




PROCEDURE NUMBER 15-211

Subject:	Applicable To:	Effective Date:
Reasonable Accommodation Procedure for Clients with Disabilities	All DHS Clients; All DHS Directly Operated or Funded Congregate Facilities/ Programs Serving Homeless Individuals	March 27, 2015  (Replaces Reasonable Accommodation for Clients with Disabilities 11-005)

Administered By:	Approved By:
Department of Homeless Services (DHS) – Diversity & Equal Opportunity Affairs Office/EEO Officer	 Gilbert Taylor, Commissioner

## **I. PURPOSE**

Consistent with City and State laws governing the right to shelter, reasonable accommodation must be made at all DHS programs and facilities providing shelter, services or other benefits in order to service eligible applicants and clients with physical or mental disabilities, except where an accommodation will impose an undue hardship on the operation of the facility or any of its programs (Facility). “Reasonable Accommodation” includes modification to the Facility’s policies or practices, addressing architectural, communication or transportation barriers, and the provision of auxiliary aids or services.

Applicants or clients who believe that they require a reasonable accommodation or that they have been subjected to discrimination on the basis of disability or have been denied access to services or reasonable accommodations required by law, may use this reasonable accommodation policy and procedure to exercise their rights.

## **II. APPLICABILITY**

The Reasonable Accommodation Procedure for Clients with Disabilities (Clients) is applicable to any individuals who apply to, participate in, access or reside in any DHS directly operated or funded program or facility. DHS programs and facilities include, but are not limited to, (1) DHS directly-operated and contracted facilities in the Adult System (Intake and Assessment Shelters,

Program Shelters, Safe Havens, Stabilization Beds and Drop-in Centers, Adult Family Intake Center (AFIC) (Adult Facilities); (2) DHS directly-operated and contracted facilities in the Family System (Prevention Assistance and Temporary Housing (PATH) intake center, Hotels, Cluster Models, and Tier II Facilities (Family Facilities); and (3) Prevention Programs (Homebase).

### **III. INTRODUCTION**

Title II of the Americans with Disabilities Act, as amended, protects individuals with disabilities who:

- Have a physical or mental impairment that substantially limits one or more major life activities;
- Have a record of physical or mental impairment that substantially limits one or more major life activities; or
- Are regarded as having an impairment, regardless of whether or not the impairment actually exists.

The protections for individuals with disabilities cover a wide array of impairments. Whether an individual is disabled under this standard must be decided on a case-by-case basis.

Individuals with physical and mental disabilities are protected by the Americans with Disabilities Act, the Rehabilitation Act of 1973, state and local laws, and regulations promulgated pursuant to these federal, state and local laws (ADA). No qualified individual with a physical or mental disability can be excluded from participation in or denied the benefits, programs and services of any government entity or be subject to discrimination by any government entity. As with any individual, an individual with a disability is “qualified” if he/she, with or without reasonable accommodation, meets the essential eligibility requirements to receive benefits or services or participate in the programs or services provided by the government entity.

The ADA protections for individuals with disabilities specifically exclude:

- Disadvantages due to environmental, cultural or economic factors, such as poverty or having a criminal record<sup>1</sup>
- Age alone, unless age causes a physical or mental impairment that limits one or more of an individual’s major life activities (e.g., caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working);
- Current and illegal use or abuse of drugs.

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<sup>1</sup> Discrimination and harassment based on arrest of conviction are protected categories under New York State and local laws.

#### **IV. NOTICE**

All Facilities servicing DHS Clients shall prominently display the Notice of Client Disability Rights (Notice) (Appendix A) in any areas ordinarily used for posting client information. Facilities should, at a minimum, display the Notice in English and Spanish. Notices have also been published in Mandarin Chinese, Haitian Creole, Polish, Russian and Korean and may be accessed through the Office of Diversity & Equal Opportunity Affairs (EOA) or the divisional Language Access Liaisons.

#### **V. INFORMAL REASONABLE ACCOMMODATION PROCESS**

All DHS and provider staff responsible for placing or providing services to DHS Clients must routinely take into account the requirements of each Client, including the special needs of Clients with physical and/or mental impairments and/or conditions.

In the absence of a formal Reasonable Accommodation Request (“RAR”), Facility staff is expected to work in concert with the Client to address his/her special needs where these needs might impact access to Facilities or services. Whenever a Client raises such an issue or concern, the ordinary servicing of such Client must incorporate this informal reasonable accommodation process.

