



POLICY & PROCEDURE

Title: Student Academic Accommodation Grievance Procedures

Effective Date: 9/5/2023

Applies to: All students requesting or enrolled in services at the Harris Family Center for Disability and Health Policy (^{HF}CDHP).

Statement: ^{HF}CDHP has adopted an internal grievance procedure for prompt and equitable resolution of student complaints regarding contesting accommodations or access to programs or activities as set forth by federal regulations including Section 504 of the Rehabilitation Act of 1973, as amended, Title III of the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA), and similar state laws. These laws provide that no otherwise qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the University, or be subjected to discrimination on the basis of disability by Western University of Health Sciences (WesternU).

Purpose: The purpose of this policy is to enable the resolution of students' with disabilities complaints regarding contesting accommodations or access to programs or activities.

Related Information:

WesternU is committed to providing equal educational opportunities for students with disabilities, who are otherwise qualified, in an academic environment free from harassment and discrimination. In compliance with the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008, and Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended. WesternU does not discriminate on the basis of disability in the administration of its education related programs and activities. The grievance procedure set forth below is applicable to all students requesting or enrolled in services at ^{HF}CDHP. It covers all complaints regarding contesting accommodations or access to programs or activities. All other allegations of disability discrimination covering all complaints alleged to have occurred in any College program or activity can be reported via the [Title IX & Equal Opportunity website](#).

^{HF}CDHP determines disability accommodations through an interactive process involving disability services professionals, appropriate members of the university community, and the student. We recognize that in any deliberative process disagreements may occur because of misunderstandings, miscommunication, or lack of education around disability. In these instances, clarification, and effective communication can lead to a quick and effective resolution.

Throughout any of these procedures, students can expect to be treated with respect, receive a timely response, not experience any form of retaliation, and have their concerns dealt with in a confidential manner to the greatest extent possible. The university encourages students to bring up any concerns early, give clear and detailed information, and alert the Associate Director of ^{HF}CDHP in writing. Should your concern involve the Associate Director of ^{HF}CDHP, please contact the Director of ^{HF}CDHP.

Grievance Process

In general, this policy is designed to address all disability-related disputes concerning the following:

1. Disagreements regarding disability status, requested service, academic accommodations or auxiliary aids, or modification of a course or academic requirement.
2. Inaccessibility of a program or activity.

Students may file a grievance through an informal and/or formal process. It is generally recommended that students attempt an informal resolution before filing a formal complaint; however, students have the right to request a formal resolution at any time. Note, for grade disputes involving a claim of harassment or discrimination on the basis of disability, this policy applies and not the Grade Appeal policy located in the College Catalog.

Optional Informal Resolution: A student with a concern covered by this policy may first attempt to resolve it at the informal level. ^{HF}CDHP works in collaboration with the student, faculty, and/or staff whom the concern arose through an interactive process to identify an agreeable solution.

Formal Complaint (Step 1):

Complaints regarding disagreements regarding the determination and/or delivery of a requested service, accommodation, auxiliary aid or service, assistive technology, or modification of a college/university practice in an effective or timely manner; denial of a requested accommodation; inaccessibility of a WesternU program, service, or activity; harassment or disparate treatment because of a disability; and other instances in which a student believes that they have been subjected to discrimination on the basis of disability. The complaint should be filed as soon as possible, but no later than 30 calendar days from the decision that is being appealed.

A complaint must be in writing and include the following:

1. The complainant's name, student ID number (if applicable), address, email address, and phone number.
2. A clear statement of the request or concern, identification of the basis of the grievance, and sufficient detail supporting the basis of the appeal, including the identification of faculty or staff involved, course information, informal resolution efforts (if applicable), a chronology or timeline of events; and requested remedy.

The complaint should be filed with the Associate Director of ^{HF}CDHP at Western University of Health Sciences, 309 E. Second St., Bldg. 390, Pomona, CA 91766-1854 or by email at slawler@westernu.edu.

Upon receipt of a formal complaint, the Associate Director of ^{HF}CDHP or designee will review the complaint for timeliness and scope for the grievance process and provide the complainant with a written notice acknowledging receipt of the complaint. If, upon receipt, it is clear that the complaint should be reviewed under WesternU's Non-Discrimination, Antiharassment and Non-Retaliation policies, the complainant will be notified and referred to the proper policy and department.

