



City of New York

Office of the President  
of the Borough of Queens

# Equal Employment Opportunity Policy

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# POLICIES

## A. GENERAL ANTI-DISCRIMINATION PROTECTIONS

The Queens Borough President’s Office (QBPO) is an equal opportunity employer committed to compliance with federal, state, and local laws prohibiting employment discrimination. Employment decisions are made on the basis of merit, fitness and equality of opportunity, without unlawful discrimination on the basis of any of the following:

Actual or perceived:

- Race
- Color
- National origin
- Religion or creed
- Sexual orientation
- Disability
- Pregnancy, including childbirth and related medical conditions
- Gender (including “gender identity” which refers to an individual’s actual or perceived sex, and includes self-image, appearance, behavior, or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth)
- Age (18 and over)
- Alienage or citizenship status
- Military status
- Prior record of arrest or conviction
- Marital/Partnership status
- Caregiver status
- Consumer credit history
- Unemployment status
- Genetic predisposition or predisposing genetic characteristic
- Status as a victim of or witness to domestic violence, a sex offense, or stalking

In addition to providing protections on the basis of the above categories, some federal, state and local laws prohibit employment discrimination on the basis of actual or perceived: race, color, national origin, alienage or citizenship status, religion or creed, sexual orientation, gender (including “gender identity” - which refers to a person’s actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability (including pregnancy, childbirth, and related medical conditions), age (18 and over), marital or partnership status, caregiver status, predisposing genetic characteristic, military status, prior record of arrest or conviction, status as a victim or witness of domestic violence, sex offences, or stalking, and unemployment status, and consumer credit history.

Consistent with the law, reasonable accommodations will be made for persons with disabilities and for religious observance.

### A.1 PROHIBITED CONDUCT

Decisions and practices based on an individual’s protected status (e.g., race, religion, age, and the other categories listed above) that unlawfully affect employment or the compensation, terms, conditions, or privileges of an individual’s employment or potential employment with the City of

New York are prohibited by this Policy.

Anti-discrimination protections apply to all of the terms and conditions of employment, including, but not limited to:

- Recruitment
- Promotions
- Testing
- Training opportunities
- Hiring
- Transfers
- Work assignments
- Discipline
- Salary and benefits
- Discharge
- Performance evaluations
- Working conditions
- Any other application or selection process relating to employment

Where unlawful discrimination is suspected, employees are encouraged to use the agency's complaint and investigation procedures. Any person found to be engaging in conduct or practices in violation of this policy will be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, and any other measures calculated to eliminate illegal or inappropriate behavior. In addition to implementing such disciplinary action, the QBPO shall take such steps as may be necessary to address the impact that any unlawful discrimination has had on the complainant.

Any employee or applicant who believes that he or she has been discriminated against should contact one of the QBPO's Equal Employment Opportunity (EEO) Officers for consultation and/or to file a complaint. All complaints will be handled confidentially, subject to the procedures described below.

## **B. SEXUAL HARASSMENT POLICY**

Sexual harassment is a form of employment discrimination based on gender which is prohibited by law. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- a) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c) such conduct has the purpose or effect of unreasonably interfering with an

individual's work performance or creating an intimidating, hostile, or offensive work environment.

A broad range of behaviors, in certain circumstances, can be considered sexual harassment, including sexually suggestive remarks, pictures, gesturing, verbal abuse or harassment of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary physical contact.

The Policy prohibits conduct which unreasonably interferes with an employee's job performance or creates an intimidating, hostile, or offensive working environment, or creates an abusive working environment based on any protected characteristic.

Any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of a person's employment are based upon submission to sexual conduct must consult with one of the QBPO's EEO Officers immediately. Any employee who believes that he or she is being harassed is urged to contact an EEO Officer.

## **C. DISABILITIES POLICY**

Discrimination against a person based upon that person's actual or perceived disability, record of disability, or that person's relationship with a person with a disability is prohibited by federal, state, and local laws and will not be tolerated. Disabilities are physical, mental, or psychological impairments of a body system which may limit one or more life activities of a person. A relationship with a person having a disability includes not only having a family member with a disability, but also having a cooperative or supportive relationship at work (such as assisting a colleague with a disability).

The Policy also requires reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking that does not impose an undue hardship.

In addition to taking aggressive actions against discrimination towards persons with disabilities, the QBPO will take appropriate action to encourage employment of, and promotional opportunities for, qualified applicants and employees with disabilities.

Anyone believing that he or she has been discriminated against on the basis of disability should contact an EEO Officer for a consultation.

