

SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
STUDENT SERVICES
PROCEDURE
SIP-4200

SUBJECT: Accessibility and Accommodations for Persons with Disabilities

REFERENCE: Section 504 and 508 of the federal Rehabilitation Act of 1973, and their implementing regulations at 34 C.F.R. § 104, et seq.; the federal Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, et seq.; West Virginia's White Cane Law, W. Va. Code § 5-15-1, et seq.; the West Virginia Human Rights Act (WVHRA), W. Va. Code § 5-11-1 et seq.; and SCP 2843, *Discrimination, Harassment, Sexual Harassment, Sexual and Domestic Misconduct, Stalking and Retaliation Policy*.

ORIGINATION: December 2019

EFFECTIVE: May 12, 2020

REVIEWED:

SECTION 1. PURPOSE

- 1.1 Provide equal access to persons with disabilities.
- 1.2 Diligently pursue the identification and elimination of physical, communication and attitudinal barriers to activities, programs or services operated or sponsored by the institution, including employment, academic criteria, student and public services and facilities.
- 1.3 Implement procedures for raising awareness of the requirements of the ADA throughout the institution;
- 1.4 Provide coordinated and timely response to requests and accommodations from individuals with disabilities.

SECTION 2. SCOPE AND APPLICABILITY

- 2.1 This procedure applies to all employment and educational practices and actions. It includes without limitation recruitment, application, examination and testing, hiring, training, grading, disciplinary actions, rates of pay and 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, and activities that may occur outside the classroom or office environment, but that is an integral part of the college experience. This procedure also applies to public access to college programs, services, and other offerings.

SECTION 3. DEFINITIONS

- 3.1 A disability is a mental or physical impairment that substantially limits one or more major life activities of an individual. This includes people who have a record of such impairment; even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having such impairment; however, individuals who only are “regarded as” having a disability, but who do not have a disability, are not qualified to receive reasonable accommodations.

- 3.2 A qualified individual with a disability is an individual with a disability who meets all the skills, experience, knowledge, educational and other requirements of the position and can perform the essential functions of the position with or without reasonable accommodation.
- 3.3 Reasonable workplace accommodations are actions taken that permits an employee or job applicant with a disability to enable Southern's employees with a disability to perform the activities involved in the position held or sought in a reasonable manner, provided that such actions to not impose an undue hardship on the employer or eliminate essential functions of the job. These include, but are not limited to, provision of an accessible work site, acquisition or modification of equipment, support services for persons with impaired hearing or vision, job restructuring, and/or modified work schedules.
- 3.4 Reasonable academic accommodations are modifications, adjustments, auxiliary aids, and/or services that give a student with a disability an equal opportunity to benefit from the educational process, as well as adjustments to policy, practice, and programs that "level the playing field" for students with disabilities and provide equal access to Southern's programs and activities. This adjustment must be made without altering the fundamental goals of a course or lowering standards in a class
- 3.5 An undue hardship is a significant disruption, expense, and/or difficulty posed by an accommodation. Please note that the issue of whether a requested accommodation poses an undue hardship must be based upon significant difficulty or expense, meaning it would be unduly costly, extensive, substantial, and/or disruptive. Unless reasonable alternative accommodations can be offered, undue hardship should not be asserted without consultation with Southern's ADA Coordinator.
- 3.5.1 Should Southern deny a requested accommodation, it must be prepared to show that complying with the request would constitute an undue hardship or a fundamental alteration of the applicable curriculum or program.
- 3.6 Auxiliary aids are 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 language 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.
- 3.7 Essential function means a fundamental duty of a position. A duty may be considered an essential function if (a) the position exists to perform that function; (b) 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, and the work experience of people who are performing the job or who have performed the job in the past.
- 3.8 A qualified student with a disability is 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 accommodations and/or auxiliary aids.

SECTION 4. PROCEDURE

- 4.1 Academic Accommodation for Students with Disabilities.

