



Eastern Kentucky University

Policy and Regulation Library

University Policy: 1.3.4POL

Responsible Office(s): Center for Student Accessibility and Office of Human Resources

Effective: January 2, 2013

Next Review Date: November 1, 2024

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Reasonable Accommodations Policy and Appeals Procedure

Statement

Eastern Kentucky University has a desire and a legal and educational obligation to provide equal access to University resources, coursework, programs, and activities as well as employment opportunities for all qualified individuals.

The Center for Student Accessibility (CSA) is the office responsible for establishing disability eligibility criteria, making disability eligibility determinations, and establishing appropriate Reasonable Accommodations for students, guests, and visitors, as appropriate.

The Office of Human Resources (HR) is the office responsible for establishing disability eligibility criteria, making disability eligibility determinations, and establishing appropriate Reasonable Accommodations for employees, guests, and visitors, as appropriate.

This regulation references EKU Policy 1.4.1P, Non-Discrimination and Harassment. Employees or students who believe that they have been subject to discrimination on the basis of disability may file a complaint with the Office of Equity and Inclusion, Jones 416 CPO 37A, (859) 622-8020 (V/TTY).

Entities Affected

The University Community, Guests and Visitors.

Background

This regulation establishes the process and the appeal procedures for which the CSA and HR establish disability eligibility criteria, makes disability eligibility determinations, and establishes appropriate Reasonable Accommodations.

Procedures

I. **Otherwise Qualified Individual with a Disability Determination**

- A. An individual who may require a Reasonable Accommodation(s) must first be determined as an Otherwise Qualified Individual with a Disability under the Americans with Disabilities Act of 1990 and Amendments Act of 2008 (“ADA”) or Section 504 of The Rehabilitation Act of 1973, as amended (“Section 504”).
- B. For students or employees to be evaluated for a determination as an Otherwise Qualified Individual with a Disability under such laws and this regulation, employees or students are required to provide the following information.
- C. **Students:** a completed application for services available at:
 1. <http://accessibility.eku.edu/applying-services>, and
 2. documentation in accordance with the guidelines set forth by the CSA. The CSA documentation guidelines can be obtained at the CSA, Whitlock 361, or found on the CSA webpage at:
 3. <http://accessibility.eku.edu/>
- D. **Employees:** a completed application for job accommodation(s) available at:
 1. <http://hr.eku.edu/job-accommodation-0>, and
 2. required disability documentation.

II. **Documentation**

- A. Documentation kept on file will remain confidential, to the extent required by law. Pertinent aspects of the information will be disclosed for discussion for determining appropriate accommodation(s). The employee or student may be requested to sign a release of information for this discussion to take place.

III. **Reasonable Accommodation Discussions (Interactive Process)**

- A. Once an employee or student is determined as an Otherwise Qualified Individual with a Disability under ADA and/or Section 504, Reasonable Accommodation(s) will be discussed with the employee or student.
- B. During the Reasonable Accommodation process the University ADA/Section 504 Compliance Officer or representative may communicate with appropriate offices and individuals at the University before a determined Reasonable Accommodation can be fully implemented.
- C. The ADA/Section 504 Compliance Officer or representative will discuss possible Reasonable Accommodation(s) with the employee’s Supervisor or Unit Administrator.
- D. The University ADA/Section 504 Compliance Officer or representative will discuss possible Reasonable Accommodation(s) with the student’s course instructor or, if appropriate, the Department Chair or Program Administrator.
- E. Other professionals, including the ADA/Section 504 Coordinator, may be consulted if necessary to make a determination if the proposed accommodation is appropriate.
- F. See “Responsibilities” for each participant’s role in the process.

IV. **Reasonable Accommodation Determination**

- A. The determination of a Reasonable Accommodation will be made as soon as it

is feasible, after the application for job or academic accommodations request and appropriate disability documentation have been submitted to and reviewed by the University ADA/Section 504 Compliance Officer or their representative and any other individuals identified as appropriate

V. Appropriate Reasonable Accommodation

A. An accommodation is considered appropriate and reasonable if the accommodation is feasible and reasonable in its alternative method or format, and does not impose an undue burden or hardship on the University. Reasonable Accommodation(s) must not modify essential job functions or the academic requirements that are essential to the academic program, practice or standard of instruction.