The QBPO will make reasonable accommodations to qualified employees and applicants with disabilities, unless providing such accommodations would create undue hardship for the office. Whether an accommodation is reasonable generally depends upon the circumstances of each situation. Some examples of accommodations which have been found reasonable for certain employers, under certain circumstances, include: job restructuring, making facilities physically accessible to, and usable by persons with disabilities; modifying work schedules; providing or

modifying equipment or devices; and providing auxiliary aides and services.

Employees with disabilities requesting reasonable accommodations to perform essential job functions should follow the agency's Reasonable Accommodation Procedure and should consult one of the agency's Disability Rights Coordinators.

Some offensive acts or remarks may violate this Policy even if they are not so severe that they violate federal, state, or local discrimination laws. The City and its agencies may discipline conduct that violates this Policy even if the conduct does not violate a law prohibiting discrimination.

The Policy also prohibits any City employee from aiding, abetting, inciting, compelling, or coercing any person present in a City facility, whether or not that person is an employee of the City, from engaging in any conduct prohibited by this Policy, including, but not limited to, conduct that creates a hostile work environment based on any protected characteristic.

## **D. 55-A PROGRAM**

Section 55-a of the New York State Civil Service Law permits the City to convert as many as 700 competitive civil service lines to non-competitive civil service positions for people who can perform the job in question as needed by the agency, but who are certified as having a disability. The City encourages conversion of lines to 55-a status where agency needs permit. Applications for such consideration may be obtained from the Personnel Office.

## **E. ANTI-RETALIATION POLICY**

It is unlawful to retaliate against or harass any person for filing an EEO complaint, seeking a reasonable accommodation for a disability or a religious observance, or for cooperating in the investigation of an EEO complaint. The QBPO will not tolerate any such retaliation. Any person who believes that he or she is being retaliated against for having made a complaint, or for cooperating in an investigation, is urged to file a complaint of retaliation with an EEO officer. Any employee who engages in such retaliation or harassment shall be subject to discipline, which may include reprimand, suspension, probation, demotion, transfer, fine or termination.

# **PROCEDURES**

## **A. DISCRIMINATION COMPLAINT AND INVESTIGATION PROCEDURES**

### **1. When to File a Complaint**

A person may file a written complaint of discrimination with an agency EEO Officer at any time within one year of the date that the events which are the subject of the complaint occurred. A copy of the Complaint of Discrimination form is attached. Requests for reasonable

accommodations are not subject to any time limitations.

The EEO Officer may also determine that another form of communication, such as a telephone call or a letter, should be handled as a complaint. In such event, or when a person who has a disability which precludes completion of the complaint form seeks to file a complaint, the EEO Officer shall complete a Complaint of Discrimination form.

A Complaint of Discrimination form shall also be completed by the EEO Officer when an investigation is commenced on the officer's own initiative.

**PRIOR TO FILING A WRITTEN COMPLAINT,  
EMPLOYEES MAY WISH TO CONSULT WITH AN AGENCY EEO OFFICER**

An employee or applicant for employment should consult with one of the QBPO's EEO Officers if he or she is being discriminated against by a manager, supervisor, another employee, or an independent contractor of the office because of actual or perceived: age, alienage or citizenship status, color, creed, disability, gender, marital status, national origin, prior record of arrest or conviction, race, religion or sexual orientation. The EEO professional will assist the person to determine whether the issue raised is appropriate for resolution through the complaint process. Employees will not be retaliated against for consulting with an EEO professional about a suspicion of discrimination or for filing a complaint or cooperating in an investigation.

An employee or applicant should follow the same procedure for sexual or other harassment or any of the above listed bases by a manager, supervisor, another employee, or an independent contractor of the agency or another City agency. If an employee or employment applicant believe he or she is being harassed or retaliated against for consulting an EEO Officer, filing a discrimination complaint, or cooperating in the investigation of a complaint, the individual is encouraged to also report this behavior to one of the EEO Officers for investigation and other action.

**2. Where to File an Internal Complaint or Seek Assistance with an EEO Matter**

Any person who wishes to talk about a question or problem related to the agency's equal employment opportunity policy, to file a complaint of discrimination, or to receive assistance with an EEO matter may contact one of the EEO officers.

**3. Meeting with the EEO Officers**

An Employee has a right to meet privately with an EEO Officer during office hours, however, the employee should obtain approval for leaving a work assignment. An employee need not disclose the details of the purpose for meeting with an EEO Officer to a supervisor. Reasonable leave requests to meet with an EEO Officer during work hours cannot be denied. Managers and supervisors shall allow employees to meet with an EEO Officer at the earliest practicable time consistent with the operational needs of their units.

