

POLICIES AND PROCEDURAL GUIDELINES FOR
NONDISCRIMINATION ON THE BASIS OF DISABILITY

UNIVERSITY OF HAWAII AT HILO

Policies and Guidelines approved

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INTRODUCTION

The University of Hawai'i at Hilo (UH Hilo) is committed to a policy of nondiscrimination on the basis of disability as required by the Americans with Disabilities Act (ADA) and its 2009 amendments, and Section 504 regulations at 34 CFR Part 104, which are enforced by the U.S. Department of Education and apply to the education of students with disabilities. These policies and procedures ensure that persons with disabilities will not be denied full and equal access to academic and co-curricular programs and activities or otherwise be subjected to discrimination under programs or activities offered by the University. It is the responsibility of all faculty, staff and students to adhere to this policy of equal access to educational opportunity. This procedural guideline applies to university students and programs and the general public.

It is University policy that enrolled students who have documented disabilities shall be provided reasonable accommodations. UH Hilo recognizes its legal obligations to make reasonable accommodations designed to provide overall educational program accessibility for otherwise qualified persons with disabilities. This policy was developed to ensure equal access at the University for persons with disabilities and to ensure full compliance with all pertinent federal and state laws. In this document, the University of Hawaii Hilo Disability Services office will be referred to as Disability Services.

Students with a disability or persons from the general public seeking assistance should contact the Disability Services Office.

PART I: POLICY STATEMENT

In accordance with the 1990 ADA and amendments, and Section 504 regulations at 34 CFR Part 104, which are enforced by the US Dept of Education and apply to the education of students with disabilities, UH Hilo provides notice to the public that no otherwise qualified person with a disability shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving federal financial assistance.

This policy applies to all UH Hilo programs and facilities, including but not limited to admission and enrollment, academic requirements, auxiliary aids and services, examinations and evaluations, physical education and athletics, financial aid, student employment, counseling and academic advising, student clubs and organizations, computer access, student teaching, distance education, and externship experiences.

PART II: RIGHTS AND RESPONSIBILITIES

A. The Institution

UH Hilo recognizes that its basic responsibility is to identify and maintain the academic and technical standards that are fundamental to providing quality academic programs while ensuring the rights of persons with disabilities. To meet this obligation, UH Hilo:

- has the responsibility to inform its applicants and students about the availability and range of auxiliary aids and services for students with disabilities as well as the procedures for requesting them;

- has the responsibility to ensure that its recruitment information and activities are available in accessible formats and facilities;
 - has the responsibility to evaluate applicants based on their abilities. If an evaluation method or criterion unfairly discriminates against an applicant with a disability, the University will seek reasonable alternative;
 - has the responsibility to ensure that all of its programs, viewed in their entirety, are accessible;
 - has the responsibility to make reasonable modifications for a student with a disability in the delivery, instructional method, and evaluation method of a course;
 - has the responsibility to modify academic requirements that unfairly discriminate against a student with a disability and that are not essential to the integrity of the student's academic program;
 - has the responsibility to select and administer tests to evaluate students to best ensure that test results accurately reflect course knowledge or competencies and do not discriminate against an individual with a disability. Tests designed to measure specific skills related to fundamental/essential course goals are allowable even when those skills are impacted by the disability;
 - has the right to identify and establish the abilities, skills, and knowledge necessary for academic success in its programs and evaluates applicants and students on this basis;
 - has the right to identify and establish the abilities, skills, and knowledge that are fundamental to their academic programs/courses and to evaluate each student's performance on this basis (i.e., fundamental program/course goals are not subject to modifications);
 - has the right to request and review documentation that supports requests for auxiliary aids and services. The University has the right to select among different effective methods of accommodating a student with a disability; and,
- has the right to amend or deny a request for auxiliary aids or services (see section of Accessing Auxiliary Aids and Services for more specific information). If a request is denied, the University has the responsibility to inform the individual of his or her right to appeal the decision and to inform him or her of the procedures for initiating an appeal.

B. Persons with Disabilities

Persons with disabilities have the right to an equal opportunity to participate in and benefit from programs offered at UH Hilo. To ensure these rights, individuals with disabilities at UH Hilo:

- have the responsibility to identify themselves as needing auxiliary aids or services by contacting the Disability Services Office;
- have the responsibility to follow procedures for making requests for auxiliary aids or services and to do so in a timely manner;

- have the responsibility to demonstrate or document how their disability limits their ability to benefit from a particular delivery system, instructional method, or evaluation method when they make a request from an accommodation. The individual must provide documentation from an appropriate professional (unless the disability is obvious) to the Disability Services Director or designee;
- have the same obligation, as any student, to meet and maintain the institution's fundamental academic and technical standards;
- have the right to be evaluated on their ability, not their disability. If a method of evaluation discriminates against them, individuals with disabilities are entitled to be evaluated by alternate means;
- have the right to information regarding the availability of auxiliary aids and services as well as procedures for requesting for them;
- have the right to an equal opportunity to learn. Individuals with disabilities have the right to reasonable modifications of educational experiences (e.g., location, delivery system, or instructional method) that limit access or participation;
- have the right to an equal opportunity to participate in and benefit from the academic community. This includes access to services, extracurricular activities, and housing, when viewed in their entirety, at a comparable level as that provided to students without disabilities;
- have the right to confidentiality of all information regarding their disability. Individuals with disabilities have the right to choose to whom information about their disability will be disclosed, and to authorize the Disability Services Director or designee to verify their disability status; and,
- have the right to appeal the institution's decisions concerning the provision of auxiliary aids or services: internally, by filing a discrimination complaint following the procedures described in Appendix B, or by contacting the Disability Services office.

PART III: GUIDELINES FOR POLICY IMPLEMENTATION

A. General

1. The Chancellor, or designee, shall establish and appoint an Advisory Committee on Disability Access. The charge for the Advisory Committee on Disability Access is as follows:

The Committee shall be an active participant in short and long range campus planning related to compliance with Federal accessibility standards, including the prioritizing of accessibility improvements to our facilities in order to meet those requirements.

The Committee shall be the forum for discussion of University policies, procedures, programs, facilities, and other matters that assure the full inclusion of people with disabilities into our diverse University community.

The Committee shall serve to review matters related to disability access and, when possible, reach consensus on practical courses of action. When necessary, it shall make recommendations to the

Administration on its findings. It shall maintain liaison with the Hawai'i Community College on accessibility matters.

2. The University shall publish its general policy of nondiscrimination on the basis of disability in the UH Hilo catalog, on the UH Hilo website, the UH Hilo schedule of courses, the student handbook, in the Resident handbook and other faculty handbooks. Additionally, the University shall publish contact information regarding services for students with disabilities, and discrimination complaint information.

3. The Disability Services (DS) will coordinate academic accommodations for students with disabilities, and act as a resource to the campus community. The primary coordinator will be the Disability Services Director. This responsibility is assigned by the highest levels of administration and is undertaken on behalf of the institution.

With regard to non-academic accommodations (e.g., faculties, parking, housing, student life, student employment, etc.), it is the responsibility of the coordinators of those units to provide and oversee accommodations. While DS will act as a resource for the University, it is the entire University's responsibility to ensure equal access for students with disabilities.

B. Accessibility of Facilities

General

Qualified persons with disabilities may not be denied the benefits of, or be excluded from participation in UH Hilo programs or activities due to inaccessible facilities.

Existing Facilities

Each program or activity will be operated so that, when viewed in its entirety, it is accessible to qualified persons with disabilities. Students may not be excluded from a specifically requested course offering, program, or other activity due to an inaccessible location. Methods that offer programs and activities to persons with disabilities in the most integrated setting appropriate will be emphasized. Modifications to ensure accessibility may include:

- relocation of classes
- priority registration (this can serve to limit the impact of classes being moved)
- installation of appropriate signage
- delivery of counseling, advisory, and support services at accessible sites
- accessible parking
- structural alterations where necessary and appropriate.

Facilities modification projects shall be consistent with UFAS/ADAAG (Uniform Federal Accessibility Standards/ADA Architectural Accessibility Guidelines). All projects shall be reviewed by the Facilities Planning Office, the DS Office, and the State of Hawaii Disability Communication Access board to ensure accessibility.

