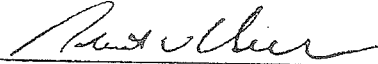


CITY OF NEW YORK
DEPARTMENT OF HOMELESS SERVICES

PROCEDURE NO. 08-005

<u>SUBJECT</u>	<u>APPLICABLE TO</u>	<u>ADMINISTERED BY</u>
Reasonable Accommodation and Grievance Policy for Clients with Disabilities	All DHS Clients All DHS Shelter Intake Facilities All DHS Operated and Contracted Family and Adult Shelter Facilities All DHS Contracted Drop-in Centers	Department of Homeless Services (DHS) – Equal Opportunity Affairs Office
EFFECTIVE DATE: 3/31/2008	APPROVED BY: Robert V. Hess, Commissioner 	

CLIENT DISABILITY RIGHTS POLICY

I. PURPOSE

Consistent with City and State laws governing the right to shelter, reasonable accommodation must be made at all DHS programs and facilities that provide shelter, services or other benefits in order to service eligible individuals 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 (collectively, "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.

Individuals 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 and grievance policy to exercise their rights.

II. APPLICABILITY

The Client Reasonable Accommodation and Grievance Policy is applicable to any eligible individuals who apply to, participate in, access or reside in any DHS program or facility ("Clients"). 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 and Drop-in Centers) (collectively, "Adult Facilities"); (2) the Family System (Prevention Assistance and Temporary Housing ("PATH") intake center, Adult Family Intake Center ("AFIC"), Hotels, Cluster Models, and Tier II Facilities (collectively, "Family Facilities"); and (3) Prevention Programs.

III. INTRODUCTION

Title II of the Americans with Disabilities Act 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 (hereinafter collectively referred to as the "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;
- 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.

IV. NOTICE

All Facilities servicing DHS Clients shall prominently display the Notice of Client Disability Rights (the "Notice") (attached as Appendix A) in any areas ordinarily used for posting client information.

V. INFORMAL REASONABLE ACCOMMODATION PROCESS

All DHS and Facility 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, 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 Office of Client Advocacy 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.

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") (attached as 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 DHS Client Advocacy 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 and forwarded to the DHS Office of Equal Opportunity Affairs (the "EOA") for record keeping and tracking.
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. Reasonable Accommodation Request Review

1. The RAR review process must be interactive. Upon receipt of a Formal Reasonable Accommodation Request ("RAR"), the DHS Program Administrator or his/her designee ("Program Administrator") must confer with the Client and the DHS Medical Director or his/her designee ("Medical Director"), and may consult with the Director of Client Advocacy or his/her designee ("Client Advocate") for guidance.
2. When necessary, the Program Administrator may issue a Request for Additional Medical Information (attached as Appendix C). The Client must return the completed Additional Medical Information form (attached as Appendix D) within ten (10) business days of receipt of the request.
3. If the Program Administrator and the Medical Director 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") (attached as 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 Director are unable to reach a Determination, the Program Administrator shall refer the RAR, along with a written recommendation from the Program Administrator and Medical Director to the appropriate Associate/Assistant Commissioner for resolution ("Associate Commissioner"). The Associate Commissioner shall issue to the Client, the Facility Director, and the Program Administrator a Determination notifying the Client of his/her decision. The Associate Commissioner will issue a Determination within ten (10) business days of the filing of a completed RAR.
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 in consultation with the Medical Director.
7. The Associate Commissioner and/or Program Administrator will 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 (attached as Appendix E) shall include a description of the accommodation granted, if any, and information regarding the filing of a Formal Grievance 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 file.
9. The Client or his/her representative must appeal the Determination by filing a Grievance in the manner described in Section VII(A), below, within ten (10) 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. GRIEVANCE PROCEDURE

A. Filing a Grievance

1. A Client may file a Grievance regarding any agency action concerning one or more of the following:
 - Denial of a requested service, accommodation, or modification to a DHS practice or requirement;
 - Inaccessibility of a program, service or activity;
 - Harassment or discrimination on the basis of a disability, perceived disability, record of disability, or known relationship or association with a person with a disability; and
 - Violation of privacy in the context of a disability.
2. Grievances should be directed to the Equal Opportunity Affairs Compliance Officer, at 33 Beaver Street, New York, New York 10004/Tel. 212-361-7910/Fax. 212-361-7912/TTY 212-361-7915 and shall include:

- (i) The Complainant's name, address, and telephone number;
- (ii) A description of the program, service or activity that was denied Complainant or in which the alleged discrimination occurred;
- (iii) The date and nature of the alleged denial or discrimination; and
- (iv) The signature of Complainant or his/her authorized designee.