The EEO Officer will arrange to meet with an employee at outside premises where necessary in order to ensure confidentiality. At the employee's request, arrangements may also be made to hold the meeting before or after office hours, or during the employee's lunch period.

An employee or applicant may bring a representative of his or her choice to the meeting, provided advance notice is given to the EEO Officer.

In addition, a person needing a sign language or other interpreter for a meeting concerning an EEO matter may request that the EEO Officer provide one.

#### 4. Anonymous Complaints

Persons who wish to discuss a problem concerning discrimination without revealing their identity may do so by telephoning or writing an EEO Officer. The EEO officer will provide counseling and take such follow-up action as may be appropriate and possible given the restraints of anonymity. Anonymous complainants should be aware that it may be necessary for the EEO professional to investigate the alleged discriminatory behavior and to take or recommend action to remedy unlawful behavior on behalf of the office and the City, even if the anonymous complainant wishes to withdraw the complaint.

#### 5. Confidentiality

All EEO matters will be handled under the supervision of one of the QBPO's EEO Officers, in consultation with the Counsel's Office where appropriate. The EEO Officer will treat complaints and other information provided by employees confidentially. This means that information obtained from a person who seeks the assistance of the EEO officer will not be discussed among other personnel except as necessary to investigate and resolve a complaint or other matter.

#### 6. Services Available from the EEO Office

The EEO officer will interview the person seeking assistance to determine whether the person should receive assistance in the form of counseling, whether the person wants to request mediation, or whether the person wishes to file a complaint of discrimination which will be investigated, or to file a formal complaint with an external administrative agency. The EEO Officer is also responsible for arranging sign language interpreters and other alternate forms of effective communication with persons with disabilities to facilitate access to EEO services.

##### *a) Counseling*

The EEO Officer will discuss with the person seeking assistance, various options for handling the matter involved. These options may include further actions the employee could take on his or her own behalf, referrals to other offices and/or agencies which may be of assistance, or other

informal assistance from the EEO Officer.

### *b) Mediation*

Mediation is a voluntary process and may be declined by either party involved. The person seeking assistance may file a written request for mediation (see the Request for Mediation form). When a request for mediation has been made, the EEO Officer shall attempt to help the parties involved resolve the matter in dispute. In this process, the EEO Officer shall consult with the person who filed the request, the person named in the request, and other persons as appropriate.

A *Complaint of Discrimination* form shall also be completed by the EEO Officer when initiating an investigation on his or her own initiative.

If the parties agree to a resolution, of the situation, and any action needed to resolve the matter has received all necessary approvals, the EEO Officer shall prepare a written report confirming the resolution. The report shall be signed by all parties, and copies shall be given to them.

A request for mediation may be withdrawn at any time by the person who made it. If this occurs, the EEO Officer will inform all parties involved in writing that the request was withdrawn.

The EEO Officer may terminate the mediation process if the Officer deems that efforts at mediation have been unproductive. In such event the EEO Officer shall provide the parties with a written statement confirming the termination. The statement shall inform the person who sought mediation of the right to file a complaint of discrimination.

## 7. Investigation of Complaints

An investigation will be conducted by the EEO Officer or a person acting under the direction of the EEO Officer. In appropriate cases the investigation will be conducted in conjunction with the agency's Personnel Officer, Counsel's Office and/or Inspector General. Any person who is interviewed in the course of an investigation shall have the right to be accompanied by a representative of his or her choice.

A person who has been named as the respondent in the complaint of discrimination shall receive a copy of the complaint and shall have the opportunity to respond in writing.

The EEO Officer will make a confidential written report of the investigation to the Borough President. If the EEO Officer concludes on the basis of the investigation that a violation of anti-discrimination laws or the QBPO's EEO policy has occurred, the Officer shall recommend appropriate corrective action.

Include in the complaint file a Discrimination Complaint Form or a complaint that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.

Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

Issue a Confidential Written Report within 90 days of the date the discrimination complaint was filed, although the investigation shall be commenced immediately.

In rare circumstances where a complaint investigation cannot commence immediately, or where a confidential report cannot be issued within 90 days, a note shall be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant and respondent shall be notified of the delay.

## 8. Discipline and Other Corrective Action

The Borough President will review the EEO Officer's report and take any corrective action that the Borough President deems appropriate. Corrective action may include disciplinary measures such as formal reprimand, suspension, probation, transfer, demotion, fine or termination. The EEO Officer will advise all parties in writing of the outcome of the complaint.

