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## REASONABLE ACCOMMODATION

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**Category:** Human Resources

**Responsible Office:** EDI, Office of Disability Services (ODS)

**Responsible Executive:** Vice President Human Resources

**Date Established:** 3/1/10

**Date Last Revised:** 11/28/11

**Date Posted to Library:** 3/4/10

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### Summary

The University at Buffalo is committed to providing equal access to individuals with disabilities, including physical access to programs and reasonable accommodations for members of the University community.

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### Policy

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#### POLICY STATEMENT

The University at Buffalo (UB, University) is committed to providing equal employment opportunity, educational opportunity, and equal access to services, programs, and activities for persons with disabilities. Reasonable accommodations will be provided to qualified employees with disabilities to enable performance of the essential functions of the positions for which they are applying and in which they are employed. Academic adjustments and/or auxiliary aids will be provided to qualified students with disabilities when necessary to enable them to complete essential academic requirements. The University's programs and activities will be accessible to all individuals, including both physical access and access to electronic media, such as software and Web-based applications.

The University will not:

- treat any employee, student, or applicant adversely due to a disability, record of a disability, perceived disability, or because of a relationship with an individual who has a disability
- inquire if an applicant for employment or educational program has a disability; however, the University may invite applicants who require accommodations in the application process to disclose the need for such accommodations on a confidential basis
- use any qualification standards or selection criteria that would have the effect of screening out individuals with disabilities, unless the standards or criteria are directly related to and necessary for the job or academic program
- release information regarding disability-related requests except as necessary to process the request; medical information will be collected and maintained in accordance with the Reasonable Accommodation Procedure.

#### BACKGROUND

This policy is based on:

- New York State (NYS) Human Rights Law
- Sections 503/504 of the Federal Rehabilitation Act of 1973, as amended

- Americans with Disabilities Act (ADA)
- Americans with Disabilities Amendments Act of 2008 (ADAAA)
- Executive Order 6
- Executive Chamber Memorandum, entitled Equal Access to State Agency Employment, Programs and Services for Individuals with Disabilities, issued in 1996
- Executive Chamber Memorandum Technology Policy 96-13--Accessibility to Technology, issued November 1996
- Technology Policy 99-3: Universal Accessibility for New York State Web Sites, issued September 1999.

## APPLICABILITY

This policy 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. It also includes access to programs, services, housing, and activities which may occur outside the classroom or office environment but which are an integral part of the university experience. This policy also applies to public access to University programs, services, and other offerings.

## DEFINITIONS

**Academic Adjustments** – modifications to academic requirements made to ensure that requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with a disability. Academic requirements that are essential to the instruction being pursued by the student or to any directly related licensing requirement will not be subject to modification. 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.

**Auxiliary Aids** – actions taken or materials provided to ensure that qualified students with disabilities can receive the benefits of the educational program, regardless of impaired sensory, manual, or speaking skills. 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, 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.

**Disability** – as defined by NYS law:

- a physical, mental, or medical impairment resulting from anatomical, physiological, genetic, or neurological conditions which prevent the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or
- a record of such an impairment or

- a condition regarded by others as such an impairment.

**Essential Function** – fundamental duty of the position. A duty may be considered an essential function if:

- the position exists to perform that function
- there are a limited number of employees available who could fulfill that function and/or
- the function is highly specialized.

In determining whether a duty is essential, it is also relevant to consider the amount of time spent performing the function, consequences of not allowing someone to perform the function, written job description, work experience of people who are performing the job or who have performed the job in the past, and terms of any applicable collective bargaining agreements.

**Interactive Process** – the method by which an employee and employer explore whether reasonable accommodations can enable the employee to perform the essential functions of a position. The interactive process should involve open dialogue that allows for full participation by both employer and employee, in consultation with the Office of Disability Services (ODS) as requested by any involved party. In the academic context, the interactive process can also be an appropriate avenue for students and instructors to reach agreement concerning academic adjustments and/or auxiliary aids necessary to allow the student to complete essential academic requirements.