3. Upon a Client's request, assistance shall be provided by DHS to file a Grievance.

B. Investigation of a Grievance

1. Within five (5) business days of receipt of a Grievance, the EOA Compliance Officer shall initiate an investigation. In undertaking the investigation, the Compliance Officer may interview, consult with, and/or request a written response from any individual whom he/she believes to have relevant information.
2. Upon completion of the investigation, the Compliance Officer will prepare and deliver to the Complainant, the Program Administrator, the Facility and/or the person against whom the Grievance is directed, a final written report containing a summary of the investigation, findings, and a determination. This determination will be delivered within 15 business days of the EOA's receipt of the Grievance as defined in Section VI(A)(1), above.
3. The Compliance Officer shall maintain the DHS files and records relative to any Grievances filed. Grievances shall be maintained in compliance with DHS and City-wide record retention policies.

C. Case-by-Case Resolution

Each Grievance involves a unique set of facts that includes, but is not limited to, the specific nature of the disability; the essential eligibility requirements for the program, service or activity; the nature 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. Accordingly, the determination of a Grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which other complainants should rely.

VIII. APPEALS

If the result of the grievance investigation does not satisfactorily resolve the issue, the client, and/or his/her designee, may appeal the decision to the Executive Director of Equal Opportunity Affairs.

A. Filing an Appeal

1. Appeals must be made within 15 calendar days after receipt of the final written Grievance report.
2. Appeals must be in writing, and should be directed to the Executive Director of Equal Opportunity Affairs (EOA Executive Director), at 33 Beaver Street, New York, New York 10004/Tel. 212-361-7910/Fax. 212-361-7912/TTY 212-361-7915/eoanyc@dhs.nyc.gov.

B. Appeals Process

1. Within 15 calendar days after receipt of the Appeal, the EOA Executive Director will meet with the client and/or his/her designee to discuss the grievance, the investigation, and the proposed accommodations and/or resolutions.
2. Within 15 calendar days after this meeting, the EOA Executive Director will issue a written response to the Appeal with a final resolution of the issue.

IX. DISCRIMINATION COMPLAINTS

This Reasonable Accommodation and Grievance Policy 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"), 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.

Grievance Procedure

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 Equal Opportunity Affairs Officer:

Office of Equal Opportunity Affairs

33 Beaver Street,
New York, New York 10004
Tel. 212-361-7910
TTY. 212-361-7915
eo@dhs.nyc.gov

This notice is available in alternative formats upon request



Client Accommodation and Grievance Policy – Appendix B



Robert V. Hess
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, Program Analyst and the Office of 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).

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 Equal Opportunity Affairs, 33 Beaver Street, New York, New York 10004/Tel. 212-361-7910/ Fax. 212.361.7912/ TTY. 212-361-7915/ eo@dhhs.nyc.gov.



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



Client Reasonable Accommodation and Grievance Policy – Appendix C



Robert V. Hess
Commissioner

Fran Winter
First Deputy Commissioner

REQUEST FOR ADDITIONAL INFORMATION

DATE: _____
CLIENT: _____
CASE #: _____
CC (Facility Director): _____

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 (_____) - _____ - _____.



Client Reasonable Accommodation and Grievance Policy – Appendix D



Robert V. Hess
Commissioner

Fran Winter
First Deputy 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 Client's ability to access DHS 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 Program Administrator _____,

_____, at (_____) - _____ - _____.



Client Reasonable Accommodation and Grievance Policy – Appendix E



Robert V. Hess
Commissioner

Fran Winter
First Deputy Commissioner

REASONABLE ACCOMMODATION REQUEST DETERMINATION

DATE: _____
CLIENT: _____
CASE #: _____
CC (Facility Director): _____

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.
☐ 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 a Grievance within **ten (10) business days** of receipt of this Determination. Grievances should be directed to the Equal Opportunity Affairs Office, 33 Beaver Street, New York, New York 10004/Tel. 212-361-7910/Fax. 212-361-7912/TTY. 212-361-7915/ eo@dhhs.nyc.gov, 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.

