


		<p>THE CITY OF NEW YORK DEPARTMENT OF CORRECTION</p>			
<p><b>DIRECTIVE</b></p>					
<input type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input checked="" type="checkbox"/> REVISED		SUBJECT <b>VICTIMS OF DOMESTIC VIOLENCE, SEX OFFENSES OR STALKING</b>			
EFFECTIVE DATE 04/20/11		*TERMINATION DATE / /			
CLASSIFICATION # <b>6301</b>	SUPERSEDES <b>6300</b>	DATED <b>03/28/08</b>	APPROVED FOR WEB POSTING <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DISTRIBUTION <b>A</b>	PAGE 1 OF 7 PAGES
RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER  LARRY W. DAVIS SR., CHIEF OF DEPARTMENT      SIGNATURE			AUTHORIZED BY THE COMMISSIONER  DORA B. SCHIRO      SIGNATURE		

**I. PURPOSE**



To establish the New York City Department of Correction (Department) policies and procedures regarding victims of domestic violence, sex offenses or stalking.

**II. POLICY**

- A. The New York City Human Rights Law prohibits employment discrimination against persons who are victims of domestic violence, or sex offenses or stalking, as defined by that law and the New York State Penal Law. The Department shall provide reasonable accommodations that do not create undue hardship and that enable such persons to satisfy the essential requisites of a job, provided that the status as a victim of domestic violence or victim of sex offenses or stalking is known, or should have been known, by the Department.
- B. This directive sets forth the Department’s policies and procedures to ensure that the Department fully complies with the City’s Equal Employment Opportunity Policy and Human Rights Law by ensuring that applicants for employment and employees are not subject to unlawful discrimination on the basis of being a victim of domestic violence, sex offenses or stalking. This directive incorporates several aspects of Directive #2232R, REASONABLE ACCOMMODATION, which will assist an applicant for employment, or an employee, in requesting a reasonable accommodation as a victim of domestic violence, sex offenses or stalking.



**III. DEFINITIONS**

- A. The following are definitions that are set forth in the Human Rights Law, as published in the Administrative Code of the City of New York at Section 8-107.1(1) and are included here for reference:
  - 1. "Acts or Threats of Violence" include, but are not limited to, acts, which would constitute violations of the New York State Penal Law.

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### III. DEFINITIONS (cont.)

2. "Victim of Domestic Violence" means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.
  3. "Victim of Sex Offenses or Stalking" means a victim of acts which would constitute violations of Article 130 of the New York State Penal Law, which include, but are not limited to sexual misconduct, rape, sexual abuse, or victims of acts which would constitute violations of Article 120 of the New York State Penal Law, which include stalking in the fourth degree (§120.45), stalking in the third degree (§120.50), stalking in the second degree (§120.55), or stalking in the first degree (§120.60).
  4. Practices "based on," "because of," "on account of," "as to," "on the basis of," or "motivated by" an individual's "status as a victim of domestic violence," or "status as a victim of sex offenses or stalking" include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.
- B. The following terms are contained within the New York City's Equal Employment Opportunity Policy and are set forth in Directive #2232R, REASONABLE ACCOMMODATION:
1. "Reasonable Accommodations" means modifications or adjustments to the application process, work environment, or to the manner or circumstances under which a position is customarily performed, that promote equal employment opportunity for a victim of domestic violence, sex offenses or stalking and enable the individual to reasonably perform the essential functions of the job or position applied for. Accommodations are not reasonable if they impose an undue hardship on the employer.
  2. "Undue Hardship" means an action that is excessively costly, extensive, substantial, and disruptive or that would fundamentally and negatively impact on the operation, or alter the nature of the employer's business.



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#### IV. CONFIDENTIALITY

All information, including a statement of the person requesting a reasonable accommodation or any other documentation, record, and the fact that the individual has requested or obtained a reasonable accommodation, shall be retained in confidence by the Department, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation, or is otherwise required by applicable federal, state or local law.

#### V. PROCEDURES

- A. A person seeking a reasonable accommodation as a result of being a victim of domestic violence, sex offenses and stalking shall follow the procedures outlined in Directive #2232R, REASONABLE ACCOMMODATION.
- B. A person may satisfy the certification requirement of this section by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider, from whom the individual seeking a reasonable accommodation or that individual's family or household member has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence.
- C. Because victims of domestic violence, sex offenses or stalking may initially lack documentation or may have difficulty obtaining documentation without compromising their safety, the Department's Equal Employment Opportunity (EEO) Office will consult with the employee to identify what documentation he/she might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirements of the Department. The EEO Office must authenticate all submitted documentation.
- D. The EEO Office shall maintain confidential records of all employees who report that they have been the victims of domestic violence, sex offenses or stalking and/or who seek a reasonable accommodation for their status as a victim of domestic violence, sex offenses or stalking.
- E. Employees who are victims of domestic violence, sex offenses or stalking are encouraged to contact the Correction Assistance Response for Employees (CARE) unit or the Office for Victim Services for support and other available resources and referrals.

