

Policy Title:

## **ADA: SUNY Cortland Disability and Workplace Reasonable Accommodation Policy**

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### **Applies to:**

All applicants and employees working at SUNY Cortland (New York State and the Research Foundation for SUNY)

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### **Policy:**

It is the policy and intent of the State University of New York College at Cortland (SUNY Cortland) that no otherwise qualified individual be excluded from applying for employment, or be subject to discrimination if employed by the College, solely by reason of physical or mental disabilities, or pregnancy-related conditions.

SUNY Cortland will not discriminate against any qualified employee or applicant for employment based on physical or mental disability or pregnancy related condition. The College agrees to take affirmative action to employ, advance employment, and otherwise treat qualified individuals with disabilities without discrimination in all employment practices including, but not limited to: advertising, recruitment, employment, promotion, demotion, transfer, layoff or termination, rates of pay or other forms of compensation and selection for training and professional development.

Adoption of this policy complies with Section 503/504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1991 (ADA), the Americans with Disabilities Act of 2008 (ADAAA) and the Division of Human Rights regulations for New York. When requested, we will work to provide applicants with disabilities reasonable accommodations during the recruitment/placement process. Our employees will also be provided reasonable accommodations, when requested, to enable them to perform the essential functions of the positions in which they are employed.

The responsibility for initiating a request for accommodations lies with the individual applicant, or employee with a disability. In accordance with federal and state regulations, SUNY Cortland will treat disability-related information in a confidential manner.

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### **Definitions:**

The following definitions are based on New York State Human Rights Law. This 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.

### **Covered Individuals**

- a. **Person with a Disability:** A person who has “a physical, mental or medical impairment” that substantially limits one or more major life function, 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.

Person with a disability also includes a person who has a record or history of impairment, even if they do not currently have impairment. These individuals are protected from discrimination, 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.

- b. **Person with Pregnancy-Related Condition:** Any person who has a medical condition related to pregnancy or childbirth that inhibits the exercise of normal bodily function, or is demonstrable by medically accepted clinical or laboratory diagnostic techniques, where such condition, after the provision of a reasonable accommodation, does not prevent such person from performing, in a reasonable manner, the activities involved in the job or occupation sought or held.
- c. **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.”

**Interactive Process:** a discussion about an applicant's or employee's disability--the applicant or employee, health care provider and employer each share information about the nature of the disability and the limitations that may affect his or her ability to perform the essential job duties. This discussion is the foundation of compliance with the Americans with Disabilities Act.

**Essential Job Functions:** Essential functions are those job activities that are fundamental to the position that are determined by the employer to be core to performing job. A function is essential if not performing or modifying that function would fundamentally change the job and/or occupation for which the position exists.

**Qualified Person with a Disability:** A person with a disability who, as defined, can reasonably perform the activities (i.e., the essential functions) 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 Performance:** The New York State Human Rights Law protects from discrimination those individuals 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 their 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 or occupation. Satisfactory performance means minimum acceptable performance of the essential functions of the job as established by the employer. The employer's judgment as to what is minimum acceptable performance will prevail, as long as standards for performance are applied equally to all employees in the same position. Such standards for satisfactory performance may include minimum productivity standards or quotas.

**Reasonable Accommodation:** The New York Human Rights Law, the Rehabilitation Act of 1973, and The Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Amendments Act of 2008 (ADAAA) require that certain 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 impose an undue hardship on the operation of its business.

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 or circumstances under which a job is performed which permit which permits the employee to perform their job in a reasonable manner. 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.

While pregnancy-related conditions are treated as temporary disabilities for purposes of applying existing regulations under the Human Rights Law, pregnancy-related conditions need not meet any definition of disability to trigger an employer's obligation to accommodate under the law. Any medically-advised restrictions or needs related to pregnancy will trigger the need to accommodate, including such things as the need for extra bathroom breaks, or increased water intake.