Parking

There are accessible parking stalls throughout campus. To park in an accessible stall, both a University Parking Permit/ Pass and a disabled parking placard issued by the State of Hawai'i or any other state are required, 24 hours a day, 7 days a week.

New Construction

Facilities, or parts of facilities, constructed for the use of UH Hilo must be designed and built to allow persons with disabilities convenient and safe access. New construction must be planned in accordance with UFAS/ADAAG.

Off-Campus Facilities

Every effort will be taken to assure that UH Hilo classes, programs or activities conducted off-campus will be in accessible locations. Contractual or lease agreements, shall require notification if a location does not meet the physical accessibility standards of UFAS/ADAAG. If any location does not meet these standards, the inaccessibility shall be announced in all promotional materials, and participants shall be invited to request accommodations in order to fully participate (e.g., nature trails, boating expeditions, canoe rides, etc.). Either prior verbal notification requests or pre-registration forms to the event coordinator shall allow for the arrangement of any possible academic adjustments or auxiliary aids and services as appropriate accommodations.

Emergency Evacuation

UH Hilo recognizes its responsibility to meet the needs of all students in the event of emergency evacuations and understands that the disabled student population may require special assistance in the evacuation process beyond what is provided to students without disabilities. It is highly recommended that any person with a disability attending any function at the UH Hilo campus become familiar with the Emergency Evacuation route and Areas of Rescue within the buildings that the person with a disability will be in. Further information about the University's Emergency Procedures for Persons with Disabilities can be found at <http://hilo.hawaii.edu/studentaffairs/uds/students.php>.

C. Educational Programs and Activities

Qualified persons with a disability may not be denied admission to, enrollment in, or participation in UH Hilo degree programs, or activities, or be discriminated against in admissions or recruitment.

Admissions and Enrollment

1. The number or proportion of persons with disabilities who will be admitted or enrolled may not be limited on the basis of disability.
2. UH Hilo has the right to identify and establish the abilities, skills, and knowledge necessary for success in its programs and to evaluate applicants and students on this basis.
3. UH Hilo shall ensure that its recruitment information and activities are available in alternate formats, and in accessible facilities.
4. UH Hilo shall inform applicants about the availability of disability support services on campus upon an applicant's request. Every admitted applicant's letter of acceptance shall inform the applicant whom to contact if he/she chooses to voluntarily disclose a disability, or has general questions regarding eligibility requirements and campus disability services.
5. Before assessment/placement tests under the control of UH Hilo are selected and administered, the University shall assure that:
 - a. Tests are selected and administered in ways that ensure that the test results reflect the applicant's aptitude or achievement level, or whatever other factors the test purports to measure, and do not discriminate against an individual with a disability.

b. It is the responsibility of the individual taking the test to make special needs known before the specified test date and to meet the specific requirements of the respective testing party.

c. Tests shall be administered in facilities that are accessible to persons with disabilities, and are under similar testing environmental conditions if no alternate testing accommodation is required.

6. Inquiries as to whether applicants for admission are disabled may not be made. Following the acceptance into a program, inquiries may be made by programs that have technical standards necessary for safe and effective practices.

7. UH Hilo shall be responsible for providing appropriate accommodations requested by students with disabilities who are concurrently enrolled (or accepted for enrollment) at another campus within the UH system. In those situations, the student will need to provide adequate documentation of the disability to DS, even if documentation has already been provided to another campus within the UH system.

8. A student with a disability enrolled part-time (i.e., less than 12 credits) may request to be designated as a full-time student. The student must submit a written request to the Vice Chancellor for Student Affairs, which should include the following information: disability documentation, reason (s) the full-time designation is being sought, and a justification that the request is reasonable. Students will need to make such a request each semester in which they are enrolled part-time. The approval for a full-time status designation does not automatically carry over from one semester to another.

If approved, the full-time designation provides the student access to the rights and privileges of any full-time student at UH Hilo, to include living in the residence halls, insurance coverage, and participation in extracurricular activities. Students should note, however, that federal financial aid regulations prevent the UH Hilo Financial Aid Office from awarding a student enrolled in less than 12 hours of coursework a financial aid award based on full-time enrollment.

Treatment of Students in UH Hilo Programs or Activities

In implementing the policy to ensure access to educational programs or activities and extracurricular activities offered by UH Hilo, all programs and activities will be conducted in the most integrated setting possible. Programs not wholly operated by UH Hilo that require student participation in educational activities, such as internships, should assure that these activities, as a whole, and provide an equal opportunity for the participation of qualified persons with disabilities.

In order to be proactive in assisting student with disabilities, instructors will be encouraged to include a statement on their syllabi each semester such as the following:

Any student with a documented disability who would like to request accommodations should contact the Disability Services Office (933-0816[V], 933-3334[TTY], Hale Kauanoë A Wing Lounge, or uds@hawaii.edu) as early in the semester as possible.

Academic Requirements

Academic requirements may be modified, as necessary, to ensure that they do not discriminate against students with disabilities if the requirements are not essential to the integrity of the student's academic program. These modifications shall not affect the substance of the educational programs or compromise educational curriculum standards. UH Hilo has the right to identify and establish the abilities, skills, and knowledge that are fundamental to academic programs/courses and to evaluate each student's

performance against these standards. Technical standards that are necessary for safe and effective practices are not regarded as discriminatory.

Academic modifications may include:

- changes in length of time permitted for the completion of degree requirements
- alteration in the manner in which specific courses are conducted
- substitution or waiver of specific courses required for the completion of degrees.

Request for Modification of a Degree Requirement

A student with a disability may request the modification of a degree requirement by filing a request to the appropriate College Dean. The Dean will then form an ad hoc committee to determine whether a policy or practice modification would fundamentally alter the nature of the program curriculum. The ad hoc committee membership shall include (but is not limited to) the Department Chair of the student's major (and/or the Division Chair if one exists), the student's academic advisor, and the Disability Services Director. Information that may be requested from the student in considering requests for modification may include disability documentation, evidence of a disability-related need for the modification, justification that the request is reasonable, and any other supporting documentation. The Dean will make the final decision regarding the committee's recommendation. If the student with a disability disagrees with the Dean's decision, he/she may appeal to the Vice Chancellor for Academic Affairs for a final decision.

Auxiliary Aids and Services

Qualified students may request auxiliary aids and services which the University will provide, if they are deemed reasonable, and appropriate. Students may also apply for auxiliary aids and services through the State of Hawai'i Division of Vocational Rehabilitation. Auxiliary aids and services are offered on an individualized basis, with consideration of the individual's strengths in learning style and preference.

The university will make available a necessary aid for classroom or other appropriate (non-personal) use. A student with a disability will not be required to pay any cost of an approved aid or service. The university will not limit what it spends for auxiliary aids or services or refuse to provide auxiliary aids because it believes that other providers of these services exist, or condition its provision of auxiliary aids on availability of funds. The university may meet its obligation to provide auxiliary aids by assisting the student in obtaining the aid or obtaining reimbursement for the cost of an aid from an outside agency or organization, such as a state rehabilitation agency or a private charitable organization. The institution is not responsible for providing aids or services of a personal nature (e.g., personal care attendants, readers for personal use, or study). It is the responsibility of the student to request auxiliary aids or services in a timely manner. Requests not made in a timely manner will be addressed as soon as reasonably possible.

The use of auxiliary aids and adaptive devices in the classrooms or campus buildings shall not be restricted. However, recordings or transcription of lectures may not be used for any purpose that would interfere with the rights of an instructor, nor can the recorded material be duplicated. (Appendix A includes a copy of an agreement form for recording lectures that instructors may ask students to sign.) Violation of this provision may result in disciplinary action under the Student Conduct Code. When a student needs to record a class which may involve discussion of matters of a sensitive or confidential nature, the student (or instructor) should contact the Disability Services Director as soon as he/she becomes aware of the situation in order to develop an appropriate plan for handling the matter.

Students may be required to put down a deposit for auxiliary aids that are loaned to them, which will be returned when they return the aid. The University reserves the right to charge a student for the cost of

replacing an aid if it is not returned, or for repairing an aid that is returned in a condition that is beyond normal “wear and tear.”

