

Office/Contact: Office of Diversity, Inclusion, Equity, & Access – SDSU ADA Coordinator
Source: Americans with Disabilities Act; Section 504 of the Rehabilitation Act; South Dakota Human Relations Act of 1972 (SDCL Ch. 20-13); University Policy 4:3; University Policy 4:6
Link: https://www.ada.gov/2010_regs.htm; <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973>
https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=20-13;
<https://www.sdstate.edu/policies/upload/Equal-Opportunity-and-Non-Discrimination.pdf>;
<https://www.sdstate.edu/policies/upload/Human-Rights-Complaints.pdf>

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Americans with Disabilities Act Compliance
NUMBER: 4:13

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: a modification 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 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 Coordinator include, but are not limited to:
 - i. Maintaining current information regarding state and federal laws and regulations;
 - ii. Understanding and communicating best practices on rights and accommodations for persons with disabilities;
 - iii. Ensuring University-related information is readily available on services, accommodations, policies, and demographics related to persons with disabilities;
 - iv. Providing required notices about ADA/504 requirements;
 - v. Coordinating University information and responsibilities relating to responses to requests for employment accommodation, employment modifications, and employment policies for employees with disabilities;
 - vi. Coordinating University information and responsibilities for responses to University student requests for accommodation;
 - vii. Facilitating compliance with the ADA, applicable legislation, and policies regarding campus accessibility issues in collaboration with other offices;
 - viii. Maintaining, establishing, and overseeing University grievance policies;
 - ix. Providing programming, training, and advice on compliance to all sectors of the University community;
 - x. Collaborating as a resource with the University Title IX/EO Office; and
 - xi. Monitoring the University's compliance with affirmative action obligations with regard to individuals with disabilities.
- c. The University Coordinator of Disability Services, or successor, is responsible for organizing the University's responses to requests for accommodation and provision of housing and academic services that support the needs of students with disabilities.

- d. The University Office of Human Resources is responsible for coordinating the University's responses to related 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 and Services 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 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 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 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.

4. Procedures

a. Employee-Initiated Requests for Reasonable Accommodation

- i. A qualified individual employee with a disability who seeks accommodation or other work modification will request reasonable accommodation to their supervisor and notify the Office of Human Resources (Employee Relations Specialist or successor position). The Employee Relations Specialist shall be responsible for ensuring application of a fair and consistent process for verifying a disability and providing reasonable accommodation and for maintaining the University's employment records that relate to the disclosed disability. The Employee Relations Specialist will interact with employees, supervisors, and administrative decision-makers to facilitate communication and agreement about accommodation for employees with disabilities. The Employee Relations Specialist will consult with the ADA Coordinator with any questions regarding application of appropriate reasonable accommodations.
- ii. The Employee Relations Specialist shall verify that the individual is a qualified individual with a disability and coordinate the University's response when determining an appropriate accommodation. Every effort will be made to balance the need for employees or representatives of the University to have information in order to fulfill an accommodation request and the disabled individual's interest in maintaining privacy of protected health information.

b. Student-Initiated Requests for Reasonable Accommodation

- i. Students with disabilities who seek reasonable accommodation must register with the Office of Disability Services, or successor unit, for assistance with identifying appropriate housing or academic adjustments and resources. The Office of Disability Services shall be responsible for ensuring application of a fair and consistent process for verifying a disability and for providing reasonable accommodation and for maintaining the University's educational records that relate to the disclosed disability. The Office of Disability Services will interact with students, faculty, and staff to facilitate communication and to coordinate accommodation and services for students with disabilities. The Office of Disability Services will consult with the ADA Coordinator with any questions regarding application of appropriate reasonable accommodations.
- ii. The Office of Disability Services shall verify that the individual is a qualified individual with a disability and coordinate the University's response when determining an appropriate accommodation.

- c. Applicant-Initiated Requests for Reasonable Accommodation
 - i. Qualified individuals who require reasonable accommodation to access or submit an application for employment should contact the Office of Human Resources.
 - ii. Prospective students who require reasonable accommodation to access or submit an application for any academic program, financial aid, housing, or co-curricular program should contact the Office of Disability Services.
- d. Public-Initiated Requests for Reasonable Accommodation
 - i. Individuals who require reasonable accommodation to access or participate in any University program should contact the Office of Human Resources (ADA Coordinator), or successor unit. Concerns about physical or architectural access may be communicated to the ADA Coordinator where they will be redirected to the appropriate University office.
- e. Review of Decisions to Deny Requested Accommodations
 - i. 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.
 - ii. 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 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 Coordinator shall forward the request for review to the Title IX/EO Coordinator per SDBOR Policy 1.4.3.
 - iii. 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 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 Coordinator shall forward the request for review to the Title IX/EO Coordinator per SDBOR Policy 1.4.3.
 - iv. Although the preferred accommodation will be provided where reasonable, planning units may provide reasonable alternative accommodation where appropriate.
 - v. 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.
- f. Discrimination
 - i. 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 Title IX/EO Coordinator pursuant to this policy, SDBOR Policy 1.4.3, and University Policy 4:6.

5. Responsible Administrator

The ADA 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.

SOURCE: Approved by President on 11/26/2019. Revised 09/12/2022 (clerical). Revised 01/29/2024 (clerical).