**Qualified Employee with a Disability** – an individual with a disability who can perform the essential functions of the position, with or without reasonable accommodation.

**Qualified Student with a Disability** – a student with a disability who meets the academic and technical standards requisite to admission or participation in the education program or activity, with or without the provision of academic adjustments and/or auxiliary aids.

**Reasonable Accommodations** – actions taken which permit an employee or applicant with a disability to perform the activities involved in the position held or sought in a reasonable manner provided that such actions do not impose an undue hardship or eliminate essential functions of the job. These include, but are not limited to, provision of an accessible worksite, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring, and modified work schedules.

**Undue Hardship** – a significant disruption, expense and/or difficulty posed by an accommodation. It should be noted that the issue of whether a requested accommodation poses an undue hardship must be based upon an individualized assessment of current circumstances regarding the position and accommodation. When a department is concerned that a requested accommodation will pose an undue hardship, it must proceed according to the procedures in this policy.

## RESPONSIBILITY

### **President, provost, executive vice president, vice presidents, deans, directors, department heads, supervisors, and managers**

- Provide individuals with disabilities the opportunity to fully participate in employment and academic life.
- Provide reasonable accommodations, academic adjustments, and auxiliary aids as necessary and appropriate.
- Refer individuals to ODS and/or Equity, Diversity and Inclusion (EDI) as appropriate to address concerns regarding discrimination, harassment, accommodations, and other related matters.
- Ensure that Web sites, electronic media, and other electronic information and communications within their departments are accessible to individuals with disabilities.
- The cost of reasonable accommodations, academic adjustments, and/or auxiliary aids is primarily the responsibility of the department in which the accommodation must be made. If cost considerations pose a hardship for a department, consult with EDI to identify additional sources of funding.

### **Students, employees, applicants, and members of the public who require reasonable accommodations, academic adjustments, or auxiliary aids**

- Provide timely notification when a reasonable accommodation, academic adjustment, and/or auxiliary aid is required, according to the procedure in this policy.

### **Supervisors and managers**

- Provide reasonable accommodations when requested; if there is a concern as to the appropriateness of an accommodation, refer the employee to ODS.
- Implement the recommendations provided by ODS.

### **Classroom instructors**

- Provide academic adjustments and/or auxiliary aids upon request; if there is a concern regarding the appropriateness of the request, refer the student to ODS.
- Implement ODS recommendations once the student provides an accommodation memorandum from that office.

### **Members of search committees or other individuals involved in the hiring process**

- Ensure that individuals with disabilities have access to interviews, and are referred to EDI when they request accommodations during the interview process, in accordance with the procedures in this policy.
- Ensure that individuals are not asked about their disability status during the pre-employment stage.

### **Members of admissions committees or other individuals involved in admissions**

- Ensure that applicants with disabilities have equal access to the process and accommodations pursuant to the procedures in this policy.
- Ensure that individuals are not asked about their disability status during the pre-admission stage.

**Office of EDI**

- Responsible for overall administration of this policy.
- Investigate allegations of discrimination and harassment.
- Coordinate reasonable accommodations for applicants for employment.
- Assist in handling complaints, including resolving conflicts or issues about the implementation of reasonable accommodations, academic adjustments, and auxiliary aids.

**Office of Disability Services**

- Assist students and employees with disabilities in identifying appropriate academic adjustments, auxiliary aids, and/or reasonable accommodations.
- Coordinate services for individuals with disabilities, as described in the procedures in this policy.
- Facilitate the interactive process as necessary.