During the review of the complaint, the Associate Director will conduct a thorough and impartial investigation. In doing so, the Associate Director may interview, consult with and/or request written

responses to the issues raised in the complaint and review all evidence, documents, and information from any individual believed to have relevant information, including faculty, staff, and students.

At the conclusion of the review, the Associate Director of ^{HF}CDHP will issue a written decision to the complainant which will include a summary of findings, determination of the complaint, and any proposed resolutions, if applicable. This written notice will also be shared with the College as appropriate and consistent with ^{HF}CDHP's Confidentiality, Release of Information, and Maintenance of Records Policy and applicable, privacy and confidentiality laws.

The standard of review is whether there is a preponderance of evidence to substantiate the complaint. When appropriate, the Associate Director may also apply the following standards: 1) would the accommodation result in a fundamental alteration of the program or an essential academic requirement; 2) would the accommodation impose undue financial or administrative hardship on the institution. If there is a preponderance of evidence (more likely than not) substantiating the complaint, the Associate Director will then decide on the appropriate resolution for the grievance, which will be included in the written notice issued to the complainant. Such resolutions will be decided on a case-by-case basis and may include, but will not be limited to, approval and/or administration of a particular accommodation, remediation to address previously available opportunities, and/or facilitation of communications between the complainant and the person against whom the grievance is filed. Any resolutions will be implemented promptly. A written notice will be issued to the student within 15 business days of filing the formal complaint. The deadline may be extended for good cause. In such instances, the complainant will be notified of the need to extend the deadline in writing.

Formal Complaint (Step 2): The complainant may challenge the decision of the Associate Director of ^{HF}CDHP or designee fulfilling this role on the grounds of bias or conflict of interest, or disagreement with the decision, by submitting a written challenge to the Director of ^{HF}CDHP, within 5 business days of the acknowledgment of receipt of the Associate Director's decision by submitting a written appeal. The Director has the discretion to designate an appropriate officer to review the challenge. If the original grievance was filed against the Director, then the University has the discretion to designate an appropriate officer to review the appeal.

The challenge should be filed with the Director of ^{HF}CDHP at Western University of Health Sciences, 309 E. Second St., Bldg. 390, Pomona, CA 91766-1854 or by email at mdaniels@westernu.edu.

Upon receipt of a formal challenge, the Director of ^{HF}CDHP or designee will review the complaint for timeliness and scope for the grievance process and provide the complainant with a written notice acknowledging receipt of the complaint.

During the review of the challenge, the Director will conduct a thorough and impartial evaluation. In doing so, the Director will review the Associate Director of ^{HF}CDHP's written decision and documentation pertaining to the decision; the Director may also interview, consult with and/or request written responses to the issues raised in the complaint and review all statements, documents, and information from any individual believed to have relevant information, including faculty, staff, healthcare provider, and students.

At the conclusion of the review, the Director of ^{HF}CDHP will issue a written decision to the complainant which will include a summary of findings, determination of the complaint, and any proposed resolutions, if applicable. This written notice will also be shared with the College as appropriate as consistent with ^{HF}CDHP's Confidentiality, Release of Information, and Maintenance of Records Policy and applicable privacy and confidentiality laws. If the ground for the challenge is not satisfied, the Associate Director's decision will be upheld.

When appropriate, the Director may also apply the following standards: 1) would the accommodation result in a fundamental alteration of the program or an essential academic requirement; 2) would the accommodation impose undue financial or administrative hardship on the institution. If there is a preponderance of evidence (more likely than not) substantiating the complaint, the Director, will identify appropriate remedies and/or corrective actions to resolve the grievance, which will be included in the written notice issued to the complainant. Such resolutions will be decided on a case-by-case basis and may include, but will not be limited to, approval and/or administration of a particular accommodation, remediation to address previously available opportunities, and/or facilitation of communications between the complainant and the person against whom the grievance is filed. Any resolutions will be implemented promptly. A written notice will be issued to the student within 15 business days of filing the formal complaint. The deadline may be extended for good cause. In such instances, the complainant will be notified of the need to extend the deadline in writing.

Formal Appeal: The complainant may appeal the decision of the Director of ^{HF}CDHP by submitting a written appeal within 5 business days after the receipt of written notice from the Director to the Chair of ^{HF}CDHP's Appeal Committee. The chair of the committee will notify the student of the outcome 15 business days after the meeting has concluded.