Program Examinations and Evaluations

Examinations or other procedures for evaluating student’s academic achievement may be modified to better evaluate the achievement of students with disabilities. The results of the evaluation should represent the student’s achievement in the program or activity, rather than reflecting the students’ disability. If a student takes an examination outside of the instructor’s immediate supervision, or at a different time than other students, or with accommodations, the examination should be of the same degree of difficulty as that given to other students. It is the student’s responsibility to request test accommodations in a timely manner. Testing accommodations, if requested in a timely manner, are offered on an individualized basis with consideration of the individual’s academic needs.

Physical Education, Athletics, and Similar Activities

Qualified students with disabilities in UH Hilo programs or activities shall have an equal opportunity to participate in physical education courses, intercollegiate and intramural athletics and other similar activities. If a reasonable accommodation is not possible in a required course, the student may follow the procedures stated above for requesting a modification of a degree requirement.

Financial Aid

UH Hilo shall provide financial assistance to eligible, qualified students regardless of disabilities. Any UH Hilo student may file an appeal with the Financial Aid Office and the Financial Aid and Scholarship Advisory Committee if he/she is not satisfied with a financial aid award. Appeals will be decided on a case-by-case basis within the limits of federal regulations governing the awarding of federal financial aid.

Service Animals

A dog that is individually trained to work or perform tasks for a person with a disability is considered a service animal that may accompany the person with a disability on the UH Hilo campus. Certain medical or laboratory settings may by its nature prohibit service animals due to maintenance of sterile environmental conditions. Please be aware that the service animal must be leashed, remain under the control and direct supervision of the person with a disability and not stray unattended, and exhibit non-disruptive behavior while in a classroom, or work setting. For more information about the UH Hilo Animals on Campus policy please go to the following URL: <http://hilo.hawaii.edu/auxsvc/security/>.

Student Employment

Employment through UH Hilo programs shall not discriminate against qualified students on the basis of disability. The assistant director of career services, in consultation with the DS Director, will work with a student with a disability and the appropriate employer on campus to provide reasonable and appropriate job accommodations.

Counseling and Academic Advising

Personal and career counseling/guidance, as well as academic advising, shall be available in an accessible setting and provided in a nondiscrimination manner. Specifically, qualified students with disabilities must not be counseled toward more restrictive career objectives than are non-disabled students with similar interests and abilities.

Student Clubs and Organizations

Qualified students with disabilities shall have equal access to participation in student clubs and organizations. The Campus Center Director shall ensure that membership in any registered student club or organization does not discriminate on the basis of disability.

Computer Access

Qualified students with disabilities shall have equal access to the use of computers on campus. University committees and units responsible for computer technology shall consider the acquisition and implementation of software/hardware, and other assistive technology that promotes equal access for individuals with disabilities and make such equipment available as appropriate.

Student Teaching and Other Externships

Qualified students with disabilities participating in student teaching and other externships within the U.S. shall receive full access to the educational opportunities afforded by these assignments. Following acceptance into a student teaching or other internship, inquiries as to whether a student has a disability may be made by programs that have technical standards necessary for safe and effective practice. If auxiliary aids or services are required, their provision will be negotiated between the institution and the cooperating agency or organization. Best efforts will be made by the externship or placement coordinator to find a suitable placement, or internship practicum site that both the student and coordinator find appropriate.

Distance Education

At present there is no UH system-wide policy governing the provision of accommodation for students enrolled in distance education programs. Until a system-wide policy is adopted, UH Hilo shall handle requests for accommodations by students with disabilities enrolled in distance education programs on a case-by-case basis. Students enrolled in distance education programs should personally contact the Disability Services office to make their needs known. The Disability Services Director will work with the student and the appropriate personnel at the distance education site to provide the necessary accommodations.

D. Public Events

UH Hilo recognizes its obligation to provide overall program accessibility for persons with disabilities who participate in events that are open to the internal campus and external public, such as conferences and graduation ceremonies. The Event Coordinator responsible for coordinating specific public events shall follow the procedures described below to ensure accessibility.

1. In planning events, the Event Coordinator should refer to the following reference guide: State of Hawaii Disability Access to programs and Services Manual. In addition, the DS Director (ADA Coordinator/Sec 504 Compliance Officer), and EEO/AA Director shall be available as resources for consultation.

2. Designate a staff person associated with the event planning committee to handle requests for accommodations.

3. Include the following announcement on registration forms, brochures, fliers, press-releases, and invitations:

For disability accommodations, contact [Event Coordinator] at [phone*] (V), 933-3334 (TTY) by [date 10 business days prior to event date]. * The phone number should be accessible by a TTY (telecommunication device for the deaf and hard of hearing). If the office of the designated Event Coordinator does not have a TTY, the phone number of the Department Secretary or Division Secretary may be used, and the contact person would be the name of the Event Coordinator.

4. For simple accommodation requests (e.g., accessible parking permits, front-row seating), the designated Event Coordinator shall contact the DS Office to arrange the accommodation.

5. For other accommodation request, the designated Event Coordinator shall follow the steps described in the “Request for Accommodation from Members of the Public” form (see Appendix E). This process may not be necessary if the Event Coordinator determines that the request is reasonable or has obtained sufficient guidance from the DS Director. However, if the Event Coordinator is unsure about how to respond to a request, or has any doubt about the appropriateness and/or reasonableness of an accommodation, he/she shall follow the steps described on the form. The process is designed to provide guidance and support for Event Coordinators who have received a request for accommodation.

6. For public events held at UH Hilo facilities, it is the responsibility of UH Hilo to ensure that all facilities to be used are accessible. However, it is the responsibility of the sponsoring or organizing group to ensure programmatic accessibility.

7. Members of the public who wish to file a complaint regarding access to University programs, services, and activities shall be informed by either the Event Coordinator or DS Director of the “ADA/Section 504 Complaint Procedures for Members of the Public” (Appendix C). Such information will be in forms available via internet access on the UH Hilo website, and by contacting the DS Office or the Vice Chancellor of Student Affairs for a hard copy of the complaint procedures.

PART IV: PROCEDURES FOR ACCESSING ACADEMIC ADJUSTMENTS, AUXILIARY AIDS AND SERVICES

A. General

1. UH Hilo may require students to provide sufficient information to establish eligibility as a disabled student and to identify the type and nature of disability-related services, modifications, academic adjustments, and auxiliary aids that are necessary for the student.
2. The student with a disability provides documents which confirm the student’s disability. In order to fully evaluate a request for accommodations or auxiliary aids, the Director or designee will need documentation from an appropriate professional that there is a physical or mental impairment that substantially limits one, or more major life activities. The following treatment professionals for the student with a disability would be considered qualified to evaluate and diagnose disabilities provided they have comprehensive training in the diagnosis and have direct experience with persons having such disabilities: psychologists, neuropsychologists, psychiatrists, psychometrician, nurse practitioners, M.D. trained medical practitioner in a specific field of medical specialty, or clinically trained and certified professionals.

Generally an IEP, 504 Plan, or other types of educational/vocational plans will not usually contain sufficient information to determine eligibility for disability services. However, such documentation may be helpful to discussions held to identify an appropriate academic adjustment for a student with a disability.

In order to receive accommodations, students with disabilities will provide documentation indicating that without the necessary accommodation(s) they would not have equal access and

would be subject to discrimination. It is the responsibility of the student to pay for any costs associated with an evaluation of a disability (e.g., medical tests, testing for a learning disability).

As appropriate to the disability, documentation should include:

- A diagnostic statement identifying the disability, date of the current diagnostic evaluation, and the date of the original diagnosis.
- A description of the diagnosis criteria and/or diagnostic test used.
- A description of the current functional impact of the disability as it relates to the academic adjustment or accommodation being requested.
- Treatments, medications, assistive devices/services currently prescribed or in use.
- A description of the expected progression or stability of the impact of the disability over time.
- The signature and credential(s) of the diagnosing professional(s).

Documentation may not be required from students with obvious disabilities. In some circumstances, the Disability Services Director is an appropriate professional whose observation is sufficient in assessing the current functional impact of a disability as it relates to the accommodation being requested (e.g., wheelchair user, amputee, total blindness, deafness, etc.).