**PROCEDURE****Application for Employment Process**

- Applicants who require reasonable accommodations with respect to applying, interviewing, or any other aspect of the hiring process should contact EDI to make appropriate arrangements. EDI will not disclose confidential information regarding the applicant's disability, and will only share information as necessary to implement the request.
- Interviews, testing, and/or any other steps in the application process that require an applicant's presence on campus should be held in locations that are accessible to individuals with mobility impairments. If interviews are scheduled in a location that is not accessible to an applicant with a disability, the search committee will relocate the interview to a location that can be accessed by the applicant.
- If the applicant has not given timely notice of the need for an accommodation for an interview, the search committee will reschedule the interview if this does not create an undue hardship with respect to the search process.
- Interviewers may not ask questions or make comments related to an applicant's disability. Interviewers may ask if or how applicants can perform the essential functions of a position, with or without reasonable accommodations. If the applicant mentions during the interview that he or she has a disability that requires accommodation, the interviewer should state that the University provides reasonable accommodations, but should not inquire further as to the applicant's disability.
- After a job offer is made to the applicant, the applicant may be required to submit to a medical examination or answer job-related health questions if examinations or questions are required for all individuals performing the same job. If the results reveal that the applicant is unable to perform the essential functions of the position with or without reasonable accommodations, the offer may be rescinded only after consultation with EDI.

**Process for Employee Accommodation**

- Employees with disabilities who do not require reasonable accommodations are entitled to privacy with respect to their disabilities. If a supervisor or manager suspects that an employee's disability might be the cause of work-related or behavioral issues, the employee should not be questioned with respect to a disability or possible disability. Supervisors or managers may ask such employees, in general terms, whether measures could be taken to

assist the employee; further, supervisors or managers may inform the employee of ODS as a possible avenue of support and assistance.

- An employee who requires a reasonable accommodation for a disability may make a request directly to a supervisor or manager, or may contact ODS to initiate the process. If a supervisor or manager is notified by an employee that a disability and/or medical condition is causing difficulties with attending or performing the job, this should be treated as a request to initiate the interactive process to determine if reasonable accommodations are warranted.
- If a supervisor or manager receives a request for an accommodation from a friend, family member, or other third party on behalf of an employee, the supervisor or manager should initiate the interactive process to determine if reasonable accommodations are appropriate.
- A supervisor or manager who receives a direct or indirect request for reasonable accommodations should initiate discussions with the employee to explore whether the employee is requesting assistance. If the employee's request can be easily accommodated and the supervisor or manager determines that medical confirmation of the disability is not required, the supervisor or manager may fulfill the request on an informal basis, without consultation with or approval from ODS.
- If the supervisor or manager believes that confirmation of the disability is required, the employee will be referred to ODS. The employee will provide ODS with appropriate documentation to establish the disability, including the functional limitations of the condition and/or a clear explanation of the need for a reasonable accommodation, and to substantiate any recommendations for accommodating the employee. The employer will provide ODS with information concerning the essential functions of the position and other information relevant to assist in ODS's recommendation.
- ODS will provide a recommendation as to reasonable accommodations for the employee based upon information provided by both the employee and the supervisor or manager. If a supervisor or manager believes that a recommended accommodation would present an undue hardship, the supervisor should consult with EDI.
- A department may offer an alternative accommodation to the one requested by an employee if it can be determined that the alternative accommodation effectively allows the employee to perform the essential functions of his/her position, and provides the same privileges and benefits as those enjoyed by other employees.
- Complaints, disagreements, or issues concerning the provision or denial of accommodations should be brought to the attention of EDI. An employee who has been denied an accommodation may appeal the decision to EDI in accordance with the Complaints procedures in this policy.

### **Process for Students and Applicants for Accommodation**

- Applicants for admission may not be asked if they have a disability. If applicant interviews are conducted, interviewers may not ask questions or make comments related to an applicant's disability. Interviewers may describe the requirements of the academic program, including practicum or internship requirements, and may ask applicants how they would fulfill these requirements. Individuals who request accommodations in the application process should be referred to ODS.
- Interviews, testing, and/or other steps in the application process that require an applicant's presence on campus should be held in locations that are accessible to individuals with mobility impairments. If interviews are scheduled in a location that is not accessible to an

applicant with a disability, the interview will be relocated in order to be accessible to the applicant.

