



## **SCHENECTADY COUNTY AMERICANS WITH DISABILITIES ACT**

### **STATEMENT:**

Schenectady County in order to comply with the Americans with Disabilities Act shall provide a reasonable accommodation to ensure equal employment opportunity to any applicant or employee who is an individual with a disability and to any employee with permanent medical restrictions who requires such accommodation in order to perform the employee's essential job functions. Schenectady County shall provide individuals with disabilities meaningful opportunity to benefit from all of its programs, services and activities, which are available to individuals without disabilities. The services provided to customers with disabilities will be as effective as those which are provided to persons without disabilities.

Title I of the ADA provides that no employer "shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, and other terms, conditions and privileges of employment." *42 U.S.C. § 12112(a).*

### **Reasonable Accommodations**

The term "discriminate" includes "not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity." *42 U.S.C. § 12112(b)(5)(A).*

### **Public Services (Title II)**

Public services which include state and local governments cannot deny services to people with disabilities participation in programs or services which are available to people without disabilities.

### **Miscellaneous (Title V)**

Title V includes a provision which prohibits either (a) coercing or threatening, or (b) retaliating against the disabled or those attempting to aid people with disabilities in asserting their rights under the ADA

## **PRINCIPLES:**

Schenectady County is strongly committed to the principles of fair and equitable treatment for all persons with disabilities. Therefore, Schenectady County commits to:

- Prohibit discrimination against qualified individuals with disabilities.
- Prohibit discrimination against individuals with disabilities in transportation, public accommodation, communications and governmental activities;
- Provide accessible and barrier free County owned and leased buildings, programs, services and activities to all persons with disabilities;
- Provide equal employment opportunity in County government in all employment decisions, programs, services and activities for persons with disabilities;
- Provide reasonable accommodations to qualified individuals with disabilities as required by the Americans with Disabilities Act (ADA) and other federal or state law;
- Comply with all federal and state laws concerning the employment of persons with disabilities.

## **GENERAL ASSISTANCE:**

Schenectady County is committed with complying with all applicable provisions of the Americans with Disabilities Act. All departments and divisions will ensure that the buildings, programs, services and activities under their control and/or operated by them, are accessible and barrier free.

Any person who believes that he or she may be in need of modifications that have not been addressed or has been discriminated against may file a complaint with the Affirmative Action Manager/ADA Coordinator. The Affirmative Action office is located in County building 620 State Street, 2<sup>nd</sup> Floor, Schenectady, NY 12305. The Affirmative Action office may also be reached by telephone at 518-388-4233.

## A. EMPLOYMENT

Schenectady County provides equal opportunity to qualified persons with disabilities in all terms and conditions of employment. Schenectady County shall provide reasonable accommodations upon request to qualified persons with disabilities who are employees or applicants.

### Definitions

- **Covered Disabilities:** The ADA defines “disability” to mean “a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.” *42 U.S.C. § 12102(2)*. Physical or mental impairment is defined by ADA regulations to mean “[a]ny physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, urinary, hemic and lymphatic, skin, and endocrine; or [a]ny mental or physiological disorder, such as mental retardation, organic brain syndrome emotional or mental illness, and specific learning disabilities.” *29 C.F.R. § 1630.2(h)*; *28 C.F.R. § 36.14*. “Major life activities” include “caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” *29 C.F.R. § 1630.2(i)*. Qualified Individual with a Disability. An individual with a disability who satisfies the requisite skills, experience, education and other job-related requirements for a position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential job functions of the position.
- **Reasonable Accommodation:** A modification or adjustment to a job or the way things usually are done that enables an individual with a disability to enjoy equal employment opportunity, unless it can be shown that the accommodation would cause an undue hardship to the county or pose a direct threat to the life or safety of any person. Reasonable accommodations may include, but are not limited to:
  1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
  2. Job restructuring: part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustments or modifications of examinations, training materials, or policies, the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

### Procedure for Requesting Employee Reasonable Accommodation:

The law requires the County to make a reasonable accommodation only to the known limitations of an otherwise qualified individual with a disability. Accordingly, it is the responsibility of an employee to inform the Schenectady County Human Resources Director and his/her Department Head that an accommodation is needed to perform the

essential job functions. If the disability is not obvious, the employee may be required to provide documentation of the disability, such as a diagnosis by a physician, medical records indicating the nature and scope of the disability, or other evidence sufficient to document the specific disability for which accommodation is requested. It is the employee's responsibility to assist in the determination of what type of reasonable accommodation(s) he/she should receive and to suggest alternatives that would be acceptable to the employee.