Facility staff is encouraged to consult with the DHS Medical Director and the Office of the Ombudsman in attempting to reach a resolution agreeable to both Facility staff and the DHS Client. If a reasonable accommodation cannot be made at any one facility, transfer to another facility may be a reasonable and appropriate remedy. At any time, a client may file a Formal Reasonable Accommodation Request in accordance with the procedures outlined in Section VI.

All information related to the informal reasonable accommodation process must be entered into the appropriate fields in CARES.

#### **VI. FORMAL REASONABLE ACCOMMODATION PROCESS**

##### **A. Filing a Formal Reasonable Accommodation Request**

1. Where the Informal Reasonable Accommodation process fails to produce a mutually agreeable outcome, the DHS Client may obtain a Reasonable Accommodation Request form (RAR) (Appendix B) from his/her Facility Director, the Facility Director’s designee, or the functional equivalent (Director).
2. Clients may obtain assistance from a family member, friend, their Case Worker or a staff member from the DHS Ombudsman’s Office to fill out the RAR.
3. The DHS Client must return the completed RAR along with supporting medical documentation to the Director who will then forward the RAR to the DHS Program Administrator for review. In cases where the Client’s condition, impairment or limitation is obvious, medical documentation will not be required.

4. Copies of the completed RAR must be provided to the Client, placed in the Client's case record, entered into the Reasonable Accommodation field in CARES and forwarded to the DHS EOA within two (2) days of the determination being made. The RAR will be maintained by the DHS Diversity & Equal Opportunity Affairs.
5. Client information relevant to their RAR and/or medical documentation must be kept confidential, except as may be necessary in resolving the RAR.

**B. Reviewing Requests for Reasonable Accommodation**

1. The RAR review process must be interactive. Upon receipt of a Formal Reasonable Accommodation Request per Section VI(A), above, the DHS Program Administrator or his/her designee (Program Administrator) shall confer with the Client and the DHS Medical Department designee (Medical Department), and may consult with the Director the Ombudsman's Office or his/her designee (Ombudsman) for guidance.
2. When necessary, the Program Administrator may issue a Request for Additional Medical Information (Appendix C). The Client must return the completed Additional Medical Information form (Appendix D) within ten (10) business days of receipt of the request.
3. If the Program Administrator and the Medical Department reach a consensus on resolving the RAR, the Program Administrator shall issue to the Client and the Facility Director a Reasonable Accommodation Request Determination form (Determination)(Appendix E) notifying the Client of their decision. The Program Administrator will issue a Determination within ten (10) business days of the filing of a completed RAR.
4. If the Program Administrator and Medical Department are unable to reach a Determination, the Program Administrator shall refer the RAR, along with their written recommendation to the appropriate Associate/Assistant Commissioner for resolution. The Associate or Assistant Commissioner shall issue to the Client, the Facility Director, and the Program Administrator a Determination notifying the Client of his/her decision. The Assistant/Associate Commissioner will issue a Determination within ten (10) business days of the filing of a completed RAR. Copies of the Determination shall be sent to EOA as well as retained in the Client's case record and the RAR field in CARES.
5. For the purposes of Sections VI(B)(3) & (4), an RAR will be deemed complete ten (10) business days after issuance of a Request for Additional Information or when it is accompanied by appropriate medical documentation, including, where applicable, any additional information requested by the Program Administrator.
6. If, after a determination is made, a Client and/or his medical provider furnish additional medical documentation supporting the RAR, the Program Administrator shall review the initial determination along with the additional documentation in consultation with the Medical Director.

7. The Assistant/Associate Commissioner and/or Program Administrator shall evaluate each RAR taking into account the specific nature of the disability; the nature of and essential eligibility requirements of the program, service or activity; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or impose undue hardship on the Facility or DHS.
8. The Determination form (Appendix E) shall include a description of the accommodation granted or an explanation for the denial of the accommodation request and information regarding the filing of an Appeal in accordance with the protocol set forth in Section VII, below. If the Client is unable to read, the Facility Director must also inform the Client of the decision orally and document the discussion in the Client's case record and CARES.
9. The Client or his/her representative must appeal the Determination by filing an Appeal in the manner described in Section VII(A), below, within fifteen (15) calendar days of the Client's receipt of the Determination form. A representative may be any individual authorized to act on the Client's behalf.

