

West Virginia State University Board of Governors

West Virginia State University

BOG Policy #66

Title: Access for Individual with Disabilities

Section 1. General

- 1.1. Scope: The purpose of this policy is to provide an inclusive and accessible university environment for all qualified individuals with disabilities. This policy will be interpreted in compliance with applicable law and exceptions provided by applicable law.
- 1.2. Authority:
 - Statute
29 U.S.C. § 794. Section 504 of the Rehabilitation Act of 1973
Implementing Regulations
There are over 20 Implementing Regulations for federally assisted programs, including:
7 CFR Part 15b (Department of Agriculture)
28 CFR Part 42 (Department of Justice)
34 CFR Part 104 (Department of Education)
FR §§ 42.501 et seq.
 - Statute
42 U.S.C. §§ 12101 et seq. Americans with Disabilities Act of 1990 (ADA)
Implementing Regulations
28 CFR Part 35 (Title II, Department of Justice (DOJ))
29 CFR Parts 1630, 1602 (Title I, Equal Employment Opportunity Commission (EEOC))
47 CFR §§ 64.601 et seq. (Title IV, Federal Communications Commission (FCC))
 - Statute
42 U.S.C. ch. 126 § 12101 et seq. ADA Amendments Act of 2008 (ADAAA)
Implementing Regulations
28 CFR Parts 35 (Title II, DOJ)
29 CFR Part 1630 (Title I, EEOC)
 - Statute
42 U.S.C. §§ 3601 et seq., Fair Housing Amendments Act of 1988
Implementing Regulations
24 CFR Parts 100 et seq.
- 1.3. Application: This University-wide policy is applicable to all faculty, staff, students, affiliated third parties, volunteers and visitors. This policy applies to all programs offered by the university, including:
 - 1.3.a. All employment practices and actions through the entire employee life cycle. This includes, but is not limited to, recruitment, application, hiring, training, disciplinary actions, advancement, transfer/reassignment, and employment status.

- 1.3.b. All educational delivery and practices. This includes but is not limited to recruitment, application, examination and testing, and educational status, and applies to students at all campuses including satellite campuses as well as those engaged in distance learning through the university.
 - 1.3.c. All programs over which the university exercises substantial control, which may occur outside of the classroom, campus, or office environment but are a vital part of the university experience (e.g., sponsored events, extension programs).
 - 1.3.d. All public access to university programs and other offerings. This includes, but is not limited to, athletic events, parking, conferences, and any other event or service open to the public.
 - 1.3.e. All facilities and property owned, operated by, or rented by the university.
 - 1.3.f. All digital information and services provided by the university, including delivery platforms.
- 1.4. Effective Date: ??/??/2023

Section 2. Definitions

- 2.1 Access/Accessible/Accessibility. The degree to which a site, program, system, device, or application is designed to be usable by people with varying ability levels. It also is defined in relation to persons with a disability as the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use as for persons without a disability.
- 2.2 Accessible media. Accessible formats of various forms of media including print, video, or audio. Such formats may include properly formatted documents such as those in Portable Document Format (PDF), braille, large print, digital, and accurately captioned videos or transcription of audio recordings.
 - 2.2.a. Digital accessibility. Process of providing all users access to the same digital information or digital services, regardless of the impairments they may experience.
 - 2.2.b. Physical accessibility. Access to the built environment for people with disabilities. Areas in which accessibility must be provided may include, but are not limited to: parking lots and parking spaces; sidewalks and routes to facilities; entrances/exits; fire alarms/emergency exits; classrooms, conference rooms, shared workspaces, and communal spaces; desks and personal workspace; hallways and stairwells; elevators; restrooms; and cafeterias and dining spaces.
 - 2.2.c. Program accessibility. Any activity, benefit or service provided by or substantially supported by the University and when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities.
- 2.3 Accommodation. A term commonly utilized for reasonable modifications of policies, practices, and procedures; the provision of auxiliary aids and services; or academic adjustments and modifications to the environment intended to remove barriers to equal access.

