Original Title: ACCESS AND ACCOMMODATION IN INSTRUCTION

Proposed Title: ACCESS FOR STUDENTS WITH DISABILITIES

Rationale/Purpose of the Policy

This policy ensures compliance with UW System Board of Regent Policy, Wisconsin Statute, the Americans with Disabilities Act [ADA], including changes made by the ADA Amendments Act of 2008, and Section 504 of the Rehabilitation Act as amended, to prohibit discrimination on the basis of disability. The university must provide reasonable accommodations to qualified students with disabilities to access and participate in its academic programs and educational services.

Definitions

Disability: with respect to a person, under Section 504 of the Rehabilitation Act, as amended, and the Americans with Disabilities Act, as amended, a disability is a:

- physical or mental impairment that substantially limits one or more major life activities (e.g., reading, writing, learning, breathing, hearing, seeing, bodily functions such as cell growth, etc.);
- a record of having such an impairment; or,
- being regarded as having such an impairment.

Student: any person enrolled in a course or participating in a course-related activity or event.

Qualified Student with a Disability: a student with a disability who meets the academic and technical standards required for admission or participation in the course, activity, or program with or without reasonable accommodations.

Faculty/Instructional Personnel: includes but is not limited to, all faculty, instructors, lecturers, teaching assistants, support teaching staff such as librarians delivering instruction, or other individuals (hereby referred to as “faculty”) responsible for delivering or coordinating a course or course-related activity or event.

Campus Disability Authority: the following campus entities have authority to verify disability status and determine reasonable accommodations for individuals with disabilities:

- McBurney Disability Resource Center for credit-earning or degree students, special students, guest auditors, and prospective students
- Divisional Disability Representatives in consultation with the Employee Disability Resources Office for employees or prospective employees
- ADA Coordinator in the Office of Compliance

Division of Continuing Studies: the division provides administrative oversight and support for many of UW-Madison's noncredit courses and certain credit programs taken by UW special students.
Reasonable Accommodation: a reasonable accommodation is an auxiliary aid, service, adjustment, or modification to ensure qualified students with disabilities are not denied or excluded from the benefits of a course, activity, or program.

- A reasonable accommodation does not:
  - alter the knowledge and skills of the program or course;
  - lower academic standards;
  - result in a fundamental alteration in the nature of the course, activity, or program; or,
  - pose an undue burden to the university.
- Examples of reasonable accommodations may include: additional testing time, note-taking, sign-language interpreting, media captioning, or text-to-speech.

Scope

This policy applies to all credit and non-credit courses, academic programs, and instructional activities of the university. This policy applies to all faculty or instructors of all credit and non-credit academic programs and educational services, as well as any participating students.

Policy Details

Student Role and Accommodation Process

The determination and approval of reasonable accommodations for the majority of students, including special students enrolled in credit courses, occurs through the McBurney Disability Resource Center. Accommodations for students in non-credit courses are approved through the Division of Continuing Studies.

- Students are asked to communicate with their faculty during the beginning of the semester or term (or as soon after being approved) to review their approved accommodations and how they will be implemented. Students are expected to give faculty ample notification so accommodations may be timely implemented.
- Students should not expect accommodations to be retroactively applied to course assessments or materials for which due dates have passed.

Faculty/Instructional Personnel Role

- Faculty will be notified of approved accommodations through an accommodation plan.
- If necessary, faculty may reach out to students to discuss implementation of their accommodations after receiving accommodation notification.
- Students who request accommodations directly to faculty may be referred to the McBurney Disability Resource Center (or Division of Continuing Studies as appropriate).
- Faculty are responsible for timely implementation of accommodations and may share accommodation information with others legitimately involved in accommodation implementation such as a teaching assistant or course coordinator.
- Faculty are not required to retroactively implement accommodations for course assessments or materials for which due dates have passed.
• Faculty who are uncertain about or disagree with an accommodation or believe an accommodation poses an undue burden to the university must consult with the McBurney Disability Resource Center even if the accommodation was approved by the Division of Continuing Studies. The McBurney Disability Resource Center will provide guidance.

