



## Draft 3.19.19 – track changes

# Administrative Policies and Procedures Manual - Policy 2310: ~~Academic~~ Adjustments Reasonable Accommodation for Students with Disabilities

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Process Owner: Director, ~~Office of Equal Opportunity~~ Accessibility Resource Center

## 1. Policy

### In-keeping with

The University of New Mexico has a continuing commitment, responsibility, and desire to provide equal opportunities and reasonable accommodations to individuals with disabilities. Section 504 of the Rehabilitation Act of 1973 ~~and~~, Title II of the Americans With Disabilities Act of 1990, and the University is committed to providing equal access to educational opportunities for qualified students with disabilities. The University shall provide reasonable academic adjustments Americans with Disabilities Act Amendments Act of 2008, collectively referred to in this policy as “ADA,” protect against disability-based discrimination, as does the New Mexico Human Rights Act.

Under the ADA, the University must provide reasonable accommodations (as defined in ~~Section 3.3. herein, Section 3.3)~~ to qualified students with disabilities, as necessary to ensure equality of access to the courses, programs, services, and facilities of the University. However, students with disabilities are still required to adhere to all University policies, including policies concerning conduct and performance.

The student is responsible for demonstrating the need for ~~an academic adjustment~~ a reasonable accommodation by providing the University's Accessibility Resource Center (ARC) with complete and appropriate current ~~documentation~~ documentation that establishes the disability,



and the need for and appropriateness of the requested adjustment/accommodation(s). The University is responsible for all costs of academic adjustments. The following sections provide procedures for students, faculty, and staff on academic adjustment requirements.

## **2. Procedures for Requesting and Determining Academic Adjustments**

- “Essential skills” are the fundamental (as opposed to marginal) requirements of a course, degree, or program.
- “Individual with a disability” is a person who has a serious medical condition or a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
- “Qualified student with a disability” is a student with a disability who meets the academic and technical standards required for admission and participation in the programs and activities and who can, with or without a reasonable accommodation, perform the essential skills of the course, degree or program.
- “Interactive dialogue” is a dialogue between the University (including ARC and faculty) and a student about the need for an accommodation.
- “Auxiliary aids and services” may include, but are not limited to: note-takers, readers, Braille or large print materials, and sign language interpreters. It does not include devices or services of a personal nature such as personal attendants or personal devices utilized in activities of daily living.
- “Reasonable accommodation” is a reasonable modification or adjustment to instructional methods and/or to a course, program, service, or facility of the University that enables a qualified student with a disability to have equal access and opportunity to attain the same level of performance and to enjoy equal benefits and privileges as are available to similarly-situated students without a disability. Reasonable accommodations do not include fundamental alterations of a class or program.
- “Full-time student” is a designation for the purposes of residence, University insurance coverage, participation in extracurricular activities and intercollegiate athletics, academic honors such as Dean’s List designation, and scholarship/financial aid as allowed by federal and state guidelines.

## **3. Reasonable Accommodation**

Reasonable accommodations are determined on a case-by-case basis in consultation with the student and may include, but are not limited to, the following actions:

- Making facilities used by students accessible to and usable by an individual with a disability.

- Modifying courses, programs, or educational requirements as are necessary and appropriate to enable a qualified student with a disability to enjoy equal opportunity and access. However, the University is not required to fundamentally alter the essential nature of a course or academic program. Reasonable academic accommodations may include, but are not limited to, extended time on an examination or paper, and oral instead of written examinations, where appropriate.
- Using part-time or modified class schedules.
- Acquiring or modifying equipment or devices, or providing auxiliary aids.
- Providing qualified signed-language interpreters.
- Providing full-time student status designation for students taking a reduced course load as an accommodation, and providing an eligibility exception to the part-time tuition and fee structure when full-time status is a lower cost.

The University is not required to provide the specific accommodation requested, but the accommodation must be effective to enable a qualified student with a disability to enjoy equal opportunity and access. All offers of accommodations are subject to applicable University policies.

Under the ADA, the University must make reasonable accommodations to accommodate qualified individuals with a disability unless the accommodations would create an “undue hardship” or would constitute a fundamental alteration to the class or program. An undue hardship is determined by considering the nature of the accommodation and cost in relation to the University's total budget.