Disciplinary measures shall be taken in accordance with any applicable provisions of law, rules and regulations, and collective bargaining agreements. Corrective action may also include measures necessary to address the impact that any conduct in violation of the law, City and the agency's policy has had on the complainant.

## 9. Withdrawing Complaints of Discrimination

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. In most cases, the EEO Officer will find it appropriate to end the investigation when the complainant has withdrawn the complaint. However, prior to making the determination to end the investigation, the EEO Officer must assess whether evidence has been found which requires the agency to take corrective action to prevent or eliminate an illegal or inappropriate situation. If there is such evidence, the EEO Officer will continue the investigation until the Officer is prepared to recommend whether the agency should take corrective action. In either event, the EEO Officer shall notify the respondent in writing that the complainant has withdrawn the complaint. The EEO Officer shall also notify the parties whether the investigation has been terminated or is continuing.

## 10. Other Places Where a Complaint May be Filed

Any person who believes that she/he has experienced discrimination has a right to file a formal complaint with several federal, state or local agencies, some of which are listed below. A person does not give up this right when she/he files a complaint with the agency EEO Officer. The following federal, state and local agencies enforce laws against discrimination:

**New York City Commission on Human Rights**

22 Reade Street  
New York, New York 10007  
(212) 306-7450  
(212) 306-7686 (TTY)

**New York State Division of Human Rights**

163 West 125th Street, 4th Floor New York, New York 10027  
(212) 961-8650  
(212) 961-8999 (TTY)

*or*

20 Exchange Place, 2nd Floor New York, New York 10005  
(212) 480-2522

*or*

55 Hanson Place, 3rd Floor Brooklyn, New York 11217  
(718) 722-2856

**United States Equal Employment Opportunity Commission**

New York District Office 33 Whitehall Street  
5th Floor  
New York, New York 10004  
1-800-669-4000  
1-844-234-5122 (TTY)

In addition to filing with the agencies listed above, a person with a complaint alleging discrimination based on disability may file with:

**United States Department of Justice**

Constitution Avenue & Tenth Street, N.W.  
Washington D.C. 20530  
(202) 514-3831 (voice)  
(202) 514-6780 (TTY)

Please note: There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days. Therefore, if you believe you have been discriminated against and wish to file a complaint with an external agency, to preserve your rights, promptly contact the City Commission on Human Rights, the State Division of Human Rights, the EEOC, the Department of Justice, or a private attorney for further guidance.

## B. REASONABLE ACCOMMODATION PROCEDURE

### 1. Introduction

The Queens Borough President's Office (QBPO), with the participation of its Disability Rights Coordinators, will make reasonable accommodations to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment, unless providing such accommodation would impose an undue hardship. The requirement to provide reasonable accommodation applies to disabilities that are known, or should have been known, to the employer. The reasonable accommodation process, including a description of key terms, is set forth below and should be followed by applicants and employees requesting reasonable accommodations.

### 2. Key Terms

- A **qualified applicant or employee** is an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of a position and who, with reasonable accommodation (if needed), or without accommodation (if none is needed), can perform the essential functions of that position.
- A **disability** is (1) a physical, medical, mental, or psychological impairment, or (2) a history or record of such an impairment, or (3) being regarded as having such an impairment.
- **Essential functions** are duties that are fundamental to a position including, among others, those for which the position exists, those that only a limited number of employees are available to perform, or those that cannot be delegated. Evidence of what constitutes an essential function may include, but is not limited to: the employer's judgement; written job descriptions, if any; the amount and/or proportion of time spent performing the function; the consequences of not requiring a function; the terms of a collective bargaining agreement; and the work experience of incumbents.
- **Undue hardship** is an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of an employer's business.
- **Reasonable accommodations** are modifications or adjustments to the application process, work environment, or to the manner or circumstances under which a position is customarily performed, that promote equal employment opportunity for an individual with a disability. Reasonable accommodation enables a qualified applicant or employee with a disability to be considered for a position or to perform its essential functions, or to enjoy benefits and privileges of employment that are equal to those enjoyed by similarly situated employees without disabilities. Accommodations are not reasonable if they impose an undue hardship on the employer.

### 3. Effective Communication and Other Assistance

The QBPO's Disability Rights Coordinators shall be responsible for ensuring effective

communication between applicants or employees and agency staff at every stage of the application and reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. The Disability Rights Coordinators shall also be responsible for providing such other reasonable assistance as is requested by applicants, employees and supervisors throughout the reasonable accommodation and appeals processes.

