

West Virginia University at Parkersburg Board of Governors

**POLICY A-43
DISABILITY ACCOMMODATIONS**

Section 1. General

- 1.1 Scope - This rule applies to all employment and educational practices and actions. It includes, but is not limited to, recruitment, application, examination and testing, hiring, training, grading, disciplinary actions, rates of pay or other compensation, advancement, classification, transfer and reassignment, discharge, and all other terms and conditions of employment and educational status. It also includes access to programs, services, and activities which may occur outside the classroom or office environment but which are an integral part of the college experience. This policy also applies to public access to college programs, services, and other offerings.
- 1.2 Authority - [W. Va. Code § 18B-1-6](#); [W. Va. Code § 5-11-1, et. seq.](#); [W. Va. Code § 5-15-1, et. seq.](#); [W. Va. C.S.R. § 135-4](#); [W. Va. C.S.R. § 77-1](#); Sections 503/504 of the Federal Rehabilitation Act of 1973, as amended; Americans with Disabilities Act (ADA); Americans with Disabilities Amendments Act of 2008 (ADAAA)
- 1.3 Superseding Provisions - This rule supersedes and replaces any previous policy statements or conflicting internal policy or procedure which relates to the subject matter contained within this Policy.
- 1.4 Effective Date – November 25, 2019

Section 2. Policy Statement

- 2.1 West Virginia University at Parkersburg is committed to providing equal employment opportunity, educational opportunity, and equal access to services, programs, and activities for persons with disabilities.
- 2.2 Reasonable accommodations will be provided to qualified employees with disabilities to enable performance of the essential functions of the positions for which they are applying and in which they are employed.
- 2.3 Academic adjustments or auxiliary aids will be provided to qualified students with disabilities when necessary to ensure equality of opportunity to complete academic requirements. The college's programs and activities will be accessible to all individuals, including both physical access and access to electronic media, such as software and Web-based applications.
- 2.4. WVU at Parkersburg will not:
 - a. Treat any employee, student, or applicant adversely due to a disability, record of a disability, perceived disability, or because of a relationship with an individual who has a disability;
 - b. Inquire if an applicant for employment or educational program has a disability except as allowed by federal laws and regulations; however, in the application process, applicants who require accommodations may be invited to disclose the need for such accommodations on a confidential basis;

- c. Use any qualification standards or selection criteria that would have the effect of screening out individuals with disabilities, unless the standards or criteria are directly related to and necessary for the job or academic program;
- d. Release information regarding disability-related requests except as necessary to process the request; medical information will be collected and maintained in accordance with reasonable accommodation procedures.

Section 3. Definitions

3.1 **Academic Adjustments** are modifications to academic requirements made to ensure that requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with a disability. Academic requirements that are essential to the instruction being pursued by the student or to any directly related licensing requirement will not be subject to modification. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

3.2 **Accommodation Memorandum** is either:

- a. Notification from the Student Accessibility Counselor that documents and outlines the accommodations, academic adjustments, and/or auxiliary aids or services granted to enable a student to complete an academic course or program. Faculty must contact the Student Accessibility Counselor if there are concerns about the Accommodation Memorandum, and may not unilaterally deny accommodations.
- b. Notification from the Chief Human Resources Officer that documents and outlines the reasonable accommodations established to enable an employee to work. Supervisors must contact the Chief Human Resources Officer if there are concerns about the Accommodation Memorandum, and may not unilaterally deny accommodations.

3.3 **Auxiliary Aids** are actions taken or materials provided to ensure that qualified students with disabilities can receive the benefits of the educational program, regardless of impaired sensory, manual, or speaking skills. Auxiliary aids may include audio or described taped texts, sign or oral interpreters, captioning or other effective methods of making orally delivered materials available to students with hearing impairments, readers for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Auxiliary aids do not include personal services or equipment, such as attendants, readers for personal use, or individually prescribed devices unrelated to the course of study.