- As with employees, students with disabilities are entitled to privacy with respect to their disabilities. Instructors should not question students about a disability or possible disability. Instructors should not attempt to diagnose students whom they teach or advise, even when an instructor is professionally qualified to do so. An instructor may ask a student who is evidencing problems, in general terms, whether measures could be taken to assist the student; the student may be referred to ODS on a confidential basis.
- A student may make a request for an academic adjustment or auxiliary aid directly to a course instructor, department/school, or ODS. If the instructor and student agree upon an academic adjustment or auxiliary aid, the instructor may provide this without referral to ODS. Otherwise, when a student discloses the need for an academic adjustment or auxiliary aid, the instructor, department, or school will refer the student to ODS. The student's request may be a direct request for an academic adjustment or auxiliary aid, or may be an indirect request<sup>1</sup>. In the event that an instructor receives a request from a third party, the instructor will refer the student to ODS.
- Students who contact ODS to request academic adjustments or auxiliary aids may be required to submit medical or psychological documentation as necessary to substantiate the need for the academic adjustment or auxiliary aid. This documentation will be kept confidential. ODS will issue a memorandum addressed to affected members of the faculty or staff which outlines the academic adjustments and/or auxiliary aids that are recommended after a comprehensive review of the accommodation request and pertinent documentation.

The academic adjustment and/or auxiliary aid that is recommended could be the one requested by the student, or an alternative that will effectively permit the student's full participation in the course. It is the student's responsibility to provide the memorandum to instructors and to arrange to meet with instructors regarding implementation of the recommendations.

An instructor should contact ODS for consultation whenever there is a question or concern about a recommended academic adjustment or auxiliary aid, particularly if the instructor believes that a recommended academic adjustment or auxiliary aid:

- would pose an undue financial or administrative burden
- would fundamentally alter the nature or purpose of the course, assignment, or test
- is inconsistent with essential academic requirements
- would reduce or alter academic requirements
- would substantially alter the method in which the course is taught or service is provided, or
- would pose a direct threat to the health and safety of the student or others.

If, after consulting with ODS, the instructor or University staff continues to disagree, the instructor may consult with EDI or academic authorities, but an instructor or staff member may not unilaterally deny a requested academic adjustment or auxiliary aid recommended in writing by ODS.

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<sup>1</sup> Examples of indirect requests include a statement to the instructor that the student is having difficulty in the class due to a disability or possible disabling condition, or other statements that give notice to the instructor that a referral to ODS is appropriate.

- Whenever possible, an academic adjustment will provide an educational experience that is comparable to that of the rest of the class. Students who require extended time on examinations should be provided with the same examination as their classmates, unless it can be established that a make-up examination or exercise is of the same degree of difficulty, form, and scope as the examination or exercise provided to the students' classmates.

A different examination should only be administered in situations where:

- the student requires a different form of test or examination as an academic adjustment, and this will not fundamentally alter the nature or purpose of the test or examination and/or
  - a scheduling conflict precludes the possibility that the student can take the examination or test at the same time as other students in the class, and the instructor is concerned about test security.
- Students must provide timely notice of the need for an academic adjustment or auxiliary aid. Absent emergency circumstances, instructors do not need to honor last-minute requests for accommodation. Instructors should consider disability-related emergencies in the same manner as any other emergency situation that would impact a student's ability to take an examination or otherwise complete course assignments.
  - Complaints, disagreements or other issues concerning the provision or denial of academic adjustments and/or auxiliary aids should be brought to the attention of EDI. A student who has been denied an academic adjustment and/or auxiliary aid may appeal the decision to EDI in accordance with the Complaints procedures in this policy.