Division of Continuing Studies Role

• The Division of Continuing Studies is responsible for timely review and response to an accommodation request. The Division of Continuing Studies may not request medical documentation to conduct disability determination but instead may confer as needed with the McBurney Disability Resource Center, which may request medical documentation as appropriate.
• The Division of Continuing Studies must consult with the McBurney Disability Resource Center prior to denying an accommodation request.
• The Division of Continuing Studies must notify faculty of approved accommodations in writing.

Appeal Rights

Students who have been denied an accommodation have appeal rights as follows:

• Students denied an accommodation through the McBurney Disability Resource Center or Division of Continuing Studies may initially attempt to resolve matters by contacting the McBurney Disability Resource Center to discuss the nature of the complaint, factors to consider as part of the interactive process, and whether an alternative resolution process with the program that denied the accommodation could be engaged. Often, an alternative resolution process is sufficient to address the accommodation concern.
• Students may file an appeal with the ADA Coordinator in the Office of Compliance, and must do so, in writing, within 30-calendar days from the date of accommodation denial regardless or notwithstanding attempts to resolve matters through an alternative resolution process. Further information about the appeal process and timely filing is available through the Office of Compliance.

Non-retaliation

It is against UW System Board of Regent Policy 14-6 and federal and state laws to retaliate against a student requesting a reasonable accommodation in terms of their opportunities to enjoy equal terms, benefits, privileges, or conditions of the University’s programs, including social, academic, or recreational activities.

Confidentiality

A student’s affiliation with the McBurney Disability Resource Center or their disability status, medical information, and accommodations, whether issued through the McBurney Disability Resource Center or another unit, are protected under the Family Educational Rights and Privacy Act (FERPA). Faculty should keep this information strictly confidential unless there are
legitimate concerns about a student’s wellbeing or there is a legitimate educational interest or need to know, such as sharing with a teaching assistant responsible for the implementation of an accommodation. For further information about confidentiality, contact the McBurney Disability Resource Center or the Office of the Registrar.

Consequence for Non-Compliance

• Non-compliance with the Americans with Disabilities Act (ADA), including the ADA Amendments Act of 2008, may result in monetary damages.
• Non-compliance with Section 504 of the Rehabilitation Act, as amended, may result in loss of federal funding as determined by the U.S. Department of Education’s Office for Civil Rights.

Related UW-Madison Policies

List and provide a link to any other UW-Madison policies that are closely related to the policy itself and may need to be known to users of the policy. (optional)

Related UW-Madison Documents

List and provide a link to any other UW-Madison related documents that provide relevant information and may be necessary to ensure compliance with the policy. (optional)

External References

UW Board of Regent Policy 14-10: Nondiscrimination on the Basis of Disability
UW Board of Regent Policy 14-6: Discrimination, Harassment, and Retaliation
Wisconsin Statute §36.12: Student Discrimination Prohibited
The Americans with Disabilities Act (28 CFR §35): Nondiscrimination on the Basis of Disability in State and Local Government Services
Section 504 of the Rehabilitation Act 34 CFR §104: Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance

Policy Administration

Approval Authority
Office of the Secretary of the Faculty

Policy Manager
ADA Coordinator

Policy Contact(s)
ADA Coordinator
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Policy History
Effective Date Select the date the policy goes (or went) into effect. (required)
Date Issued Select the original date the policy was released to the university as approved. (optional)
End Date Select the date the policy is no longer in effect. (optional)
Next Review (I anticipate taking an annual review of this policy with the shared governance Committee on Disability Access and Inclusion)

Revised Dates
List all the dates the policy was revised, using MM/DD/YYYY format. (optional)

Reviewed Dates
List all the dates the policy was reviewed, using MM/DD/YYYY format. (optional)