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## V. PROCEDURES (cont.)

- F. The EEO Office shall engage in an interactive process to work with an employee or applicant who needs a reasonable accommodation, for example, to be absent from work as a result of being a victim of domestic violence, sex offenses or stalking, including assisting the employee in determining the best use of her/his attendance and leave benefits, taking into consideration the employee's particular situation as well as the needs of the Department, and maintain the confidentiality of all information related to an employee's involvement in a situation relating to domestic violence subject to the Department's need to share that information to assist the employee and to meet its legal obligations. Where possible, prior notification of disclosure will be discussed with the person making a request and consented to in writing by the person requesting the reasonable accommodation, or is otherwise required by applicable federal, state or local law.
- G. An applicant for employment or employee can appeal the denial of a reasonable accommodation to the Appeals Committee, pursuant to Directive #2232R, REASONABLE ACCOMMODATION.



## VI. RESPONSIBILITIES

### A. Victim's Responsibilities

Any person seeking a reasonable accommodation as a result of being a victim of domestic violence, sex offenses or stalking must follow the procedures outlined in Directive #2232R, REASONABLE ACCOMMODATION. If under certain exceptional circumstances, an individual is unable to provide EEO necessary documentation in advance of any needed accommodation, then the employee is to provide the proper documentation to certify his/her status as a victim of domestic violence, sex offenses or stalking as soon as possible after the employee's return to work. Exceptional circumstances refer to unpredictable events which are not foreseeable by the employee and which require immediate action, such as leaving early that same day or being unable to return to work the next day.

### B. Management, Supervisors (civilian and uniform), and Health Management Division (HMD)

Management, supervisors, and HMD staff shall immediately refer any employee, known to be the victim or the perpetrator of domestic violence, to the EEO Office and encourage the employee to visit CARE.

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## VI. RESPONSIBILITIES (cont.)

### C. Personnel Division

Ensure that all employees are provided with a copy of this Directive. Ensure that employees who are victims of domestic violence, sex offenses and stalking and who separate from a spouse (or terminate a relationship with a domestic partner, if covered), can make reasonable changes in benefits where possible, and in accordance with statute, regulation, contract and policy.

### D. CARE and Office for Victim Services



Shall maintain up-to-date referral resources on domestic violence hotlines, advocacy groups, shelters, counseling services and legal services (pro bono legal assistance and domestic violence/family court information). Refer to Directive #7511, CORRECTION ASSISTANCE RESPONSE TO EMPLOYEES (C.A.R.E). The Office for Victim Services will work in collaboration with CARE to ensure the victim is provided with resources, information and support. The Office for Victim Services can be reached at (718) 546-0899.

### E. EEO Office

If an employee is certified to be a victim of domestic violence, sex offenses or stalking, the agency will engage in the interactive process to determine a reasonable accommodation that will allow the employee to satisfy the essential functions of the position and which does not impose an undue hardship.

### F. Investigations Division

1. Hold accountable employees who engage in the following behavior:
  - a. misusing Department or City resources to commit an act of domestic violence, a sex offense or stalking;
  - b. committing an act of domestic violence, a sex offense or stalking from or at the workplace or from any other location while on official business; or
  - c. misusing their job-related authority and/or Department or City resources in order to harm victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence, a sex offense or stalking.
2. Refer all criminal acts to the New York City Police Department and the Inspector General.

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## VI. RESPONSIBILITIES (cont.)



3. Take corrective or disciplinary action, up to and including seeking termination, in accordance with existing collective bargaining unit agreements, statutes and regulations against any employee who is found to have engaged in domestic violence, a sex offense, or stalking by means of threatening, harassing, or abusing a family or household member or other individual at the workplace, from the workplace, or on City business using any workplace resources such as, but not limited to, work time, workplace telephones, facsimile machines, mail, or electronic mail.
4. In cases in which an agency has verification that an employee is responsible for a domestic violence-related offense, sex offense or stalking or is enjoined by a final order of protection as a result of domestic violence, sex offenses or stalking and the employee, as per the employee's command, has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, determine if corrective action is warranted, in accordance with existing collective bargaining unit agreements, statutes and regulations.

