



<b>Policy Name:</b>	Policy and Procedures for Implementing Reasonable Accommodations for Employees		
<b>Associated Form(s):</b>	Accommodations Form	<b>Policy Number:</b>	2021-9
<b>Reviewed:</b>	Non-Academic Policy Review Committee	<b>Approved:</b>	June 9, 2021
<b>Approval Authority:</b>	President <i>Timothy L. Hall</i>	<b>Adopted:</b>	June 28, 2021
<b>Responsible Executive(s):</b>	Vice President for Finance	<b>Revised:</b>	June 5, 2017
<b>Responsible Office(s):</b>	1) Office of Human Resources 2) Office of Equity Compliance	<b>Contact(s):</b>	1) Director of Human Resources 2) Equity Compliance Specialist

## **I. Policy Statement**

Mercy College is committed to providing reasonable accommodations to allow qualified individuals the opportunity to participate in employment at the College. Requests for accommodation require a formal process with the request being made to, and considered by the Office of Human Resources, with the opportunity for an appeal, as provided for in these procedures.

The following procedures apply to reasonable accommodations in connection with:

- a disability or serious injury,
- pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, including breastfeeding, and
- religious practices

Mercy will thoroughly review all requests on a case-by-case basis in accordance with applicable federal, state and local laws. Requests for sick time related to medical issues shall be requested pursuant to the College's Family and Medical Leave Act (FMLA) Policy and the New York State Paid Family Leave Law (NYS PFL). Accommodations relating to COVID-19 fall under this Policy to the extent the accommodation request falls under one of the categories listed above, as well as for an accommodation relating to wearing a mask

Mercy prohibits retaliation against individuals for requesting reasonable accommodations, appealing decisions concerning such requests, or for making or participating in claims of discrimination.

All requests for accommodations and all supporting documentation, including but not limited to medical information, are considered confidential and will be shared with College officials only on a need-to-know basis. Such documentation will only be used to evaluate the requested accommodation, and will be kept in a separate file in the Office for Human Resources or the Office of the Equity Compliance Specialist, depending on which office is evaluating the accommodation request.

## **II. Definitions**

- A. ADA: The Americans with Disabilities Act ("ADA") guarantees individuals with disabilities access to employment, public accommodations, transportation, public services and telecommunications and provides such individuals with civil rights protections. Title I of the ADA, which applies to Mercy College, prohibits discrimination against qualified individuals on the basis of a disability in job application procedure, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.
- B. Equity Compliance Specialist: Employee at Mercy who is responsible for overseeing compliance with all laws and regulations related to non-discrimination

and Mercy's Policy on Equal Opportunity and Nondiscrimination, providing guidance and information, and investigating complaints of unlawful discrimination. The Equity Compliance Specialist also is responsible for addressing appeals of accommodations and academic adjustments based on disability, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, and religious practices.

- C. Disability: Mercy recognizes as a disability any physical, medical, mental or psychological impairment, or a history or record of such impairment that constitutes a disability under applicable federal, state, Westchester County and New York City law.
- D. Essential functions of the job: Job duties typically, but not exclusively, found on a job description, which are considered fundamental such that the individual cannot do the job without performing them. Qualified employees must be able to reasonably perform the essential functions of a job either with or without a reasonable accommodation.
- E. Interactive Process/Cooperative Dialogue: The interactive process is the procedure through which an employer and an individual requesting an accommodation work together to identify what barriers exist to the individual's performance of essential functions of a particular job with the intention of finding a reasonable accommodation that would enable the employee to perform the job. The interactive process is a flexible and individualized approach and often includes a review of the individual's abilities and limitations (including supporting documentation), the essential functions of the job, factors or job tasks that may pose a difficulty, and how the person may be accommodated without creating an undue hardship on the employer.
- F. Pregnancy, Childbirth or a Related Medical Condition: The condition of being pregnant, having a child, or a medical condition related to pregnancy or childbirth. For the purposes of this Policy, this shall include breastfeeding.
- G. Qualified Individual with a Disability: An employee or applicant for employment with a disability who satisfies the skill, experience, education, and other job-related requirements for the position and who can perform the essential functions of the job with or without a reasonable accommodation. Similarly, for students, a qualified individual with a disability is a student who meets the academic and technical standards required for admission or participation in the chosen program with or without a reasonable accommodation or academic adjustment.
- H. Reasonable Accommodation: Although each accommodation request will be assessed individually, reasonable accommodations, in a general sense, are modifications made to remove workplace barriers and enable qualified individuals to perform their jobs. For qualifying students, reasonable accommodations are adjustments to policy, practice, and programs that "level the playing field" and

provide equal access to Mercy's academic and non-academic programs and activities. Reasonable accommodations are addressed on a case-by-case basis.