### **Process for the Public and University Community**

- The University will make public performances and services to the public accessible for individuals with disabilities.
- If an individual requires sign-language translation, interpretation, or similar services, the individual should make necessary and appropriate arrangements with ODS in a timely manner.
- The University will ensure that all Web-based internet and intranet information and applications are accessible to individuals with disabilities.

### **Complaints**

Individuals who believe that there is 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 EDI. Discrimination complaints will be investigated in accordance with the procedure contained in the UB Discrimination and Harassment Policy. An individual who files a complaint or participates in an investigation will be protected against retaliation. Complaints will be kept confidential to the extent possible. Individuals with questions or requests concerning reasonable accommodations, academic adjustments, or auxiliary aids should contact ODS.

Individuals also have the right to file a charge of discrimination with appropriate state or federal enforcement agencies, subject to applicable time limitations. It is not necessary to pursue University complaint procedures before filing an external complaint.

State and federal enforcement agencies include:

New York State Division of Human Rights  
The Walter J. Mahoney State Office Building



65 Court Street, Suite 506  
Buffalo, New York 14202  
Phone: (716) 847-7632

Equal Employment Opportunity Commission  
6 Fountain Plaza, Suite 350  
Buffalo, New York 14202  
Phone: (800) 669-4000

Office for Civil Rights, New York Office  
United States Department of Education  
32 Old Slip, 26th Floor  
New York, New York 10005-2500  
Phone: (646) 428-3900

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## Contact Information

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Office of Equity, Diversity and Inclusion  
406 Capen Hall  
Buffalo, New York 14260  
Phone: (716) 645-2266  
Fax: (716) 645-3952  
Email: [aa-diversity@buffalo.edu](mailto:aa-diversity@buffalo.edu)  
<http://affirmativeaction.buffalo.edu>

Office of Disability Services  
25 Capen Hall  
Buffalo, New York 14260  
Phone: (716) 645-2608  
TTY: (716) 645-2616  
Fax: (716) 645-3116  
<http://www.student-affairs.buffalo.edu/ods/index.php>

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## Related Information

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### University Documents:

Discrimination Complaint Procedure:

[http://www.suny.edu/sunypp/documents.cfm?doc\\_id=451](http://www.suny.edu/sunypp/documents.cfm?doc_id=451)

UB Faculty/Staff Handbook: <http://www.business.buffalo.edu/UbbContent/Hrs/facultyhandbook/>

Research Foundation Procedures for Resolving Allegations of Discrimination:

[https://portal.rfsuny.org/portal/page/portal/Pers\\_Admin/Employee%20Relations/per\\_resolving-allegations-workplace-discrimination\\_pro.htm](https://portal.rfsuny.org/portal/page/portal/Pers_Admin/Employee%20Relations/per_resolving-allegations-workplace-discrimination_pro.htm)

Research Foundation Policy on the Employment of Disabled Individuals:

[https://portal.rfsuny.org/portal/page/portal/ver-1/Pers\\_Admin/Affirmative%20Action%20and%20Equal%20Employment/per\\_employment-disabled-individuals\\_pol.htm](https://portal.rfsuny.org/portal/page/portal/ver-1/Pers_Admin/Affirmative%20Action%20and%20Equal%20Employment/per_employment-disabled-individuals_pol.htm)

Undergraduate Catalog: <http://undergrad-catalog.buffalo.edu>

Graduate School Policies and Procedures: <http://www.grad.buffalo.edu/policies/index.php>

### Other Documents:

[EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act](#)

[EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors](#)

[US Department of Education, Office for Civil Rights – Auxiliary Aids and Services for Postsecondary Students with Disabilities](#)

**Related Links:**

Job Accommodation Network: <http://www.jan.wvu.edu/>

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**Revision History**

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November 2011 - Updated Office of Equity, Diversity and Affirmative Action (EDAAA) department name to reflect the current name of: Office of Equity, Diversity and Inclusion (EDI).

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**Presidential Approval**

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*John B. Simpson*

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John B. Simpson, President

*3/1/10*

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Date