

West Virginia University at Parkersburg Board of Governors

Proposed **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. 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.](#); [77 C.S.R. 1](#); Sections 503/504 of the Federal Rehabilitation Act of 1973, as amended; Americans with Disabilities Act (ADA); Americans with Disabilities Act Amendments 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 – September 19, 2023
(Replaces version dated November 25, 2019)

Section 2. Disability Accommodations

- 2.1. In compliance with the Americans with Disability Act of 1990 (ADA), the Americans with Disabilities Act Amendments of 2008 (ADAA), Section 504 of the federal Rehabilitation Act of 1973 (Rehabilitation Act) and other applicable federal and State law, West Virginia University at Parkersburg (WVU-P or the College) provides qualified individuals with disabilities the opportunity to participate in programs, activities, or employment.
- 2.2. WVU-P will not discriminate against any employee or applicant for employment, student, or applicant for admission on the basis of physical or mental disability.
- 2.3. **Employees and Applicants for Employment.** – WVU-P will provide reasonable accommodations to all qualified employment applicants and employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive, would result in undue administrative or financial hardship or that would fundamentally alter the College's application processes, programs, or services and/or would change the essential functions of the job. The College is not required to change the essential functions of an employee's job and is not required to provide personal need items unless those items are provided to nondisabled employees or applicants. The College may give primary consideration to the preference of the individual requesting an accommodation; however, WVU-P may offer alternative accommodation suggestions and discuss their effectiveness in removing the barrier impeding the individual with a disability. WVU-P has final discretion to choose between effective accommodations and may select one that is least expensive or easier to provide. Disclosure of a disability is voluntary; however, applicants for employment and employees seeking accommodations are required to self-identify by requesting reasonable accommodations by asking for an adjustment or change at work based on a medical condition and are required to follow any accommodation or academic adjustment procedures. Applicants for

employment seeking accommodations during the application process and current employees must self-identify early, as the College will not grant accommodations retroactively.

- 2.4. **Students and Applicants for Admission.** – WVU-P shall provide reasonable accommodations to all otherwise qualified admissions applicants, current students, and student athletes who have a qualifying disability to ensure equal access to the College's programs, services, and activities and to ensure that the College does not discriminate based on disability unless providing such reasonable accommodations would cause an undue financial or administrative hardship or would alter the fundamental nature of the WVU-P program, service, or activity. The College is not required to provide modifications or accommodations that would, as a matter of course, necessarily transform the nature of any academic program, sport, or activity. WVU-P is not required to lower or substantially modify essential admissions requirements or program, service, or activity requirements, nor is it required to provide personal services. The College may give primary consideration to the preference of the individual requesting a reasonable accommodation; however, WVU-P may offer alternative suggestions and discuss their effectiveness in removing the barrier impeding the individual with a disability. WVU-P has final discretion to choose between effective academic adjustments, and may select one that is least expensive or easier to provide. Disclosure of a disability is voluntary; however, applicants for admission and current students requesting accommodations shall self-identify and are required to follow any accommodation or academic adjustment request procedures. Applicants for admission seeking accommodations during the admissions process and/or seeking academic adjustments related to the technical admissions standards and current students must self-identify early, as the College will not grant academic adjustments or accommodations retroactively.
- 2.5. Individuals requesting accommodations shall participate in the interactive process.
- 2.6. The College's programs and activities shall be accessible to all individuals, including both physical access and access to electronic media, such as software and web-based applications, in accordance with Section 508 of the Rehabilitation Act, the ADA, and the ADAA.

Section 3. Definitions

- 3.1. **Academic Adjustments and Auxiliary Aids and Services (collectively Auxiliary Aids)** are services, devices, or materials provided to ensure that qualified students with disabilities are afforded an equal opportunity to participate in and receive the benefits of an educational program, service, or activity that do not cause undue hardship. 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, in-class 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.
- 3.2. **Disability** means an impairment that substantially limits a major life activity.
- 3.3. **Essential Function** means a fundamental duty of a position. A duty may be considered an essential function if (a) the position exists to perform that function; (b) there are a limited number of employees available who could fulfill that function; and/or (c) the function is highly specialized. Other factors used to determine essential function include the amount of time spent performing the function and the consequences of not allowing someone to perform the function.
- 3.4. **Interactive Process** means a conversation between WVU-P and an individual requesting a reasonable accommodation to determine: (a) if the individual is a person with a disability; (b) if a disabled individual

requires a reasonable accommodation(s) to provide equal access to the College's program(s), activity(ies), or services; and (c) what, if any, reasonable accommodation(s) are available. The College and the individual may conduct the interactive process in person, by online technology or platforms, by telephone, or by email.

3.5. **Otherwise Qualified** means:

3.5.1. In the employment context, a person who meets legitimate skill, experience, education, or other requirements of an employment position that the person holds or seeks and who can perform the essential functions of the position with or without reasonable accommodation(s); or

3.5.2. A student capable of fulfilling the essential functions and requirements of an academic program or activity, including but not limited to athletic teams, with or without the provision of reasonable accommodation(s).

3.6. **Person with a Disability** means a person who: (a) has a physical or mental impairment that substantially limits one or more major life activities; or (b) has a history or record of such an impairment; or (c) is perceived by others as having such an impairment. Only a person with a disability is eligible for reasonable accommodation(s).

3.7. **Reasonable Accommodation** means any academic adjustment, auxiliary aid, modification, or change to a WVU-P program, service, activity, or policy that provides equal access to the College's application processes, programs, activities, and services by otherwise qualified persons with disabilities and that does not fundamentally alter the nature of the program or service and/or that do not cause undue financial or administrative burden to WVU-P. Reasonable accommodations for applicants for admission or employment or current students and employees do not include personal services such as personal attendants, wheelchairs, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature, including tutoring and out-of-class typing, unless the College also provides such services to nondisabled applicants, students, or employees.

3.8. **Undue Hardship or Undue Burden** means a significant disruption, expense, and/or difficulty posed by an accommodation. The issue of whether a requested accommodation poses an undue hardship is based upon significant difficulty or expense, meaning it would be unduly costly, extensive, substantial, and/or disruptive.

Section 5. Complaints

5.1 Discrimination, harassment, or retaliation against a person who requests a reasonable accommodation for a disability, reports disability discrimination or harassment, or who files a complaint or participates in an investigation, adjudication, or disposition of such a complaint is prohibited by this Policy and Policies A-34, "Equal Opportunity, Affirmative Action, and Nondiscrimination" and A-44, "Policy and Procedures Regarding Harassment and Discrimination."

5.2. 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: 304-424-8388

FAX: 304-424-8302
Email: social.justice@wvup.edu

- 5.3 Individuals also have the right to file a charge of discrimination, harassment, or retaliation based on disability with the appropriate State or federal enforcement agencies, subject to applicable time limitations, and/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. Administrative Procedure(s) and Modifications

- 6.1 The President and the institution's ADA Coordinator have the collaborative authority to establish administrative procedures to implement this rule policy, including, but not limited to, disability accommodation request procedures.
- 6.2 The ADA Coordinator may modify any portion of this Policy in practice to comport with any amendments made to any relevant federal, State, or local law, rule or regulation regarding the same to ensure the due process rights of the College's applicants for admission or employment or current students or employees. Subject to WVU-P's policymaking process, the Board will amend this policy to conform to the most current laws, rules, and regulations within a reasonable time after learning of such amendments.
- 6.3. The ADA Coordinator may 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.