- I. Religion: An individual's sincerely held religious belief or practice of a creed or religion, including all aspects of religious observance, practice and belief, and moral or ethical beliefs as to what is right or wrong, which are sincerely held with the strength of traditional religious views. Religion is defined broadly and includes religious beliefs and practices that may be unfamiliar. "Religion" may consist of a belief system that does not include a traditional concept of God.
- J. Undue Hardship: An undue hardship is an action that would require significant difficulty or expense when considered in light of a number of factors, including the nature and cost of the accommodation in relation to the size, resources, nature and structure of the employer's operation, or an action that would fundamentally alter policy and procedures, or the nature of a job function. An accommodation need not be granted where it would impose an undue hardship on the College. If a particular accommodation imposes an undue hardship, Mercy will consider whether an alternative accommodation is available that would not impose an undue hardship.

### **III. Requesting a Disability/Serious Injury Accommodation**

#### **A. Applicants for Employment**

Applicants are given an opportunity to self-identify as disabled. Applicants for employment seeking accommodations to participate in the application/interview process should contact the Office of Human Resources. Applicants may be asked to complete an intake form and provide supporting documentation concerning their disability. The Executive Director of Human Resources, or a designee, and the applicant will engage in an interactive process, which may include a consideration of a number of factors, such as the applicant's limitations and the application process and requirements, with the goal of finding an acceptable accommodation. Possible accommodations include, but are not limited to, providing adaptive furniture, equipment, or lighting, scheduling and room changes, a sign language interpreter, enlarged print or screen reader computer accessibility services, or other assistive technology or equipment. A grant or denial of the applicant's request must be made as soon as practicable, taking into account the urgency of the request, and sent to the applicant in writing, either stating the accommodation to be provided, or for denials, the reason(s) the request was denied.

#### **B. Current Employees**

Employees are given an opportunity to self-identify as disabled upon their initial hire and throughout their employment. Current employees seeking accommodations should contact the Office of Human Resources. Employees may be asked to complete an intake form and provide supporting documentation. The Director of Human Resources, or a designee, and the employee will engage in an interactive process, which may involve a consideration of a number of factors, such as the employee's limitations and the job requirements, essential duties, and office size and structure, with the goal of finding an acceptable accommodation. Reasonable accommodations

may include, but are not limited to, modifying work schedules, granting breaks or providing leave, relocating the employee, reconfiguring work spaces or equipment, providing assistive technology or equipment, or reassigning the employee to a vacant position for which the employee is qualified. The Director of Human Resources is responsible for accommodation determinations. A grant or denial of the employee's request must be made as soon as practicable, taking into account the urgency of the request, and sent to the employee in writing, either stating the accommodation to be provided, or for denials, the reason(s) the request was denied.

#### C. Visitor Accommodations

Visitors seeking accommodations should contact in a timely manner the Human Resources Department regarding any on-campus requests they may have.

### IV. Accommodations based on Pregnancy, Childbirth or a Related Medical Condition

#### A. Applicant Accommodations

Applicants for employment requesting an accommodation based on pregnancy, childbirth or a related medical condition should contact the Office of Human Resources.

#### B. Employee Accommodations

Employees requesting an accommodation based on pregnancy, childbirth or a related medical condition should contact the Office of Human Resources. Employees may be required to submit an intake form. The employee and the Director of Human Resources, or a designee, will engage in an interactive process, also called a cooperative dialogue, which may include a consideration of a number of factors, such as the employee's limitations and the job functions and requirements, with the goal of finding an acceptable accommodation. The Director of Human Resources, or a designee, will initiate a cooperative dialogue even when an employee does not make an accommodation request when the College has (1) knowledge that the employee's performance at work has been affected or that her behavior at work could lead to an adverse employment action and (2) a reasonable basis to believe that the issue is related to pregnancy, childbirth or a related medical condition.

##### 1. General Accommodations

Reasonable accommodations may include, but are not limited to: granting frequent bathroom breaks, providing the employee with a specialized chair, granting leaves of absence, changing work schedules to accommodate doctor's visits, temporary shift reassignments, providing light duties or assistance with manual labor for a period of time, or temporarily reassigning the employee to a vacant position for which she is qualified. A grant or denial of the employee's request must be made as soon as practicable, taking into account the urgency of the request, and sent to the employee in writing, either stating the accommodation, or for denials, the reason(s) the request was denied.

Employees may be required to submit medical documentation when requesting: (a) time away from work, including for medical appointments, other than the presumptive six (for a vaginal delivery) to eight (for a caesarian section) week period following childbirth for recovery from childbirth, or (b) to work from home, either on an intermittent or a long-term basis. This requirement does not affect medical documentation requirements related to leave taken pursuant to the Family Medical Leave Act or other disability plans or policies.

## 2. Accommodations Related to Breastfeeding

Mercy College is required by law to provide its employees reasonable break time for up to three years after they give birth to express milk. An employee may do this by utilizing her paid break or meal periods, or taking unpaid break periods, with the option of making up the time by extending her workday. Mercy College must also provide an employee, upon request, a room or other location, in reasonably close proximity to the work area, where she can express milk in privacy. The room must (a) not be a bathroom, (b) be shielded from view, and (c) be free from intrusion from co-workers and the public. Employees should check with the Office of Human Resources to determine whether a lactation room has been designated at their campus. In the absence of a designated lactation room, employees can seek to work with their supervisor in identifying an appropriate space or may contact the Office of Human Resources directly. The room must be clean, private, and comfortable, have an electrical outlet, a chair, and a table, and have nearby access to a sink with running water and paper towels.