Temporary mental or physical impairments are covered by the ADA if the impairment substantially limits a major life activity. The issue of whether a temporary impairment is significant enough to be a disability will be resolved on a case-by-case basis, taking into consideration either the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

3. Disability Services may request additional documentation from a student with a disability if his or her submission is insufficient and the service provider may deny a request for an accommodation if the student fails to provide sufficient documentation.
4. Information regarding a student's disability will be kept confidential. Disability-related information shall be kept in separate files with access limited to appropriate personnel. This information shall be shared with others within the institution on a need-to-know base only, or with the student's written consent. Faculty members do not have a right to access diagnostic or other information regarding a student's disability; they have a need to know what accommodations are necessary and appropriate to meet a student's disability-related needs. The student must give permission to the Director or designee to inform faculty members of the need for specific accommodations.
5. Appropriate academic accommodations and auxiliary aids are determined through an interactive process involving the student with a disability, the treatment professionals, faculty member(s), and the Disability Services Director. Specific services available to the student are determined based on the impact of the student's disability and the academic courses and activities in which the student is participating.

The University has the right to deny a request if the documentation demonstrates that no accommodation is necessary or if an accommodation is not reasonable. An accommodation is not reasonable if:

- Making the accommodation of having the individual involved in the activity poses a direct threat to the health or safety of the student and/or others;
- Making the accommodation means making a substantial change in an essential element(s) of the curriculum;
- Making the accommodation would require a substantial alteration in the manner in which services (education opportunities) are provided;
- Making the accommodation would impose an undue financial or administrative burden.

The University has the right to select among different accommodations and auxiliary aids that are effective and reasonable. Input from the student requesting accommodations will be taken into consideration when making a selection choice.

6. The Director shall send letters via campus mail to inform instructors in writing of the accommodations that are required for a particular student in his/her class each semester. Students may choose to hand deliver the accommodation letter to their professors (Copies will be provided to the student upon request.) It is the instructor's responsibility to provide the accommodations determined by the Director. If an instructor considers the accommodation inappropriate, he/she has the right to request reconsideration if he/she still considers the accommodation inappropriate. Appendix D contains the "Request for Reconsideration of a Disability-Related Accommodation" procedure and contains the form to be used. If a request for reconsideration is submitted, the instructor must provide the accommodation(s) during the time period that the appeal is being processed. A decision not to request a reconsideration of an accommodation shall be taken as an agreement to provide it.
7. Inform students of their right to appeal a denied request for an accommodation or some other act of alleged discrimination (see Appendix B). Complaints by faculty, staff, or members of the public who are denied access to accommodations are to be filed directly with the EEO/AA Director.
8. Maintain confidential record keeping procedures necessary to document institutional responses to accommodation requests.

B. Priority Registration for Classes

The priority registration process allows for students to register early for their desired academic schedules, usually at the registration period of the Seniors (the 1st day of the early registration week at 8:30 am). The process relies on student cooperation to facilitate the registration process. The following procedures identify the responsibilities of the student and the Disability Services Director, or designee.

Student responsibilities

1. Students must timely provide documentation verifying their need for priority registration to the Disability Services Director, or designee. Documentation may not be required of students with obvious physical disabilities.
2. Students must be accepted for enrollment and be in good financial standing with the University. New students must pay their advance tuition deposit to be eligible for this service.
3. Students must comply with all placement testing and registration deadlines.

4. Students working with the Disabilities Services Director, or designee, must meet with their academic advisor during the advising period scheduled prior to the start of early registration.

Disability Services Director Responsibilities

The Disability Services Director will work with the Registrar to assure early registration for qualified students.

C. Formats of Academic Materials

Students with disabilities may require modification of academic materials as an accommodation. The following are examples of available academic material reformatting at UH Hilo:

Recorded Lectures/Note taking

Recorded lectures/note taking provides access to course lectures for students with disabilities that affect their ability to take lecture notes. This service relies on student cooperation to facilitate the recorded lecture/note taking process. The following procedures identify the responsibilities of the student and the Disability Services Director or designee.

Student responsibilities

1. Students must provide the Disability Services Director or designee with documentation verifying the need for recorded lectures/note takers in a timely manner. Documentation may not be required of students with obvious physical disabilities.
2. If a note taker is required, it is recommended that students notify the DS office as soon as possible, and reasonable attempts will be made by the DS staff to secure a competent and qualified note taker as soon as possible. However, should this attempt be unsuccessful the DS office may work with the faculty and the student to attempt to find a classmate in the course who would be suitable and willing to share his/her class notes.
3. Recordings of class sessions or notes taken by a note taker are provided to the student with a disability as an academic adjustment; they are not to be used or shared in any other context unless verbal or written permission/approval has been given by the class instructor.
4. Audio recordings of class sessions or notes taken by a note taker are provided to the student with a disability as an academic adjustment; they are not to be used or shared in any other context unless verbal or written permission/approval has been given by the class instructor.

Disability Services Director Responsibilities

1. The Disability Services Director, or designee, may be able to arrange to have lecture notes photocopied for the student.
2. Upon student request, the Disability Services Director or designee can meet with an instructor or class to help identify an in-class note taker, or employ an existing note taker from outside of the class.
3. Disability Services Director or designee will provide note taker training as necessary.

4. If a student needs to record class sessions or have a note taker, the Disability Services Director or designee may notify the instructor in writing. As faculty have the right to require a student who uses a tape recorder to sign an agreement for tape recording, the Director or designee will provide a copy of an Agreement Form for Tape Recording Lectures to the instructor upon request (see Appendix A).

Alternate Formats of Academic Materials

Other academic material formats are available to students with disabilities such as electronics, Braille, large print, transcription, e-text, and audio. This is not an all inclusive list. The determination of an appropriate and effective format relies on sufficient documentation and the interactive discussion between the student with a disability, his/her treatment professional, pertinent faculty and administration individuals, and the Disability Services Director. The procedures and individual responsibilities involved in this process are shown below.

Student responsibilities

1. Students must provide the Disability Services Director or designee with documentation verifying the need for an alternate format of course materials. Documentation may not be required of students with obvious physical disabilities.
2. Students identify the materials that they are requesting to be reformatted.
 - a. For required textbooks, the request must include title, author, copyright date, edition and publisher. (This information can be obtained from the course syllabus or, if the syllabus is not yet available, the information should be provided by the course instructor). In addition, proof of purchase of a text book is required for alternate format services to be provided by the University, or a public vendor.
 - b. For materials on reserve in the Library, a request must include the course number, section, and name of instructor, as well as the title, author, copyright date, edition and publisher.
 - c. For other course materials (e.g., syllabus, course handouts), the student must provide a copy (or arrange to have the course instructor provide a copy) to the Disability Services Director, or designee.
3. Students must provide a current course syllabus which identifies the required readings and time lines.
4. Students must present a request to reformat materials in a timely manner. Students who participate in priority or early registration should submit a request as soon as they have registered so that arrangements can be made to obtain the recorded material in time for classes. Students who register during regular registration should also submit a request as soon as they have registered, but they should be aware that all of the required reformatted materials may not be available at the beginning of the semester.
5. Students are responsible for picking up the completed reformatted academic materials in a timely manner when notified by the Disability Services office or explain any reasons for a delay.

6. Students must return all recorded materials at the end of the semester, unless otherwise stated. A hold on a student's account will be made pending return of all recorded materials, unless otherwise permitted.

Disability Services Director Responsibilities

1. The Disability Services Director, or designee, will provide priority registration for all students who are eligible for alternate formatting services.
2. The Disability Services Director, or designee, will contact an appropriate alternative services provider to order any available materials in the requested format. If the student should locate the material on his or her own, the Disability Services Director should be informed of the student's preference, and will assist for any needed follow up services.

If the requested materials are not available through the identified alternative services provider, the Disability Services Director will employ other approaches to obtain the material in an alternate format (e.g., hiring independent contractors, locating volunteer or paid student staff, and/or implementing the use of adaptive technology). The Disability Services Director may also have trained internal staff format the academic materials in an alternative format (e.g. e-text, audio, transcription, large font).

