



1.4.4R

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Chapter 4, Americans with Disabilities Act/Section 504
Section 4R, Establishing Reasonable Accommodations Under
the Americans with Disabilities Act/ Section 504 Compliance Act
and Appeal Procedures

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Disabilities

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Establishing Reasonable Accommodations Under the Americans with Disabilities Act ("ADA")/Section 504 of The Rehabilitation Act Compliance Regulation and Appeal Procedures

Regulation 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. To accomplish this goal, the University established the **Office of Services for Individuals with Disabilities (OSID)**.

The OSID is the office responsible for establishing disability eligibility criteria, making disability eligibility determinations, and establishing appropriate Reasonable Accommodations.

For further information about the OSID, please visit <http://disabilities.eku.edu/>

This regulation references EKU Policy 1.4.1P, Equal Opportunity/Affirmative Action Statement (Non-Discrimination Policy). Employees or students who believe that they have been subject to discrimination on the basis of disability may file a complaint with the Equal Opportunity Office, Jones 106, CPO Box 37A, (859) 622-8020 (V/TTY).

Entities Affected

The entire University community, guests and visitors.

Background

This regulation establishes the process and the appeal procedures for which the OSID establishes disability eligibility criteria, makes disability eligibility determinations, and establishes appropriate Reasonable Accommodations. The procedures set forth in this regulation are the operating procedures that have been established by the University's OSID and Section 504 Compliance Officer and are hereby recorded in this regulation.

Procedures

Otherwise Qualified Individual with a Disability determination

An individual who believes s/he requires 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 ("Section 504").

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 to the OSID, Student Success Building (SSB) Room 361:

- **Students:** a completed application for services available at:
http://disabilities.eku.edu/sites/disabilities.eku.edu/files/Application_for_Services.doc
- **Employees:** a completed request for job accommodation available at:
<http://www.disabilities.eku.edu/employees>

and
- documentation in accordance with the guidelines set forth by the OSID. The OSID documentation guidelines can be obtained at the OSID, SSB 361, requested by phone, or can be found on the OSID webpage at:
<http://www.disabilities.eku.edu/forms>

Direct phone inquiries and request for appointments can be made by calling the OSID (859) 622-2933.

Documentation

Documentation will be kept on file in the OSID and will remain confidential, to the extent required by law. Pertinent aspects of the information will be disclosed for discussion in determining appropriate job or academic accommodations. The OSID will request the employee or student to sign a “[release of information](#)” for this discussion to take place.

Reasonable Accommodation Discussions (Interactive Process)

Once the OSID determines an employee or student is an Otherwise Qualified Individual with a Disability under ADA and/or Section 504, the OSID will discuss Reasonable Accommodations with the employee or student.

During the Reasonable Accommodation process the University ADA/Section 504 Compliance Officer or representative of the OSID may communicate with appropriate offices and individuals at the University before a determined Reasonable Accommodation can be fully implemented. The University ADA/Section 504 Compliance Officer, or a representative, will discuss possible Reasonable Accommodations with the employee's Supervisor or Unit Administrator. The University ADA/Section 504 Compliance Officer or representative of OSID will discuss possible Reasonable Accommodations with the student's course instructor or, if appropriate, the Department Chair or Program Administrator.

Other professionals, including the ADA/Section 504 Coordinator, may be consulted if necessary to make a determination if the proposed accommodation is appropriate.

See “Responsibilities” for each participant's role in the process.

Reasonable Accommodation Determination

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 the other individuals identified as appropriate.

Appropriate Reasonable Accommodation

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 Accommodations must not modify the academic requirements that are essential to the academic program, practice or standard of instruction.

Accommodation Modifications

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

Guests and Visitors

Guests or visitors of the University's campuses, facilities or events are encouraged to contact the OSID at (859) 622-2933 or the event sponsor at least ten (10) Working Days in advance of the event to request accommodation arrangements.

Guests and Visitors in need of Interpreting Services

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

Grounds for Appeal

In accordance with the appeal process set forth below, an employee or student may appeal the University ADA/Section 504 Compliance Officer or representative's 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.

Appeal Process

Employees/Students

Eligibility

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 from the OSID to:

Dr. Kim Naugle
ADA/Section 504 Coordinator

Combs 420kim.naugle@eku.edu

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 application and documentation.

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.

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.

Reasonable Accommodation Appeal Process Step 1

If a Reasonable Accommodation agreement cannot be reached between the employee and their Supervisor or Unit Administrator or between the student and their course instructor or Program Administrator, the employee or student may appeal the matter either verbally or in writing with the University ADA/Section 504 Compliance Officer within five (5) Working Days of notice that an accommodation agreement was not established.

The University ADA/Section 504 Compliance Officer will mediate between the employee and Supervisor or Unit Administrator or between the student and course instructor or Program Administrator. If the mediation fails, 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 that an accommodation agreement has not been met.

Reasonable Accommodation Appeal Process Step 2

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 agreement within five (5) Working Days.

If the ADA/Section 504 Coordinator is unable to reach an accommodation agreement 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 OSID for the name of the current ADA Appeals Committee chair.