VI. Accommodation Modifications

A. An employee or student may make a written request to the University ADA/Section 504 Compliance Officer to modify an established Reasonable Accommodation or request an alternative accommodation. The request will be considered using the procedure described above.

VII. Guests and Visitors

A. Guests and visitors of the University's campuses, facilities or events are encouraged to contact the CSA, HR, or the event sponsor at least ten (10) Working Days in advance of the event to request accommodation arrangements.

VIII. Guests and Visitors in Need of American Sign Language (ASL) Services

A. Guests and visitors in need of ASL services should complete the request form found at <http://aslie.eku.edu/request>.

IX. Grounds for Appeal

A. In accordance with the appeal process set forth below, an employee or student may appeal the determination that they are not eligible as an Otherwise Qualified Individual with a Disability or a Reasonable Accommodation determination using the Appeal Process outlined below on the following grounds:

1. There was a substantial failure by the University ADA/Section 504 Compliance Officer or representative to comply with this regulation so as to deny a fair review of the request; or
2. The decision of the University ADA/Section 504 Compliance Officer or representative was not supported by the evidence.

X. Appeal Process

A. Employees/Students

1. Eligibility

- a. An employee or student dissatisfied with the University ADA/Section 504 Compliance Officer or representative determination that they are not eligible as an Otherwise Qualified Individual with a Disability, may appeal in writing within five (5) Working Days of notification of the determination to:

John Dixon
ADA/Section 504 Coordinator
Eastern Kentucky University
Jones Building, Room 416C

Richmond, KY 40475

Email: john.dixon@eku.edu

- b. The ADA/Section 504 Coordinator will review the application and disability documentation submitted by the employee or student and interview the employee or student and the University ADA/Section 504 Compliance Officer or representative and make a determination of eligibility within five (5) Working Days of receipt of appeal and documentation.
 - c. If the ADA/Section 504 Coordinator determines the employee or student is eligible as an Otherwise Qualified Individual with a Disability, the matter will be referred back to the University ADA/Section 504 Compliance Officer or representative to begin the interactive process within five (5) Working Days after the notice of determination is received by the University ADA/Section 504 Compliance Officer or representative.
 - d. If the ADA/Section 504 Coordinator determines that the employee or student is not eligible as an Otherwise Qualified Individual with a Disability, there is no further appeal from that determination under this regulation, and the decision of the ADA/Section 504 Coordinator regarding eligibility is final.
2. Reasonable Accommodation Appeal Process Step 1
 - a. An employee or student dissatisfied with the terms, implementation, and/or adherence with the University ADA/Section 504 Compliance Officer's determination of Reasonable Accommodation(s) may appeal the matter either verbally or in writing to the University ADA/Section 504 Compliance Officer within five (5) Working Days of notification of determination.
 - b. The University ADA/Section 504 Compliance Officer will interview the employee; and Supervisor or Unit Administrator as appropriate. The University ADA/Section 504 Compliance Officer will interview the student; and course instructor or Program Administrator as appropriate. The University ADA/Section 504 Compliance Officer will make a decision. The employee or student may appeal the matter either verbally or in writing using Reasonable Accommodation Appeal Process Step 2 with the ADA/Section 504 Coordinator within five (5) Working Days of notice of the decision made by the University ADA/Section 504 Compliance Officer.
 3. Reasonable Accommodation Appeal Process Step 2
 - a. The ADA/Section 504 Coordinator will review the application for services and disability documentation provided by the student or employee and interview the student or employee and the University ADA/Section 504 Compliance Officer and attempt to reach an accommodation resolution within five (5) Working Days.
 - b. If the ADA/Section 504 Coordinator is unable to reach an accommodation resolution within five (5) Working Days, the student or employee may appeal in writing using Reasonable Accommodation

Appeal Process Step 3 to the attention of the chair of the ADA Appeals Committee within five (5) Working Days of receiving notice from the ADA/Section 504 Coordinator. Please contact the CSA for the name of the current ADA Appeals Committee chair.