- 4.1.1 Southern will make such modifications to its academic requirements as are necessary to ensure that such 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 the institution can demonstrate are essential to the instruction being pursued by such students or to any directly related licensing requirements will not be regarded as discriminatory. Modifications may include, but are not limited to, 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. [34 C.F.R. §104.44(a)]
- 4.1.2 Neither Section 504 of the Rehabilitation Act nor the ADA requires Southern to lower their academic standards or substantially alter the essential elements of its courses or programs to accommodate students with disabilities. The requirement to provide reasonable accommodations is designed to afford an equal opportunity for students with disabilities. Achieving reasonable accommodations for a student with a disability involves shared responsibility among students, faculty and staff.
- 4.1.3 Should Southern deny a requested accommodation, it must be prepared to show that complying with the request would constitute an undue hardship or fundamental alteration of the applicable curriculum or program.
- 4.1.4 The following accommodations are widely accepted, but are not limited to, higher education:
 - 4.1.4.1 Providing services such as readers, interpreters and note-takers.
 - 4.1.4.2 Allowing extra time for examinations, assignments and projects.
 - 4.1.4.3 Permitting exams to be individually proctored, read orally, dictated or typed.
 - 4.1.4.4 Recording lectures.
 - 4.1.4.5 Using computer software for assistance in studying and on tests.
 - 4.1.4.6 Using alternative testing formats to demonstrate course mastery.
 - 4.1.4.7 Changing classrooms as needed for accessibility.
- 4.1.5 Documentation of a disability.
 - 4.1.5.1 Students who are requesting support services are required to submit documentation through the Office of Disability Services to verify eligibility for reasonable accommodations. Students are not required to assume the responsibility for securing a necessary accommodation. Southern will review and evaluate that documentation and when required under law provide reasonable accommodations for a student's known disability so that the student has an equal opportunity to participate in Southern's courses, activities or programs.
 - 4.1.5.2 Documentation must validate the need for services based on the individual's current level of functioning in an educational setting. If the documentation is found to be insufficient or if the requested accommodation is not reasonable, Southern is not obliged to provide accommodations. If the documentation is found to be sufficient and the requested accommodation reasonable, Southern will implement appropriate accommodations.
- 4.1.6 Types of accommodations provided.

- 4.1.6.1 Students with disabilities may be accorded two types of accommodations: they may be permitted to substitute particular courses for some of those required under their degree requirements, or they may be afforded approved accommodations within the courses they take.
- 4.1.6.2 If a course substitution is requested, the request must be received by the academic Dean of the school that offers the course to be deleted from the student's requirements typically no later than the semester prior to the one in which the student proposes to take one or more of the substitute courses.
- 4.1.6.3 Once received by the Dean, the course substitution request is considered by the academic school.

4.2 Appeal Procedure Relating to the Provision of Accommodations for Students with Disabilities.

4.2.1 Students, faculty or staff at Southern who disagree with the provision of accommodations for students with disabilities may submit an appeal to the Director of Disability Services/ADA Coordinator. Appeals related to decisions made by the Director of Disability Services regarding the denial of accommodations should be submitted to the Vice President for Student Services, or his or her designee. Grievances or complaints of discrimination based on disability relating to other circumstances not described above should be addressed to the ADA Coordinator using the process and timeline outlined through Southern's Discrimination Complaints policy SCP 2843, *Discrimination, Harassment, Sexual Harassment, Sexual and Domestic Misconduct, Stalking and Retaliation Policy*.

4.2.2 Appeals may be initiated by:

4.2.2.1 A student or faculty member, regarding academic accommodations;

4.2.2.2 A student or staff member, regarding accommodations for non-academic programs or activities; or

4.2.2.3 A student, regarding accommodation decisions of the director of disability services.

4.2.3 Appeals must:

4.2.3.1 Be submitted in writing;

4.2.3.2 State the specific nature and basis of the appeal;

4.2.3.3 Be signed and dated by the individual making the appeal; and

4.2.3.4 Be submitted no later than one hundred eighty (180) days from the date of notification of the decision being appealed.

4.2.4 Appeal Review

4.2.4.1 Within two (2) working days of receiving the appeal, the Director or Vice President for Student Services or his or her designee will schedule a meeting with the Dean of the department involved, the faculty or staff member involved and the student. The purpose of this meeting will be to review the circumstances and, if possible, to reach a mutually agreed

upon resolution.

- 4.2.4.2 If unresolved, the appeal will be forwarded by the Director or Vice President for Student Services or their designee to an Appeal Review Committee for a second and final decision.
- 4.2.4.3 The Appeal Review Committee will be composed of three members selected by the Director or the Vice President for Student Services or his or her designee.
- 4.2.4.4 In all circumstances listed above, the Appeal Review Committee may seek input from appropriate parties other than committee members.
- 4.2.4.5 The appeal process, including the initial meeting, the meeting of the Appeal Review Committee and communication of the final decision to the individual making the appeal should be completed with expediency, ideally within seven (7) working days to avoid any delay in provision of accommodations or support services.