#### 4. Confidentiality

Agency personnel must respect employee confidentiality. All documentation and information concerning the medical condition or history of an employee requesting an accommodation must be collected on forms separate from other personnel-related forms and must be maintained by the agency's Disability Rights Coordinator in separate medical files. The information shall be treated as confidential medical records, except to the extent that: (1) supervisors and first-aid and safety personnel need to be informed about work restrictions or reasonable accommodation; (2) first-aid and safety personnel need to be informed if the disability may require emergency treatment; and (3) government officials investigating compliance with law are required to be provided with relevant information upon request.

#### 5. The Reasonable Accommodation Process, Step by Step

##### *a) Overview*

The reasonable accommodation process is intended to be flexible and interactive, involving both the QBPO and the applicant or employee requesting reasonable accommodation. The process generally involves four steps. The QBPO must ensure that the application, interviewing and testing procedures are accessible by reasonably accommodating applicants with disabilities. Although the QBPO must not inquire whether an individual has a disability, it may inquire whether an accommodation is needed, particularly where a disability is apparent or suspected.

Although the process is described in terms of "steps" it is intended to be interactive and flexible. It is characterized by close coordination and cooperation between an applicant or employee and the QBPO, primarily the immediate supervisor of the application process or the position. In some instances, an appropriate and reasonable accommodation might be provided or implemented without the applicant or employee and the QBPO proceeding in a step-by-step fashion. In more complex situations, however, the step-by step approach will guide both the employee and the QBPO in determining the parties' respective rights and responsibilities with a common goal of moving the process forward within clearly defined time periods.

##### *b) Procedure*

##### ***Step 1: Applicant or Employee Requests Reasonable Accommodation; Initial Consultation***

The employee or job candidate should complete a Reasonable Accommodation Request form (attached), and submit it to his or her immediate supervisor or, if the employee prefers, to that

supervisor's supervisor. (The form should be made available to applicants at the first possible opportunity in the application process.) If a request for reasonable accommodation is made by an applicant to facilitate the application process the QBPO staff supervising the application procedure should assist applicants in completing the form where requested and, in conjunction with the Disability Rights Coordinator, process the request for accommodation. Supervisors shall assist employees in completing the form where requested. The QBPO staff member receiving the request (in the case of applicants) or supervisors (in the case of employees), shall acknowledge each request by signing and dating the form in the space provided. One copy is to be returned to the applicant or employee and a second copy is to be filed with the Disability Rights Coordinator, who is responsible for monitoring the process and for noting its outcome on the form. The submission by an applicant or employee of a request for reasonable accommodation shall not preclude the submission of subsequent requests.

Generally, it is the responsibility of the individual with a disability to inform the QBPO of the need for an accommodation. The QBPO will reasonably accommodate disabilities that are known to it, or that should have been known to it, but need not accommodate other disabilities.

Where the need for a requested accommodation is not apparent, the Disability Rights Coordinator or the involved supervisor may ask an applicant or employee to provide documentation in support of the request. In limited circumstances, medical examinations or more detailed medical documentation may be required to determine whether an employee can perform the essential functions of the job and what accommodations may be appropriate. However, because the circumstances under which such examinations or documentation may be required in the context of a reasonable accommodation request are narrow and fact specific, QBPO staff will consult with the EEO Officer before requesting them. The Disability Rights Coordinator may consult with the Mayor's Office for People with Disabilities prior to authorizing such requests.

After acknowledging a request for accommodation and providing copies to both the employee and the Disability Rights Coordinator, the supervisor should either (1) provide or implement the request and document the accommodation; or (2) proceed to Step 2 of this procedure.

### ***Step 2: Supervisor Analyzes Job to Determine its Purpose and Essential Functions***

The reasonable accommodation process sometimes can be accomplished without a formal analysis of the job's essential functions and the employee's job-related limitations. Other situations are more complex, however, and require structured analysis.

In these instances upon receipt of a request for reasonable accommodation, the supervisor should examine the position to determine its purpose and its essential functions. Identifying which job functions are essential is necessary to determine whether an employee with a disability is "qualified" for a position. With respect to applicants for employment, the QBPO will make the application, interview and testing process accessible, unless doing so would create an undue hardship.

