

	FGCU POLICY 1.008	Responsible Unit: Office of Institutional Equity and Compliance
	Disability Access and Reasonable Accommodation	

A. POLICY STATEMENT

Florida Gulf Coast University (“FGCU” or the “University”) is committed to equal opportunity and access for persons with disabilities. The University will comply with all provisions of federal and state laws in this regard and will provide, upon request, reasonable accommodations to qualified persons with a disability. This includes complying with the American with Disabilities Act Amendments Act of 2008 (“ADA”), Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and the Fair Housing Act, all of which protect qualified individuals with a disability from discrimination on the basis of disability and, in some circumstances, require the granting of reasonable accommodation.

B. REASON FOR POLICY

To comply with legal or regulatory requirements.

C. APPLICABILITY AND/OR ACCOUNTABILITY

This Policy applies to faculty, staff, students, and visitors of the University community. The Office of Institutional Equity and Compliance and Adaptive Services are accountable for compliance with this Policy.

D. DEFINITION OF TERMS

1. *Essential Job Functions:* The basic job duties that an employee must be able to perform, with or without the assistance of a reasonable accommodation. Some of the factors used in determining whether a job function is essential are:
 - a. Whether the reason the position exists is to perform that function;
 - b. The number of other employees available to perform the function or among whom the performance of the function can be distributed; and
 - c. The degree of expertise or skill required to perform the function.
2. *Individual with a Disability:* Any person who has a physical or mental impairment that substantially limits one (1) or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
3. *Qualified Individual with a Disability:* With respect to employment, a person with a disability who can perform the essential functions of the job with or without reasonable

accommodation. With respect to education and housing, a student who meets the essential eligibility requirements for the receipt of services or participation in the program or activity with or without reasonable accommodation.

4. *Reasonable Accommodation:*

- a. With respect to employment, a Reasonable Accommodation is a modification to the work environment or to the manner or circumstances under which the job is customarily performed, that enables a Qualified Individual with a Disability to perform the job's essential function.
- b. With respect to education, a Reasonable Accommodation is a modification that enables a student with a disability to enjoy the benefits and privileges of University programs, services, and activities.
- c. With respect to housing, a Reasonable Accommodation includes a physical modification or exception to the rule, policy, practice, or service that is necessary for a student with a disability to use University housing.

5. *Undue Hardship:* Where the accommodation would be too difficult or too expensive for the employer to provide, in light of the employer's size, financial resources, and the needs of the business. An employer does not have to provide the exact accommodation the employee or job applicant wants. If more than one (1) accommodation is acceptable, the employer may choose which one to provide.

E. PROCEDURES

1. Prospective Employees with Disabilities

- a. No applicant for employment will be prohibited from applying for any position with the University for which that person is qualified solely, or in part, because of any physical or mental disability.
- b. Reasonable Accommodations that do not pose an Undue Hardship shall be made for any Qualified Individual with a Disability to ensure equal opportunity and access during the application and selection process.
- c. Qualified applicants for employment with the University must make a request for Reasonable Accommodation through Adaptive Services. Any information or documentation required for a request for Reasonable Accommodation will be provided to the applicant with a disability by Adaptive Services.

2. Employees with Disabilities

All University administrators, managers, and supervisors shall be responsible for ensuring that employees with disabilities receive necessary Reasonable

Accommodations. Employees with disabilities must make a request for Reasonable Accommodation to Adaptive Services. Any information or documentation required for a request for Reasonable Accommodation will be provided to the faculty or staff with a disability by Adaptive Services.

3. Students with Disabilities

- a. All University faculty and staff will be responsible for ensuring that students with disabilities receive equal treatment and access to all University programs, services, and activities. University faculty and staff will also ensure that students with disabilities are reasonably accommodated.
- b. Students with disabilities who are seeking a Reasonable Accommodation, including for University Housing, shall make the request through Adaptive Services.
- c. Any information or documentation required for a request for Reasonable Accommodation will be provided to the student with a disability by Adaptive Services.
- d. Medical documentation presented should be recent (within the last three (3) years). Adaptive Services has the discretion to provide a one-time accommodation for medical documentation that is not recent. Even if granted a one-time accommodation, the person requesting the accommodation must, at the earliest time possible, provide updated medical documentation

4. Visitors with Disabilities

- a. Departments or units conducting events, activities, or programs should post a notice on their webpage, and in any flyers, bulletins, signage, or other publications that directs persons with disabilities on how to request assistance or accommodation for their disability. Departments or units conducting events, activities, or programs are responsible for providing and funding accommodations as needed. For additional information or support, contact Adaptive Services.
- b. Visitors needing Reasonable Accommodations may submit a request to the University department or unit responsible for or coordinating a respective event, activity, or program, or to Adaptive Services. Any information or documentation required for a request for Reasonable Accommodation will be provided to the visitor with a disability by Adaptive Services.