- 2.4 Americans with Disabilities Act (ADA). The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability.
- 2.5 ADA Standards for Accessible Design. Minimum requirements – both scoping and technical – for newly designed and constructed or altered state and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities. The 1991 ADA Standards for Accessible Design are used for facilities constructed or altered between July 26, 1991 and March 14, 2012. The Department of Justice published revised regulations for Titles II and III on September 15, 2010. These regulations adopted revised, enforceable accessibility standards and became the enforceable standards for construction or alterations on or after March 15, 2012.
- 2.6 Assistive technology (AT). Any item, piece of equipment, or product system that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. Examples include message boards, screen readers, refreshable Braille displays, keyboard and mouse modifications, and head pointers.
- 2.7 Designated University Official – the staff member(s) of the University who is designated by the President with authority to oversee institutional compliance with the disability mandates as well as the process to consider and evaluate accessibility and reasonable accommodation requests. This is synonymous with the term ADA Coordinator/504 Compliance Officer.
- 2.8 Direct Threat. A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.
- 2.9 Disability. As a social construct, there are a myriad of definitions of disability that inform the process of providing equity for disabled individuals.
- 2.9.1 An individual with a disability is defined in the federal mandates as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The federal mandates do include some examples but do not specifically name all of the impairments that are covered.
- 2.9.2 The U.N. Nations Convention on the Rights of Persons with Disabilities provides a broad and appropriate context for higher education as it works to ensure access:
“The loss or limitation of opportunities to take part in the life of the community on an equal level with others due to physical, social, attitudinal and cultural barriers encountered by persons having physical, sensory, psychological, developmental, learning, neurological or other impairments (including the presence in the body of an organism or agent causing malfunction or disease), which may be permanent, temporary, episodic or transitory in nature.”
- 2.10 Equal opportunity. An opportunity for people with disabilities to participate and benefit from programs and services that is equal to and as effective as the opportunity provided to others.
- 2.11 Essential function/program standard/element/requirement. Those aspects of the position, program or activity which are determined on a case-by-case basis through an appropriate process to be essential to the nature of the job or program.
- 2.11.1 Essential job function. Fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential

functions" does not include the marginal functions of the position. A job function may be considered essential for any of several reasons, including but not limited to the following:

- 2.11.1.1 The function may be essential because the reason the position exists is to perform that function;
 - 2.11.1.2 The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or
 - 2.11.1.3 The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
- 2.11.2 Essential program standard/element. Outcomes (including skills, knowledge, and attitudes) all individuals must demonstrate with or without using accommodations.
- 2.12 Enforcement agencies. Each Federal agency has its own set of regulations that apply to its own programs, recipients of federal funds through the agency and/or otherwise covered under the statute and regulations and is responsible for enforcing its own regulations.
- 2.13 Fair Housing Act (FHA) 1988 as Amended. A federal law that prohibits discrimination against anyone as it pertains to housing to include people with a disability.
- 2.14 Fundamental alteration. A change so significant it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered
- 2.15 Harassment. Conduct (e.g., physical, verbal, graphic or written) based on disability which is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the University and which is more than casual or isolated incidents. Determination of whether conduct is "severe" or "pervasive" is made by examining the gravity as well as the frequency of the harassing conduct.
- 2.16 Impairment. A physical impairment is a physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the body systems. A mental impairment is a mental or psychological disorder.
- 2.17 Interactive process. A collaborative exchange that allows the individual and the university to provide input and feedback in determining a reasonable accommodation.
- 2.18 Interference. A covered entity is prohibited from coercing, intimidating, threatening or interfering with any individual in the exercise or enjoyment of, or on account of their having exercised or enjoyed, on account of their having aided or encourage any other individual in the exercise and enjoyment of any right granted or protected by the statute and regulations. This may include, for example, coercing an individual to relinquish or forgo an accommodation to which they are entitled, intimidating an applicant from requesting accommodations, or issuing a policy or requirement that purports to limit an individual's right to invoke protections. A threat does not have to be carried out in order to violate the interference provision nor does an individual have to be actually deterred from exercising or enjoying their rights.
- 2.19 Major life activity. Those functions that are important to most people's daily lives. Includes but not limited to: caring for oneself, performing manual tasks, walking, sitting, standing, lifting, reaching, seeing, hearing, speaking, breathing, learning,

working, eating, sleeping, bending, reading, concentrating, thinking, and communicating, as well as the normal operations of major bodily systems including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