Students who are performing work (i.e. practicums) in professional and/or clinical settings are entitled to reasonable accommodations, as necessary, to perform the essential duties of the site. In the event that students require accommodations at a site, students should notify their course instructor and ARC. ARC and the faculty member will assist the student in engaging in the interactive process with the site.

Students with disabilities enrolled in academic degree programs that require licensure or certification at the conclusion of the degree must realize the process for accommodations by the licensing or certification is separate from the University’s accommodation process. The licensing or certification board and may require additional disability documentation including a recent disability evaluation at the student’s expense. ARC is available to assist with the application process and necessary disability documentation requirements, but does not control the process or guarantee the outcome

## **4. Requesting a Reasonable Accommodation**

The first step in the process for a student who seeks academic adjustment because of a disability is to register with the [Accessibility Resource Center](#) and submit documentation of the disability from a licensed or certified professional in order to become eligible for services. Applicants to, or students ~~in, the attending a UNM School of Medicine and its programs and the Colleges of Nursing and Pharmacy~~ Branch Campus at Gallup, Los Alamos, Taos, or Valencia should contact the ~~Health Sciences Center Liaison to the Accessibility Resource Center~~ applicable Branch [liaison](#) for information ~~on~~ requesting academic adjustment. Applicants to, or students in, the

~~UNM Law School should notify the Law School Registrar as well as the Accessibility Resource Center.~~ accommodations. Once a student establishes, through appropriate documentation, that he or she has a disability, the University will work with the student to determine what academic ~~adjustments~~accommodations are appropriate and reasonable in accordance with [Section 3.3](#), ~~herein~~.

## **24.1. Student Responsibilities**

Students are responsible for:

- Self-identification;
- Requesting reasonable accommodations in a timely manner;
- Providing requested documentation to the ARC; and
- Meeting the academic standards expected of all students.

If an accommodation is ineffective or has not been provided and it is impacting performance, the student should bring it to the attention of the disability specialist. The student and disability specialist will then decide an appropriate action plan, which may include both formal and/or informal options as outlined under Exhibit A. Ultimately, responsibility lies with the student. Students must contact ARC and faculty with questions and concerns in a timely manner. Through the cooperation of all parties reasonable accommodations are provided.

It is the student's responsibility to demonstrate the need for an academic adjustment by providing the [Accessibility Resource Center](#) with complete and appropriate current documentation that establishes the disability, and the need for and appropriateness of the requested adjustment(s). The Accessibility Resource Center can provide information on the kind of documentation that is required. If the initial documentation is incomplete or inadequate, the student will be required to provide additional documentation at the student's expense.

Students are encouraged to pre-register with the Accessibility Resource Center before classes begin so that accommodations can be in place when needed at the start of the semester. If pre-registration is not possible, students should register at the start of the semester or as soon as the need for an accommodation becomes known, and Accessibility Resource Center will make good faith effort to accommodate the student's needs as soon as possible. Requests received right at or after the start of a semester may result in the student being without the accommodation for part of the semester. Students should be aware that an academic adjustment does not apply retroactively, so that grades earned on exams, assignments, or other classroom activities before the adjustment takes effect will not be changed.

## **4.2. Faculty Responsibilities**

~~The Accessibility Resource Center~~Faculty members are responsible for:

- Being open to accommodating students;
- Meeting with students and ARC to discuss the student's needs;
- Implementing reasonable accommodations to provide program access; and

- Maintaining confidentiality.

Faculty members are responsible for assisting in the provision of accommodations as described in the accommodation letter. Any concern related to an accommodation fundamentally altering the academic curriculum should be brought to the attention of the student and disability specialist. All parties will engage in an interactive process to determine the reasonableness of the request and ensure equal access is maintained.

If a student discloses a disability to a faculty member and requests an academic adjustment but the student does not have a letter from ARC, the faculty member should direct the student to ARC. It is not the faculty member's responsibility to decide whether the student has a disability and what adjustments or accommodations are appropriate. Faculty can help the University meet its obligations to provide students with academic adjustments in a timely manner by stating on their class syllabus that students should inform them of any special needs as soon as possible. Students who do so should be referred to ARC.

### **4.3. ARC Responsibilities**

ARC is responsible for:

- Verifying disabilities and need for accommodations;
- Recommending reasonable accommodations;
- Informing students of their rights and responsibilities
- Advocating program access; and
- Problem-solving with student and, if necessary, the instructor, in response to student concerns regarding the implementation or consistency of reasonable accommodations

ARC has neither the right nor the responsibility to manage the student's classroom participation and accommodations. Students are ultimately responsible for themselves. Accessibility Resource Center works with students and, when appropriate, with their instructors, to determine two things. First, which accommodations are reasonable and second, identification and referral for other campus and community services that may be appropriate. Accessibility Resource Center provides students with the tools necessary for their academic success.

