

Niagara County Community College

Process for Employees to Request Reasonable Accommodation

I. Introduction

The Americans with Disabilities Act and the Americans with Disabilities Amendment Act of 2008 (ADA), prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. Qualified individuals are protected from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

To be protected by the ADA, one must have a disability or have a relationship with an individual with a disability. An individual with a disability is defined by the ADA as someone who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment.

Section 504 of the Rehabilitation Act (Section 504) prohibits discrimination on the basis of disability in programs receiving federal financial assistance and in the employment practices of federal contractors. Each federal agency has its own set of § 504 regulations but all include reasonable accommodation for employees with disabilities, program accessibility, effective communication for individuals who have hearing or vision disabilities, and accessible new construction.

Both the ADA and Section 504 prohibit retaliation for raising a complaint under these acts or for advocating for a right this act protects.

Information pertaining to an employee's disability is considered confidential under the ADA and the College will take the necessary steps to keep the information confidential to the fullest extent possible under the law.

II. Policy

Niagara County Community College (NCCC) is committed to adhering to all applicable federal and local laws, regulations and guidelines with respect to providing reasonable accommodations, as required by

Section 504 of the Rehabilitation Act and the Americans with Disabilities Amendments Act of 2008, and to afford equal employment opportunity to qualified individuals with a disability.

Reasonable accommodations can only be implemented from the time the determination of a reasonable accommodation is made and cannot undo any previous consequences. The determination of whether an accommodation is reasonable is dependent upon the specific limitations of the individual's disability and the specific functions of the job. All employees must be able to perform the essential functions of their position.

The College is not required to provide a reasonable accommodation if it would impose undue hardship on the employer. Undue hardship refers to any accommodation that would be, expensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the business.

The College is not required to employ an individual who poses a significant risk of harm to the health or safety of self or others and who cannot perform the job at a safe level even with reasonable accommodation. In determining whether an individual poses a significant risk of harm, the College will make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or the best available objective evidence, to ascertain:

- the nature, duration, and severity of the risk;
- the imminence of the risk;
- the probability that the potential injury will actually occur; and
- whether reasonable modification of policies, practices, or procedures will mitigate the risk.

Complaints that a program, service, or activity of NCCC is not accessible to persons with disabilities, or complaints regarding discrimination, should be directed to the ADA/Section 504 Coordinator. Details on NCCC's discrimination / harassment grievance procedures can be found in the Policy Manual. Employees and students can obtain further information about the College's internal complaint procedure from the ADA/Section 504 Coordinator. Students can also obtain the College's internal complaint procedure for students from Accessibility Services by visiting room A131 or by calling (716) 614-6295.

III. Responsibility

The oversight and implementation of this policy is the responsibility of Human Resources. The ADA/Section 504 Coordinator is responsible for the conduct of the process, facilitating a decision, and for documenting all reasonable accommodations.

The ADA & Section 504 Coordinator is:

Catherine Brown
Director of Human Resources, Equity & Inclusion
Title IX Coordinator

Room A264

(716) 614-5951

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IV. Definitions

A. Qualified Individual with a Disability: a person who, with a disability, satisfies the requisite skills, experience, education, and other job related requirements of the job he/she seeks to hold, and who, with or without a reasonable accommodation, can perform the essential functions of the position.

B. Essential Function: A job function is essential if the position exists to perform that function, the function is highly specialized, or there are a limited number of employees who can perform that function.

C. Disability: an individual with a disability is a person who:

- has a physical or mental impairment that substantially limits one or more of the major life activities; or
- A record of having such an impairment; or
- Being regarded as having such impairment.

D. Major Life Activity: Major life activities include but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

E. Reasonable Accommodation: A reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation may include but is not limited to: making facilities accessible, adjusting work schedules, restructuring jobs, the reallocation or redistribution of non-essential, marginal job functions, providing assistive devices or

equipment, and modifying work sites. A leave of absence may also be considered where necessary, in conjunction with the FMLA policy and any sick leave policy or collective bargaining agreement.

V. Process to Request a Reasonable Accommodation

These procedures describe the process by which the College determines a reasonable accommodation is warranted when requested by an employee with a disability. Students looking for information on accommodations should contact [accessibility services](#).

1. The determination of a reasonable accommodation is an interactive process through which the employee and the employer work to determine what accommodation is reasonable and will be made on a case by case basis utilizing input from the affected employee. The employee is required to provide any necessary medical documentation. Consultation with other offices will be made as necessary within the confidentiality requirements of the regulations.
2. Employees are responsible for initiating requests for any desired disability related workplace accommodation. A request is any communication in which an individual asks or states that he or she needs NCCC to provide or change something because of a medical condition. Once a supervisor has been informed that an accommodation may be needed a written request, by either the employee or supervisor, should be submitted to Human Resources. If the employee needs an accommodation in completing the written request, the ADA / Section 504 Coordinator will provide assistance. The employee making the request is required to cooperate throughout the process by attending meetings to discuss the needed accommodation and to promptly provide medical documentation where necessary (the interactive process).
3. Supervisors are responsible for notifying the ADA / Section 504 Coordinator of any employee accommodation or request for accommodation brought to their attention. If a supervisor believes that a need for an accommodation is obvious and wants to initiate the accommodation process he or she should contact the ADA / Section 504 Coordinator immediately. The granting of an accommodation may only be done in consultation with the ADA Coordinator.

Once a reasonable accommodation has been agreed upon, supervisors are responsible for implementing the reasonable accommodation. Supervisors have the responsibility to keep the request confidential except as necessary for the accommodation. Supervisors are also responsible for monitoring the effectiveness of the accommodation, in consultation with the employee.

The ADA Coordinator may not refuse to process a request for reasonable accommodation, and a reasonable accommodation may not be denied, based on a belief that the accommodation should have been requested earlier (e.g., during the application process).

VI. Appeals

For an informal resolution, an employee dissatisfied with the resolution of a reasonable accommodation request can ask the ADA Coordinator to reconsider that decision. An employee must request reconsideration within ten (10) business days of receiving the denial.

Persons denied reasonable accommodation may appeal the decision. An appeal must be submitted no later than ten (10) business days following the denial of accommodation or reconsideration. All appeals must be submitted to the Director of Human Resources. Within fifteen (15) business days of receiving the appeal a final determination of the accommodation request will be provided to the employee in writing. If the Director of Human Resources acted as the ADA Coordinator than the appeal shall be submitted to the President.

An individual's receipt or denial of an accommodation does not prevent the individual from making another request at a later time if circumstances change and he or she believes that an accommodation is needed due to limitations from a disability (e.g., the disability worsens or an employee is assigned new duties that require an additional or different reasonable accommodation).

VII. Recordkeeping

All employee and employment records related to the ADA and Section 504 must be kept for a period of two years, as required by the ADA and the Rehabilitation Act. Information regarding an employee's disability is considered confidential under the ADA. Centralized recordkeeping of requests for and implementation of reasonable accommodations will be kept in a locked and confidential file in the Office of the ADA / Section 504 Coordinator. All information will be kept confidential to the fullest extent possible under the law.