- a. If the need for accommodation arises following leave due to illness or injury, the employee is required to maintain contact with his/her supervisor and the Human Resources Department, to communicate the expected return to work date and to request reasonable accommodation (see also FMLA Leave).

The steps in requesting reasonable accommodation(s) for employees are as follows:

- a. The employee fills out the Reasonable Accommodation Form and gives it to his/her Department head, and sends a copy to the Director of Human Resources. (A copy of this form is annexed hereto as Appendix A.)
- b. The Director of Human Resources determines if the proof of the disability claimed is sufficient. If not, the Director of Human Resources requests evidence of the disability from the employee. The Director of Human Resources may request that the employee have his/her health care provider complete the Request for Medical Information for Reasonable Accommodation Form. The Director of Human Resources makes a determination of whether the employee is a "qualified individual with a disability" within the meaning of the ADA. The effects of mitigating measures will be considered in determining whether an employee impairment qualifies as a disability under the ADA.
- c. If the Director of Human Resources determines that the employee is not a "qualified individual with a disability," the Director of Human Resources or designee shall explore appropriate types of accommodations with the employee, Department Head or designee, and other appropriate staff, including the Director of Facilities.
- d. No accommodation(s) shall be agreed upon until the following factors have been considered:
  - i. The type of accommodation(s) preferred by the employee;
  - ii. Whether the accommodation would pose an undue hardship;
  - iii. Alternative accommodations that could be offered to the employee which would be suitable in light of the circumstances and allow the employee to perform the essential functions of the job.
- e. The accommodation(s) agreed upon by the Director of Human Resources and Department Head shall be presented to the employee in writing.
- f. The employee shall either accept or reject the offered accommodation(s) in writing. If the proposed accommodation(s) is not accepted, the employee shall state why the proposed accommodation(s) is not suitable.
- g. If the Director of Human Resources determines that no agreement can be reached with the employee, the Director of Human Resources shall inform the County Manager that the employee is not satisfied with the proposed accommodation.

- h. Upon receipt of the Director of Human Resources 's memo that the employee is not satisfied with the accommodation(s) offered, the County Manager in consultation with the County Attorney may:
  - i. Affirm the decision of the Director of Human Resources and the Department Head;
  - ii. Send the matter back to the Director of Human Resources for further consideration; or
  - iii. Overturn the decision of the Director of Human Resources and give the employee the accommodation(s) desired.

## **B. CUSTOMERS AND PROGRAM PARTICIPANTS REASONABLE MODIFICATIONS REQUEST:**

### **Definitions**

- **Disability** means with respect to an individual a physical or mental impairment that substantially limits one or more major life activities of an individual; a record of such impairment; or being regarded as having such an impairment.
- **A Qualified Person with a Disability** is someone who, with or without modifications, meets the essential eligibility requirements for participating in programs, services, and activities provided by Schenectady County.
- **Reasonable Modifications** means adjustments including reasonable modifications to rule or practices, environmental adjustments, communication or transportation barriers, or providing auxiliary aids or services. **American with Disabilities**

### **Coordinator**

Schenectady County has designated Miriam Cajuste the Americans with Disabilities Coordinator for the County. This position advises County departments, contractors and the public about the Americans with Disabilities Act and Schenectady County's obligations and also handles the investigation of grievances files by the public.

In addition, large departments may appoint an internal American with Disabilities Coordinator. These department coordinators act as key contact points for employees and members of the public who need access information and assistance.