D. Sign Language Interpreters

Sign language interpreter services are appropriate for students who are deaf or hard of hearing. The University shall arrange for this service in order to provide equal access. Students who need sign language interpreting services are also encouraged to apply for this and other services through the Division of Vocational Rehabilitation or other relevant entities. The following procedures state the responsibilities of the student and the Disability Services Director or designee.

Student responsibilities

1. Students must provide appropriate documentation of a significant hearing loss that prevents access to educational services. Documentation may be a recent audiogram, language testing or speech evaluation, or other appropriate school/medical records. Documentation is to be provided a minimum of four weeks prior to the date they are to be used.
2. It is the responsibility of the student to identify his/her need for an interpreter in a timely manner (at least seven working days in advance) to allow for funding and scheduling arrangements to be completed. If the request is for regular classroom instruction, the student makes the request to the Disability Services Director or designee as soon as class enrollment has been confirmed, and as early in the semester as possible. If the request is for an extracurricular activity or event, the student makes the request to the individual (Event Coordinator) designated to respond to such requests for that particular activity or event (or to the Disability Services Director member in charge of the activity or event if an individual is not specified). If the request is for a university class related activity, or university tutorial service, the student should submit the request to the DS office via the on-line request service found at the DS Website.
3. Any schedule changes (e.g., add/drops, a change in room, class cancellation) must be provided to the Disability Services Director or designee as soon as they occur so that notice to the interpreter can be made. It is encouraged that the deaf student also communicates with the contracted interpreter to provide them with the similar information.

4. Students are expected to attend all classes. If the student is not planning to attend a class, he/she must notify the DS Office at least 24 hours in advance so that the interpreter services can be cancelled or reassigned. If the student is ill and cannot give 24 hours notice of cancellation, the student should contact the DS Office as soon as it is known that he/she will not be in attendance. The DS office staff will be in communication with the interpreter(s) regarding this situation.
5. If the student does not show up for a class without notifying DS in advance, the interpreter will notify DS and will not remain in the class for that missed time period.
6. If continued absence occurs, a mandatory meeting will be required by the DS Director with the deaf student for an interactive dialogue regarding services and possible barriers for utilizing such services.

Disability Services Director Responsibilities

1. Funds to pay qualified interpreters and provide benefits as appropriate are the responsibility of the University for interpreters whose funding source is not being supplemented by another non-University agency.
2. The DS office will respond to all student, faculty, and staff requests for deaf services in a prompt and timely fashion, if provided notice within a reasonable period of time.
3. Deaf services, assistive technology and related customer service techniques will be incorporated as part of the general ADA training.
4. Coordinate with the student with a disability and the Division of Vocational Rehabilitation or other relevant entities that the student may have applied for and been given sign language interpreting or other services for using here at the University.

E. Test Accommodations

Test accommodations allow for alternative testing conditions for eligible students with disabilities. It relies on student and faculty cooperation to facilitate the process. The following procedures identify the responsibilities of the student, the Disability Services Director, or designee, and the instructor. All requests for proctored exams/quizzes will be done via the DS Exam Schedule Request available on the DS website.

Student responsibilities

1. Students must provide the Disability Services Director or designee with appropriate documentation verifying the need for alternative testing.
2. It is recommended that the student request test accommodations from the DS Office at the beginning of each semester, or a minimum of 7 working days prior to the test date so that appropriate arrangements can be made in a timely manner.
3. It is recommended that the student verify with the instructor in advance of any upcoming exams/quizzes that will need the necessary academic adjustments based on their disability.

4. If the student believes that an instructor is not providing a test accommodation in an appropriate manner, he or she should discuss this immediately with the Disability Services Director or designee.

Disability Services Director Responsibilities

1. The Disability Services Director, or designee, will send written notification to all instructors regarding any student(s) who require test accommodations. The letter will specify the type of test accommodation required, e.g., extended time, a distraction-free testing environment, or scribing services.
2. The Disability Services Director, or designee, will encourage the student to discuss the test accommodations with the instructors early in the semester so that appropriate testing arrangements can be made.
3. The Disability Services Director, or designee, will contact the instructors to request specific tests prior to the test proctoring date.

It is the expectation that the faculty will provide the accommodation for testing adjustments; however, should that be impossible, the Disability Services Office will make arrangements for the test to be administered by the DS Staff.

Instructors' responsibilities

1. Instructors shall follow the prescribed test accommodations for each student. Instructors will be notified of the required test accommodations in writing by the Disability Services Director or designee.
2. If the instructor does not understand a required test accommodation, he or she may contact the Disability Services Director or designee for clarification.
3. If a faculty member/instructor believes it is not possible to provide a test accommodation, he or she should contact the Disability Services Director or designee, as soon as possible. The Director, or designee, will provide suggestions as to how to provide the accommodation. DS staff members are able to provide proctoring services in the event that the faculty member is not able to personally administer the exam. It is recommended that the instructor give the Disability Services Director a minimum of 7 working days advance notice to properly arrange for the logistics associated with the proctoring option.

PART V: COMPLAINT POLICIES

Complaint procedures have been established in the event that persons believing that they have been illegally discriminated against or unfairly treated by the University or a member of the campus community may seek a resolution of their dispute. A discrimination complaint is a formal or informal complaint filed with the Disability Services Office or the EEO/AA Office.

Appendix B contains the University of Hawai'i system-wide Discrimination Complaint Procedures for Employees, Students, and Applicants for Employment or Admission. Appendix C contains the ADA/Section 504 Complaint Procedures for Members of the Public Who Have Complaints Regarding Access to University Programs, Services, and Activities. Appendix D contains the Request for Reconsideration Procedure for a faculty member who does not agree with a request for an accommodation.

Additionally, University students and employees may file complaints of discrimination with the
Hawaii Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, Hawaii 96813
Phone: (808) 586-8636
FAX: (808) 586-8655
Email: info@hicrc.org
Website: www.state.hi.us/hcrc

Acknowledgments: Dr. Jane Jarrow, President, Disability Access Information and Support; Hawai'i Community College; Tacoma Community College; Pacific Lutheran University; Oregon State University; Longwood College; John Truesdale, Director of Disabled Student Services at the University of Wisconsin-Whitewater; and the Association on Higher Education and Disability (AHEAD) for assistance with developing these policies and procedural guidelines.

APPENDICES

A-E

APPENDIX A

Agreement Form for Recording Lectures

Under Section 504, Subpart E. Postsecondary Education, of the 1973 Rehabilitation Act and the Americans with Disabilities Act, institutions of higher education must provide reasonable accommodations for a student's known disability and may not deny equal access to the institution's programs, courses and activities. Recording lectures is a reasonable accommodation for students whose documentation calls for the accommodation.

Faculty has the right to require a student who uses a recorder to sign an agreement for recording and present the form to the instructor.

I, _____, agree that I will not release the tape recordings,
(Student's Name)

or transcriptions, or otherwise hinder _____
(Professor/Instructor's Name)

ability to obtain a copyright on lectures that I have taped in _____
(Dept., Course No., and Title)

_____.

Date

Student Signature

This form may be submitted to the professor/instructor upon completion.

APPENDIX B

Prepared by the Office of the President.
This replaces Administrative Procedure A9.920 dated December 1990.
August 2002

EQUAL OPPORTUNITY, CIVIL RIGHTS, AND AFFIRMATIVE ACTION

A9.920 DISCRIMINATION COMPLAINT PROCEDURES FOR STUDENTS, EMPLOYEES, AND APPLICANTS FOR ADMISSION OR EMPLOYMENT

1. Purpose

To comply with complaint procedure requirements under various federal and state nondiscrimination statutes, rules, and regulations and to carry out Executive Policy E1.202, University Statement of Nondiscrimination and Affirmative Action, and UH Board of Regents Bylaws and Policies, Section 1-5, Policy on Nondiscrimination and Affirmative Action, and Section 1-4, Rights and Responsibilities of the University of Hawai'i Community.

2. Objective

To provide an equitable, timely, and effective means of resolving discrimination complaints. By assuring internal due process in the investigation and resolution of complaints, it is hoped that a spirit of openness, fairness, and civility will govern relations among members of the University community.