3.4 **Disability**

The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability; however, individuals who solely are "regarded as" having a disability, but do not have a disability, are not qualified to receive reasonable accommodations.

3.5 **Essential Function** means a fundamental duty of a position.

- a. A duty may be considered an essential function if:

- the position exists to perform that function;
 - there are a limited number of employees available who could fulfill that function; and/or
 - the function is highly specialized.
- b. In determining whether a duty is essential, it is also relevant to consider the amount of time spent performing the function, consequences of not allowing someone to perform the function, written job description, and work experience of people who are performing the job or who have performed the job in the past.
- 3.6 **Interactive Process** is either:
- a. The method by which an employee and employer explore whether reasonable accommodations can enable the employee to perform the essential functions of a position. The interactive process should involve open dialogue that allows for full participation by both supervisor and employee, in consultation with the Chief Human Resources Officer.
 - b. The appropriate avenue for students and instructors to reach agreement in consultation with the Student Accessibility Counselor concerning academic adjustments and/or auxiliary aids necessary to allow the student to complete academic requirements.
- 3.7 **Qualified Employee with a Disability** is an individual with a disability who can perform the essential functions of the position, with or without reasonable accommodation.
- 3.8 **Qualified Student with a Disability** is a student with a disability who meets the academic and technical standards requisite to admission or participation in the education program or activity, with or without the provision of academic adjustments and/or auxiliary aids.
- 3.9 **Reasonable Accommodations** are actions taken that permit an employee or applicant with a disability to perform the activities involved in the position held or sought in a reasonable manner, provided that such actions do not impose an undue hardship or eliminate essential functions of the job. These include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring, and modified work schedules.
- 3.10 **Undue Hardship** is a significant disruption, expense and/or difficulty posed by an accommodation. It should be noted that the issue of whether a requested accommodation poses an undue hardship must be based upon significant difficulty or expense, meaning it would be unduly costly, extensive, substantial, and/or disruptive. Unless reasonable alternative accommodations can be offered, undue hardship should not be asserted without consultation with the college's ADA/Section 504 Coordinator.

Section 4. Responsibilities

- 4.1 **President, Provost, Vice Presidents, Deans, Directors, Department Heads, Supervisors, Managers**
- a. Provide individuals with disabilities the opportunity to fully participate in employment and academic life.
 - b. Provide reasonable accommodations, academic adjustments, and auxiliary aids as necessary and appropriate.
 - c. Refer individuals to the Student Accessibility Counselor or Chief Human Resources Officer as appropriate to address concerns regarding disability accommodations and related matters.

- d. Refer individuals to the college's ADA/Section 504 Coordinator as appropriate to address discrimination, harassment and retaliation concerns or complaints regarding disability rights, accommodations and other related matters.
- e. Ensure that websites, electronic media, online learning courses, and other electronic information and communications within their departments are accessible to individuals with disabilities.
- f. Maintain confidentiality about an individual's disability status, including not discussing an individual's disability or accommodations in front of others or calling unnecessary attention to one's disability or accommodations.
- g. Cover the cost of reasonable accommodations for employees from the budget of the department in which the accommodation must be made. If cost considerations pose a hardship for a department, consult with the Chief Human Resources Officer or Vice President for Finance and Administration to identify additional sources of funding.

4.2 Students, employees, applicants, and members of the public who require reasonable accommodations, academic adjustments, or auxiliary aids

- a. Provide timely notification when a reasonable accommodation, academic adjustment, and/or auxiliary aid is required, according to institutional procedures.

4.3 Supervisors, Managers

- a. Consult with the Chief Human Resources Officer when there are questions about reasonable accommodations for an employee with a disability and/or when an employee is experiencing performance difficulties resulting from a possible disability.
- b. Discuss the reasonable accommodations listed in the Accommodation Memorandum with the employee and implement them as needed and requested.
- c. Consult with the Chief Human Resources Officer if there are questions or concerns about implementing the Accommodation Memorandum.
- d. Maintain confidentiality about an employee's disability status, including not discussing accommodations in front of others or calling unnecessary attention to one's disability or accommodations.

