

Americans with Disabilities Act Compliance Policy

Office/Contact: Dean of Students, 222 Avera Student Center, 605-626-3007.

Sources/Links:

SDBOR 1:18 Human Rights Complaint Procedures

<https://www.sdbor.edu/policy/documents/1-18.pdf>

NORTHERN STATE UNIVERSITY

Policies and Guidelines

SUBJECT: Americans with Disabilities Act Compliance

NUMBER: 3:2

1. Purpose

The University is committed to fostering and maintaining an accessible and inclusive university-wide culture and environment. This policy and its procedures facilitate University compliance with the applicable requirements of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, state law, and their implementing regulations and amendments thereto.

2. Definitions

- a) Americans with Disabilities Act (“ADA”): A wide-ranging federal civil rights law that prohibits discrimination based on disability.
- b) Disability: A physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment, as defined by the ADA at 42 U.S.C. § 12102 et seq.
- c) Qualified Individual with a Disability: A person with a disability who, with respect to education, meets the standards set forth in 42 U.S.C. § 12132, or any amendments thereto and regulations derived therefrom; or, with respect to employment, a person with a disability who meets the standards articulated in 42 U.S.C. § 12111, or any amendments and regulations derived therefrom.
- d) Reasonable Accommodation: an alteration or adjustment to a policy, procedure, or practice, or auxiliary aid or service, provided to a qualified individual with a disability to enable the person to: 1) participate in educational programs and activities; 2) perform the essential functions of a job; 3) apply for admissions or apply and interview for employment; 4) access University facilities and events; or 5) have equal use and enjoyment of a University residence hall. Any accommodation that poses an undue hardship is not a reasonable accommodation.

3. Policy

- a) In accordance with the ADA, Section 504 of the Rehabilitation Act, and applicable state law, and consistent with SDBOR and University policies on prohibited discrimination and harassment, the University prohibits discrimination in employment and educational programs against qualified

individuals with disabilities. The University shall provide reasonable accommodations or academic adjustments when necessary, and these accommodations and adjustments shall be made in a timely manner and on an individualized and flexible basis.

- b)** The University ADA/504 Coordinator, or successor, serves as the principal planning and compliance coordinator for University programs, policies, and procedures to facilitate University compliance under the ADA, Section 504 of the Rehabilitation Act, applicable state law, and SDBOR and University policies for persons with disabilities. Responsibilities of the ADA/504 Coordinator include, but are not limited to:
 - a.** Maintaining current information regarding state and federal laws and regulations;
 - b.** Understanding and communicating best practices on rights and accommodations for persons with disabilities;
 - c.** Ensuring University-related information is readily available on services, accommodations, policies, and demographics related to persons with disabilities;
 - d.** Providing required notices about ADA/504 requirements;
 - e.** Coordinating University information and responsibilities relating to responses to requests for employment accommodation, employment modifications, and employment policies for employees with disabilities;
 - f.** Coordinating University information and responsibilities for responses to University student requests for accommodation;
 - g.** Facilitating compliance with the ADA, applicable legislation, and policies regarding campus accessibility issues in collaboration with other offices;
 - h.** Maintaining, establishing, and overseeing University grievance policies;
 - i.** Providing programming, training, and advice on compliance to all sectors of the University community;
 - j.** Collaborating as a resource with the University Title IX/EO Coordinators; and
 - k.** Monitoring the University's compliance with affirmative action obligations with regard to individuals with disabilities.
- c)** The University Director of Disability Services, or successor, is responsible for organizing the University's responses to requests for accommodation and provision that support the needs of students with disabilities.
- d)** The University Director of Human Resources is responsible for coordinating the University's responses to employees with disabilities, to include, but not limited to, employment issues such as hiring processes; job performance and evaluation; benefits including vacation, personal, and sick leave; and University compliance with state and federal employment laws such as FMLA and Workers' Compensation.
- e)** The University Facilities Management office is responsible for promoting compliance with campus physical and architectural access.
- f)** The Offices of Information Technology and University Marketing & Communications are responsible for identifying, implementing, maintaining, and renewing accessible information systems, including but not limited to, web presence, academic support systems, and administrative information infrastructure; and ensuring accessibility for students, faculty, staff, and public users in accordance with the ADA, Section 508 of the Rehabilitation Act, and the W3C Web Content Accessibility Guidelines (WCAG 2.0).

