

Accommodations for Individuals with Disabilities Policy

Section:	VI: Equal Opportunity
Chapter:	2
Date Updated:	January 22, 2016

2.1 Purpose

The purpose of this policy is to set out the University’s policy concerning accommodations for individuals with disabilities, and to provide for the prompt and equitable resolution of complaints alleging the violations of Title II of the Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 and Section 504 of the Rehabilitation Act of 1973, including complaints regarding a denial of requested accommodations and auxiliary aids or services, and programs that are perceived to be inaccessible.

2.2 Scope

This policy applies to students, staff, faculty, job applicants, applicants for admissions, and other beneficiaries of the programs, services, and activities of the University.

2.3 Policy

The University is committed to providing reasonable accommodations and auxiliary services to students, staff, faculty, job applicants, applicants for admissions, and other beneficiaries of University programs, services and activities with documented disabilities in order to provide them with equal opportunities to participate in programs, services, and activities in compliance with sections 503 and 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. Reasonable accommodations will be made unless it is determined that doing so would cause undue hardship on the University.

2.3.1 Definitions

2.3.1.1 “Individual with a disability” is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

2.3.1.2 “Qualified individual” with a disability is defined as an individual who possesses the requisite skills, education, experience, knowledge, and other job requirements and who can, with or without reasonable accommodations, perform the essential functions of the job.

2.3.1.3 “Substantial limitation” is defined as an impairment that prevents the performance of a major life activity that the average person in the general population can perform; or a significant restriction as to the condition, manner, or duration under which an individual can perform a particular major life activity, as compared to the average person in the general population.

2.3.1.4 “Accommodation” is defined as a reasonable modification or adjustment to the job application process or the work environment that enables a qualified person with a disability to perform the essential functions of that job.

2.3.1.5 “Undue hardship” shall conform to definitions provided by the Courts, the Americans with Disabilities Act, and the Texas Commission of Human Rights Act. In determining whether an accommodation would impose an undue hardship, factors to be considered include, but are not limited to, the nature and cost of the accommodation, financial considerations, the impact of the accommodation upon the nature and operation of the department, and how the request affects the health and safety of other employees or students.

2.4 Requests for Accommodations

2.4.1 Applicants for Employment and Employees

2.4.1.1 Applicants for employment can initiate a request for accommodation by contacting the Human Resource Services Office, or advising, verbally or in writing, the department in which they will be interviewing, or the chair of the search committee of the possible need for accommodation. Any such inquiry shall be immediately forwarded to the ADA Coordinator for review of the request and determination, if applicable, of reasonable accommodation.

2.4.1.2 Any employee can initiate a request for accommodation by notifying, in writing, the ADA Coordinator in the Equal Opportunity Office, of the nature of the disability and the accommodation being requested.

2.4.1.3 Individuals will be required to submit a recent medical statement as provided by section 2.4.4.2 within 30 days of the request.

2.4.1.4 The ADA Coordinator will analyze the request and, to determine eligibility for accommodation, confer with the employee, the supervisor or the applicant to ascertain the individual’s requirements for reasonable accommodation and make a determination

regarding which accommodations are necessary. If the employee or applicant is unable to demonstrate a disability, or does not request a reasonable accommodation under applicable statute or regulation, the request may be denied.

2.4.2 Beneficiaries of Programs, Services, and Activities

Beneficiaries of programs, services, and activities can initiate a request for accommodation by contacting the department or organization hosting the event, program, or activity. Routine requests may be handled directly by the department or organization hosting the event. The administrator of the event, service, or activity will notify the ADA Coordinator of non-routine or other requests. Denial of a request may only be done by the ADA Coordinator, after his/her analysis of the reasonableness of the accommodation and/or determination of an undue hardship to the University, and not by the department or organization hosting the event. The ADA Coordinator will analyze the request and, to determine eligibility for the accommodation, confer with the individual to ascertain his/her requirements for reasonable accommodation and make a determination regarding which accommodations are necessary. If the individual is unable to demonstrate a disability, or does not request a reasonable accommodation under applicable statute or regulation, the request may be denied.

2.4.2.1 Individuals may be required to submit a medical statement as provided by section 2.4.4.2. within a reasonable period of time prior to the event, service, or activity.

2.4.3 Students and Applicants for Admission

Students and applicants for admission requesting eligibility for accommodation and services can initiate a request for accommodation(s) by contacting the Director of the Center for Accommodations and Support Services.

2.4.3.1 Individuals will be required to submit a recent medical statement as provided by section 2.4.4.2 and the guidelines set forth by the Center for Accommodations and Support Services at <http://sa.utep.edu/cass/> within the time frame specified by the Center for Accommodations and Support Services.

2.4.3.2 The Director of the Center for Accommodations and Support Services will decide whether to grant or deny the request for accommodation. If a student is dissatisfied with the determination, he or she may follow the complaint and appeal procedures outlined below.

2.4.4 Provisions Applicable to All Individuals Requesting Accommodation

2.4.4.1 All offices and individuals responsible for reviewing and analyzing the accommodation request will maintain the confidentiality of all medical and ADA and ADAAA information. Records and information obtained on employees as part of the accommodation request will be kept in the Equal Opportunity Office in separate files.

Records and information obtained on students as part of the accommodation request will be kept in the Center for Accommodations and Support Services. Such records shall be shared with only those University employees who have a need to know in order to implement the accommodation request, and shall not be released except as required by law.

