

## POLICY

Effective Date: June 9, 2009

Approved By: President Bruce Shepard

Authority: See Below

Cancels: POL-U2120.02, Dec. 2001, Providing Reasonable Accommodation to Job Applicants and Employees with Disabilities  
Appendix A, Paragraph F Student Handbook,  
Appendix C 2005-2007 Faculty Handbook

See Also: [POL-U1600.02](#) Ensuring Equal Opportunity and Prohibiting Discrimination and Retaliation  
[PRO-U1600.02A](#) Discrimination Compliant Procedure  
[POL-U5950.10](#) Providing Workers' Compensation and Transitional Return-To-Work  
[POL-U5410.03](#) Taking Family or Medical Leave  
[Disability Resources for Students](#)

### **POL-U1600.03 ACCOMMODATING PERSONS WITH DISABILITIES**

***Policy applies to:***

- ***Applicants or employees who, with or without reasonable accommodation, can perform the essential functions of a position,***
- ***Qualified students, prospective students and***
- ***Individuals who wish to participate in university-sponsored events which are open to the public.***

**Authority:**

[42 U.S.C. §12101 et seq. \(the Americans with Disabilities Act \(ADA\) of 1990\)](#), [the ADA Amendments Act of 2008](#), [29 CFR §1630 \(Regulations to Implement the Equal Employment Provisions of the ADA\)](#), [28 CFR §35 \(Nondiscrimination on the Basis of Disability in State and Local Government Services\)](#), [45 CFR 84 \(Nondiscrimination on Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance\)](#), [Section 504 of the Federal Rehabilitation Act of 1974](#), [Chapter 49.60.040 RCW \(the Washington State Law Against Discrimination\)](#), [WAC 162-22 \(Employment-handicapped persons\)](#), [WAC 357-26 \(Reasonable Accommodation\)](#), [WA Executive Order 96-04 \(Implementing the ADA and Superseding 93-03\)](#)

**Definitions:**

**Person with a Disability means:**

- a) Under 42 USC §12102, a person with a physical or mental impairment that substantially limits one or more major life activities; and/or
- b) Under chapters 49.60.040 RCW and 162-22 WAC, the presence of a sensory, mental or physical impairment (temporary or permanent) that is:

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- 1) Medically cognizable or diagnosable, or
- 2) Exists as a record or history; or
- 3) Known or shown through an interactive process to exist in fact, and:
- 4) Has a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job or the individual's access to equal benefits, privileges, or terms or conditions of employment; or
- 5) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

### Disability Status Definitions:

- a) **Impairment (federal definition)**: Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- b) **Impairment (state definition)**: Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- c) **Major Life Activities**: Activities that include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working and operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- d) **Substantially Limits**: Unable to perform a major life activity that the average person in the general population can perform or significantly restricted as to the condition, manner or duration under which you can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

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**Essential Functions:** The fundamental job duties of the position that the individual with the disability holds or desires. The term “essential functions” does not include the marginal functions of the position.

**Qualified Employee with a Disability:** means an individual with a disability who meets the skill, experience, education, or other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the job.

**Qualified Student with a Disability:** means an enrolled student with a documented disability and completed Needs Assessment who complies with applicable university policies on student rights and responsibilities and who meets the admission requirements and technical standards of the academic program, activity, or service.

**Reasonable Accommodation:** means a modification or adjustment to a job, work environment, policies, practices, and procedures that enables a qualified individual with a disability to enjoy equal employment or academic opportunities.

**Undue Hardship:** means an excessively costly, extensive, substantial, or disruptive modification, or one that would fundamentally alter the nature or operation of the institution.

### **1. The University Provides Reasonable Accommodations**

- a) The university provides reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals except where such accommodation would impose undue hardship on the institution.
- b) The Vice Provost for Equal Opportunity and Employment Diversity, the Vice President for Business and Financial Affairs and the Vice President for Student Affairs, through their procedures, inform the campus and public of the ability to request accommodation.

### **2. The Vice Provost for Equal Opportunity/ADA Coordinator Provides Compliance Oversight, Advice and Consultation Regarding the ADA and Architectural Access.**

See [ADA Access Accommodation](#)

### **3. Vice President for Business and Financial Affairs is Responsible for Employment Accommodation Services**

- a) The Vice President will:
  - 1) Ensure appropriate services are available to process requests for reasonable accommodation to qualified applicants and employees with disabilities.

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- 2) Delegate full authority for implementing these services to the Director of Human Resources.
  - b) Qualified applicants and employees with disabilities who require an accommodation should refer to guidance on the Human Resources web page. See [www.disabilityresources.wvu.edu](http://www.disabilityresources.wvu.edu) for procedures and additional resources.
4. **Vice President for Student Affairs is Responsible for Student Accommodation Services**
  - a) The Vice President will:
    - 1) Ensure appropriate services are available to process requests for reasonable accommodation to qualified students and prospective students with disabilities.
    - 2) Delegate full authority of implementing these services to the Director of DisAbility Resources for Students (DRS).
  - b) Qualified students and prospective students with disabilities who require an accommodation should refer to guidance on the DisAbility Resources for Students web page. See [www.wvu.edu/depts/drs/](http://www.wvu.edu/depts/drs/) for procedures and additional resources.
5. **The University Provides a Discrimination Complaint Procedure**

The Vice Provost for Equal Opportunity investigates complaints for individuals who believe they have been subject to discrimination based on their disability or their request for reasonable accommodations as outlined in discrimination complaint procedure (PRO-U1600.02A).