- 2.20 Marginal functions. Duties of a job that are not absolutely necessary for the job being performed.
- 2.21 Plain language accommodation request. Indicates a program-related need associated with a physical or mental condition or disability. Someone does not need to use specific language or the word “accommodation” to indicate this need.
- 2.22 Public entity. A public entity covered by Title II of the ADA is defined as:
 - 2.22.1 Any State or local government.
 - 2.22.2 Any department, agency, special purpose district, or other instrumentality of a State or local government.
- 2.23 Qualified individual with a disability. For employment, it is an individual with a disability who meets the necessary skills, experience, education, and other job-related requirements of the position they hold or seek to hold, and can perform the essential functions of the position with or without a reasonable accommodation. In the context of public services, it is an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity. With respect to postsecondary programs and education, the individual with a disability must meet the academic and technical standards requisite to admission or participation in the institutions education program or activity.
- 2.24 Reasonable accommodation. A modification to policy, practice, the environment, or the provision of an auxiliary aid and services that mitigates the impact of the disability and does not cause a fundamental alteration.
 - 2.24.1 Academic adjustment. A legally mandated modification or service that gives a student with a disability an equal opportunity to benefit from the educational process. 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.
 - 2.24.2 In the context of employment, includes a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. For example:
 - 2.24.2.1 Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
 - 2.24.2.2 Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

- 2.24.2.3 Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.
- 2.24.3 Auxiliary aids and services. Aids and services required to ensure effective communication with an individual with vision, hearing, speech or manual disabilities. The institution is not required to provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.
- 2.25 Rehabilitation Act of 1973. Prohibits discrimination on the basis of disability and applies to any program that receives federal financial support. The non-discrimination provisions of Section 504 were the foundation for and are similar to those found in Title I of the ADA, covering employment discrimination, and Title II of the ADA, covering the programs, activities, and services offered by state and local governments. For students, Section 504 of the Act is aimed at making educational programs and facilities accessible to all students.
- 2.26 Retaliation. Individuals who exercise their rights under the federal mandates are protected from those who would take adverse actions in response to the individuals protected activity. Protected activities include requesting an accommodation, opposing any act or practice made unlawful by the federal statutes or regulations or through making a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing.
- 2.27 Substantial limitation. An impairment that restricts the duration, manner, or condition under which an individual can perform a particular major life activity as compared to the ability of the typical person in the general population to perform the same major life activity. In these instances, the following factors will be considered: (1) the nature and severity of the impairment; (2) the duration or expected duration of the impairment; (3) the permanent or long-term impact resulting from the impairment.
- 2.28 Undue burden. Significant difficulty or expense. A covered entity is not required to provide an accommodation or auxiliary aid or service that would result in an undue burden.
 - 2.28.1 Undue hardship. An action that requires "significant difficulty or expense" in relation to the size of the institution, the resources available, and the nature of the operation. The concept of undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the business. Accordingly, whether a particular accommodation will impose an undue hardship must always be determined on a case-by- case basis.
 - 2.28.2 Undue financial and administrative burden. A public entity does not have to take any action that it can demonstrate would result in an undue financial and administrative burden. This applies in program accessibility, effective communication, and auxiliary aids and services. The determination of a undue financial and administrative burden must be:
 - 2.28.2.1 Made by the head of the public entity or his/her designee.
 - 2.28.2.2 Accompanied by a written statement of the reasons.
 - 2.28.2.3 Based on all resources available for use in the program.

- 2.29 Unit. College, division or administrative unit.
- 2.30 Unit leader. Head of college or administrative unit (e.g., senior program coordinator, director, dean, vice president, president)

Section 3. Policy Overview

- 3.1. West Virginia State University is committed to building and maintaining a community that reflects diversity and improves opportunities for all, including individuals with disabilities. As part of this commitment, policies and procedures will ensure that persons with disabilities are not subjected to discrimination or denied full and equal access to programs, activities and services offered by the university on the basis of their disability. When barriers to participation or opportunity persist, the university will ensure that persons with disabilities are provided with reasonable accommodations.
- 3.2. The federal mandates are intended to guarantee equal opportunity through prohibiting disability discrimination and were designed to remove barriers which prevent qualified individuals with disabilities from enjoying the same opportunities that are available to persons without disabilities. The primary mandates for the University include Section 504 of the Rehabilitation Act of 1973, Titles I and II of the Americans with Disabilities Act of 1990 (ADA) as amended in 2008, and the Fair Housing Act as amended in 1988.
- 3.3. To be protected by these federal mandates, one must have a disability or, under certain limited circumstances, have a relationship or association with an individual with a disability.
 - 3.3.1. Temporary, non-chronic impairments that do not last for an extended period of time and that have little or no impact usually are not disabilities. However, an impairment or injury is not excluded as a disability simply because it is temporary and therefore the determination of whether an impairment is a disability is made on a case-by-case basis.
- 3.4. Pursuant to these federal mandates, the University prohibits discrimination against and provides equal access to persons with disabilities in all aspects of the University, including, but not limited to, admissions, employment, educational programs and activities, and public programs and activities.
- 3.5. Prohibited forms of discrimination under university policy and law include, but are not limited to, failure to provide access, accommodations or auxiliary aids and services; harassment; interference; and retaliation.