### **ADA Notification**

Where ever the public may access programs and services, there should be posted an "ADA Notification" which notes who may be contacted within Schenectady County regarding the ADA and access issues. (See Appendix B)

### **Modification Requests: Program Customers/Constituents**

When a program/department receives a request for modification, and the accommodation is readily apparent, such program/department is encouraged to respond appropriately to meet customer's needs. If and when a disability is not apparent or when a department is unsure of the county's ability to meet the customer/client's modification request, please consult with the ADA Coordinator. Programs may not independently deny a modification.

Attached is a Customer Request for Modification Form (Appendix C).

#### **Verification of Disability**

If the program/department needs assistance in determination of a disability, the steps are:

- The ADA Coordinator shall work with the department to verify the disability.
- If the ADA Coordinator determines that verification is not needed, she shall inform the program unit and assist that unit completing the modification process.

- If the ADA Coordinator determines that verification is needed, the customer will be asked to provide the requested documentation to the ADA Coordinator. The ADA Coordinator may request that the customer have his/her health care provider complete the Request for Medical Information for Reasonable Accommodation/Modification Form. The ADA Coordinator makes a determination of whether the employee is a “qualified individual with a disability” within the meaning of the ADA. The effects of mitigating measures will be considered in determining whether impairment qualifies as a disability under the ADA.
- If verified, the ADA coordinator will inform the department and assist in providing the modification in compliance with the ADA.

#### Assessing Modification

- The ADA Coordinator shall assess the requested modification using the following criteria:
  - The type of modification(s) preferred by the customer;
  - Whether the accommodation would pose an undue hardship;
  - Alternative accommodations that could be offered which would be suitable in light of the circumstances.
- The modification(s) agreed upon by the ADA Coordinator and Department Head shall be presented in writing.
- The customer shall either accept or reject the offered modification(s) in writing. If the proposed accommodation(s) is not accepted, the employee shall state why the proposed accommodation(s) is not suitable.
- If the ADA Coordinator determines that no agreement can be reached with the customer, the ADA shall inform the County Manager.
- Upon receipt of the ADA Coordinator’s memo that the employee is not satisfied with the accommodation(s) offered, the County Manager in consultation with the County Attorney may:
  - Affirm the decision of the ADA Coordinator and the Department Head;
  - Send the matter back to the ADA Coordinator for further consideration;
  - or
  - Overturn the decision of the ADA Coordinator and give the modification(s) desired.

## **LIMITATIONS**

1. Schenectady County will not grant an accommodation request if doing so would impose an undue hardship on the operation of business (i.e., result in significant difficulty or expense).
2. Schenectady County will not create a new job or promote an employee based on the employee's request for accommodation. Schenectady County will not bump another employee to a lower classification, terminate or lay off another employee in order to create a vacancy for an employee requesting accommodation.
3. In making a decision as to what is a reasonable accommodation, the County will consider the requirements of the County Charter and applicable Collective bargaining agreements.
4. This policy does not apply to individuals with temporary medical restrictions. Employees with temporary medical restrictions are covered by leave provisions and temporary light duty assignments.

## **GRIEVANCE PROCEDURE**

The Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by Schenectady County.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. A grievance form is attached (Appendix D.) Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Miriam Cajuste  
Affirmative Action Manager/ADA Coordinator  
County Office Building  
620 State Street, 2<sup>nd</sup> Floor  
Schenectady, NY 12305

Within 15 calendar days after the receipt of the complaint, Miriam Cajuste or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Miriam Cajuste or her designee will respond in writing, and where appropriate, in a format accessible to the complainant. The response will explain the position of Schenectady County and offer options for substantive resolution of the complaint.

If the response by ADA Coordinator or her designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the County Manager or her designee.

Within 15 calendar days after the receipt of the appeal, the County Manager or her designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the County Manager or her designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Miriam Cajuste or her designee, appeals to the County Manager or her designee, and responses from these two offices will be retained by Schenectady County for at least three years.