4.4 Faculty

- a. Consult with the Student Accessibility Counselor when there are questions about reasonable accommodations for a student with a disability and/or when a student is evidencing problems with meeting course requirements resulting from a possible disability.
- b. Discuss the academic adjustments and/or auxiliary aids listed in the Accommodation Memorandum with the student and implement them as needed and requested.
- c. Consult with the Student Accessibility Counselor if there are questions or concerns about implementing the Accommodation Memorandum.
- d. Maintain confidentiality about a student's disability status, including not discussing accommodations in front of others or calling unnecessary attention to one's disability or accommodations.

4.5 **Members of screening committees or other individuals involved in the hiring process**

- a. Ensure that individuals with disabilities have access to interviews and are referred to the Chief Human Resources Officer when they request accommodations during the interview process pursuant to this policy and institutional procedures.
- b. Ensure that individuals are not asked about their disability status during the pre-employment stage.

4.6 **Members of program admissions committees or other individuals involved in admissions**

- a. Ensure that applicants with disabilities have equal access to the process and accommodations pursuant to this policy and institutional procedures.
- b. Ensure that individuals are not asked about their disability status during the pre-admission stage.

4.7 **Student Accessibility Counselor**

- a. Assist students with disabilities in identifying appropriate academic adjustments, auxiliary aids, and/or reasonable accommodations.
- b. Coordinate services for students with disabilities, as described in this policy and institutional procedures.
- c. Facilitate the interactive process as necessary; develop and communicate accommodation recommendations.

4.8 **Chief Human Resources Officer**

- a. Assist employees with disabilities in identifying reasonable accommodations.
- b. Facilitate the interactive process as necessary involving the employee and supervisor.
- c. Develop and communicate accommodation recommendations.

4.9 **ADA Coordinator**

- a. Administer this policy.
- b. Serve as an advisor to institutional administrators and other members of the college community regarding reasonable accommodations and issues related to equal access for individuals with disabilities.
- c. Aid in resolving conflicts or problems regarding the implementation of reasonable accommodations, academic adjustments, and auxiliary aids.
- d. Investigate allegations of discrimination, harassment, and retaliation.

Section 5. Complaints

- 5.1 Individuals who believe that there has been a violation of this policy; who disagree with a determination regarding a request for an accommodation, academic adjustment, or auxiliary aid; or who believe they have been treated in a discriminatory manner, should contact:

ADA Coordinator
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
Telephone: 304-424-8201
FAX: 304-424-8302
Email: social.justice@wvup.edu

- 5.2 An individual who files a complaint or participates in an investigation will be protected against retaliation.
- 5.3 Individuals also have the right to file a charge of discrimination with the appropriate state or federal enforcement agencies, subject to applicable time limitations, or to consult an attorney at their own expense. It is not necessary to pursue college complaint procedures before filing an external complaint.

State and federal enforcement agencies include:

Office of Civil Rights
U.S. Department of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
FAX: 215-656-8605; TDD: 800-877-8339
Email: OCR.Philadelphia@ed.gov
Website: www2.ed.gov/about/offices/list/ocr/index.html

West Virginia Human Rights Commission
1321 Plaza East – Room 108
Charleston, WV 25301
Telephone: 304-558-2616
Toll Free: 888-676-5546
FAX: 304-558-0085
Website: <https://hrc.wv.gov/>

Employees only:

United States Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 866-408-8075
Fax: 215-440-2606
TTY: 800-669-6820
Website: <http://www.eeoc.gov/>

Section 6. Delegation

- 6.1 The Board of Governors delegates to the President and the institution's ADA Coordinator the collaborative authority to adopt additional internal policies and procedures to effectuate the implementation of this rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this rule.
- 6.2 The Board of Governors specifically delegates to the ADA Coordinator authority to update any contact information for specific WVU at Parkersburg units or outside entities listed within this rule without going through the Board's formal rulemaking procedures. The same applies equally to any website links contained within this rule.