## VII. FIREARMS

Firearms privileges will be approved, reviewed and/or revoked in accordance with the procedures set forth in Directive #4511R-A, FIREARMS POLICY AND PROCEDURE, and all applicable federal, state and local laws.

## VIII. REFERENCES (In the event a referenced document is superseded, the successor document shall apply.)

- A. New York City Human Rights Law (NYC Administrative Code Sections 8-102(16) and (8-107)).
- B. New York City: Citywide Equal Employment Opportunity Policy.
- C. Directive #2232R, REASONABLE ACCOMMODATION, dated 09/04/01
- D. Directive #7511, CORRECTION ASSISTANCE RESPONSE ASSISTANCE FOR EMPLOYEES (C.A.R.E) dated 01/12/07.
- E. Directive #4511R-A, FIREARMS POLICY AND PROCEDURES, dated 06/12/06 (as amended).

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**IX. ATTACHMENT**

REASONABLE ACCOMMODATION REQUEST FORM (FORM #2232R)

**X. SUPERSEDES**

- A. Directive #6300 entitled, DOMESTIC VIOLENCE, dated 03/28/08.
- B. Any other Directive, Operations Order, Teletype, Memorandum, etc., that may be in conflict with the policies and procedures outlined herein.

**XI. SPECIAL INSTRUCTIONS**

- A. Within ten (10) days of the effective date of this order Commanding Officers of Facilities and Divisions shall promulgate a Command Level Order to ensure strict compliance with the provisions outlined herein.
- B. Copies of all Command Level Orders shall be forwarded to the office of the respective Supervising Warden.



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**REASONABLE ACCOMMODATION  
REQUEST FORM**

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**INSTRUCTIONS:** Current employees should complete Sections I and III and submit this form pursuant to section V., step I., a. Applicants should complete Sections I and II and submit this form pursuant to section V., step I., b. Return one copy of the completed form to the applicant or employee requesting the accommodation, and immediately forward a second copy of the form to either the agency Disability Rights Coordinator (DRC) or where applicable, to the employee's Supervisor (IV.E.). The DRC should complete and update Section V as appropriate. Agency supervisory staff shall assist applicants or employees in completing this form where requested.

**SECTION I**

*(This section should be completed by both applicants and current employees)*

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

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

Telephone Number: \_\_\_\_\_

**Accommodation Requested (attach additional sheets and supporting documentation as appropriate)** \_\_\_\_\_

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

**This accommodation is necessary to assist me in doing the following:**

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

**SECTION II**

*(Complete this section only if you are a job applicant)*

**Position/Title applied for:** \_\_\_\_\_

**Unit/Division (if known):** \_\_\_\_\_

**Location of Position (if known):** \_\_\_\_\_





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**SECTION II** *(for applicants only), continued*

**Job Vacancy Notice Number (if known):** \_\_\_\_\_

**Part(s) of employment process for which an accommodation is requested (e.g., application, examination, interview):** \_\_\_\_\_  
\_\_\_\_\_

**Agency Contact Person (if known):** \_\_\_\_\_

**Date of Examination/Interview:** \_\_\_\_\_

**SECTION III** *Complete this section only if you are an employee (even if you are currently on leave).*

**Position/Title:** \_\_\_\_\_

**Unit or Division:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Supervisor:** \_\_\_\_\_

**SECTION IV** *To be completed by agency staff supervising the employment application process or supervising an employee requesting a reasonable accommodation.*

**Supervisor Name and Title:** \_\_\_\_\_

**Unit/Agency:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Date Request Received:** \_\_\_\_\_

**Accommodation Provided:** \_\_\_\_\_

**To make a determination, we need the following additional information (this may include additional medical information)** \_\_\_\_\_  
\_\_\_\_\_

**The request is denied for the following reasons:** \_\_\_\_\_  
\_\_\_\_\_

**Supervisor Signature:** \_\_\_\_\_

After completing this section, supervisors must return a copy of this form to the applicant or employee, immediately send a copy to the Department DRC, and take such further action as is required by the Reasonable Accommodation Policy and Procedure.



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## REASONABLE ACCOMMODATION REQUEST FORM

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### **SECTION V** *To be completed by the Department Disability Right Coordinator*

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

Location: \_\_\_\_\_

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

Disability Rights Coordinator Signature: \_\_\_\_\_

**DRC comments, with date (DRC should consult the Reasonable Accommodation Policy and Procedure for further guidance on documenting progress and monitoring implementation of any reasonable accommodation).**

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