ARC will determine a student's eligibility and, in consultation with the student, will determine effective and appropriate academic adjustments in accordance with [Section 3.3. herein](#). ~~The Accessibility Resource Center~~ARC may consult with other University departments, as necessary, in order to make a determination of eligibility and what academic adjustments are appropriate and reasonable. ~~The Accessibility Resource Center~~ARC will send a letter, per the student's request, to faculty, with a copy to cognizant department chairs, informing the faculty members of what adjustment(s) the student is to receive. ~~The Accessibility Resource Center is responsible for costs relating to academic adjustments that are part of instructional courses at the Albuquerque campus. Branch campuses are generally responsible for costs relating to academic adjustments for their students.~~

Once the student has established his or her eligibility for academic adjustments, ~~the Accessibility Resource Center~~ARC will provide appropriate adjustments as expeditiously as possible. Generally, adjustments will be in place within fifteen (15) working days; however, some adjustments can require a longer period of time to arrange. ~~Therefore, students are encouraged to pre-register with the Accessibility Resource Center before classes begin so that adjustments can be in place when needed at the start of the semester. If pre-registration is not possible, students should register at the start of the semester or as soon as the need for an adjustment becomes known, and Accessibility Resource Center will make every effort to accommodate the student's needs as soon as possible. Requests received right at or after the start of a semester may result in the student being without the adjustment for part of the semester. Students should be aware that an academic adjustment does not apply retroactively, so that grades earned on exams, assignments, or other classroom activities before the adjustment takes effect will not be changed.~~ARC is responsible for coordinating adjustments that are part of instructional courses at the Albuquerque campus.

## ~~2.2. Faculty Responsibilities~~

~~Faculty members must provide students with the academic adjustments identified in the letter from the Accessibility Resource Center. If the faculty member has questions or concerns, or needs help with making the modifications called for, he or she should contact Accessibility Resource Center. If a student discloses a disability to a faculty member and requests an academic adjustment but the student does not have a letter from the Accessibility Resource Center, the faculty member should direct the student to the Accessibility Resource Center. It is not the faculty member's responsibility to decide whether the student has a disability and what adjustments are appropriate. Faculty can help the University meet its obligations to provide students with academic adjustments in a timely manner by stating on their class syllabus that students should inform them of any special needs as soon as possible. Students who do so should be referred to~~4.4. University responsibilities

Everyone at the University is responsible for:

- Engaging in an interactive discussion of reasonable accommodations for specific courses and degree programs;
- Problem-solving issues and concerns; and
- Maintaining academic standards for course and degree programs.

The University is responsible for all costs of reasonable accommodations. Branch campuses are generally responsible for coordinating reasonable accommodations for their students.

The purchase and implementation of programs, including software, must take accommodations for disabilities into consideration. Contractors and third-party vendors of the University must adhere to the same standards of accessibility and accommodation for disabilities.

## 4.5 Confidentiality



Strict confidentiality requirements pertain to disability disclosures, accommodation requests, and related procedures. This information is only shared on a need-to-know basis. Faculty and staff with knowledge of a disability disclosure or accommodation made for a student must maintain strict confidentiality, and only use disability information to implement the accommodation.

The ~~the~~ Accessibility Resource Center.

2.3 disability documentation and any paperwork related to accommodations will be maintained by ARC in a separate, locked file

Reported violations of these confidentiality protocols are subject to investigation and may result in disciplinary procedures.

#### **4.6. Appeal**

In most instances, the academic ~~adjustment~~accommodation determination made by the ~~Accessibility Resource Center~~ARC will be acceptable to the student and faculty. However, ~~if that is not~~in the rare case of a disputed accommodation, the determination is subject to appeal. When faculty disagree with a determination by ARC, the accommodation must be implemented while faculty and ARC enter into assisted dialogue with the ADA Compliance officer in an effort to reach agreement. If no agreement is reached during the assisted dialogue, any accommodation issued by ARC shall remain in effect, and the faculty member's concern will be documented.

