

## **POLICY FOR EMPLOYMENT OF DISABLED PERSONS**

It is the policy and intent of the State University of New York College at Cortland, that no otherwise qualified disabled individual shall, solely by reason of his or her disability, be excluded from applying for employment or be subject to discrimination if employed by the College.

The College will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The College will employ, advance in employment, and otherwise treat disabled individuals without discrimination based upon their physical or mental disability in all employment practices including, but not limited to, advertising, recruitment, promotion, demotion or transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training.

Adoption of the above policy is in compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990.

The term “disabled individual” is one who has a physical or mental impairment that substantially limits one or more of an individual’s major life activities; refers to an individual having a record of such impairment; or refers to an individual who is regarded as having such an impairment. An impairment “substantially limits” a major life activity if an individual is unable to perform such an activity or is significantly restricted in performing it.

A “qualified disabled individual” is an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired and, with or without reasonable accommodation, can perform the essential job functions.

All applicants for employment and current employees who believe themselves to be covered under Section 504 of the Rehabilitation Act of 1983, as amended, and the Americans with Disabilities Act of 1990, and who wish to benefit under the Affirmative Action Program, are invited to identify themselves when applying for employment or are asked to self-identify when completing hiring paperwork in the Human Resources Office. Reasonable accommodation for disabled persons will be determined through consultation with line management and advisory groups and will be made for considerations of business necessity, financial costs, and expense.

### **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 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 occupation for which the position exists.

**Person With A Disability:** a person who has “a physical, mental, or medical impairment,” who, upon provision of a 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 of 1990 (ADA) 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 judgment, as to what is minimally 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.

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

1. A request and determination of an accommodation is handled through the campus ADA/504 Coordinator in the Human Resources Office.
2. Individuals with disabilities may choose to self-disclose, to the appropriate campus contact, information about their disability at anytime. In order to ensure sufficient time to coordinate auxiliary aids and services, it is the responsibility of the individual to make the request in a timely manner. If a request is made after a designated deadline, every effort will be made to accommodate the request. However, because many accommodations require early planning, the College cannot guarantee that all requests for accommodations will be met. Untimely requests may result in delay, substitution, or denial of an accommodation.
3. The individual requesting accommodation should complete the Request for Reasonable Accommodation form and submit it to the ADA/504 Coordinator along with the appropriate Health Care Provider Information Reasonable Accommodation Request form.
4. Verification of a disability is required. It is the responsibility of the individual with a disability to provide documentation that supports his/her request for reasonable accommodation. The disability documentation must clearly indicate:
  - a. The existence of a disability (as defined by state and federal regulations)
  - b. That the disability substantially limits a major life activity
  - c. A statement of what accommodation(s) is recommended
5. If, based on the review, the ADA/504 Coordinator determines that the employee is entitled to an accommodation and that the proposed accommodation is reasonable as defined by the ADA, the coordinator will consult with the employee's supervisor about appropriate methods of implementing the requested accommodation or some variation thereof.
6. 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 ADA/504 Coordinator 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 ADA/504 Coordinator 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.
7. 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.

### **Appeal Procedure**

Employees have an opportunity to appeal a decision regarding an accommodation. Appeals may be handled informally in a case review involving the complainant and designated campus ADA/504 Coordinator. If a mutually acceptable accommodation cannot be determined with the campus ADA/504 Coordinator, a request for appeal of the decision may be made to the Director of Human Resources, who will review the case information and make a final determination regarding accommodation.

### **Grievance Procedure**

SUNY Cortland has adopted an internal grievance procedure for the provision of prompt and equitable resolution of complaints alleging discrimination. Individuals with a disability at SUNY Cortland who consider themselves victims of discrimination based on a disability may file a grievance with the Affirmative Action Officer. Procedures for filing a discrimination grievance are outlined in Section 950.2 of the SUNY Cortland College Handbook or can be obtained by contacting the Affirmative Action Officer. The Affirmative Action Officer shall receive any complaint of alleged discrimination, shall assist the complainant in defining the charge, and shall provide the complainant with information regarding the options for filing internal complaints or external complaints through the federal Office of Civil Rights and/or the New York State Division of Human Rights.

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

Wendy McAllister  
Affirmative Action Officer  
Miller Building, Room 301  
Voice/TTY (607) 753-2302

### **Disability Accommodations Resources**

Questions or concerns regarding policy, services, or allegations of non-compliance should be directed to the designated campus contact:

Mary Saracene  
ADA/504 Coordinator  
Miller Building, Room 301  
Voice/TTY: (607)753-2302

Ute Gomez  
Student Disability Services  
Van Hoesen, Room B-40  
Voice/TTY: (607)753-2066