**Undue hardship:** means an action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity factors to be considered include, but are not limited to:

- The nature and cost of the accommodation; and
- The type of operation which the business, program or enterprise is engaged in, including the composition and structure of the workforce; and
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources or the impact of such accommodation upon the operation of the facilities.

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### **Procedures for Requesting and Receiving Reasonable Accommodations:**

Reasonable Accommodations will be provided for individuals with disabilities when such accommodations are related to performing the essential functions of a job, competing for a job, or to benefits and privileges of employment where such accommodations do not impose an undue financial and/or operational hardship to SUNY Cortland, or endanger the health and safety of the individuals or others.

Determinations on reasonable accommodation requests will be made on a flexible, case-by-case basis and will consider all relevant laws, factors and documentation.

### **Procedure for Requesting and Receiving Reasonable Accommodations: (SUNY Cortland Employees)**

- Reasonable accommodation(s) include adjustments to either the work environment or to the manner/circumstance under which the position held or desired is customarily performed. The accommodation should enable a qualified individual with a disability to perform the essential functions of the job/position.
- A request and determination of a reasonable accommodation(s) is handled through the campus Designee for Reasonable Accommodations (DRA) in the Human Resources Office.
- Those in need of an accommodation in order to perform the essential functions of their position shall make a request verbally or in writing to the campus DRA at 607-753-2302, or directly to their supervisor/chair who will in turn contact the campus DRA.
- The individual requesting accommodation should complete the Request for Reasonable Accommodation form provided to them and submit it to the campus DRA. If additional information or medical documentation is needed, the individual requesting accommodation should complete the Health Care Provider Information Reasonable Accommodation Request form provided to them and return to the campus DRA.
- If requested documentation is not returned in 30 calendar days from the date issued to the employee, the campus DRA will issue a notice to the employee that their request for reasonable accommodation will no longer be actively considered until the requested documents have been submitted. *(Delays in*

*(providing requested documentation may result in an inability to implement certain accommodations, if approved, until a later date.)*

- Verification of a disability is required. It is the responsibility of the individual with a disability to provide documentation that supports their request for reasonable accommodation. The documentation provided to the campus DRA must clearly indicate:
  - a. The existence of a disability (as defined by state and federal regulations); and
  - b. That the disability impedes normal bodily function(s) or is demonstrable by medically accepted clinical or laboratory diagnostic techniques.; including the nature and extent of the limitation(s); and
  - c. A statement of what accommodation(s) is recommended/requested.
- As part of the interactive process of requesting a reasonable accommodation(s), it is important that the employee or applicant, in confidence, advise the campus DRA precisely how limitations from a disability/impairment affect the ability to perform the duties of their position. If the applicant or employee knows what type of reasonable accommodation would be helpful, they should advise the campus DRA respectively.

**Steps in the interactive process include:**

- a. Communicate/interact with the employee to identify the nature of the disability, and the employee's functional limitations with respect to performing the essential functions of the position.
- b. Determine whether the submitted medical documentation substantiates a disability under state and federal regulations and review specific request(s) for accommodation(s), and if necessary, consult with, or request additional documentation from the healthcare provider.
- c. If need be, schedule a medical evaluation with the Employee Health Service of NYS Dept. of Civil Service or another appropriate health care professional in order to verify claimed disability.
- d. Alternative accommodations can be suggested, and the individual should consider whether they would be effective or not. The College does not have to provide the specific accommodation requested, but must offer an effective reasonable alternative, unless to do so would create an undue hardship for the institution and/or endanger the health and safety of employees and/or others.

- Upon submission of the requested forms, the campus DRA will conduct a comprehensive review of all the provided documentation, engage in the interactive process and, if need be, arrange for a job analysis to determine whether and what type of accommodations would be effective.
- 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 campus DRA will specify to the applicant why the documentation is unacceptable. The applicant will then 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 campus DRA is responsible for collecting information on all employee requests for reasonable accommodation including the number made and the type of accommodation provided to employees. Medical records associated with this request are confidential and secured in a separate file in Human Resources. Medical documentation submitted or obtained may only be used to evaluate the request for accommodation and will only be shared with personnel who have a "right to know." This may include any staff who assists in the event the employee requires emergency treatment due to their disability.