3. Policy

The University, in accordance with E1.202, is committed to a policy of nondiscrimination on the bases of race, sex, age, religion, color, national origin, ancestry, disability, marital status, arrest and court record, sexual orientation, and veteran status in all of its programs, policies, procedures and practices. This nondiscrimination policy covers students, employees, and applicants for admission or employment. With regard to students and applicants for admission, it covers admission and access to, benefits of, participation and treatment in all University programs and activities. With regard to employees and applicants for employment, employment practices covered include, but are not limited to, recruitment, hiring, training, promotion, retention, compensation, benefits, transfers, and layoffs.

Complainants are not limited to this policy and have rights under both federal and state laws, which have deadlines for filing of complaints (see Section IX, External Agencies).

4. Definitions

a. A "Discrimination Complaint" may be pursued through formal or informal channels. A formal complaint must be filed in writing with the campus Complaint Officer and/or designee stating that an individual and/or unit of the University has violated University policy and/or state or federal laws regarding nondiscrimination.

b. "Student" is a person registered for credit or noncredit course work at the University at the time of the alleged incident of discrimination.

c. "Employee" is a person employed full-time or part-time by the University of Hawai'i.

d. "Complainant" is an individual who makes a report of discrimination.

e. "Respondent" is a person or unit accused of having discriminated against the Complainant.

f. "Complaint Officer" receives all complaints of discrimination and forwards formal complaints to the Investigating Officer, and coordinates training for the respective campuses. The actual title of the Complaint Officer may vary depending on the campus, e.g., EEO/AA Director, Dean of Students, etc. In some cases the Complaint Officer and the Investigating Officer may be the same person.

g. "Investigating Officer" investigates all formal reports of discrimination, documents the results of the investigation in a fact-finding report, and submits the report to the Decision Maker. In some cases the Investigating Officer and the Complaint Officer may be the same person.

h. "Decision Maker" is a Chancellor, Vice Chancellor, Provost, Vice President, or other designee.

i. "Fact Finding Report" is a summary of the allegations of both the Complainant and Respondent, a statement of relevant facts, and the Investigating Officer's analysis.

j. "No Cause Finding" is a conclusion by the Decision Maker that there is insufficient evidence to support a finding of a violation of the nondiscrimination policy (i.e., that the preponderance of the evidence does not support the Complainant's allegations of discrimination).

k. "Cause Finding" is a conclusion by the Decision Maker upholding the formal complaint of discrimination, i.e., finding that the preponderance of the evidence supports the allegations of discrimination.

l. "Retaliation" is any adverse or hostile action, expressed or implied, including but not limited to, intimidation, threats, coercion, or discrimination against any individual because he or she has made a complaint, or otherwise sought assistance, served as a witness, or participated in any manner in a complaint resolution process under this administrative procedure.

5. Applicability

All University of Hawai'i students, employees, and applicants for admission or employment may use these procedures for the purpose of filing discrimination complaints. Sexual harassment complaints should be filed under campus procedures for sexual harassment if separate procedures have been established.

Administrative, Professional and Technical (APT) and Civil Service employees who have complaints pertaining to equity in pay and classification should file under the applicable state or UH classification and compensation administrative procedure.

Employees covered by collective bargaining grievance procedures may file discrimination complaints through the union grievance process and/or this administrative procedure.

Students should note that while complaints involving a range of discrimination issues may be filed under this procedure, grade changes can be made only via the campus academic grievance/complaint procedure.

6. Responsibility for Implementation

Overall responsibility for implementation of this complaint procedure rests with the President. The Chancellors are responsible for implementing and disseminating this procedure on their respective campuses. They will identify a Complaint Officer for each of their campuses and publicize the individual's name, office phone number, and office location.

On each campus and within each major division on the campus, the appropriate Chancellor, Vice President, Provost, Dean, or Director is responsible for carrying out the University's nondiscrimination policies within their respective units. These administrators will take measures to prevent discrimination by reviewing the efforts on the

part of departments within their units and subdivisions and will institute corrective measures where deficiencies have been identified.

7. Confidentiality/Disclosure

Because of the private nature of most discrimination incidents and the emotional and moral complexities surrounding such matters, every effort will be made to resolve complaints as confidentially and expeditiously as possible.

To safeguard individual privacy, dissemination of information relating to complaints of discrimination should be limited to those individuals actually involved in the informal or formal proceedings. However, complete confidentiality cannot be maintained in the process of handling informal and formal complaints. Certain information may be disclosed to appropriate administrators, the Respondent, and witnesses, among others, in order to conduct fact finding, institute remedial action, or informally resolve a complaint. Also, certain information may be disclosed if required by law, rule, regulation, or order of a court of competent jurisdiction.

8. Anonymous Complaints

While an anonymous complaint may not trigger an investigation, a pattern of anonymous complaints against an individual or unit may indicate a potential problem, and the University may take remedial action such as training, if appropriate. When a party is unwilling to be identified as a Complainant, counseling and education are available options. The Complaint Officer or designee should provide information, discussion, resources, and/or workshops for members of the university community who may be affected by the situation. Every effort will be made to ensure confidentiality and anonymity when members of the university community use counseling and educational services. However, absolute confidentiality and anonymity cannot be guaranteed.

9. Procedures for Resolution and Investigation

Any student, employee, or applicant for admission or employment who believes they have been discriminated against is encouraged to contact the campus Complaint Officer for information on their civil rights. The Complaint Officer will explain the avenues of recourse that are available.

a. Resolution Options

1) Informal Complaints

- a) Complainants are encouraged, but not required, to seek a resolution by discussing their concerns with

the other party involved. Alternatively, Complainants may discuss their concerns with their advisor, supervisor, dean, department head, or other appropriate campus officer, in order to seek a resolution.

b) If the circumstances of the complaint prevent the student or employee from discussing the matter with the other party or at the department level, the Complainant may contact the Complaint Officer for assistance. The Complaint Officer will attempt to resolve the matter informally.

c) Alternative Dispute Resolution (ADR) is an avenue for resolution of informal complaints. Each campus is encouraged to identify or develop ADR resources. If appropriate, ADR may be suggested as an option for resolution. ADR is a choice that can only proceed if both the Complainant and Respondent agree to it.

2) Formal Complaints

a) Formal complaints must be in writing and should contain the Respondent's name, a clear and concise statement of allegations, and the alleged basis of discrimination (i.e. race, age, sex, etc.). Enough detail, such as dates, locations, names of witnesses and any relevant documentation, should be provided to enable the Investigating Officer to conduct an investigation. If the complaint needs clarification, it may be returned to the Complainant for additional information. Attachment A is a suggested complaint form.

b) Formal complaints are to be filed with the Complaint Officer within 180 calendar days of the most recent incident of alleged discrimination, unless the Complainant can show good cause for a later filing.

c) The Complaint Officer will advise the Complainant of informal options for resolving complaints and other avenues of recourse with state and federal enforcement agencies. Complainants are advised to seek information as soon as possible to meet filing deadlines of external agencies.

d) An Investigating Officer will be assigned to conduct fact finding. S/he will notify the Respondent in writing and provide a summary or statement of the

allegations within ten (10) working days of receiving a complete complaint. The notice to the Respondent should include a copy of the complaint, a copy of the complaint procedure, confidentiality statement, non-retaliation policy, and response deadline. If the Respondent is an employee in a collective bargaining unit, the Respondent will be notified of union representation rights. Attachment B is a recommended notification form. The Respondent shall have ten (10) working days from receipt of the notification to respond to the complaint. The Respondent may make a written request to the Investigating Officer for an extension of not more than twenty (20) working days for extenuating circumstances.

e) The Investigating Officer may determine, either before or after an investigation, that the allegations raised in the complaint do not support a claim of discrimination. In such cases, the Investigating Officer shall close the case by informing all relevant parties of this decision in writing. Either party may appeal the "case closed" decision by writing to the Decision Maker within ten (10) working days of receiving the notice. The Decision Maker shall issue a written decision on this issue, which shall be final, within ten (10) working days.

f) The Investigating Officer will interview the parties, review any documentary evidence, and interview witnesses deemed by the Investigating Officer to have relevant and material information pertaining to the complaint.

g) The formal investigation will be completed by the Investigating Officer within sixty (60) working days of the date that the complaint was filed and deemed to be complete. Should an extension of time be required for any reason, the Complainant shall be notified in writing. The extension shall not exceed twenty (20) working days. Any additional extensions must be approved by the Decision Maker. The Complainant will be informed of any extraordinary extensions.

h) Upon completion of the investigation, the Investigating Officer will submit his/her findings to the campus Decision Maker or designee who has authority over the issue. The Decision Maker shall render a decision within twenty (20) working days

and notify the Complainant and the Respondent of the decision via certified mail.

i) If a "cause finding" is issued, the Decision Maker shall determine the appropriate remedies and/or corrective actions to be taken. Remedies will be reasonably devised to correct the harmful effects caused by the discrimination. Corrective actions will be undertaken to both stop the discrimination and prevent its recurrence and shall be imposed to ensure a workplace and educational environment free from discrimination.

