

PROCEDURES FOR RESPONDING TO REQUESTS FOR ACCOMMODATIONS REQUIRED UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

ADA BACKGROUND INFORMATION

The Americans with Disabilities Act (ADA) is a federal civil rights law that was enacted in 1990 and amended in 2008. It is intended to protect qualified persons with disabilities from discrimination in employment, government services and programs, transportation, public accommodations and telecommunications. The ADA supplements and complements other state and federal laws (such as Section 504 of the Rehabilitation Act of 1973) which protect persons with disabilities. Accordingly, the University of Massachusetts Amherst must not exclude a qualified person with a disability from participation in or deny the benefits of the services, programs, or activities of the University or otherwise subject that person to discrimination by the University.

The Americans with Disabilities Act requires the University to make all programs and services accessible to and useable by persons with disabilities in the most integrated setting appropriate unless doing so would result in either:

- a fundamental alteration of the program, or
- undue financial or administrative burdens. In making this determination all of the resources available for use in funding the service, program, or activity would be considered. Thus, the fact that a particular department, area, or program of the University does not have sufficient resources in its budget to make particular areas accessible will not be determinative; it is likely the courts would review the resources of the entire University and the Commonwealth.

Policies, practices, and procedures of the University must also be modified when necessary to avoid discrimination against individuals with disabilities unless to do so would fundamentally alter the nature of the service, program, or activity.

The University recognizes its obligation to provide access for individuals with disabilities. When requested, reasonable accommodations are provided for qualified individuals with disabilities to enable successful performance in various employment settings. The University will also provide academic adjustments for qualified students with disabilities when requested and when such adjustments are appropriate.

ACADEMIC ACCOMMODATIONS

(Students)

A student with a disability may require an academic accommodation or modification of policies or practices in order to complete academic requirements. Auxiliary aids may also be required to ensure effective communication. Academic accommodations, including the need for auxiliary aids, are determined on an individual basis and may include the following examples:

- extended time to complete exams or course/degree requirements;
- provision of sign language interpreters for classroom lecture;

- provision of an assistant in a classroom or laboratory situation;
- qualified readers, taped texts, and Brailled or large print materials;
- provision of qualified readers and/or writers for exams;
- adapted computer hardware and/or software in computer classes or lab settings;
- reassignment of classes to accessible locations; and
- alternate format for exams.

Note: The above is not intended to be a comprehensive list of academic accommodations but is only a listing of some common examples. In all cases the accommodation should be provided in a timely manner.

PROCEDURES FOR REQUESTING AND PROVIDING ACADEMIC ACCOMMODATIONS

Each student who is eligible for ADA accommodations and is registered with the Office of Disability Services may request academic accommodations. Whenever possible, requests should be made as soon as the student knows his or her schedule. The student's documentation will be reviewed in relationship to relevant information (course syllabi where available) to determine an effective and reasonable accommodation plan for each course (see page 5 for definitions of effective and reasonable). Disability Services or the student will then notify the course instructor of requested accommodations.

Instructors with questions concerning the requested accommodation(s) should consult with the Office of Disability Services. Service providers within Disability Services have access to documentation pertaining to the student's disability and are most qualified to recommend academic accommodations. *Once a request for accommodation has been made, instructors are required to contact the Office of Disability Services and indicate whether the requested accommodations will be provided or do not seem suitable to the particular classroom situation.* Instructors have *FIVE* working days after the date on which they receive a request for accommodation to contact Disability Services regarding possible changes in accommodations. Failure to notify the Office within five working days will ordinarily mean that the requested accommodations are accepted. Additionally, because accommodation is an evolving and on-going process, discussions may need to recur throughout the semester.

Many accommodations can be provided at low cost or no cost to the provider. Also, many related services are provided by the Office of Disability Services. If, however, an expense is incurred in regard to an accommodation for a student in a classroom or laboratory situation and the accommodation is not provided by Disability Services, then the academic department offering the course will be responsible for funding the accommodation. If the academic department has insufficient funds to meet the accommodation request, funding should be requested from the next level (Department Head or Dean), following the chain of command to the Provost and Chancellor if necessary.

If Disability Services, the student, and the instructor cannot agree about accommodations to be granted within five working days after Disability Services is contacted by the instructor, the

accommodations will be regarded as in dispute. When disputes arise regarding specific requests for academic accommodations, "Procedures for Resolving Academic Accommodation Requests that are in Dispute" is invoked. If an acceptable resolution is not provided by these procedures, the student may appeal through the campus formal discrimination grievance process or through an outside agency such as the Office for Civil Rights (OCR) or the Massachusetts Commission Against Discrimination (MCAD).

RESOLVING ACADEMIC ACCOMMODATION REQUESTS THAT ARE IN DISPUTE

It is important that accommodation issues be resolved before course performance is significantly affected. To effect a timely resolution of requests that are in dispute, the following procedures will be used:

Step One: Within THREE working days of a recognition that accommodations are in dispute, the department head or chair or the departmental designee may be asked to make a suggestion about accommodations based on a knowledge of departmental practices. After such a request has been made, the department head or chair or designee will have FIVE working days to communicate the recommendation to all parties.