**Approval of a reasonable accommodation as requested:**

If the reasonable accommodation request is approved, upon completion of an analysis of all relevant facts and documents, the campus DRA will notify the employee, in writing, of the approved accommodation(s) and the effective date that such will be provided.

**Approval of an alternate accommodation:**

If a reasonable accommodation request is approved, upon completion of an analysis of all relevant facts and documents and the College will offer an alternative accommodation from the accommodation requested, the DRA will notify the employee, in writing, of the approved accommodation(s) and the effective date that such will be provided.

**Denial of a reasonable accommodation request:**

If the request for a reasonable accommodation(s) is denied, upon completion of a thorough review/analysis of all relevant facts and documents, the campus DRA will notify the employee, in writing, of the reason(s) for request denial.

**Appeal Procedure:**

Any individual who is denied an accommodation may seek a request for appeal of the decision to the Associate Vice President for Human Resources, 607-753-2302, who will review the case information and make a final determination regarding the accommodation request. This request for appeal must be submitted in writing within 30 calendar days from the date the applicant or employee was notified of the denial.

**Complaint Procedure for the Review of Allegations of Unlawful Discrimination**

SUNY Cortland, in its continuing effort to seek equity in education and employment and in support of Federal and State anti-discrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, creed, age, sex, sexual orientation, disability, gender identity, familial status, pregnancy, predisposing genetic

characteristics, military status, domestic violence victim status, or criminal conviction. Harassment on the basis of any of the above-protected categories is a form of unlawful discrimination. Conduct that may constitute harassment is described in 950.10. These procedures also apply to complaints alleging all forms of sex discrimination, including sexual harassment, sexual assault, and sexual violence against employees, students, or third parties. For more detailed information contact the Affirmative Action Officer (hereafter AAO) or the Title IX Coordinator (hereafter TIXC). Throughout this document, AAO may refer to the Affirmative Action Officer, or, in the case of Title IX related issues, AAO may also refer to the Title IX Coordinator.

*This Complaint Procedure for the Review of Allegations of Unlawful Discrimination* provides a mechanism through which the College will identify, respond to, prevent and eliminate incidents of illegal discrimination. The College recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial grievance process will benefit students, faculty, staff and administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time-consuming procedures of State and Federal enforcement agencies or courts.

This procedure has been developed in accordance with guidelines and recommendations provided by the Chancellor's Office of Affirmative Action. The policy is administered by the College's Affirmative Action Office. The AAO directs that office and reports directly to the College President and the Assistant Vice President for Human Resources. These procedures have been approved by the State University of New York, Office of General Counsel. These procedures are intended to balance the rights of those bringing complaints of discrimination, harassment and retaliation (the "Complainant") with those against whom such claims are brought (the "Respondent").

Individuals with a disability who consider themselves victims of discrimination and have been unable to arrive at a mutually acceptable resolution with the designated campus contact and appropriate personnel may file a complaint with the Affirmative Action Officer. Individuals should contact:

Affirmative Action Officer  
Miller Building, Room 302  
607-753-2302

[Discrimination Complaint Procedure](#)

**Disability Accommodation Resources:**

Questions or concerns regarding policy, services, or allegations of non-compliance should be directed to the designee for reasonable accommodation (DRA):

Jennifer Eckert-Dennison, Human Resources Associate

[jennifer.eckertdennison@cortland.edu](mailto:jennifer.eckertdennison@cortland.edu)

**Forms for Requesting a Reasonable Accommodation:**

[Employee Request for Reasonable Accommodation](#)

[Health Care Provider Information for Reasonable Accommodation Request](#)