For students and excluded employees who have violated E1.202, the University will impose disciplinary actions that are reasonably calculated to:

i) be commensurate with the seriousness of the offense;
ii) stop the discrimination; and
iii) ensure the discrimination will not recur.
For included employees, the responsible administrator will follow the collective bargaining agreement provisions related to disciplinary actions.

To maintain consistency, Chancellors and Vice Presidents will consult with the system-wide Office of Human Resources prior to imposing employee disciplinary actions. Disciplinary actions against students should be consistent with each institution's student conduct code.

Disclosure of disciplinary actions is subject to Chapter 92F HRS, as amended, and the Family Educational Rights and Privacy Act (FERPA).

b. Appeal

1) The Complainant or Respondent may appeal the decision to the Chancellor or designee within twenty (20) working days of receipt of the decision. The appeal must be in writing and must specify why the decision is unsatisfactory.

2) The Chancellor or designee will review the case and render a final decision in writing and sent via certified mail within twenty (20) working days after receipt of the appeal. Should an extension of time be required for any reason, the Complainant shall be

notified in writing, and a decision shall be made within fifteen (15) working days of the extension.

3) The standard of review for an appeal of a cause or no cause finding is whether the finding is against the clear weight of the evidence in the record of the case.

10. Nonretaliation

Retaliation against any person using this complaint procedure or any witness involved in the investigation is strictly prohibited. Absolutely no undue influence, coercion, manipulation, harassment, or intimidation shall be tolerated at any time. Complaints of retaliation constitute separate charges and will be handled in the same manner as discrimination complaints.

11. External agency

Nothing in these procedures shall affect the right of the Complainant to pursue the matter with an appropriate law enforcement agency. Discrimination complaints may be filed concurrently with an external agency to meet state and federal agency deadlines without jeopardizing an individual's right to a university investigation.

UNIVERSITY OF HAWAI'I
Discrimination Complaint Form Case No.

Complainant's Name:

Mailing Address:

Phone:

Work Address:

Phone:

Complainant's Status: Student Applicant for Admission
 Employee Job Applicant

Type of Complaint: Informal Formal

Basis of the Complaint:

- Age Ancestry Arrest & Court Record
- Color Disability Marital Status
- Veteran Status National Origin Gender
- Religion Sexual Harassment Sexual Orientation
- Race Retaliation (for discrimination cases only)

Name of the Alleged Respondent:

Department or Address:

Phone:

Date, time, and place of the first incident:

Date, time, and place of the last incident:

Statement

Please describe the incident(s) as clearly and concisely as possible. Provide as much detail as you can recall, including when and where the events occurred and who said what to whom. Explain why you believe the conduct or treatment was discriminatory. Use additional pages, if necessary.

Documentation

List and/or attach copies of any documents or material relevant to the complaint. For each item, briefly explain why it is relevant. Attach additional pages if necessary

Witnesses

Did anyone witness the incidents of discrimination? If so, list their names and include phone numbers and addresses, if known. Briefly state what information each witness will be able to provide.

Previous Assistance

Have you have sought assistance in resolving your complaint from another source? If yes, please describe:

Complainant's Authorization

I understand that complete confidentiality cannot be maintained in the process of handling informal and formal complaints. I agree that this statement of allegations may be used during the investigation of the case. I further consent that this statement and certain information in the complaint file may be disclosed to the Respondent and appropriate administrators, among others in order to informally resolve my complaint, conduct fact finding, or implement remedial action. Information may also be disclosed if required by law, rule, regulation, or court order.

I affirm that this complaint statement is true, accurate, and complete to the best of my knowledge.

Signature of Complainant
Officer

Signature of Complaint

Date

Date

Non-retaliation Policy

University policy as well as state and federal law prohibit retaliation against any person because s/he has filed a discrimination complaint or served as a witness in the complaint investigation. The non-retaliation policy is contained in the relevant complaint procedure, for example, UH System-wide Administrative Procedure A9.920 or your campus sexual harassment complaint procedure. Complaints of retaliation constitute separate charges and will be handled in the same manner as discrimination complaints. If you believe you have experienced retaliation, notify the appropriate investigating office as soon as possible.

SAMPLE COMPLAINT NOTICE

Attachment B

Dear [Respondent]

This letter is to notify you of a formal complaint filed by [Complainant], undergraduate student in the College of _____ . [Complainant] alleges that she was discriminated against in violation of UH Executive Policy E1.202, Nondiscrimination Policy (enclosed).

The complainant alleges that on January 15, 2002, she applied and was qualified for a student assistant position in the Department of _____. She claims that, during her scheduled interview on January 20th, she was asked several inappropriate questions about her national origin, accent, and native language. On January 25th the department secretary called to inform her that she was not selected for the student assistant position. The complainant believes her non-selection was due to discrimination on the basis of national origin. A copy of her complaint is attached. (Certain information may be redacted, such as witness names, confidential medical or student record information, or information that the investigator determines is not relevant to the discrimination allegations.)

[Complainant's] complaint has been filed under UH Administrative Procedure A9.920, Discrimination Complaint Procedure (enclosed). Under this procedure, my office is responsible for investigating the allegations. I will be calling you to set up a meeting to hear your side of the issue. You have the right to have a representative present at the meeting and throughout the complaint process. You also have the opportunity to submit a written response, documentary evidence, and the names of witnesses who might corroborate your statements. Please send this information to my office by [date].

The role of the investigator is to gather the facts and prepare a summary report for the decision-making officer. Both the complainant and respondent will receive a written notice of the decision. The decision may be appealed according to the procedure outlined in A9.920.

Confidentiality . The complainant's identity should not be publicly disclosed, in accordance with Chapter 92F HRS, Uniform

Information Practices Act. Materials collected during the course of the complaint investigation are confidential; however, they may be disclosed to appropriate administrators involved in the complaint process. Materials in the investigation file may also be disclosed if required by law, rule, regulation, or court order.

Non-retaliation Policy . Please be advised that University policy and state and federal law prohibit retaliation. Retaliation is defined as adverse treatment, intimidation, threats, coercion, or discrimination against an individual for the purpose of interfering with any nondiscrimination rights s/he may have under University EEO/AA policies or because s/he has made an informal or formal complaint, served as a witness, or participated in any manner in a complaint resolution process or investigation.

If you have any questions about the investigation process, please give me a call at _____.

Sincerely,

Dean of Students

Enclosures

CC: Complainant

EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

A9.900 ADA COMPLAINT PROCEDURE FOR MEMBERS OF THE PUBLIC WHO HAVE COMPLAINTS REGARDING DISABILITY ACCESS TO UNIVERSITY SERVICES, PROGRAMS, AND ACTIVITIES

1. Purpose

To implement the complaint procedure requirement of Title II of the Americans with Disabilities Act (ADA) of 1990. Title II extends coverage of Section 504 of the Rehabilitation Act of 1973 to include all services, programs, and activities of state and local governments and requires public entities to adopt and publish complaint procedures covering members of the public who allege discrimination on the basis of disability. The purpose of this requirement is to provide a mechanism for resolving complaints at the local level without requiring complainants to go directly to the federal level. It also promotes voluntary compliance with Title II of the ADA, which states in pertinent part [Subpart B.§35.130(a)]: "No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity."

2. Objectives

To provide prompt and equitable resolution of complaints alleging discrimination on the basis of disability.