In addition, the student can appeal a determination by an academic unit that an ~~adjustment~~accommodation would result in undue hardship or a fundamental alteration of a course or program. ~~The~~. In the case of student appeal, the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, will convene an ad hoc committee to consider the appeal. Members of the ad hoc committee will include representatives from relevant University departments as determined on a case-by-case basis. The ad hoc committee will follow the appeal procedures listed in Exhibit A. Any accommodations recommended by ARC will continue throughout the appeal process. The ad hoc committee will make a recommendation to the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, whose decision on the appeal is final for the University. Every effort should be made to arrive at a determination of the appeal as expeditiously as possible.

### **3. Criteria for Determining Academic Adjustments**

If an approved accommodation has not been provided, the student may file a complaint with the Office of Equal Opportunity according to UAP 2720 ("Prohibited Discrimination and Equal Opportunity").

## **5**

~~The~~ University shall make academic adjustments for the known physical or mental limitations of a qualified student with a disability, unless the University can show that providing an adjustment would result in:

- a fundamental alteration of the service, course, program, or activity;
- an undue financial, administrative, or academic burden, and/or;
- a direct threat to the health or safety of the student or others.

### **3.1. Individual with a Disability**

An individual with a disability is a person who has, or has had a record of, or is regarded as having a physical or mental impairment that substantially limits a major life activity such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

### **3.2. Qualified Student with a Disability**

A qualified student with a disability is a student with a disability who meets the academic and technical standards required for admission and participation in the programs and activities of the University of New Mexico.

### **3.3. Academic Adjustment**

An academic adjustment is a modification or adjustment to instructional methods and/or to a course, program, service, or facility of the University that enables a qualified student with a disability to have equal access and opportunity to attain the same level of performance and to enjoy equal benefits and privileges as are available to similarly situated students without a disability. Determining reasonable academic adjustments must be done on a case-by-case basis and in consultation with the student. The University is not required to provide the specific adjustment requested, but the adjustment must be effective to enable a qualified student with a disability to enjoy equal opportunity and access. All offers of adjustments are subject to applicable University policies.

#### **3.3.1. Course or Program Modifications**

The University shall provide such modifications to courses, programs, or educational requirements as are necessary and appropriate to enable a qualified student with a disability to enjoy equal opportunity and access. However, the University is not required to fundamentally alter the essential nature of a course or academic program. Reasonable academic adjustments may include, but are not limited to, extended time on an examination or paper, and oral instead of written examinations, where appropriate.

#### **3.3.2. Auxiliary Aids and Services**

Reasonable academic adjustments in the form of auxiliary aids and services may include, but are not limited to: note-takers, readers, Braille or large print materials, and sign language interpreters. However, the University is not required to provide devices or services of a personal nature such as personal attendants or personal devices utilized in activities of daily living.

## **4. Americans With Disabilities Act (ADA) Coordinator**



The Americans With Disabilities Act (ADA) Coordinator for The University of New Mexico is the Director of the University Office of Equal Opportunity. Students who believe that they have been discriminated against on the basis of a disability may contact the [Office of Equal Opportunity](#) to file a complaint.

## **5. Attachments**

## **6. References**

[Exhibit A.](#) - Academic Adjustments for Students with Disabilities: Appeal Rights Procedures

[UAP 2295 \(“Service and Assistance Animals”\)](#)

[UAP 2720 \(“Prohibited Discrimination and Equal Opportunity”\)](#)

[UAP 5320 \(“Universal Design”\)](#)

### **Americans with Disabilities Act of 1990**

[42 U.S.C. §§ 12101 et seq.](#)

### **Section 501 of the Rehabilitation Act of 1973, as amended**

[29 U.S.C. § 791](#)

### **Section 503 of the Rehabilitation Act of 1973, as amended**

[29 U.S.C. § 793](#)

### **Section 504 of the Rehabilitation Act of 1973, as amended**

[29 U.S.C. § 794](#)

### **Section 508 of the Rehabilitation Act of 1973, as amended**

[29 U.S.C. § 794d](#)

# UNM Policy 2310 Exhibit A: ~~Academic Adjustments~~ Reasonable Accommodation for Students with Disabilities: Appeal Rights Procedures

Pursuant to Section 2.3. of UAP 2310 ("Academic Adjustments Reasonable Accommodation for Students with Disabilities"), the following process shall govern consideration of student appeals.