## **V. Religious Accommodations**

Employees and applicants requesting a religious accommodation should contact the Office of Human Resources. The Director of Human Resources, or a designee, and the employee/applicant will engage in an interactive process with the goal of finding an acceptable accommodation.

Individuals requesting accommodations may be required to submit an intake form. In the case of requests for religious accommodations, the interactive process may include a consideration of a variety of factors, such as the individual's religious practices and the functions and requirements of the academic program or job. Reasonable accommodations may include, but are not limited to, flexible arrival and/or departure times, permission to make up a test or lecture, leave or assignment changes, time and/or space to pray, or an accommodation relating to appearance or dress.

Mercy generally will not question that a request for religious accommodation is based on a sincerely held belief. However, if Mercy has genuine reason to doubt that a belief qualifies as religious, or is sincerely held, Mercy may make a limited inquiry, asking for supporting documentation. The documentation submitted may include the requestor's first-hand explanation, or explanations from others, such as a religious official or clergy member, who are aware of the religious practice or belief.

A grant or denial of the request must be made in as soon as practicable, taking into account the urgency of the request, and sent in writing to the individual making the request, either stating the accommodation, or for denials, the reason(s) the request was denied.

## **VI. Appeals Under this Policy**

### **A. Current Employees**

Employees and applicants may appeal a denial of a request for an accommodation under this Policy by filing a complaint with the Title IX Coordinator/Equity Compliance Specialist, or a designee, who will mediate to try to resolve the issues between the individual and the College to find an acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the Title IX Coordinator/Equity Compliance Specialist, or a designee, will investigate the complaint and make a recommendation to the or their designee, who will make the final determination concerning the complaint. If the employee is covered by a collective bargaining agreement, the employee may discuss the matter with a union representative and exercise any rights available under such agreement.

### **B. Applicants for Employment**

Applicants for employment may appeal determinations concerning requested accommodations by filing a written complaint with the Title IX Coordinator/Equity Compliance Specialist. The Title IX Coordinator/Equity Compliance Specialist, or a designee, will mediate to try to resolve the issues between the applicant and the College department to find a reasonable accommodation. If a mutually acceptable accommodation cannot be determined, then the Equity Compliance Specialist, or a designee, will investigate the complaint and make a recommendation to the President or his designee, who will make a final determination.

### **C. Visitors**

Visitors who have questions or concerns regarding an accommodation should contact the Equity Compliance Specialist, who will make the final determination concerning the requested accommodation.

## **VII. Filing Complaints with Outside Agencies**

Employees and applicants who believe that a decision to deny the request for a reasonable accommodation was based on unlawful discrimination may avail themselves of any and all of their rights under law without fear of retaliation, including filing complaints with one or more of the outside agencies listed below.

- U.S. Equal Employment Opportunity Commission  
[https://www.eeoc.gov/federal/fed\\_employees/filing\\_complaint.cfm](https://www.eeoc.gov/federal/fed_employees/filing_complaint.cfm)
- New York State Division of Human Rights  
<http://www.dhr.ny.gov/how-file-complaint>
- New York City Commission on Human Rights  
<https://www1.nyc.gov/site/cchr/enforcement/complaint-process.page>
- Westchester County Human Rights Commission  
<http://humanrights.westchestergov.com/file-a-complaint>



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**MERCY COLLEGE  
ACCOMMODATIONS FORM**

This form can be used by students, employees or applicants who seek an accommodation based upon a disability, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, including breastfeeding, or a religious practice. Please note that reasonable accommodations will be granted based upon the facts and circumstances of the employee or applicant’s situation, pursuant to the *Policy and Procedures for Implementing Reasonable Accommodations*.

**Date:** \_\_\_\_\_

**Received by:** \_\_\_\_\_ **Campus:** \_\_\_\_\_

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**Name:** \_\_\_\_\_ **Work Number:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Status/Title at the College:** \_\_\_\_\_ **Campus:** \_\_\_\_\_  
(student, staff, faculty, applicant) (DF, BX, MT)

**Home Address:** \_\_\_\_\_

**City** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip Code** \_\_\_\_\_

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**Please describe the condition for which you are seeking an accommodation (i.e. disability, pregnancy, breastfeeding, religious practice, etc.)**

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**Has the condition and/or accommodation request been discussed with a supervisor or professor? Y \_\_ N \_\_**

**If yes, please state with whom it was discussed, the nature of the discussion and the outcome, and whether the outcome was satisfactory:**

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**Please describe the accommodation(s) currently being sought:**

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I hereby certify that the above information is true and correct to the best of my knowledge and belief. I grant permission for this intake form to be shared with the relevant Mercy College official(s) for purposes of granting an appropriate accommodation.

I agree to provide such other or supplemental information that may be requested.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_