



Policy Name:	Reasonable Accommodations for Faculty, Staff and Students due to COVID-19 Pandemic		
Associated Form(s):	<ol style="list-style-type: none"> 1) Employee COVID-19 Reasonable Accommodations Application Form 2) Employee COVID-19 Medical Information Request Form for Medical Providers 3) Student Request for Accommodation or Academic Adjustment Online Form 	Policy Number:	2020-5
Reviewed:	Non-Academic Policy Advisory Review Council	Approved:	June 30, 2020
Approval Authority:	President 	Adopted:	July 6, 2020
Responsible Office(s):	<ol style="list-style-type: none"> 1) Office Human Resources 2) Office ACCESSibility 3) Office of the Provost 4) Office of Student Affairs 5) Equity Compliance Office 	Contact(s):	<ol style="list-style-type: none"> 1) Director of Human Resources 2) Associate Provost 3) Director of ACCESSibility 4) Assistant Dean of Student Affairs 5) Equity Compliance Officer

I. Introduction

As Mercy College plans its return to campus, it is taking every appropriate precaution to protect members of the College community. One of those precautions is a streamlined employee and student accommodation process to evaluate an individual's concerns about how their personal circumstances may place them at greater risk of serious illness from COVID-19.

To initiate a request for a COVID-related accommodation related to a disability (e.g. underlying medical condition, pre-existing mental health condition, or COVID-related illness), please review this Policy and [apply here](#) for faculty and staff requests, and for student requests, [apply here](#) and visit [the Office of ACCESSibility webpage](#). Those who believe they will need an accommodation should submit a request as soon as possible in order to provide the necessary time for consideration of the request and, as appropriate, implementation of an accommodation.

We encourage faculty and staff who are concerned about returning to work based on their age or medical condition, but do not necessarily wish to seek an accommodation based on a documented disability, to speak with their supervisor, chair, dean and/or HR about obtaining a modification to their work schedule and other alternative arrangements. *See* Sections IV.A.2 and V.A.2 of this Policy.

II. Policy Statement

Mercy College is committed to providing reasonable accommodations and academic adjustments to allow qualified individuals the opportunity to participate in programs, activities, and employment. Mercy currently has two policies in place:

- Policy and Procedures for Implementing Reasonable [Accommodations for Employees](#) and
- Policy and Procedures for Implementing Reasonable [Accommodations and Academic Adjustments for Students](#).

The two listed policies apply to reasonable accommodations and academic adjustments in connection with a disability, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, and religious practices. **This Policy is meant to supplement the existing policies with accommodations as they relate solely to the COVID-19 pandemic.**

Mercy reiterates its prohibition of retaliation against individuals for requesting reasonable accommodations or academic adjustments, appealing decisions concerning such requests, or for making or participating in claims of discrimination.

It should be noted that should circumstances change due to COVID-19, the College reserves the right to revisit reasonable accommodation requests. For example, should a vaccine become readily available, then teleworking options may no longer be necessary.

III. Applicability

This Policy applies to all current or newly hired employees, including faculty and staff, as well as Mercy College students, who are seeking accommodations related specifically to physical and pre-existing mental health conditions, relating to COVID-19.

Applicants for employment or for admissions to the College, visitors and contractors should refer to the Policy and Procedures for Implementing Reasonable [Accommodations for Employees](#) and Policy and Procedures for Implementing Reasonable Accommodations and Academic [Adjustments for Students](#) for any accommodation requests that they may seek in coming to the Mercy College campus.

Note that all members of the College community, visitors, vendors or contractors, while currently required to wear a **face covering** under current state and federal guidelines, may seek a modification to this requirement on the basis of a documented disability under this Policy.

IV. Definitions

- A. Academic Adjustments: Section 504 of the Rehabilitation Act of 1973 ("Section 504"), which prohibits discrimination against qualified individuals with disabilities in federally-funded programs and activities, requires Mercy to provide academic adjustments to qualified students with disabilities by:
 - (a) modifying academic requirements unless such requirements are essential to the instruction being pursued or to any directly related licensing requirement;
 - (b) ensuring that course examinations for students with disabilities reflect their achievement in the course and not their disabilities;
 - (c) taking steps to ensure that a qualified student is not excluded from participation or discriminated against because of the absence of educational auxiliary aids; and
 - (d) ensuring that no rules have the effect of limiting the participation of students with disabilities in any educational program or activity.
- B. Americans with Disabilities Act (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.
- 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. Household member: Any person who resides with an employee or student, whether or not the household member is related to that employee or student.