Essential functions are the fundamental job duties of a position, excluding marginal functions. A

job function can be deemed an essential function for a variety of reasons including, but not limited to, whether (1) the position exists to perform the function; (2) a limited number of employees are available to whom the function can be assigned; and/or (3) whether the function is so highly specialized that it must be held by an employee selected for the ability to perform that function. Evidence of what constitutes the essential functions of a position includes the following:

- The employer's judgement; written job descriptions, if any;
- The amount and proportion of time spent performing a function;
- The consequences of not requiring the employee to perform a function;
- The terms of a collective bargaining agreement;
- Work experience of prior employees in the same position;
- Work experience of current employees in the same position;
- Other relevant evidence.

The essential function inquiry, however, is not intended to second guess the office's business judgement, or to lower performance standards.

### ***Step 3: Consult with the Employee***

After evaluating the position to determine its essential functions, the supervisor should consult with the applicant or employee requesting the accommodation to assess the limitations that the disability imposes on the performance of each essential function. If reasonable accommodation is requested for the application process itself, the staff supervising the process should consult with the applicant to determine how the process may reasonably be made accessible to the individual with a disability.

A "qualified applicant or employee" is an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of a position and who with reasonable accommodation (if needed), or without accommodation (if none is needed), can perform the essential functions of that position or can complete the application process.

Using a collaborative, open, and flexible approach, the supervisor and employee or prospective employee (where a conditional offer of employment has been extended) should consider how any job-related limitations can be overcome, discuss possible reasonable accommodations and assess the effectiveness of each. The employer must consider an applicant's or employee's preferences, along with what is reasonable under the circumstances of the work environment, in selecting accommodations. The QBPO is not required to provide an accommodation that imposes undue hardship. The same type of open and collaborative approach also should be undertaken in identifying reasonable accommodations for the application process.

### ***What Accommodations are Reasonable?***

Accommodations that are reasonable may include, but are not limited to, those listed below. The reasonableness of an accommodation will depend upon the circumstances of each case.

- making facilities physically accessible to and usable by people with disabilities (e.g.,

- providing ramps, restroom grab bars, signage);
- job restructuring (e.g., reallocating non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks);
- modifying work schedules (e.g., permitting alternative starting and ending times to avoid standing and jostling on subways);
- providing or modifying equipment, devices or materials (e.g., raising a desk on boards for an employee who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [TTYs], providing large-print computer display programs or materials in alternative formats, including Braille audio tape or enlarged print);
- providing qualified readers, interpreters, or other support services during application, interview, testing processes, and during training and other employment and employment-related activities, including employment-related social functions (e.g., office parties, picnics).

Where more than one possible reasonable accommodation exists, the QBPO should give primary consideration to the employee's preference in determining what accommodation it will provide. However, the QBPO has the discretion to choose among various appropriate reasonable accommodations that would enable the individual to perform the essential functions of the job. If the cost of a requested accommodation imposes an undue hardship on QBPO, the employee with a disability should be given the option of providing the accommodation or paying that portion of the cost that creates the undue hardship. However, the QBPO may not shift the cost of providing accommodations to the employee to avoid an expenditure of funds that is reasonable for the agency to pay under the totality of the circumstances.

Accommodations may be unreasonable if they impose an undue administrative hardship. For example, shifting tasks among clerical employees may be reasonable where a sufficient number of employees exists among whom the tasks can be distributed; however, such an accommodation may be unreasonable in a very small office with few employees.

Reasonable accommodation may also include permitting an employee with a disability to use aids or services that the employer is not otherwise required to provide. For example, although an employer would not be required to provide a motorized scooter to an employee with a mobility impairment, reasonable accommodation would include providing an area to stow such a mobility aid, if necessary.

The QBPO is not required to provide personal items to employees that are needed both on and off the job. Such items include hearing aids, prosthetic limbs, wheelchairs, or eyeglasses. However, such items may constitute reasonable accommodation where they are specifically designed to meet job-related rather than personal needs. For example, eyeglasses designed to enable an employee to view a computer monitor, but which are not otherwise needed by the employee outside the office, may constitute a reasonable accommodation.

As noted above, some requests for reasonable accommodation can be granted and implemented immediately following their receipt, without formal evaluation, consistent with this procedure. Such may be the case where the employee identifies job-related limitations and any requested accommodation with specificity. For example, an employee who is deaf and who routinely uses a text telephone (TTY) can readily identify for the agency that job-related limitation concerning use of the telephone, as well as the accommodation needed, a TTY. Where it is obvious that providing the TTY will enable the employee to meet the job's essential functions, the TTY can be ordered, provided and documented without the more comprehensive analysis provided for in Steps 2 and 3. In these cases, the reasonable accommodation process is merely compressed, it is not eliminated.