Appendix A  
**Schenectady County  
Employee Request for  
Reasonable Accommodation Form**

Name \_\_\_\_\_

Phone Number \_\_\_\_\_ (Day) \_\_\_\_\_ (Evening)

- County Employee
- Applicant for Employment
- Other-- Please explain: \_\_\_\_\_

County employees, please list your Department:

\_\_\_\_\_

Division: \_\_\_\_\_ Job Title: \_\_\_\_\_

Type(s) of Disability(ies):

- Speech
- Hearing
- Visual
- Mobility
- Mental/Emotional
- Other

Nature and/or Cause of Disability: \_\_\_\_\_

\_\_\_\_\_

Please identify the position, examination, program, activity, service, or facility for which the accommodation is needed:

\_\_\_\_\_

\_\_\_\_\_

Identify the accommodation(s) needed.

\_\_\_\_\_

\_\_\_\_\_

Explain how the accommodation(s) will assist you.

\_\_\_\_\_

\_\_\_\_\_

Identify the source and cost (if known) for providing the accommodation(s).

\_\_\_\_\_

\_\_\_\_\_

**Requestor's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Appendix A  
**Schenectady County  
Employee Request for  
Reasonable Accommodation Form**

What actions were taken in reviewing this request?

Was the request for reasonable accommodation granted? \_\_\_\_\_

If the request for accommodation was granted, please explain the nature of the accommodation and whether it was a modification of the original request.

**Director's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Requestor's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Accepted                       Declined

If Declined, please state reason(s) and any other comments:

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## Appendix B

### **NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT**

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 (“ADA”), Schenectady County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

***Employment:*** Schenectady County does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

***Effective Communication:*** Schenectady County will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in Schenectady County’s programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

***Modifications to Policies and Procedures:*** Schenectady County will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in Schenectady County offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Schenectady County, should contact the ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

Miriam Cajuste  
Affirmative Action Manager/ADA Coordinator  
620 State Street, 2<sup>nd</sup> Floor  
Schenectady, New York 12305  
518-388-4233

The ADA does not require Schenectady County to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of Schenectady County is not accessible to persons with disabilities should be directed to the ADA Coordinator, Miriam Cajuste at 388-4233.

Schenectady County will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modification of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

# Schenectady County Customer/Client Request for Reasonable Accommodation Form

It is the policy of Schenectady County not to discriminate on the basis of disability in admission to, access to, or operations of its programs, services and activities. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible.

The request should contain the location of the program, service, activity or facility where the accommodation is required and the type of accommodation.

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_(Day) \_\_\_\_\_(Evening)

Type(s) of Disability(ies):

- Speech  Hearing  Visual  Mobility  Mental/Emotional  Other

Identify the accommodation(s) needed: \_\_\_\_\_

\_\_\_\_\_

Address where accommodation is needed: \_\_\_\_\_

Please identify program, activity, service, or facility for which the accommodation is required. \_\_\_\_\_

\_\_\_\_\_

Date accommodation needed: \_\_\_\_\_

Explain how the accommodation(s) will assist you (attach additional information or documentation as needed):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Requestor's**

**Signature** \_\_\_\_\_

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

## Schenectady County Customer/Client Request for Reasonable Accommodation Form

What actions were taken in reviewing this request?

Was the request for reasonable accommodation granted? \_\_\_\_\_

If the request for accommodation was granted, please explain the nature of the accommodation and whether it was a modification of the original request.

If the request cannot be granted, then submit a completed Evaluation Summary Report

**Director's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Requestor's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Accepted                       Declined

If declined, please state reason(s) and any other comments: \_\_\_\_\_

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**SCHENECTADY COUNTY  
AMERICANS WITH DISABILITIES ACT (ADA)  
GRIEVANCE FORM**

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*Please return completed form to:  
ADA Coordinator  
Schenectady County  
620 State Street  
Schenectady, NY 12305  
Fax: 518-388-4171*

Date: \_\_\_\_\_ Name of Grievant: \_\_\_\_\_

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

Telephone No.: \_\_\_\_\_ Email: \_\_\_\_\_

Describe the acts of alleged discrimination or way in which the program or facility is not accessible, providing the name(s) where possible of the individual(s) who allegedly discriminated.

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What was the request for accommodations or programs, and what was the response?

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I certify that the above statement is accurate and filled out to the best of my ability and knowledge.

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_