- F. Increased Risk to COVID-19: Everyone is at risk for getting COVID-19 if they are exposed to the virus. Some people are more likely than others to become severely ill, which means that they may require hospitalization, intensive care, or a ventilator to help them breathe, or they may even die. According to the CDC, based on currently available information and clinical expertise, **older adults (65 years or older) and people of any age who have serious underlying medical conditions** might be at higher risk for severe illness from COVID-19. Some of these conditions include but are not limited to:
 - Chronic lung disease or moderate to severe asthma
 - Serious heart conditions
 - Being immunocompromised
 - Obesity (body mass index [BMI] of 30 or higher)
 - Diabetes
 - Chronic kidney disease undergoing dialysis
 - Liver disease
 - Pregnancy

We learn more about COVID-19 every day, and as more information becomes available, CDC will continue to update and share information about risk for severe illness: [CDC Website](#)

G. Interactive Process/Cooperative Dialogue:

- With Employees. 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.

- With Students. With students, the interactive process is when a decision-maker at the campus works with the student to identify existing barriers to the student's access to academic and non-academic programs and activities at the College with the intention of finding an academic adjustment or reasonable accommodation to address those barriers.

- Mercy provides an interactive process for all accommodation requests relating to COVID-19.

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. Symptoms of COVID-19: According to the CDC, people with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear 2-14 days after exposure to the virus. Some of the most common symptoms include but are not limited to:

- Cough
- Shortness of breath or difficulty breathing
- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or vomiting
- Diarrhea

Please see the [CDC website](https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html) for an up-to-date listing of symptoms of coronavirus: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

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, the nature of a job function, and/or the fundamental nature of the academic program. In some instances, an accommodation that would not have posed an undue hardship prior to the COVID-19 pandemic may pose one now.

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.

V. Reasonable Accommodations Relating to COVID-19

A. Employees

Under current Mercy College reasonable accommodations policy, employees who are unable to perform the essential functions of their job due to a disability are able to request a reasonable accommodation. As Mercy College prepares and plans to return to campus amidst the COVID-19 pandemic, we invite employees (both faculty and staff) to request reasonable accommodations in advance of returning to the workplace that they may need under the following circumstances:

- They have COVID-19, are experiencing COVID-19 symptoms or have lingering effects of the virus, any of which impair the employee's ability to work on campus. *See* also the College's [Paid Time Off and Leave Policy](#) for available options for paid and unpaid leaves, in addition to reasonable accommodations under this Policy.
- They are at increased risk of severe illness from COVID-19.

1. Other Work Modifications

There may be other circumstances in which an employee has concerns about returning to campus, such as having a medical condition that is not currently considered increased risk for developing severe illness from COVID-19, caring for someone who has COVID-19 or who is at high-risk for contracting COVID-19, or caring for a child due to school or daycare closure from COVID-19. In such cases, the employee (including faculty) should contact their supervisor, dean, chair and/or the Office of Human Resources regarding potential modifications that may be made to their current work arrangements depending on the circumstances of the particular department. Employees should also refer to the *College's* [Paid Time Off and Leave Policy](#) for available leave options.

2. Requests.

In such cases where the employee has COVID-19 or COVID-19 symptoms, is at an increased risk for severe illness from COVID-19, or in any case in which an employee seeks an accommodation relating to a disability (including physical and pre-existing mental health conditions), the employee should submit an electronic request to the Office of Human Resources in advance of coming to campus where practicable. [COVID-19 Reasonable Accommodations Application Form](#). The College may require medical documentation where it is not obvious or they do not already have a record of a condition that places the employee at increased risk for severe illness from COVID-19.

Faculty should submit an electronic request to the Office of Human Resources [COVID-19 Reasonable Accommodations Application Form](#) and may also want to consult with their chair, dean or the Provost's Office to discuss available Leave of Absence options under the *Faculty Handbook (2020)*, Section 5.3 as well as pursuant to this Policy and the College's *Leave and Paid Time Off Policy*.

3. Interactive Dialogue.

Once the Office of Human Resources receives the request, it will engage in the interactive process and request information from an employee about why an accommodation is needed. The College may ask questions or request medical documentation to determine whether the employee's disability necessitates an accommodation (if not already known). Possible questions for the employee may include: (1) how the disability creates a limitation, (2) how the requested accommodation will effectively address the limitation, (3) whether another form of accommodation could effectively address the issue, and (4) how a proposed accommodation will enable the employee to continue performing the essential functions of their position.

4. Reasonable Accommodations for Faculty and Staff.

The Office of Human Resources will consult with the employee's supervisor as needed (though **will not share the diagnosis** unless the employee agrees to do so) to determine what if any reasonable accommodation might be granted that does not cause the College undue hardship. Examples of some reasonable accommodations for **staff** might include continued teleworking, a modified or reduced work schedule, or a paid or unpaid leave of absence. Some **faculty** accommodations may include teaching fully distance learning courses or hybrid classes, taking a semester or year-long leave of absence, or becoming a "pro-rata" faculty member.