***What if Neither the QBPO nor the Applicant or Employee Can Identify an Appropriate Reasonable Accommodation?***

Sometimes, neither the supervisor nor the applicant or employee can identify possible reasonable accommodations. In those instances, the supervisor should consult with the Disability Rights Coordinator. The Disability Rights Coordinator will seek to facilitate effective communication between the parties with the goal of identifying and implementing appropriate reasonable accommodation and, where a reasonable accommodation has been selected, shall monitor its implementation. Throughout the Step 3 consultation process, the employee, the supervisor or the Disability Rights Coordinator may seek technical assistance or clarification of each component of the reasonable accommodation process from Mayor's Office for People with Disabilities.

***Step 4: Select and Implement an Appropriate Reasonable Accommodation***

Within 10 business days of an employee's submitting a request for reasonable accommodation, the supervisor to whom it was submitted shall either grant or deny the request in writing in the space designated for that purpose on the Request for Reasonable Accommodation form and, where an accommodation will be provided, shall have provided or begun to implement the accommodation. Where the provision or implementation of a reasonable accommodation will take longer than 10 business days, the steps taken to order, secure or carry out the accommodation shall be documented and discussed with the employee. In all instances, however, supervisors shall act as expeditiously as possible to provide reasonable accommodations. Employees may request the assistance of the Disability Rights Coordinator in expediting the process. Where further supporting documentation is sought from the employee, the grant or denial of a request for reasonable accommodation shall be rendered within 10 business days of the provision of the documentation requested, or within 10 business days of the applicant's or employee's objection to providing such documentation.

Where a supervisor determines to deny a request for accommodation, or to provide an accommodation other than that for which the applicant or employee has expressed a preference, the supervisor shall first consult with the Disability Rights Coordinator. After such consultation, the supervisor shall inform the applicant or employee in writing on the Request for Reasonable Accommodation form of the accommodation, if any, that will be provided, or that the request has been denied. The need for a consultation between a supervisor and the Disability Rights

Coordinator shall not delay a determination on a request for reasonable accommodation beyond 10 business days of receipt of the request.

## 6. Appeals to the Agency Head

An applicant or employee may appeal to the Borough President any supervisory action or failure to act pursuant to this procedure by which the applicant or employee believes he or she is aggrieved. Within 10 business days of receipt of the appeal, the Borough President or his or her designee shall:

- obtain from the Disability Rights Coordinator and review all documentation relating to the request for reasonable accommodation;
- meet with the supervisor and the applicant or employee;
- consult with the Disability Rights Coordinator;
- review the essential job functions, job-related limitations involving the applicant's or employee's disability, and potential accommodations;
- evaluate the reasonableness of applicant or employee and supervisor preferences in accommodations, giving primary consideration to the employee's preferences.

The Mayor's Office for People with Disabilities may also be consulted. Within 15 business days of receipt of the appeal, the Borough President shall issue a written determination on the request for reasonable accommodation, specifying what accommodation shall be provided, if any, and directing the supervisor to implement such accommodation promptly. The EEO Officer shall monitor implementation of the reasonable accommodation.

## 7. Discrimination Complaints

This reasonable accommodation procedure is intended to ensure equal employment opportunities for employees with disabilities, but shall not impede the right of any employee to file a complaint with the agency Equal Employment Opportunity Office, an appropriate federal oversight agency under the Americans with Disabilities Act or the Rehabilitation Act of 1973, the State Division of Human Rights, the New York City Commission on Human Rights, or any other federal, state or local agency having jurisdiction over such matters, or in any court of competent jurisdiction.

## 8. For Further Guidance

Throughout the reasonable accommodation process, employees or agency officials may seek guidance by consulting with one of the QBPO's EEO Officers or Disability Rights Coordinators, or by calling the Mayor's Office for People with Disabilities at 212.788.2830 (voice) or 212.788.2838 (TTY).

# COMPLAINT OF DISCRIMINATION

## OFFICE OF THE QUEENS BOROUGH PRESIDENT

Please print the following information:

Name

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Civil Service Title

Office Title

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Division

Your Supervisor

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What is the alleged basis of discrimination? (Check all which apply)