- g)** The ADA/504 Coordinator is responsible for chartering, organizing, and overseeing a University Advisory Team on Disability, Inclusion, and Accessibility. This council is charged with working collaboratively with the campus community to advise on issues related to ADA/504 compliance and will assist the ADA/504 Coordinator in identifying areas for university-wide growth in accessibility and inclusion efforts.
- h)** Requests for reasonable accommodations shall be processed in accordance with the South Dakota Human Relations Act of 1972, SDCL Ch. 20-13, Titles I and II of the Americans with Disabilities Act, amendments thereto, and their implementing regulations, and Section 504 of the Rehabilitation Act, as applicable.
- i)** The University shall provide reasonable accommodations in employment to a qualified individual with a disability unless the individual poses a direct threat to the health and safety of the individual or others that no reasonable accommodation would eliminate or reduce to an acceptable level.
- j)** With regard to education, the University shall provide reasonable accommodations to a qualified individual with a disability to enable the individual to meet essential elements of the academic program, unless no reasonable accommodation would eliminate a significant threat to the health and safety of others posed by the individual participating in the academic program.
- k)** Any department or University-recognized organization that coordinates or sponsors an activity or event open to the University community, campus visitors, or the public shall promote a clear process by which an individual may request accommodation in advance of need, shall provide reasonable accommodation for the event, and shall work in consultation with the University ADA/504 Coordinator, Office of Human Resources, or the Office of Disability Services to determine such a process or identify resources to meet accommodation requests.
- l)** Individual students, faculty, staff, campus visitors, or members of the public are responsible for identifying themselves as a qualified individual with a disability when seeking an accommodation or adjustment. It is also the responsibility of individual students, faculty, and staff to document their disability and to demonstrate how the disability limits their ability to complete the essential functions of their job or how the disability limits a student's participation in academic programs or activities of the University.
- m)** Students, faculty, and staff who receive reasonable accommodations must maintain institutional standards of performance.
- n)** Retaliation against a qualified individual with a disability for utilizing this policy and any provisions established thereunder is prohibited.
- o)** Review of Decisions to Deny Requested Accommodations
 - a.** In the event that a reasonable accommodation cannot be agreed upon or is denied, individuals may seek review of a department's or unit's decision to deny implementation of a requested accommodations.
 - b.** With regard to education: Review of decisions to deny requests for accommodation in an educational program or activity may be made to the University ADA/504 Coordinator, who will review and attempt to resolve the dispute informally through interactive dialogue with all parties involved and in consideration of the entire situation. If an informal resolution is not possible, the ADA/504 Coordinator shall forward the request for review to the Title IX/EO Coordinator per SDBOR Policy 1:18.

- c. With regard to employment: Review of decisions to deny requests for accommodation in the application process or workplace may be made to the University ADA/504 Coordinator, who will attempt to resolve the dispute informally through interactive dialogue with all parties involved and in consideration of the entire situation. In the event that an informal resolution is not possible, the ADA/504 Coordinator shall forward the request for review to the Title IX/EO Coordinator per SDBOR Policy 1:18.
 - d. Although the preferred accommodation will be provided where reasonable, planning units may provide reasonable alternative accommodation where appropriate.
 - e. Federal disability law requires that any accommodation be evaluated in light of the total resources and function of the University and not simply from a given department's resources or function.
- p) Discrimination
 - a. Individuals who believe that they have been discriminated against in any education program or activity or employment situation at the University on the basis of having a disability, a record of a disability, being regarded as disabled, or having association or affiliation with a person who has a disability, may file a complaint with the ADA/504 Coordinator pursuant to this policy and SDBOR Policy 1:18, Human Rights Complaint Procedures.

4. Responsible Administrator

The ADA/504 Coordinator, successor, or designee is responsible for annual and ad hoc review of this policy and its procedures. The University President is responsible for approval of this policy.

5. Source History:

Adapted from SDSU Policy 4:13, 11/26/2019. Proposed by the Dean of Students 08/06/2021.
Approved by Senior Cabinet 08/23/2021.