3. Applicability

Complaints may be filed under this procedure by any member of the public who is not covered by other University procedures and who believes that she or he or a specific class of individuals has been subjected to discrimination on the basis of disability with regard to services, programs, and activities provided or made available by the University. Members of the University community should refer to UH System-wide Administration Procedure A9.920 (Discrimination Complaint Procedure for Employees, Students, and Applicants for Employment or Admission) which covers discrimination on the basis of disability and is the appropriate procedure for University students, employees, and applicants for employment or applicants for admission to academic programs.

4. Complaint Procedure

Members of the public are encouraged to resolve their concerns informally by contacting the department or relevant campus administrator who can assist them. If this is not reasonable under the circumstances, the complaining party may contact the campus EEO/AA Coordinator, as follows:

- a) Complaints should be in writing. Alternative means of filing complaints, such as telephone or personal interview, will be made available for persons with disabilities. Verbal complaints should be documented by the EEO/AA Coordinator.

Complaint statements must contain:

- i. The name and address of the complainant, and
- ii. A description of the alleged discrimination in sufficient detail to permit follow up or investigation.

The complaint may also include any evidence which supports the allegation.

- b) Complaints should be filed as soon as possible but no later than 180 calendar days from the date of the alleged discrimination.
- c) Complaints should be addressed to the campus EEO/AA Coordinator.
- d) The EEO/AA Coordinator or designee(s) will seek to resolve the complaint informally or investigate, as appropriate. Investigations will be completed within 90 calendar days of the date the complaint was filed. Time may be extended as appropriate, on a case-by-case basis, provided the complainant and respondent are notified in writing.
- e) If an investigation is conducted, the EEO/AA Coordinator or designee(s) will submit a brief fact-finding report to the Campus Administrator who has authority over the issue (e.g. Community College provost, UH Hilo Vice Chancellor, UH Manoa Vice President, UH West Oahu Dean or Director, or their respective designees). The Campus Administrator or designee will make a determination on the merits of the case and send the complainant and respondent a written decision or description of the resolution within 30 calendar days of receipt of the fact-finding report. The decision will be sent to the complainant's and respondent's last known addresses; the parties are responsible for notifying the EEO/AA Coordinator of any change of address. The deadline for rendering a decision may be extended for 30 additional calendar days, provided the complainant and respondent are notified in writing.
- f) The complainant or respondent may request a reconsideration of the decision. The request for reconsideration must explain why the Campus Administrator's decision or resolution should be overturned. The request should be made to the Chancellor or designee within 30 calendar days of receipt of the Campus Administrator's decision. This deadline for filing an appeal may be extended for 30 additional calendar days, provided the complainant or respondent notifies the Chancellor in writing.
- g) The Chancellor or designee will reconsider the case and send the complainant and respondent a final written decision or resolution within 30 calendar days of receipt of the appeal. The deadline for rendering a decision may be extended for 30 additional calendar days, provided the complainant and respondent are notified in writing.

5. Non-exclusivity

Use of this complaint procedure is not a prerequisite to the pursuit of other remedies, e.g., state or federal agency complaint options.

6. Notice

Chancellors are responsible for issuing this complaint procedure to their campuses and for publicizing the name, title, address, and phone number of the EEO/AA Coordinator or designee responsible for handling ADA/Section 504 complaints.

7. Non-retaliation

The University prohibits retaliation against any individual because that individual has opposed any act or practice made unlawful by the ADA or Section 504 of the Rehabilitation Act, or because that individual has made a complaint, served as a witness, or participated in any manner in an investigation under this procedure. Complaints of retaliation will be handled as separate charges using the procedure outlined in part 4 above. Any member of the University community who engages in retaliation will be subject to discipline

**REQUEST FOR RECONSIDERATION
of a Disability-Related Accommodation
University of Hawai'i at Hilo**

BACKGROUND

The Disability Services Coordinator (or designee) at UH Hilo has the authority to determine appropriate and reasonable accommodations for students with disabilities. The Coordinator informs a faculty member in writing of the accommodations that are required for a particular student in his/her class(es) each semester.

It is the faculty member's responsibility to provide the accommodations determined by the Coordinator. If the faculty member considers the accommodation inappropriate, he/she should first consult with the Coordinator. After consulting with the Coordinator, the faculty member has the right to submit a request for reconsideration if he/she still considers the accommodation inappropriate.

If an appeal is submitted, the faculty member must provide the accommodations during the time period that the appeal is being processed. A decision not to appeal an accommodation shall be taken as an agreement to provide it.

RECONSIDERATION PROCEDURE

Step 1 The faculty member completed the "Request for Reconsideration" form (attached). It shall include information about the specific accommodation that is being contested; the reason(s) the accommodation should not be provided; suggestions for alternative accommodations (if any); and a summary of any attempts made to resolve the issue (including with whom and on what date). A request shall be filed within fifteen (15) working days following the informal attempt to resolve the issue. The request is submitted to Dean/Director of the instructor's college.

Step 2 The College Dean/Director shall review the request. In reviewing the request, he/she must consult with the Disability Services Coordinator. He/she shall render a decision in writing to the faculty member within fifteen (15) working days following receipt of the request.

Step 3 If the faculty member does not agree with the decision of the College Dean/Director, he/she may forward the Request for Reconsideration to the Vice Chancellor for Academic Affairs for review. If the Vice Chancellor for Academic Affairs reviews the request, he/she must also consult with the Disability Services Coordinator. He/she shall render a decision in writing to the faculty member within fifteen (15) days following receipt of the request.

The decision of the College Dean/Director (or the Vice Chancellor for Academic Affairs, if the request is reviewed by him/her) shall be final and binding upon all parties.

Request for Accommodation for Public Events

If your office, program, or department holds events that are open to the public, you might receive request for accommodation from persons with disabilities. Please inform your staff of the following protocol for handling requests for disability accommodations.

- STEP 1. Solicit information to complete the form on the back of this sheet. Inform the caller that someone will get back to them regarding the accommodation request.
- STEP 2. Send or fax this completed form to the Disability Services Office (fax # 974-7691).
- STEP 3. The Director of the Disability Services will determine the appropriate resources for providing the accommodation. Please note that it is the responsibility of the office, program, or department sponsoring the event to provide and pay for the accommodation; if the office, program, or department is funded through external funding sources; the Disability Services Office serves as a consultant for identifying accommodation resources in these cases. Otherwise, accommodations for all other University office, programs, or departments will be provided through the Disability Services Office.
- STEP 4. The Disability Services Office will return the form with the recommended action and list of resources to the office that received the request.
- STEP 5. Make arrangements for accommodations and notify the person who requested accommodations.

When publicizing the event, include a statement about disability accommodations, e.g., for disability accommodation, please contact [name] at [ph.], [TTY no.] by [date 10 working days prior to event].

For simple accommodation requests that do not require consultation with the Disability Services Office (e.g., accessible parking permit, elevator access, front-row seating), please contact the appropriate offices directly to arrange the accommodation.

REQUEST FOR ACCOMMODATION FORM

<p>Step 1: OBTAIN INFORMATION (to be completed by office receiving request)</p> <p>Event _____ Date & Time of Event _____ Length of Event (approx. hours or number of days) _____ Person requesting accommodation _____</p> <p>Phone # _____ Fax # _____ Email _____</p> <p>Mailing Address _____</p> <p>Accommodation requested _____</p> <p>Request Received on: _____ by _____ (Date) (Person/office)</p>
<p>Step 2: SEND/FAX INFORMATION TO DISABILITY SERVICES OFFICE, Fax (808) 974-7691, Phone: (808)933-0816, TTY: (808) 933-3334</p>
<p>Step 3: DETERMINE APPROPRIATE ACTION/RESOURCES (To be completed by Disability Services Office)</p> <p>Recommended accommodation or denial of accommodation and reason:</p> <p>_____</p> <p>Recommended resources/referral:</p> <p>_____</p>
<p>Step 4: RETURN RECCOMMODATIONS TO:</p> <p>_____</p> <p style="text-align: center;">(Name/office)</p> <p>Fax: _____ Date: _____</p>
<p>Step 5: MAKE ARRANGEMENTS AND NOTIFY REQUESTOR (To be completed by office which received request for accommodation)</p> <p>Arrangement made:</p> <p>_____</p> <p>Notified requestor by phone/mail/other _____ Date: _____ Notified by: _____</p>