Step Two: If the suggestion arising from Step One does not produce a mutually acceptable resolution, or if there is no suggestion arising from Step One, any of the parties may, within THREE working days of the end of Step One, request a resolution by the Associate Chancellor for Equal Opportunity and Diversity. The Associate Chancellor or designee, working in consultation with the affected student and instructor, the Office of Disability Services, appropriate academic administrators, and the ADA Compliance Officer, will make a decision about the resolution of the situation within TEN working days of receipt of a request.

NOTE: In order to ensure that a student's ability to succeed in a course is not irretrievably and unlawfully compromised during the period when the accommodation request is under consideration, accommodations requested by Disability Services will be in effect during Step One and Step Two. Instructors who do not provide requested accommodations during this period will be considered to be in violation of University policy, and appropriate disciplinary measures, consistent with applicable union contractual provisions, may be invoked.

The student has a right (and must be so informed) to advice from the Office of Disability Services at all times during this process. A representative from Disability Services may accompany the student to any meetings in which the student is involved.

REASONABLE ACCOMMODATIONS (Employment Sector)

Meeting accessibility requirements in the employment sector is frequently accomplished by providing reasonable accommodations. Employees who know or suspect they may have a disability are encouraged to register with Disability Services. Assistance in developing a reasonable accommodation can be obtained from the Office of Disability Services for persons who have a documented disability. Disability Services works with both the employee and immediate supervisor to identify reasonable accommodations which will enable successful performance in various employment settings. Such accommodations are determined on an individual basis and can include the following examples:

- modifying facilities, entrances or work stations to make them accessible;
- restructuring a job to transfer "non-essential" functions that the disabled person cannot perform to other employees;
- providing special equipment, modifying equipment, or providing qualified readers and interpreters;
- reassigning a current employee who becomes disabled and can no longer perform his or her job to a vacant position for which the individual is qualified. (This accommodation may require consultation with the appropriate union before implementation.)
- modifying an employee's work schedule to accommodate a disability.

PROCEDURES FOR PROVIDING ACCOMMODATIONS
(Employment Sector)

Requests for reasonable accommodation should follow the University's current chain of command, with the immediate supervisor or department head being the first line of determination and responsibility. The guiding principle should be implementation in a timely manner and at the lowest possible level. It may be necessary in some instances to shift resources to provide an ADA required accommodation. Should the decision to institute the accommodation be beyond this person's budgetary responsibility, the next level supervisor should be informed, following the chain of command to the appropriate Vice Chancellor or Deputy Chancellor. If the determination is made that providing the reasonable accommodation would result in a fundamental alteration of service or an undue administrative and financial burden, the Vice Chancellor or Deputy Chancellor, in consultation with the ADA Compliance Officer and the Chancellor or his or her designee, writes the determination.

If the employee is not satisfied with the accommodation decision, he or she has recourse to the "Grievance Policy and Procedures" of the University and/or to an outside agency such as the Massachusetts Commission Against Discrimination (MCAD) or the Office for Civil Rights (OCR).

ACCOMMODATIONS INVOLVING STRUCTURAL MODIFICATIONS
(Employees and Students)

When accessible space is required for a program offered in an inaccessible location, the following procedure should be followed:

Efforts should be made to relocate the activity to an accessible location within the Major Budgetary Unit (MBU) responsible for the program. If accessible space cannot be found within the MBU, then the chief administrator of the MBU or his or her designee should contact the ADA Compliance Officer for further review and assistance.

The ADA Compliance Officer will consult with the Division of Facilities Planning to formulate a recommended course of action and to prepare a cost estimate if appropriate. The recommendation will be shared with the chief administrator(s) of the MBU(s) involved.

Funding requests for structural modifications or costs associated with relocating the inaccessible program or activity should be made through the chain of command to the appropriate Vice Chancellor or Deputy Chancellor. If resources are identified in this process, the proposal will be implemented. If resources are not identified, the proposal is submitted by the ADA Compliance Officer, in consultation with the appropriate Vice Chancellor or Deputy Chancellor, to the Architectural Access Board (AAB) for its review and comments.

If the proposal is approved and can be accomplished with AAB funding, the project will be implemented. If University wide resources must be used to fund the project, the AAB will submit its review and recommendation to the Chancellor's Executive Management Team for disposition. The recommendation is finalized by the Chancellor.

DEFINITIONS

In the context of providing academic accommodations, the terms "effective" and "reasonable" will mean the following:

Effective:

- 1) Accommodations are consistent with the student's documentation and are relevant to the identified disability;
- 2) Accommodations result in testing the student's learning, not the student's disability; and
- 3) Accommodations are consistent with the student's educational experiences regarding his/her disability.

Reasonable:

- 1) Accommodations are consistent with course content and stated objectives, and do not alter course and program requirements;
- 2) Accommodations are consistent with established legal remedies; and
- 3) Accommodations do not (by themselves) increase the probability of earning a higher or lower grade in the course.

RESOURCES

- ADA Compliance Officer, Equal Opportunity and Diversity, 243 Lederle GRC Lowrise, (V/TTY): 413.545.3464, www.umass.edu/eod
- Architectural Access Board, Administration and Finance, 340 Whitmore Administration Building, 413.545.1581
- Disability Services, 231 Whitmore Administration Building, (V/TTY): 413.545.0892, www.umass.edu/disability

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