Reasonable Accommodation Appeal Process Step 3

Upon receiving an appeal from a student or employee, the chair of the ADA Appeals Committee reviews the request and schedules 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.

The University ADA/Section 504 Compliance Officer presents 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 decision and the employee or student will be informed of the decision within five (5) Working Days of the conclusion of the Hearing. The chair of the ADA Appeals Committee will inform the student/employee of the decision. The decision of the ADA Appeals Committee is final.

Guest/Visitors

Guests or 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) 622-2933. 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

As of the effective date of this regulation, the ADA/Section 504 Coordinator is Dr. Kim Naugle, Combs 420, kim.naugle@eku.edu. 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. The ADA provides protection for individuals with physical and cognitive disabilities.

Disability

The term “disability” means, with respect to an individual:

- A. A physical or mental impairment that substantially limits one or more of the major activities of such individual;
- B. A record of such impairment; or
- C. 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 or 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 normal and essential disability eligibility requirements.

OSID

The Office of Services for Individuals with Disabilities is responsible for reviewing, evaluating and determining eligibility for any requested services and accommodations for students, faculty or staff. The OSID provides confidential referrals for assessment (for undiagnosed disabilities) and other disability related information. The OSID also assists the University’s legal and education obligation

to provide equal access to university resources, coursework, programs and activities by serving qualified individuals, and advocating for equal access for all individuals who qualify.

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 an educational activity, program, coursework or event.

Section 504 of Rehabilitation Act of 1973

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 ADA/Section 504 Compliance Officer

The University ADA/Section 504 Compliance Officer is Teresa Belluscio, SSB 315, teresa.belluscio@eku.edu. The 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. The University ADA/Section 504 Compliance Officer is also the director of OSID.

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 or guests 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 due to a denial of eligibility or Reasonable Accommodation Communicates with both the University and student/employee/guest in a timely fashion.

OSID Responsibilities

Under the direction of the University ADA/Section 504 Compliance Officer:

(i) 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 Accommodations;
 - a. Review disability documentation and the request for Reasonable Accommodation
 - b. 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.
 - c. Discuss Reasonable Accommodation with the student
 - d. Discuss Reasonable Accommodation with the student's course instructor and Program Administrator.
 - e. Identify and document the Reasonable Accommodation agreed upon by the student, the student's course instructor Program Administrator and OSID.
 - f. Oversee the process in a timely fashion.
 - g. Assist with the mediation of appeals regarding Reasonable Accommodations

(ii) For Employees:

- Evaluate employee's application for services.
- 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 job accommodations;
- Review disability documentation and the request for accommodation:
 - a. 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.
 - b. Discuss Reasonable Accommodation with the employee
 - c. Discuss Reasonable Accommodation with the employee's Supervisor or Unit Administrator
 - d. Identify and document the Reasonable Accommodations agreed upon by the employee, the employer's Supervisor and Unit Administrator and OSID
 - e. Oversee the process in a timely fashion
 - f. Assist with the mediation of appeals regarding Reasonable Accommodations

(iii) For Guests

- Evaluate Guests request for an 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 to the OSID.
- Provide disability documentation to the OSID (documentation information and specifics can be found on the OSID website)
<http://www.disabilities.eku.edu/>
- Provide a completed application to OSID for request for services. Include specific academic accommodations needed to perform essential academic requirements.

Faculty and/or Program Administrators Responsibilities

- Faculty should include the disabilities 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 OSID office or OSID website to review the academic accommodation processes. The faculty member and/or Program Administrator will encourage the individual to seek assistance with the OSID to document the need for a Reasonable Accommodation.

Employees Responsibilities

- Must self-identify as an individual with a disability to the OSID, Human Resources Office, a Supervisor or a Unit Administrator.
- Provide disability documentation to the OSID (documentation information and specifics can be found on the OSID website)
<http://www.disabilities.eku.edu/>
- Provide completed application for job accommodations to OSID for request for services. Include specific job accommodations needed to perform Essential Job Functions. The job accommodation request form is available online or in the OSID.

Human Resources Responsibilities

- Refers employees who may need a Reasonable Accommodation to the OSID and, when appropriate, the ADA/Section 504 Coordinator.
- Maintain Essential Job Functions for every position.
- The Executive Director of Human Resources or a designee assists OSID with the accommodations process.

Supervisors and/or Unit Administrators 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 the OSID or OSID website to review job accommodation process.
- Encourage the individual to seek assistance with the OSID to document the need for accommodation.

Violations

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.

Interpreting Authority

Executive Director of Policy, Compliance and Governance

Statutory or Regulatory References

Americans with Disabilities Act of 1990, amended by the Amendments Act, 2008

Section 504 of Rehabilitation Act of 1973

Relevant Links

Policy 4.1.4p Course Syllabi

<http://www.disabilities.eku.edu/services-0>

Non-Discrimination Policy, Equal Opportunity/Affirmative Action Statement

Adoption Review and Approval

1/2/13 Approved by President.