## **VII. APPEALS**

If the client does not agree with the final determination, the client, and/or his/her designee, may appeal the decision to the Executive Director of DHS Diversity & Equal Opportunity Affairs.

### **A. Filing an Appeal**

Appeals must be made within (fifteen) 15 calendar days after receipt of the final written determination.

Appeals must be in writing, and should be directed to the Executive Director of DHS Diversity & Equal Opportunity Affairs (DHS EOA Executive Director), at 33 Beaver Street, New York, New York 10004/Tel. 212-361-7914/Fax. 212-361-7912/TTY 212-361-7915/[coa@dhs.nyc.gov](mailto:coa@dhs.nyc.gov).

### **B. Appeals Process**

1. Within ten (10) calendar days after receipt of the Appeal, the DHS EOA Executive Director will meet with the client and/or his/her designee to discuss the proposed accommodations and/or resolutions.
2. Within ten (10) calendar days after this meeting, the EOA Executive Director will issue a written response to the Appeal with a final resolution of the issue. The written response shall be issued to the Client, and copies shall be filed with EOA as well as retained in the Client's case record.

## **IX. DISCRIMINATION COMPLAINTS**

This Reasonable Accommodation Procedure for Clients with Disabilities is intended to ensure equal access for Clients with disabilities, but shall not impede the right of any Client to file a complaint with 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. The filing of an external complaint shall not impair the Complainant's right to prompt and equitable resolution of the Grievance filed hereunder. Use of this Grievance Procedure is not a pre-requisite to the pursuit of other remedies.

## **REFERENCES**

- 02 LCM 7 Americans with Disabilities Act of 1990 (ADA) ("Access to Local District Social Services Programs and Services and Activities")
- Title 28 of the Code of Federal Regulations Section 35.107 ("Designation of responsible employee and adoption of grievance procedures")
- Section 504 of the Rehabilitation Act of 1973
- NY Executive (Human Rights) Law § 290 and § 296
- NYC Administrative Code (NYC Human Rights Law) 18 NYCRR § 303.1, § 303.5, and § 303.7
- NY Admin. Code (Human Rights) § 8-101, § 8-102.4, § 8-107.4 and § 8-107.15



## Notice of Disability Rights

Title II of the Americans with Disabilities Act (the "ADA"), as amended, the Rehabilitation Act of 1973, state and local laws, and regulations promulgated pursuant to these Federal, State and local laws protect qualified individuals with a disability from discrimination on the basis of that disability in the delivery of or access to benefits, programs, services or activities of the Department of Homeless Services ("DHS").

This notice is posted to inform the public of the privileges, protections and requirements created by Federal, State, and local laws regarding individuals with disabilities and their access to the benefits, programs, and services offered by DHS.

### Accommodation Procedure

A "Reasonable Accommodation" includes modification to the program's or facility's policies or practices, removal of impediments created by architectural, communication or transportation barriers, and the provision of auxiliary aids or services.

**If you believe that you require a Reasonable Accommodation in order to fully access DHS programs or services, please contact your Program/Facility Director or your Case Worker.**

DHS does not discriminate against any qualified individual with a physical or mental disability in its services, programs or activities or exclude any qualified individual from participation in DHS benefits, programs and services.

**If you believe that you have been discriminated against because of a physical or mental disability with respect to DHS services, programs, or activities, you may file a Grievance with the DHS EOA Officer:**

Office of Diversity and Equal Opportunity Affairs  
33 Beaver Street, 17<sup>th</sup> Floor  
New York, New York 10004  
Tel. 212-361-7914 TTY. 212-361-7915  
[eoas@dhs.nyc.gov](mailto:eoas@dhs.nyc.gov)

This notice is available in alternative formats upon request





Gilbert Taylor  
Commissioner

## REASONABLE ACCOMMODATION REQUEST FORM

**INSTRUCTIONS:** Clients must complete Section I and submit this form along with supporting documentation to the Program/Facility Director, or functional equivalent ("Director"). Any Director receiving a completed form with appropriate medical documentation must complete Section II, return a copy to the client, and immediately transmit by facsimile the request and supporting documents to the appropriate Program Administrator, and the Office of Diversity & Equal Opportunity Affairs.

**Section I:** (This section must be completed by the client.)

Name: \_\_\_\_\_

Address/Facility/Program: \_\_\_\_\_

Social Security #: \_\_\_\_\_ Phone: \_\_\_\_\_

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

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**Section II:** (To be completed by the Director or his/her designee.)