## Article 1. Submission of Appeal

1.1. A student may utilize this appeal process in the event that:

- the [Accessibility Resource Center](#) finds that the student is not eligible for academic adjustments;
- the student disputes the academic adjustments that the Accessibility Resource Center determines to be appropriate; or
- an academic unit determines that an adjustment would fundamentally alter the nature of a course or program.

Prior to invoking this process, the student must have provided the required documentation to the Accessibility Resource Center and must have engaged with the Accessibility Resource Center to resolve the problem.

1.2. The student must submit an appeal in writing to the Provost. Students at the Health Sciences Center should submit their appeal to the dean of their college. The appeal must describe the student's reasons for challenging the decision and the student's attempts to date to resolve the problem. The student should attach copies of any relevant documents that he or she wants to be considered.

1.3. The Provost/~~HSC Dean~~ [Chancellor for Health Sciences](#), or designee, shall promptly review the appeal and decide within five (5) working business days whether, under paragraph [1.1.](#) above, the appeal should proceed to review by a committee. If the appeal is not accepted, a written explanation shall be provided to the student. If the appeal is accepted, a copy shall be sent to the Accessibility Resource Center and/or the academic unit, as appropriate.

1.4. Upon receipt of the student's appeal, the Accessibility Resource Center and/or the academic unit has seven (7) business days to respond in writing to the Provost/~~HSC Dean~~ [Chancellor for Health Sciences](#), or designee, and must include copies of any relevant documents it wants to be considered as evidence.

## Article 2: Appointment of Committee

2.1. If the appeal is to proceed to committee, the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, shall promptly appoint a committee made up of three (3) to five (5) members (faculty and/or staff) from relevant University departments. The student may challenge appointment(s) for cause. The Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, will decide the challenge. The Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, will ~~promptly~~ send a copy of the student's appeal and the Accessibility Resource Center's and/or the academic unit's response to the committee members.

2.2. Committee members must ~~promptly~~ review the student's appeal and the Accessibility Resource Center's and/or the academic unit's response and will schedule a hearing. The committee will appoint a chairperson to preside at the hearing.

## Article 3: Hearing Procedures

3.1. The student may have an advisor; however, the student is responsible for presenting his or her case. The advisor may be an attorney. The advisor is not permitted to present arguments or evidence or otherwise participate directly in the hearing.

3.2. The Accessibility Resource Center and/or the academic unit may appoint a ~~hearing~~ representative for the hearing process. The representative may also have an advisor but the representative must present the department's case. The advisor may be an attorney. The advisor is not permitted to present arguments or evidence or otherwise participate directly in the hearing.

3.3. If the parties have any additional documentary evidence to be considered by the committee, it must be submitted at least three (3) business days before the hearing. A copy will be provided to the other party.

3.4. The committee has the right to secure evidence independently for the hearing. Any such evidence shall be provided to both parties at least three (3) business days before the hearing.

3.5. Parties may offer witness testimony. The names of any witnesses and a brief description of their testimony must be given to the committee at least five (5) business days before the hearing. The committee has the discretion to limit witness testimony.

3.6. The student and representative from the Accessibility Resource Center and/or the academic unit will have an opportunity to address the committee. Committee members may question them and may also permit ~~them~~ the student and representative to question each other, within reasonable limits.

3.7. Witnesses offered by one party are subject to questioning by the committee and the other party, within reasonable limits.

3.8. The hearing will be tape-recorded and the Provost/~~HSC Dean's~~Chancellor for Health Sciences office will keep the tape. The tape is the property of the University. No typed record will be made.

3.9. The hearing is not subject to judicial rules of evidence.

## **Article 4: Committee Decision**

4.1. The committee's decision on the appeal will take the form of a recommendation to the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee.

4.2. The committee will ~~decide the appeal~~make their recommendation based on the documentary evidence, testimony, and arguments presented at the hearing. The committee will issue a written decision within ten (10) business days after the hearing and will send it to the student, the Accessibility Resource Center and/or the academic unit, and to the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee.

4.3. After reviewing the committee's decision, the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, may seek additional input from the student and the Accessibility Resource Center and/or the academic unit. The Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, will issue a decision as expeditiously as possible accepting, rejecting, or modifying the committee's recommendation. The student has no right to appeal the Provost/~~HSC Dean~~Chancellor for Health Sciences, or designee, decision, but the student may file a discrimination complaint with the University's Office of Equal Opportunity if the student believes that he or she has been discriminated against on the basis of a disability.