- |   |  |
|---|--|
| <input type="checkbox"/> Age  | <input type="checkbox"/> National Origin         |
| <input type="checkbox"/> Alienage/Citizenship   | <input type="checkbox"/> Arrest/Conviction       |
| <input type="checkbox"/> Color  | <input type="checkbox"/> Race                    |
| <input type="checkbox"/> Creed  | <input type="checkbox"/> Religion                |
| <input type="checkbox"/> Disability   | <input type="checkbox"/> Sexual Harassment       |
| <input type="checkbox"/> Gender (including identity)  | <input type="checkbox"/> Sexual Orientation      |
| <input type="checkbox"/> Marital Status   | <input type="checkbox"/> Military Status         |
| <input type="checkbox"/> Caregiver Status   | <input type="checkbox"/> Consumer Credit History |
| <input type="checkbox"/> Unemployment Status  |  |
| <input type="checkbox"/> Genetic Predisposition or Predisposing Genetic Characteristic                    |  |
| <input type="checkbox"/> Status as a Victim of or Witness to Domestic Violence, a Sex Offense or Stalking |  |

Retaliation for filing/assisting in investigation of complaint

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Please give name, title and division of the person(s) you believe discriminated against you.

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When did the alleged discrimination occur?

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Where did it happen?

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Were there witnesses to the alleged discrimination?

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(Please give the name, title and division where any witness is employed on the attached sheet market confidential).

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Did you report this incident to anyone? If so, please state the name, title and division of the person to whom you reported it.

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Have you filed a complaint about the alleged discrimination with any of the following agencies? If so, please state the date and the number of the complaint.

- New York City Commission on Human Rights
- New York State Division of Human Rights
- United States Equal Employment Opportunity Commission
- United States Department of Law

Describe what happened to you, which you believe is unlawful discrimination, and how other persons were treated differently. This statement may be amended to correct mistakes or omissions. Please use extra pages if necessary.

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What corrective action do you want taken?

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I certify that I have read the above charge, that it is true to the best of my knowledge, information and belief and that I have read the attached notices concerning my rights to file a complaint with federal, state and local civil rights enforcement agencies.

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Date

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Complainant's Signature

# REQUEST FOR MEDIATION

## OFFICE OF THE QUEENS BOROUGH PRESIDENT

Believing that I have a valid complaint of discrimination and desiring to resolve that complaint, if possible without resorting to formal investigation, I respectfully request that an agency EEO Officer attempt to mediate my complaint in accordance with the City of New York's Discrimination Complaint Procedures and the guidelines implementing those procedures.

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Name of the Complainant or Authorized Agent

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Signature of Complainant or Authorized Agent

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Date

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WITNESSED BY:

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Name of EEO Officer

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Signature of EEO Officer

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Date

# REQUEST FOR REASONABLE ACCOMMODATION

The Queens Borough President's Office will make reasonable accommodation to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment and the employment process, unless providing such accommodation would impose an undue hardship. This form shall be made available to, and used by all applicants and employees requesting reasonable accommodation, in conjunction with the Agency's Reasonable Accommodation Policy and Procedure.

**INSTRUCTIONS:** Applicants should complete sections I and II and submit this form to the agency staff supervising the applicant process. Current employees should complete sections I and III and submit this form to their immediate supervisors. Supervisors receiving requests for reasonable accommodation should complete Section IV, return one copy of the completed form to the applicant or employee requesting the accommodation, and immediately forward a second copy of the form to one of the agency's Disability Rights Coordinators. The Disability Rights Coordinator should complete and update Section V as appropriate. Agency supervisory staff and/or the Disability Rights Coordinator shall assist applicants or employees in completing this form where requested.

**Section 1** - This section should be completed by *both applicants and current employees*.

Name

---

Address

---

Phone

---

Accommodation Requested (attach additional sheets and supporting documentation as appropriate).

**Section II** - Complete this section *only if you are a job applicant*.

Position/title applied for

---

Unit or Agency (if known)

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Location of Position (if known)

---

**Section II** (for *applicants only*),

Job Vacancy Notice Number (if known)

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Part(s) of employment process for which an accommodation is requested (e.g., application examination, interview)

Agency Contact Person (if known)

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Date of Examination/Interview

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**Section III** - Complete this section ***only if you are an employee*** (even if you are currently on leave).

Position/Title

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Unit/Agency

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Location

---

Supervisor

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**Section IV** - To be completed by agency ***staff supervising the employment application process or supervising an employee*** requesting a reasonable accommodation.

Supervisor Name and Title

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Unit/Agency

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Location

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Phone Date Requested Received

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Supervisor Signature

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**After completing this section, supervisors must return a copy of this form to the applicant or employee, immediately send a copy to the Disability Rights Coordinator, and take such further action as is required by the Reasonable Accommodation Policy and Procedure.**

**Section V** to be completed by the ***Disability Rights Coordinator***

Name

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Location

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Phone

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Date Received

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Disability Rights Coordinator Signature

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Disability Rights Coordinator comments, with date

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