2.4.4.2 Medical statements submitted must be signed by an appropriately licensed professional and contain a diagnosis, prognosis, and a description of the specific impairment(s) and the major life functions and activities affected by the impairment. Individuals may be asked to submit additional medical information if the information originally provided is incomplete, unclear, outdated, or inconsistent. If the individual does not provide the required documentation and information within the specified deadline, the request for accommodation may be cancelled for lack of necessary information.

2.4.4.3 The University may, at University expense, request an independent medical opinion concerning the impairment for which an individual seeks an accommodation. The failure of an individual to cooperate in obtaining such an opinion will result in the cancellation of the request for accommodation.

2.5 Complaint Procedures for Faculty, Staff, or Applicants for Employment

2.5.1 Filing the Complaint

2.5.1.1 Faculty, staff, or applicants for employment who believe that they have been denied a reasonable accommodation in violation of this policy or disability laws may file a complaint to the University's ADA Coordinator. The complaint shall be in writing. Complaints alleging discrimination on the basis of disability should be filed as provided for in Chapter 1.4 of this section of the Handbook.

2.5.1.2 The complaint must be filed within ten (10) working days after the complainant becomes aware of the alleged violation and shall contain the name and address of the person filing the complaint, a brief description of the alleged violation, and any documents supporting the complaint.

2.5.1.3 The ADA Coordinator shall investigate the complaint. A written statement containing the determination and/or proposed solution shall be sent to the complainant within fifteen (15) working days of the receipt of the complaint.

2.5.1.4 The ADA Coordinator shall maintain all records related to the complaint.

2.5.2. Appeal

2.5.2.1 Faculty and Faculty Candidates

If the complainant is not satisfied with the decision of the ADA Coordinator, a written appeal stating why the decision is incorrect may be made to the Provost within ten (10) working days of the receipt of the determination from the ADA Coordinator. The appeal must contain the name and address of the person filing it and a statement of the reason for appeal.

2.5.2.2 Staff, Administrative Employees and Job Applicants

If the complainant is not satisfied with the decision of the ADA Coordinator, a written appeal stating why the decision is incorrect may be made to the appropriate Vice President within ten (10) working days of the receipt of the determination from the ADA Coordinator. The appeal must contain the name and address of the person filing it and a statement of the reason for appeal.

2.5.2.3 Review by Vice President

The Vice President shall review the determination of the ADA Coordinator and may consult with others as may be deemed necessary. A written decision will be sent to the complainant within thirty (30) working days from the date of receipt of the appeal. The Vice President may extend the response time by an additional ten (10) working days upon notifying the complainant in writing.

The decision of the Vice President shall be final.

2.6 Complaint Procedures for Students, Applicants for Admission, or Other Beneficiaries of University Programs, Services, or Activities

2.6.1 Filing a Complaint

2.6.1.1 Students and applicants for admission who are dissatisfied with the decision of the Director of the Center for Accommodations and Support Services should first submit their concerns in writing to the Director of the Center for Accommodations and Support Services. The Director of the Center for Accommodations and Support Services shall give a written response within ten (10) working days. If the student or applicant for admission is not satisfied with the Director's determination, he/she should then follow the complaint and appeal options below.

2.6.1.2 Students and applicants for admission, or beneficiaries of University programs, services, or activities who believe that they have been denied a reasonable accommodation in violation of this policy or disability laws may file a complaint in writing with the University's ADA Coordinator.

2.6.1.3 The complaint must be filed within ten (10) working days after the complainant becomes aware of the alleged violation and shall contain the name and address of the person filing the complaint, a brief description of the alleged violation, and any documents supporting the complaint. In the case of a student or applicant for admission who has appealed an accommodation decision with the Director of the Center for Accommodations and Support Services in accordance with 2.6.1.1 above, the complaint filed with the ADA Coordinator must be filed within ten (10) working days of the decision made by the Director of the Center for Accommodations and Support Services.

2.6.1.4 The ADA Coordinator shall investigate the complaint. A written statement containing the determination and/or proposed solution shall be sent to the complainant within fifteen (15) working days of the receipt of the complaint.

2.6.1.5 The ADA Coordinator shall maintain all records related to the complaint.

2.6.2 Appeal

2.6.2.1 Students and Applicants for Admission

If the complainant is not satisfied with the decision of the ADA Coordinator, a written appeal stating why the decision is incorrect may be made to the Vice President for Student Affairs within ten (10) working days of the receipt of the written determination by the ADA Coordinator. The appeal must contain the name and address of the person filing it and a brief description of the reason for the appeal.

2.6.2.2 Beneficiaries of University Programs or Activities

If the complainant is not satisfied with the decision of the ADA Coordinator, a written appeal stating why the decision is incorrect may be made to the Vice President for Business Affairs within ten (10) working days of the receipt of the written determination by the ADA Coordinator. The appeal must contain the name and address of the person filing it and a brief description of the reason for the appeal.

2.6.2.3 Review by Vice President

The Vice President shall review the determination of the ADA Coordinator and may consult with others as may be deemed necessary. A written decision will be sent to the complainant within thirty (30) working days from the date of receipt of the appeal. The Vice President may extend the response time by an additional ten (10) working days upon notifying the complainant in writing.

The decision of the Vice President shall be final.

2.7 Failure to Proceed with an Appeal or Process a Grievance

Failure of a complainant to appeal a determination by the ADA Coordinator to the appropriate Vice President within the specified time limit shall constitute abandonment of the complaint, unless an extension has been approved in writing. Failure by the ADA Coordinator to make a determination within the prescribed time limit authorizes the complainant to forward his or her complaint to the appropriate Vice President.