5. Role of Adaptive Services

- a. Inform the individual requesting a Reasonable Accommodation of their rights and obligations and collect the information needed to process the request(s).

- b. Notify any faculty or University employee, who has a legitimate and authorized need-to-know, that an accommodation has been requested.
- c. Provide assistance in completion of all necessary documentation.
- d. Consult with the appropriate department(s) to facilitate a final determination and, if necessary, implementation of a request for a Reasonable Accommodation.
- e. Engage in an ongoing interactive process with the individual requesting the accommodation to ensure that the accommodation being provided is of appropriate effectiveness. In the event that an original accommodation does not have the desired level of effectiveness, personnel within Adaptive Services will work collaboratively with the requesting individual to provide a Reasonable Accommodation that, in fact, does achieve such level of effectiveness.

6. Medical Tests and Examinations

Job-related medical examinations, tests, and inquiries may be required at the University's expense to determine whether a person can perform the essential functions of a position with or without Reasonable Accommodations. All information acquired as part of a medical examination will be maintained separately and confidentially by Adaptive Services. Such information shall only be disclosed as permitted by law.

7. Approval of Request and Implementation of a Reasonable Accommodation

- a. When a request for a Reasonable Accommodation is approved, the Director of Adaptive Services, or designee, will immediately inform the individual making the request of the decision in writing. The notice will also advise the applicant, employee, student, or visitor of his or her right to make a request for a different accommodation should circumstances change.
- b. The approved accommodation will be implemented as soon as practicable under the direction of Adaptive Services.

8. Denial of a Request for an Accommodation

If a request for an accommodation is denied, the Director of Adaptive Services, or designee, will inform the requesting individual in writing (or other appropriate form of communication) of the denial and the reason for the denial. Reasons for the denial may include:

- a. The individual requesting the accommodation does not meet the definition of an Individual with a Disability(ies).
- b. The requested accommodation is not reasonable or there is no other alternative without creating an Undue Hardship. The reason for the decision will be clearly

stated, as well as whether and how the requested accommodation would create an Undue Hardship for the University.

- c. There is no correlation between the requested accommodation and the individual's disability (e.g., a wheelchair ramp requested by an individual who has a mental disability, with no physical impairment).
- d. There is no Reasonable Accommodation available that will allow the person to perform the essential functions of the job.
- e. The requested accommodation will change the fundamental nature of the program or the requested accommodation will eliminate an Essential Job Function. A determination as to whether a requested accommodation changes the fundamental nature of a program or eliminates an Essential Job Function is made on an individual case by case basis by a group of individuals with specific medical, practical, or other knowledge relevant to the request.
- f. The requested accommodation would violate a federal or state statute or regulation.

9. Record Keeping

- a. Any employee or student record containing medical information received under this Policy must be maintained by Adaptive Services as "medical-confidential" and kept separate from other files related to the employee or student. This information will remain confidential and only made accessible as allowed by law.
- b. Information obtained pursuant to this Policy shall not be used to unlawfully discriminate in any employment, education, or business practice.
- c. Final records of all requests for Reasonable Accommodation are submitted to Adaptive Services where it will be retained for the minimum period required by state law.

10. Complaints

- a. The Director of the Office of Institutional Equity and Compliance will ensure that the University complies with all laws and regulations protecting the rights of persons with disabilities.
- b. Any applicant, employee, student, or visitor may file a complaint regarding an alleged violation of this Policy by following the procedures set forth in FGCU Policy 1.006, Non-Discrimination, Anti-Harassment, and Sexual Misconduct. All complaints will be acknowledged and answered by the Director of the Office of Institutional Equity and Compliance, or designee, according to University guidelines established in the aforementioned Policy.

All documentation regarding complaints filed under this Policy will be retained in the Office of Institutional Equity and Compliance for the minimum period required by state law.

Related Information

Accessibility Resource Manual

Student Housing Assistance Animal Policy

Authority

BOG Regulation 1.001, University Board of Trustees Powers and Duties

History of Policy

New 4/30/2010; Amended 10/4/2011; Amended 10/22/2013; Amended 09/01/2015; Format Changed 09/10/19

APPROVED

*s/Wilson G. Bradshaw
Wilson G. Bradshaw, President

September 1, 2015
Date