4.3 Reasonable Workplace Accommodation for Disabilities.

- 4.3.1 Any employee requiring an accommodation shall notify the Director of Human Resources as soon as practical, informing the Director of the nature of the disability and the requested reasonable accommodation. Any supervisor notified of a disability shall immediately report it to the Director of Human Resources or his/her designee.
- 4.3.2 The employee shall provide to the Director of Human Resources or his/her designee the following within a reasonable time from the date of notification, not to exceed fourteen (14) business days.
- 4.3.3 A letter from an appropriate healthcare or rehabilitation professional. The letter shall contain a diagnosis, prognosis and an evaluation as to the effect the impairment will have on the employee's ability to perform the essential duties associated with the employee's position.
- 4.3.4 A copy of all documentation relevant to making a decision about reasonable accommodation. Relevant documents may include, but are not limited to, medical records.
 - 4.3.4.1 The Director of Human Resources or his/her designee may request a letter from the employee that includes:
 - 4.3.4.1.1 The nature and extent of the physical or mental impairment;
 - 4.3.4.1.2 A complete medical diagnosis by a qualified professional, including the results of any tests conducted to verify the extent of the condition;
 - 4.3.4.1.3 Which, if any, of the major life functions are substantially limited as a result of the employee's condition;
 - 4.3.4.1.4 A prognosis, including the permanent or temporary nature of the condition and a list of all job functions or tasks the employee can perform if reasonable accommodation is provided; and
 - 4.3.4.1.5 Recommendations for appropriate reasonable accommodation(s) based on the job description and current duties, if applicable, including the source and type of any special equipment that may be needed.

- 4.3.4.2 The Director of Human Resources or his/her designee shall confer with the employee to ascertain the employee's requirements and input on a reasonable accommodation.
- 4.3.4.3 Reasonable workplace accommodations may include making existing facilities readily available; modifications or adjustments to the work environment or manner or circumstances under which the position's essential functions are customarily performed; modifications or adjustments that enable the individual with the disability to enjoy equal benefits and privileges as other similarly situated employees without disabilities; and other appropriate adjustment to the work environment of a qualified individual with a disability.
- 4.3.4.4 Unless extenuating circumstances exist, the review process should not exceed a period of thirty (30) days.

4.4 Discrimination Complaints

- 4.4.1 Grievances or complaints of discrimination based on disability relating to other circumstances not described above should be addressed to the ADA Coordinator using the process and timeline outlined through Southern's Discrimination Complaints policy SCP 2843, *Discrimination, Harassment, Sexual Harassment, Sexual and Domestic Misconduct, Stalking and Retaliation Policy*.

4.5 Accessibility of Electronic Information Resources (EIR)

- 4.5.1 For compliance review purposes, all EIR vendors/companies must provide accessibility information.
- 4.5.2 Web Accessibility: All official and affiliated college web pages intended for public viewing shall be accessible to, and usable by, all users and compliant with current web accessibility standards, unless an exception is approved by the president, or an exemption has been made.
- 4.5.3 Web developers shall follow guidelines established by Section 508 of the Rehabilitation Act, as amended, to the extent required under law, and criteria established by World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) guidelines to improve the accessibility of the college's website.
- 4.5.4 Grievances: If a user has a complaint about the accessibility of Southern's websites, or access to other electronic equipment, he or she should notify the Electronic Accessibility Coordinator (EAC).
- 4.5.5 The EAC, or his or her designee, will contact the complainant regarding the issue and attempt to resolve the complaint.
- 4.5.6 The complainant is expected to cooperate with the EAC and appropriate college personnel in the process of determining a resolution.
- 4.5.7 The EAC will make recommendations to the relevant college departments and officials responsible for making electronic and information resources accessible.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 None.

SECTION 6. GENERAL PROVISIONS

6.1 None.

SECTION 7. RESPONSIBILITIES

- 7.1 The ADA Coordinator organizes compliance with Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act.
- 7.2 Academic deans, faculty, and directors have primary responsibility for providing access to programs and activities in their respective divisions and for seeking assistance to ensure physical access to the facilities in which those programs are offered.
- 7.3 The Director of Disability Services works directly with students with disabilities, individual faculty members, and academic departments in the provision of classroom accommodations and assists other college departments in providing access and coordinating accommodations for programs, activities, and services offered by Southern outside the classroom.
- 7.4 The Director of Human Resources at Southern will make reasonable workplace accommodations for any employee having a known physical or mental impairment. Requests for workplace accommodations are submitted to the director of human resources, who reviews and recommends reasonable workplace accommodations on a case-by-case basis.
- 7.5 Electronic Accessibility Coordinator (EAC). The President or chief information officer shall designate an Electronic Accessibility Coordinator to develop and maintain electronic information resources (EIR) accessibility rules, standards, and procedures and assist college personnel with relevant training information for EIR accessibility.
- 7.6 Campus Directors in conjunction with the ADA Coordinator are responsible for building and facilities access.

SECTION 8. CANCELLATION

8.1 None.

SECTION 9. REVIEW STATEMENT

9.1 This document shall be reviewed on a regular basis with a time frame for review to be determined by the President or the President’s designee. Upon such review, the Cabinet-level Administrator may recommend to the President’s Cabinet that the procedure be amended or repealed.

SECTION 10. SIGNATURES

Dr. Pamela L. Alderman _____ 05/12/2020
 President Date

[Signature] _____ 05/12/2020
 Cabinet-level Administrator Date

Attachments: None.

Distribution: All Southern Employees
Intranet

Revision Notes: December 2019 - Originated.