Section 4. Administration

- 4.1. Unit-level guidelines, procedures, and practices must comply with this policy.
- 4.2. Qualified individuals with disabilities have the right to an equal opportunity to participate in and benefit from all programs offered by the university. Individuals who choose to exercise these rights:
 - 4.2.a. Are protected under the Americans with Disabilities Act (ADA) and/or Section 504 when they meet any of the following eligibility criteria:

- 4.2.a.1. Have a physical or mental impairment that substantially limits one or more major life activities; or
- 4.2.a.2. Have a history or record of such an impairment or are perceived by others of having such an impairment.
- 4.2.b. Have a right to reasonable accommodations.
- 4.2.c. Are responsible for initiating the accommodation process in a timely fashion by identifying themselves as needing reasonable modifications to a university environment, policy, or practice and/or needing auxiliary aids and services.
- 4.2.d. Are responsible for providing appropriate documentation that confirms a disability and a description of the relevant impacts of that disability when requested by the Disability and Accessibility Resources administrative unit or designated office.
- 4.2.e. Are expected to actively participate in the identification of reasonable accommodations in a timely fashion.
- 4.2.f. Have the same obligation as all program participants to meet and maintain the institution's performance standards, academic and technical standards, and codes of conduct.
- 4.2.g. Have a right to be evaluated based on their ability, not their disability.
- 4.2.h. Have the right to be informed of procedures for appealing a university decision through internal and appropriate external channels.
- 4.3. The university has a responsibility to ensure access to all its programs while maintaining the standards that are fundamental and essential to programs. The University:
 - 4.3.a. In accordance with 28 CFR § 35.107, the President will appoint an employee to be the Designated University Official, also referred to as the ADA Coordinator/504 Compliance Officer, to coordinate and oversee the University's efforts to comply with this policy, all disability related federal or state statutes, and the applicable regulations.
 - 4.3.a.1. The President has appointed the Unit Leader for the Disability and Accessibility Resources administrative unit as the Designated University Official/ADA Coordinator-504 Compliance Officer for the University.
 - 4.3.b. Will designate authority to specific employees with responsibility and authority to determine disability-related access and reasonable accommodations necessary to provide equal access.
 - 4.3.b.1. The President has appointed the staff with Disability and Accessibility Resources administrative unit as the sole employees who will determine to what access options or reasonable accommodations for which an individual with a disability is eligible
 - 4.3.c. Will ensure all employees understand the responsibility to adhere to the philosophy of equal access and equal opportunity for individuals with disability and the broad responsibilities of all campus constituencies throughout the institution for implementation of this policy.
 - 4.3.d. Will inform its program participants about the availability of accommodations.

- 4.3.e. May select between equally effective methods of accommodating an individual with a disability.
- 4.3.f. Will identify and establish the abilities, skills, and knowledge necessary for entrance and ongoing participation in its programs and evaluate applicants and participants on those bases.
- 4.3.g. Will make reasonable modifications to the environment, policy, or practice and/or provide auxiliary aids and services in a timely fashion when an individual's program participation is negatively impacted by their disability in a substantial way.
- 4.3.h. May refuse a requested accommodation that fundamentally alters an essential element or program requirement (e.g., academic and technical standards or job responsibilities) or creates an undue hardship as determined through the appropriate procedures administered by the Disability and Accessibility Resources administrative unit.
- 4.3.i. Will inform the individual of the availability of internal and external concern, complaint, grievance and appeals procedures as applicable.

