University. The President will make the decision on the appeal.

If the individual requesting an accommodation believes that a decision to deny the request was based on illegal discrimination, then a complaint may be filed with the NYS Division of Human Rights by contacting 1-888-392-3644 or go to <http://www.dhr.ny.gov/how-file-complaint>, or with the United States Department of Justice, Civil Rights Division by contacting 1-800-514-0301 or go to http://www.ada.gov/fact_on_complaint.htm.

Self-Identification

If you are an Individual with a disability or a disabled veteran, you are invited to inform the Office of Diversity and Inclusion by completing the [Invitation for Self Identification of Individuals with Disabilities Form](#). Definitions of individuals with disabilities and veteran identification categories are listed on this form.

Submission of this information is voluntary. Refusal to provide it will not result in any adverse treatment. Information obtained concerning an individual's medical condition or history will be kept confidential, except that: (1) supervisors and managers may be informed regarding restrictions on the work or duties of individuals and/or veterans with a

disability, and regarding necessary accommodations; (2) first aid and safety personnel may be informed regarding the need for possible emergency treatment, and (3) government officials investigating compliance with the law shall be provided relevant information upon request.

If you have any questions about this form please contact the Office of Diversity and Inclusion by dialing 956-8110 or via email at ODI@albany.edu.

For assistance with this Policy, Applications, Accommodations and Appeals, please contact

The University's ADA Coordinator

**Merissa L. Mabee
Office of Human Resources Management
Benefits Manager
(518) 437-4700**

In addition, you may file a complaint with a compliance agency:

- US Department of Justice, Civil Rights Division, Disability Rights Section at <http://www.ada.gov>
- New York State Division of Human Rights at <http://www.dhr.ny.gov>

Attachment 1

Application for and Report of a Reasonable Accommodation

Section A: To be completed by the applicant and forwarded to her/his supervisor or department head.

I am requesting the following accommodation:

It is necessary for me to have this accommodation for the following reasons:

Name _____ Title _____

Department _____ Date _____

Complete either Section B or Section C as appropriate. One copy should be forwarded to the individual requesting the accommodation and one copy to the Office of Human Resources Management.

Section B:

_____ The Department will provide the requested reasonable accommodation without additional documentation or assistance.

Name _____ Title _____

Department _____ Date _____

Total Amount of Accommodation \$ _____

Authorization by Dean or Vice President

Authorized Signature Title Date

Section C: Please use one .of the following categories to respond to the request for a reasonable accommodation.

_____ The department requests an evaluation of the duties of the position in order to determine the essential duties.

_____ The department supports the above request for reasonable accommodations but is unable to provide such accommodations without financial assistance.

_____ The department lacks information necessary for making a decision at this time and, therefore, refers this request for a reasonable accommodation to the Office of Human Resources Management.

_____ The department recommends denial of the request based on:

_____.

Name _____ Title _____

Department _____ Date _____

Attachment 2

**Notification of Need for Additional Information Supporting Request
for a Reasonable Accommodation**

The Office of Human Resources Management is in receipt of your application for a reasonable accommodation. In order to make an informed decision about your request, the following additional information is needed:

_____ Official documentation regarding specific physical or mental limitations, including an account of how these limitations impact your current job performance and how the proposed accommodations will enable you to continue performing the essential duties of your position.

_____ Other

The review process will include an evaluation of all relevant information possible, including an interview with you and/or your supervisor or department head and/or the Office of Human Resources Management. After the review is completed, you will receive written notification of the decision regarding your Application for a Reasonable Accommodation.

If you have any questions regarding this process, please call the Office of Human Resources Management at 437-4700.

Attachment 3

Notification of Denial of a Reasonable Accommodation

Based on the information provided, the University at Albany is unable to approve your request for an accommodation which you submitted on

_____.

We are denying the request for the following reasons: