



<b>Policy Name:</b>	Policy and Procedures for Implementing Reasonable Accommodations for Employees		
<b>Associated Form(s):</b>	Accommodations Intake Form, Available on Mercy Connect	<b>Policy Number:</b>	2024-9
<b>Reviewed:</b>	Non-Academic Policy Committee	<b>Approved:</b>	April 29, 2024
<b>Approval Authority:</b>	President <i>Susan Parish</i>	<b>Adopted:</b>	May 10, 2024
<b>Responsible Executive(s):</b>	Vice President for Finance	<b>Revised:</b>	June 5, 2017, June 28, 2021, March 28, 2024
<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. Director of Equity Compliance

## **I. Policy Statement**

Mercy University is committed to providing reasonable accommodations to allow qualified individuals the opportunity to participate in employment at the University. 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 and/or reasonable accommodations related to medical issues shall be requested pursuant to the University's Family and Medical Leave Act (FMLA) Policy and the New York State Paid Family Leave Law (NYS PFL).

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 University 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 and/or the Office of the Director of Equity Compliance (in cases of appeals).

## **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. The ADA prohibits discrimination against qualified individuals on the basis of a disability in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

- B. Director of Equity Compliance: 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 Director of Equity Compliance is also 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. Family and Medical Leave Act (FMLA): Provides covered employees with unpaid, job-protected leave for certain family and medical reasons (and is covered in Mercy's FMLA Policy).
- F. 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 and/or return to work. 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.
- G. Pregnancy, Childbirth, or a Related Medical Condition: The condition of being pregnant, having a child, or a medical condition related to pregnancy or childbirth. It includes uncomplicated pregnancies, vaginal deliveries or cesarian sections, miscarriage, postpartum depression, edema, placenta previa, and lactation.

- H. Pregnant Workers Fairness Act (PWFA): Requires Mercy to provide a reasonable accommodation to a qualified employee's or applicant's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship.
- I. PUMP Act (Providing Urgent Maternal Protections for Nursing Mothers Act) and New York State's Nursing Mothers in the Workplace Act: Broaden workplace protections for employees to express breast milk at work (covered here and in Mercy's Paid Time Off and Leave Policy).
- J. 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.
- K. 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 or to provide leave as an accommodation. 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.
- L. Reasonable Accommodation with a "Known Limitation." Under the PWFA, "known" means the employee or the employee's representative (or the applicant or the applicant's representative) has communicated to the employer about the limitation. Under the PWFA, "limitation" means "a physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions."

A limitation can be an impediment or problem that is minor or modest and can be episodic (such as migraines or morning sickness). It can be that the employee or applicant needs to take actions for their health or the health of their pregnancy—such as not being around certain chemicals; not working in the heat; or limiting or avoiding certain physical tasks, for example lifting, bending, walking, standing, or running. It can be that the employee needs to attend health care appointments for the pregnancy, childbirth, or related medical condition itself.

- M. 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.

- N. Title VII: Prohibits discrimination in the workplace on the basis of race, color, religion, national origin, and sex—which includes pregnancy, childbirth, or related medical conditions.
- O. 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 University. 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 Hartford at 888-277-4767. Employees will be asked to complete an intake form and provide

supporting documentation. The Executive Director of Human Resources, or a designee, the employee and the manager 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 workspaces or equipment, providing assistive technology or equipment, or reassigning the employee to a vacant position for which the employee is qualified. The Executive 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.

While the accommodation preference of the individual with the disability and/or medical condition will be taken into consideration, the University is not required to provide the preferred accommodation as long as an alternative accommodation is reasonable and permissible under the law.

#### C. Visitor Accommodations

Visitors seeking accommodations should contact in a timely manner the Office of Human Resources 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 inform the Office of Human Resources that they have a limitation—a physical or mental condition related to, arising out of, or affected by pregnancy, childbirth or a related medical condition and that they need an adjustment or change in their working conditions due to the limitation. Employees may be required to submit an intake form with The Hartford depending on the nature of the accommodation being requested (see Section 2. below). Otherwise, the employee, the manager and the Executive 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, which may consist of job-protected leave. The Executive Director of Human Resources, or a designee, will initiate a cooperative dialogue even when an employee does not make an accommodation request when the University 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. Examples of Accommodations

Some 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.

While the accommodation preference of the individual with the disability and/or medical condition will be taken into consideration, the University is not required to provide the preferred accommodation as long as an alternative accommodation is reasonable and permissible under the law.

#### 2. When Medical Documentation is Required

Employees will 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.

#### C. Accommodations Related to Breastfeeding

Mercy University is required by law to provide its employees with thirty (30) minutes of paid break time for expressing breast milk for the employee's nursing child, as well as the reasonable use of other break time. In addition to the thirty (30) paid break hours, an employee may use their other paid break or meal periods, or taking unpaid break periods, with the option of making up the time by extending their workday. This Policy applies for up to three (3) years after the employee gives birth.

Mercy University must also provide an employee, upon request, a room or other location, in reasonably close proximity to the work area, where they can express milk in privacy. The room must comply with the requirements set forth in the *Lactation Policy*, including: (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 Facilities Management at 914-674-7638 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.

## **V. Religious Accommodations**

Employees and applicants requesting a religious accommodation should contact the Office of Human Resources. The Executive Director of Human Resources, or a designee, and the employee/applicant and manager 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. Employees and Applicants for Employment**

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/Director of Equity Compliance, or a designee, who will mediate to try to resolve the issues between the individual and the University to find an



acceptable accommodation. If a mutually acceptable accommodation cannot be determined, then the Title IX Coordinator/Director of Equity Compliance, or a designee, will investigate the complaint and make a recommendation to the Provost (for matters involving full-time or part-time faculty) or the President (for matters involving staff or administrators), 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. Visitors

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

### **VII. Retaliation Prohibited**

It is against federal and state law to punish an employee for asserting their rights to request an accommodation for a disability, pregnancy, childbirth or related medical condition, or religious practice. Anyone who engages in retaliation related to rights under this Policy may be subjected to disciplinary action in accordance with the appropriate handbook or collective bargaining agreement.

### **VIII. 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>