If a job **may only be performed at the workplace**, there may be reasonable accommodations for individuals with disabilities who are at an increased risk of severe illness from COVID-19 which allow them to perform the job. Such accommodations may include changes to the work environment, temporary restructuring of marginal job duties, temporary transfers to a different position, or modifying a work schedule or shift assignment may also permit an individual with a disability to perform the essential functions of the job while reducing exposure to COVID-19.

VI. Student Accommodations and Academic Adjustments Due to COVID-19

Students may seek an accommodation or academic adjustment based on a disability due to COVID-19, including circumstances in which:

- They have COVID-19, are experiencing COVID-19 symptoms or have lingering effects of the virus impairing the student's ability to successfully complete their academic coursework.
- They are at increased risk of severe illness from COVID-19.

1. Requests.

To obtain a COVID-19-related accommodation, the student must register with the Office of ACCESSibility. To register with ACCESS, the student must submit an [Application for Accommodations](#) and appropriate supporting documentation. Students may visit the webpage, <https://www.mercy.edu/student-affairs/access>, contact ACCESS staff at (914) 674-7764 or by

email at accessibility@mercy.edu for further information, including what documentation is required. Students may request accommodations and academic adjustments at any point during the semester; however, they cannot retroactively seek an accommodation. Therefore it is recommended that they submit a request as soon as the need for an accommodation arises.

2. Interactive Dialogue.

After a request is submitted, the Director of ACCESSibility, or a designee, and the student will engage in an interactive process, which may include a consideration of a number of factors, such as the student's limitations and the academic or other program requirements, with the goal of finding an acceptable accommodation or academic adjustment. Reasonable COVID-19 related accommodations and academic adjustments may include extra time for tests or papers or short-term leaves of absence. The Director of ACCESSibility, or a designee, may, when necessary and in a confidential manner, consult with appropriate college officials, such as the faculty member, the Associate Provost or designee to determine program requirements and the Assistant Dean of Student Affairs to determine appropriate accommodations.

3. Accommodation Memo.

If an accommodation or academic adjustment is granted, ACCESS will provide the student with an "Accommodation Memo." The purpose of the Memo is to inform a faculty member that the student in his/her course is registered with ACCESS and lists the student's accommodations. The Memo does NOT cite the specific disability. A student has the right to not disclose a disability to a faculty member and to withhold submission of an Accommodation Memo from a faculty member. In the event that a student does not submit an Accommodation Memo to a faculty member, the student may not make up work or retake exams retroactively with accommodations. Any grades already in place or tests taken **prior** to the submission of an Accommodation Memo to the faculty member will not be changed or repeated with accommodations. Please keep in mind that not all accommodations can be immediately implemented, and no grades given prior to the implementation period will be changed.

An Accommodation Memo is semester specific and is only valid for the term that it was issued. To activate the accommodation(s) each semester, the student must request a new Accommodation Memo from ACCESS before the start of each term. The updated Memo should be presented ordinarily to faculty members within the first 1-2 weeks of each academic term. The student must have the faculty member review the Memo and obtain the faculty member's signature at the bottom of the Memo. The signed Memo must be returned to the Office of ACCESSibility or may be scanned and emailed to accessibility@mercy.edu as soon as possible.

VII. Confidentiality

All requests for accommodations and academic adjustments, and all supporting documentation, including but not limited to medical information, are considered **confidential**.

The Office of Human Resources will not share any documents except where an employee approves of doing so in advance. Such documentation will only be used to evaluate the requested accommodation and shall be kept in a separate file within the Office of Human Resources. The

Office of Human Resources will consult with the employee's supervisor only as needed (though **will not share the diagnosis** unless the employee agrees to do so) to determine what if any reasonable accommodation might be granted that does not cause the College undue hardship.

All paperwork relating to student accommodations will be confidential and kept in the Office of ACCESSibility.

VIII. Appeal of Accommodation Requests/Decisions

Employees and students may appeal determinations concerning requested accommodations and academic adjustments under this Policy by filing a written complaint with the College's Equity Compliance Specialist [complaint form](#). The Equity Compliance Specialist, or a designee, will mediate to try to resolve the issues between the employee or student and the College to find an acceptable 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 Director of Human Resources (for staff cases) and the Associate Provost (for faculty) and Assistant Dean of Students Affairs (for student cases), who will make the decision concerning the complaint. If the employee or student believes that a decision to deny the request was based on unlawful discrimination, then they may exercise any and all rights available under law without fear of retaliation.