Section 5. Confidentiality and Privacy

- 5.1. The university recognizes the importance of confidentiality and privacy. Information presented in support of an individual's request for consideration and accommodation as a person with a disability is considered private and sensitive and will be handled accordingly.
- 5.2. The Disability and Accessibility Resources unit has been assigned the responsibility for receiving and holding disability-related information regarding students, employees, or campus visitors and other program participants in order to guard against the unintentional disclosure of sensitive information. It is generally inappropriate for copies of such documentation of disability to be requested or held elsewhere on campus.
- 5.3. All disability-related information for students including documentation, accommodation letters, correspondence, and consultations will be managed in accordance with The Family Educational Rights and Privacy Act (FERPA) regulations. This information in the Student Accessibility Resources office is part of the student's FERPA record; as such, disability-related information will be shared with other institutional personnel only when there is a legitimate educational interest.
- 5.4. For employees, all disability-related information including documentation, accommodation letters, correspondence, and consultations will be managed in a system separate from their personnel file. Information received in connection with establishing and implementing reasonable accommodations, reporting, and resolutions will be treated as private and will only involve individuals whom the university determines are necessary to ensure implementation of reasonable accommodations, to provide assistance and resources to parties, to perform other appropriate university functions, or in accordance with applicable law.
- 5.5. The university will maintain as confidential any personal health or medical information provided, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the accommodations. Such information

will be shared only with those individuals with a legitimate right to know and to the degree necessary to establish and implement accommodations.

- 5.6. All individuals involved in the accommodation process should observe the same standard of discretion and respect for everyone involved in the process.

Section 6. Reasonable Accommodations

- 6.1. When necessary, the university will provide reasonable adjustments/accommodations to ensure there will be no discrimination on the basis of disability. The institution is obligated to make such reasonable adjustments or accommodations only for the known disability of an otherwise qualified student, applicant, employee or other member of the university community. The University will respond to all requests for accommodation to the known disability of a qualified individual with a disability and will make a determination if the accommodation is necessary and reasonable. Once determined necessary and reasonable, all University employees are obligated to implement the approved accommodation. In determining reasonableness, if the accommodation is necessary to create access for an individual with a disability, it will be provided unless doing so would pose a direct threat to the health and safety of the individual or others, creates a fundamental alteration of a service or program, imposes an undue administrative or financial burden, or conflicts with a mandatory federal statute or regulation.
- 6.1.a. All accommodations will be evaluated using an interactive process in accordance with the criteria established and defined by state and federal laws including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.
- 6.1.b. The Designated University Official with the Disability and Accessibility Resources administrative unit provides oversight of the process for review for eligibility, as well as ensures implementation of, the accommodations once approved.
- 6.1.c. Staff with the Disability and Accessibility Resources unit are the sole university employees vested with the authority to determine, assign and/or approve reasonable accommodations on behalf of the institution.
- 6.1.d. Reasonable accommodations are initially determined through the interactive process in collaboration with the individual with a disability and the staff of the Disability and Accessibility Resources unit.
- 6.2. Determinations of the reasonableness of a specific requested accommodation.
- 6.2.a. A requested accommodation may only be denied through utilization of the appropriate administrative procedure through the Disability and Accessibility Resources unit.
- 6.2.b. A campus constituent in a position of authority may question the granting of an accommodation by following the appropriate administrative procedure through the Disability and Accessibility Resources unit. The link for the online form to initiate the procedure is maintained on the university website at <https://wvstateu.edu/ada>.
- 6.2.c. When a determination is made a requested accommodation is either not necessary or unreasonable, the Unit Leader with the Disability and

Accessibility Resources unit has been vested with the authority on behalf of the institution to formally deny a requested accommodation.

- 6.3. It is the responsibility of the student, employee or other University related individual to make the disability status and subsequent need for an accommodation known to the Disability and Accessibility Resources unit in a timely fashion. The individual requesting should identify themselves as someone needing reasonable modification to a university environment, policy, or practice and/or needing auxiliary aids and services.
- 6.4. All plain language accommodation requests must be referred to the Disability and Accessibility Resources unit. Any individual that provides supervision, instruction, human resources support, or controls a program is responsible for making these referrals.
- 6.5. For assistance with answers to questions regarding accessibility and inclusion or to initiate the accommodation interactive request process (ie, review of documentation of disability and/or to arrange for a qualified reasonable accommodation), the individual should contact the Disability and Accessibility Resources administrative unit. Current contact information will be maintained on the university website at: <https://wvstateu.edu/ada>.
- 6.6. Requests for reasonable accommodation must be supported through the provision of adequate documentation of the need for the requested accommodation. Such documentation must be from an appropriate source, will include information gathered during the interactive process and will follow the standards outlined in the administrative procedures of the Disability and Accessibility Resources unit. The documentation must be received prior to recognition and consideration as a qualified individual with a disability.
- 6.7. Once notified of the need for accommodation, it is the responsibility of the designated staff with Disability and Accessibility Resources and the individual with a disability to participate in an interactive process to discuss possible accommodation. Through this process the designated staff will assess the necessity, reasonableness and potential effectiveness of each requested accommodation.
- 6.8. Determinations regarding accommodations on campus will be made on a case-by-case basis utilizing an interactive process. If there are two or more possible accommodations, and one costs more or is more burdensome than the other, the University will give primary consideration to the preference of the individual with a disability; however, the University may choose the less expensive or burdensome accommodation as long as it is as effective as the preferred accommodation.