4. Reasonable Accommodation Appeal Process Step 3
 - a. Upon receiving an appeal from a student or employee, the chair of the ADA Appeals Committee will review the request and will schedule a hearing with the ADA Appeals Committee. The ADA Appeals Committee will hear the matter within five (5) Working Days of the chair receiving the written request.
 - b. The University ADA/Section 504 Compliance Officer will present the facts regarding the matter to the ADA Appeals Committee. Other individuals, including the employee, student, supervisors or Program Administrators as identified by the chair of the ADA Appeals Committee, will present pertinent information as appropriate. The ADA Appeals Committee will make a written decision and provide the student or employee with a copy of the written decision within five (5) Working Days of the conclusion of the Hearing. The decision of the ADA Appeals Committee is final.

B. Guest/Visitors

1. Guests and visitors of the University's campuses, facilities or events who are dissatisfied with the University's response to an accommodation request should contact the University ADA/Section 504 Compliance Officer at (859) 622-1327 or (859) 622-1325. If the Guest or Visitor and the University ADA/Section 504 Compliance Officer cannot resolve the concern, the Guest or Visitor may appeal the matter either verbally or in writing to the ADA/Section 504 Coordinator within five (5) Working Days of notice that an accommodation agreement has not been met.

Definitions

- **ADA/Section 504 Coordinator:** The ADA/Section 504 Coordinator reviews concerns and appeals of eligibility determinations and Reasonable Accommodation determinations for employees, students or guests.
- **Americans with Disabilities Act of 1990 and Amendments Act of 2008 ("ADA"):** Federal anti-discrimination law that protects the rights of qualified individuals with a disability.
- **Disability:** The term "disability" means, with respect to an individual:
 - A physical or mental impairment that substantially limits one or more of the major activities of such individual;
 - A record of such impairment; or
 - Being regarded as having such impairment.
- **Essential Job Functions:** The primary job functions or tasks that an individual must be able to perform with or without a Reasonable Accommodation. The Essential Job Functions are listed by job title with the Office of Human Resources.
- **Guests and Visitors:** Individuals who are not students or employees who

participate in the University's programs or events.

- **Otherwise Qualified Individual with a Disability:** Individuals who meet essential disability eligibility requirements.
- **Program Administrator:** Includes Deans, Associate Deans, Assistant Deans, Department Chairs and Program Coordinators.
- **Reasonable Accommodation:** Modifying a job process, work environment or educational environment to enable an otherwise qualified individual with a disability to perform the essential functions of the job or fully participate in an educational activity, program, coursework, or event.
- **Section 504 of the Rehabilitation Act of 1973, as amended (1998):** Federal law that states that no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- **Supervisor or Unit Administrator:** Administrator responsible for overseeing an employee's work-related duties.
- **University Community:** Faculty, staff, students, and Board of Regents members as well as anyone doing business for or with the University.
- **University ADA/Section 504 Compliance Officer:** University ADA/Section 504 Compliance Officer is the 34 CFR § 104.7(a) designee that coordinates the University's overall efforts to comply with the ADA and Section 504 of the Rehabilitation Act, as amended (1998).
- **Working Days:** Days when the University is open for business.

Responsibilities

- ADA/Section 504 Coordinator Responsibilities
 - Reviews concerns and appeals of eligibility determinations and Reasonable Accommodation determinations for employees, students, guests, or visitors in accordance with this regulation.
 - Evaluates University's decisions in accordance with applicable guidelines under the ADA and Section 504.
 - Determines whether the University has erred in its decision to deny eligibility or Reasonable Accommodation and communicates with both the University and student/employee/guest in a timely fashion.
- ADA/Section 504 Compliance Officer Responsibilities
 - For Students:
 - Evaluate disability documentation in determining if an individual is an Otherwise Qualified Individual with a Disability under the criteria of this regulation and the ADA and Section 504.
 - Set forth disability documentation guidelines.
 - Determine eligibility for Reasonable Accommodation(s).
 - Review disability documentation and the request for Reasonable Accommodation(s).
 - Review essential academic requirements of the course and

program including clinical skills or requirements of the course or program as well as essential employment requirements of the field the student is considering. The Program Administrator can assist with this review.