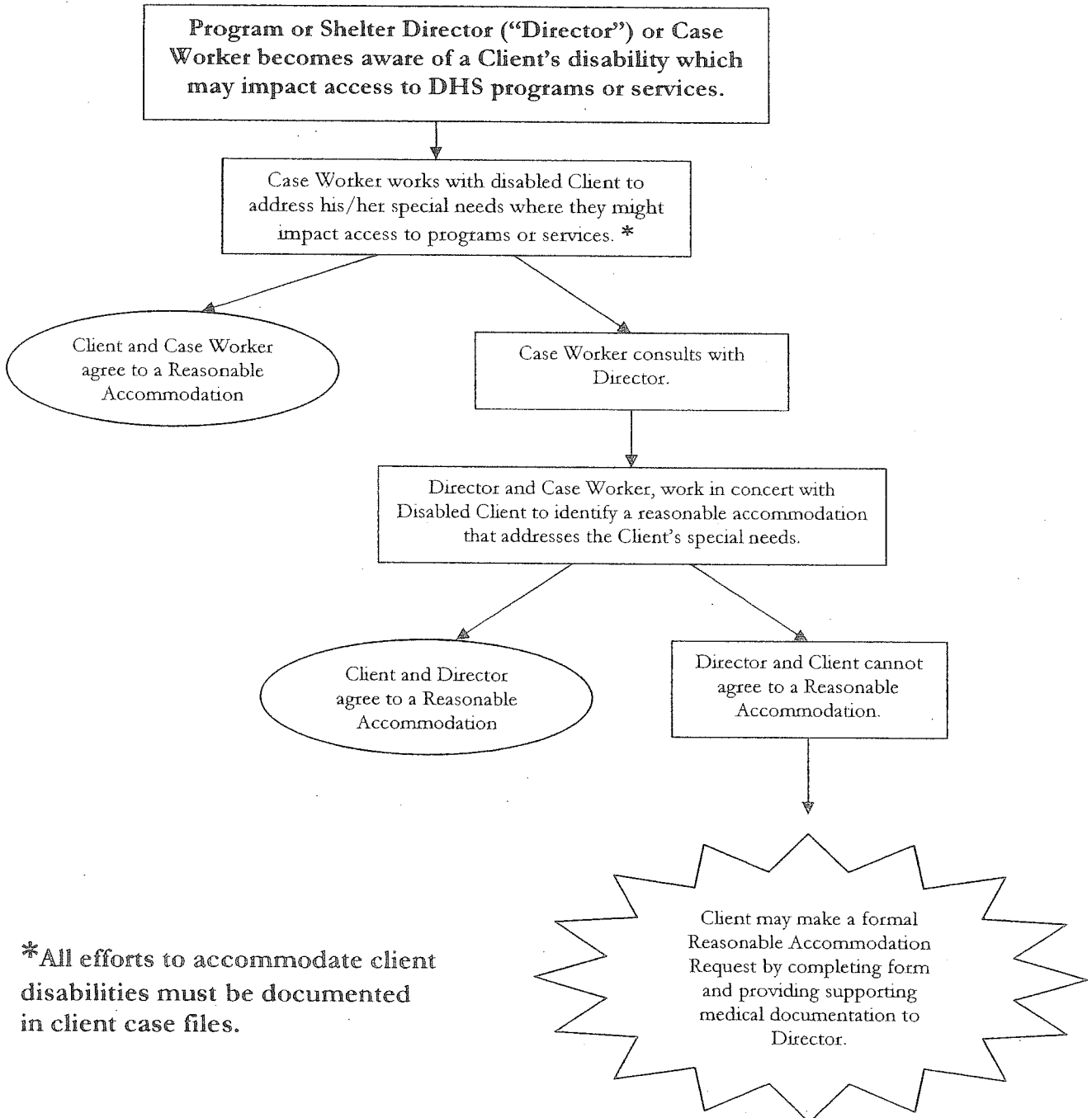
Upon request, assistance shall be provided by Client Advocacy to file a Grievance.





Accommodation Process Flow Chart

Informal Process





Department of
Homeless Services

Accommodation Process Flow Chart

Formal Accommodation Request Procedure