Name/Title: \_\_\_\_\_

Facility/Program: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Date Received: \_\_\_\_\_

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



After completing this section, the Director must give a copy of this form to the client and immediately fax the request to the appropriate Program Administrator, Program Analyst and the Office of Diversity & Equal Opportunity Affairs, 33 Beaver Street, New York, New York 10004/Tel. 212-361-7914/ Fax. 212.361.7912/ TTY. 212-361-7915/ [coa@dhs.nyc.gov](mailto:coa@dhs.nyc.gov).

**Section III: (To be completed by the Program Administrator or his/her designee.)**

Name/Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Date Received: \_\_\_\_\_

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

**Detailed record of the accommodation review process**, including but limited to: a description of medical documentation received; Director/Program Administrator comments; notes regarding consultations with DHS Medical Director and, as needed, Ombudsman; proposed accommodations; final determination.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



Gilbert Taylor  
Commissioner

**REQUEST FOR ADDITIONAL INFORMATION**

DATE: \_\_\_\_\_  
CLIENT: \_\_\_\_\_  
CASE #: \_\_\_\_\_  
CC (Facility Director): \_\_\_\_\_

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On \_\_\_\_\_, the Department Of Homeless Services received your request for a reasonable accommodation.

We have reviewed your request and the supporting medical documentation, and require additional information. Please have your doctor or medical provider provide us with the following information:

- A detailed description of the specific physical and/or mental restrictions/limitations affecting your ability to access DHS services;
- Whether your condition is permanent, chronic or temporary;
- Whether you are currently receiving any treatment(s) to mitigate the symptoms and/or limitations associated with your medical condition(s) including, but not limited to, any medication or therapy; and
- A complete description of the accommodation sought and the relationship between it and your disability.

You or your health care professional must return the attached form within **ten (10) calendar days** of receipt of this Request.

The requested medical documentation should be sent by facsimile to your Program

Administrator \_\_\_\_\_,

at (\_\_\_\_\_) - \_\_\_\_\_ - \_\_\_\_\_





Gilbert Taylor  
Commissioner

**ADDITIONAL INFORMATION FORM**

Name of Client: \_\_\_\_\_

Name of Healthcare Provider: \_\_\_\_\_

Address of Provider: \_\_\_\_\_

- 1) Please provide a detailed description of the specific physical and / or mental restrictions / limitations affecting the Clients ability to access DRS services.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 2) Indicate whether the condition is permanent, chronic or temporary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 3) Indicate whether the Client is currently receiving any treatment(s) to mitigate the symptoms and / or limitations associated with his/her medical condition(s) including, but not limited to, any medication or therapy.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 4) Give a complete description of the accommodation sought and the relationship between it and the disability.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attach additional pages as needed and return this form within **ten (10) business days** of receipt of this

Request by facsimile to the Program Administrator (Name) \_\_\_\_\_.

(Division) \_\_\_\_\_, at Phone: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ . Fax \_\_\_\_ - \_\_\_\_ - \_\_\_\_





Gilbert Taylor  
Commissioner

## **REASONABLE ACCOMMODATION REQUEST DETERMINATION**

DATE: \_\_\_\_\_

CLIENT: \_\_\_\_\_

CASE #: \_\_\_\_\_

Facility: \_\_\_\_\_

On \_\_\_\_\_, the Department of Homeless Services received your request for a reasonable accommodation.

We have reviewed your request and the supporting medical documentation, and have made the following determination.

☐ Your request for a reasonable accommodation has been denied for the following reason:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Your request for a reasonable accommodation has been granted.

The Department of Homeless Services offers the following accommodation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You or your representative may appeal this Determination by filing an Appeal within **ten (10) business days** of receipt of this Determination. Direct appeals to the Office of Diversity & Equal Opportunity Affairs Office, 33 Beaver Street, New York, New York 10004 or [coa@dhs.nyc.gov](mailto:coa@dhs.nyc.gov), or by fax at 212-361-7912 and **must** include:

1. The client's name, address, and telephone number;
2. A description of the program, activity, or service that was denied to client;
3. The date and nature of the alleged denial; and
4. The signature of the client or his/her authorized designee.

**Upon request, assistance shall be provided by the Ombudsman's Office to file an Appeal.**