- Discuss Reasonable Accommodation(s) with the student.
 - Discuss Reasonable Accommodation(s) with the student's course instructor and Program Administrator.
 - Identify and document the Reasonable Accommodation(s) agreed upon by the student and the CSA.
 - Oversee the process in a timely fashion.
 - Facilitate the resolution of appeals regarding Reasonable Accommodation(s).
- For Employees:
 - Evaluate disability documentation in determining if an individual is an Otherwise Qualified Individual with a Disability under the criteria of this regulation, the ADA and Section 504.
 - Set forth criteria in determining disability documentation.
 - Determine eligibility for Reasonable Accommodation(s).
 - Review Essential Job Functions/job description and the individual's ability to perform Essential Job Functions as listed under the job title. Essential Job Functions are listed by job title in the Human Resources Office.
 - Discuss Reasonable Accommodation(s) with the employee.
 - Discuss Reasonable Accommodation(s) with the employee's Supervisor or Unit Administrator.
 - Identify and document the Reasonable Accommodation(s) agreed upon by the employee, the employer's Supervisor and Unit Administrator.
 - Oversee the process in a timely fashion.
 - Facilitate the resolution of appeals regarding Reasonable Accommodations.
 - For Guests and Visitors
 - Evaluate guest and visitor requests for accommodation(s)
 - Set forth criteria in determining disability documentation.
 - Determine eligibility for event/program accommodation(s)
 - Review disability documentation and the request for accommodation, if appropriate.
- Student Responsibilities
 - Must self-identify as an individual with a disability (see Procedures section).
 - Provide disability documentation to the CSA (see Procedures section).
 - Provide a completed application to CSA for request for services. Include specific academic accommodations needed to perform essential academic requirements.
 - Faculty and/or Program Administrator Responsibilities
 - Faculty must include the most current accessibility statement on their

course syllabi as required by Policy 4.1.4P Course Syllabi.

- If a student self-identifies as an individual with a disability or makes a request for an accommodation, Faculty and/or Program Administrators should refer the student to the CSA office or CSA website to review the academic accommodation processes. The faculty member and/or Program Administrator will encourage the individual to seek assistance with the CSA to document the need for a Reasonable Accommodation.
- Employee Responsibilities
 - Must self-identify as an individual with a disability to HR (see Procedures section).
 - Provide disability documentation to HR (see Procedures section).
 - Provide completed application for job accommodations to HR for request for services. Include specific job accommodations needed to perform Essential Job Functions.
- Supervisors and/or Unit Administrator Responsibilities
 - If an employee self identifies as an individual with a disability or makes a request for an accommodation or job modification, the Supervisor or Unit Administrator will refer the employee to HR or the HR website to review job accommodation process.
 - Encourage the individual to seek assistance with HR to document the need for accommodation.

Violations of the Policy

Violations of this regulation may result in the University's failure to provide federally mandated accommodations for qualified individuals. Violations will be handled on a case by case basis.

Statutory or Regulatory References

Americans with Disabilities Act of 1990, amended by the Amendments Act (2008)
Section 504 of The Rehabilitation Act of 1973, as amended (1998)

Policy Adoption Review and Approval

Policy Revised

<u>Date</u>	<u>Entity</u>	<u>Action</u>
11/14/19	Policy, Compliance and Governance Administrator	Editorial Revisions
05/21/18	Director, Policy & Legal Operations	Editorial Revisions
09/29/17	Director, Policy & Legal Operations	Editorial Revisions
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Policy Issued

1/2/13 Approved by President