Section 7. Training and Assistance

- 7.1. The Disability and Accessibility Resources administrative unit, with assistance from other designated offices, provides technical assistance and support in administering this policy to implement the statutes and associated laws and regulations.
- 7.2. The Disability and Accessibility Resources administrative unit and other designated offices will provide training as appropriate to units on obligations under this policy, the statutes, and associated laws and regulations.

Section 8. Audits

- 8.1. A Self-Evaluation and Transition Plan is a comprehensive review of all facilities, programs, activities, and services operated by a public entity. An updated review will be completed by 2025 and will then be updated every five years. The WVSU Compliance Plan outlining the interim measures and the process to be followed for the self-evaluation has been developed and will be implemented upon approval of the effective date of this policy.
- 8.2. To provide an accessible university infrastructure, the Disability and Accessibility Resources administrative unit oversees and coordinates regular and periodic audits of policies, programs, services, activities, digital environments, and facilities of the university to determine compliance with this policy. The participation of units and unit leaders and any designees is essential in completing these audits.
- 8.3. Following an audit, the unit will partner with the Disability and Accessibility Resources administrative unit to develop and implement action-oriented directives that will further the principles of this policy, the ADA, and associated laws and regulations, as needed.

Section 9. Reporting

- 9.1. Any person who has observed or encountered a barrier to access or has experienced issues with the implementation of an approved accommodation should report the issue to the Disability and Accessibility Resources administrative unit and may submit a formal report. To file an ADA or Section 504 report or an Accommodation Concern or Issue report, an individual may contact the Designated University Official. The current contact information and online forms will be maintained on the university website at <https://wvstateu.edu/ada>
- 9.2. Certain members of the university community are required to report all incidents of disability discrimination and harassment as described in the Board Policy #14 - Unlawful Discrimination and Harassment.
- 9.3. In accordance with 28 CFR § 35.107, the President will appoint an employee to handle disability discrimination and grievance complaints. The President has appointed the staff with the Office of EEO/Title IX to handle discrimination complaints.
- 9.4. Any person who believes they have been discriminated against by being improperly denied the benefit of, or access to, a program, service, or activity, have experienced disability-related harassment or have been subjected to interference or retaliation may file a grievance. The EEO/Title IX office establishes standard protocols for responding to and resolving complaints of discrimination, harassment or retaliation due to a disability.
- 9.5. Harassment, interference and retaliation is prohibited by university policy and law. The university will not tolerate these in any form against any individual who makes an allegation, files a report, serves as a witness, assists a complainant, or participates in an investigation of discrimination.

Section 10. Accountability

- 10.1. The Designated University Official has oversight of accountability as it relates to this policy and can refer matters to other university offices as appropriate.
- 10.2. Investigations of reports under this policy will be conducted in accordance with the investigatory protocols of the university.
- 10.3. Employees and students who violate this policy will be held accountable for their actions in accordance with applicable university policies or rules (e.g., Student Code of Conduct, Progressive Discipline, Title 133 Procedural Rule – Series 9, etc.).
- 10.4. The Designate University Official may issue administrative procedures and directives when necessary to effectuate this policy.

Section 11. Delegation and Amendments.

- 11.1. The Designated University Official may establish administrative procedures and forms to implement this policy including any additional procedures for the reporting, investigation and disposition of complaints of discrimination on the basis of disability status.
- 11.2. This Policy may be amended to change names, links to information and contact information without resorting to the rulemaking process.
- 11.3. Federal and State laws, rules and regulations change. Any portion of this Policy or the procedures may be modified in practice to ensure the due process rights of the individuals involved are provided and to conform with any current Federal and State law, rules and regulations and guidance. Subject to the institution’s rulemaking policy, the institution will change this Policy and procedures to conform to the most current laws and regulations within a reasonable time of discovering the change.

Section 12. Responsibilities

- 12.1. Table outlining position/office and responsibilities.

Position or Office	Responsibilities
Designated University Official	1. Provide oversight and review of accommodation review process, and accountability as it relates to this policy.
ADA Coordinator/ 504 Compliance Officer	2. Request documentation in support of accommodation requests, as needed. 3. Provide technical assistance and support in administering this policy, with assistance from designated offices. 4. Provide trainings as appropriate. 5. Establish standard protocols for responding to and resolving complaints of discrimination or retaliation due to disability or failure to accommodate disability. 6. Partner with units to develop and implement action-oriented directives, as needed, following an audit
EEO/Title IX	Handle grievances and investigate reports related to disability discrimination

Position or Office	Responsibilities
Individuals that provide supervision, instruction, human resources support, or control a program	Refer plain language accommodation requests to Disability and Accessibility Resources.
Relevant unit or program	Collaborate with individuals with a disabilities and designated offices to determine reasonable accommodations.
Qualified individuals with disabilities	<ol style="list-style-type: none"> 1. Initiate accommodation process as set forth in the policy. 2. Provide appropriate documentation that confirms a disability as set forth in the policy. 3. Participate in identification of reasonable accommodations as set forth in the policy.
Units and unit leaders	Partner with Disability and Accessibility Resources unit to develop and implement action-oriented directives, as needed, following an audit.
University	<ol style="list-style-type: none"> 1. Ensure that persons with disabilities are provided with reasonable accommodations as set forth in the policy. 2. Ensure access to all university programs while maintaining fundamental and essential program standards. 3. Inform university program participants about the availability of accessibility options. 4. Identify and establish the abilities, skills, and knowledge necessary for entrance and ongoing participation in its programs and evaluate applicants and participants on those bases. 5. Make reasonable modifications to the environment, policy, or practice and/or provide auxiliary aids and services when an individual's program participation is negatively impacted by their disability in a substantial way. 6. Inform individuals of the availability of internal and external appeals processes as applicable. 7. Determine individuals necessary to receive private information in connection with establishing and implementing reasonable accommodations, reporting, and resolutions as set forth in the policy. 8. Maintain as confidential any personal medical information provided, to the extent possible as set forth in the policy.

Policy History: New Policy

Cabinet Position and Department:

Provost/Vice President of Academic Affairs/Disability and Accessibility Resources

Resources:

Governance Documents

Disciplinary Process for Faculty

<https://www.wvhepc.edu/wp-content/uploads/2020/02/133-9final.pdf>

Disciplinary Process for Staff

[https://www.wvstateu.edu/getattachment/About/Administration/Board-of-Governors/Sections/Board-of-Governors-Policies/BOG-Policy-19-\(003\).pdf.aspx?lang=en-US](https://www.wvstateu.edu/getattachment/About/Administration/Board-of-Governors/Sections/Board-of-Governors-Policies/BOG-Policy-19-(003).pdf.aspx?lang=en-US)

Equal Opportunity and Affirmative Action policy

<https://www.wvstateu.edu/getattachment/About/Administration/Board-of-Governors/Sections/Board-of-Governors-Policies/Amendment-EEO-AA-Policy-17.pdf.aspx?lang=en-US>

Student Code of Conduct

<https://www.wvstateu.edu/current-students/leadership,-mentoring-and-judicial-affairs.aspx>

Unlawful Discrimination and Harassment, Sexual Harassment, Grievance Procedures, Child Abuse and Neglect Reporting Relationships

<https://www.wvstateu.edu/getattachment/About/Administration/Board-of-Governors/Sections/Board-of-Governors-Policies/BOG-Policy-14-Final-after-Chancellor-s-Review.pdf.aspx?lang=en-US>

Additional Guidance

Campus Accessibility, wvstateu.edu/ada

Employee Accommodation Overview, wvstateu.edu/workplace-ada

Student Accommodation Overview, wvstateu.edu/sar

WVSU Compliance Plan for ADA/504 Compliance, Accessibility and Inclusion – Administrative Procedure