Appeals must specify the reasons for the appeal that are not based on a disagreement or dissatisfaction with the standards, policies, or procedures of ^{HF}CDHP. The appeal must be based on one or more of the following bases:

- 1) The appearance of new, material, and documentable evidence that was not available at the time of the Director's review, and that would likely alter the outcome. Information available to the student but not provided during the hearing and/or the complaint review would not be considered "new."
- 2) Procedural error that significantly affected the interpretation of policies which affected the Director's review such that it prevented the Director from issuing a fair decision.

An appeal review is limited. Appeals are not a full rehearing of the complaint and are restricted to the appeal grounds referenced above. The findings contained in the written notice are presumed to have been decided reasonably and appropriately and the appellant carries the burden of proof to demonstrate that the appeal grounds are substantiated.

The appeal should be filed with Eugene Brown, Chair of ^{HF}CDHP's Appeal Committee, at eugenebrown@westernu.edu. Appeals must contain, at a minimum, an explanation of why the determination is improper and a detailed statement of the basis for the appeal, including the specific facts, circumstances, and arguments in support of the appeal.

The Chair will convene the ^{HF}CDHP Appeal Committee to review (1) information provided by the student for the appeal; (2) review the decisions of the Director and Associate Director of ^{HF}CDHP; and (3) any other additional information that may be relevant to evaluating the matter and reaching a decision.

If there is a preponderance of evidence (more likely than not) substantiating the appeal, the Chair of ^{HF}CDHP's Appeals Committee will communicate the decision of the appeal and determine the appropriate resolution via written notification to the complainant and the College as appropriate and consistent with ^{HF}CDHP's Confidentiality, Release of Information, and Maintenance of Records Policy and applicable privacy and confidentiality laws. The Chair will issue a written decision within 15 business days after the meeting has concluded, although the deadline may be extended, in writing, for good cause. If the ground for appeal is not satisfied, the Director's decision will be upheld.

During the grievance process contained herein any accommodations or services that have already been implemented will continue uninterrupted.

Additional External Reporting Options:

Any student who believes they have been subjected to discrimination, including harassment and retaliation on the basis of a protected category may contact the WesternU Title IX office to file a report via the Title IX link.

Students also have the right to file a complaint with the U.S. Department of Education's Office of Civil Rights if they feel they have experienced discrimination. More information about filing a complaint is available on their website at <https://www2.ed.gov/about/offices/list/ocr/index.html>.

Definitions:

Anti-Discrimination Laws:

- a. Section 504 of the Rehabilitation Act of 1973 and Federal Regulations promulgated thereunder prohibiting discrimination based on disability in all University programs and activities; and
- b. Title III of the Americans with Disabilities Act of 1990 and Federal Regulations promulgated thereunder prohibiting discrimination based on disability in all University services, programs, and activities.

Days: University business days. It does not include Saturdays, Sundays, or days on which the campus is closed.

Disability Discrimination means any or all of the following:

- a. Disability-Based Discrimination means the exclusion of a qualified student, on the basis of disability, from participation in any academic, research, or other University service, program, or activity; or the denial of a qualified student, on the basis of disability, of the benefits of any academic, research, or other University service, program, or activity; or otherwise subjecting a qualified student, on the basis of disability, to discrimination in any academic, research, or other University service, program, or activity. The University has a

responsibility to respond promptly and equitably to Disability-Based Discrimination of which it knew or should have known.

- b. Disability-Based Harassment means conduct that is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by the University. Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. The University has a responsibility to respond promptly and equitably to Disability-Based Harassment of which it knew or should have known.
- c. Failure to Accommodate: Failure by the University to make reasonable modifications to its practices, policies, and procedures, and to provide auxiliary aids and services to a student with a disability, unless to do so would fundamentally alter the nature of the program or would result in an undue financial or administrative burden. A student is required to follow University procedures to request accommodations and must establish that they have done so prior to filing a grievance.

Fundamental Alteration: When an aspect of the program, including policies, practices, or procedures, is amended in such a way that it changes the nature of the educational program being offered.

Preponderance of Evidence: The evidentiary standard that is satisfied when the evidence demonstrates that the allegations in question are more likely true than not true.

Retaliation: Threats, intimidation, reprisals, and/or adverse educational actions against a student based on their complaint or participation in the processes provided for in this policy. Retaliation also covers assertion of rights by a student with a disability regarding their right(s) under Title III or Section 504.

Student with a Disability: any student who has a physical or mental impairment that substantially limits one or more major life activities, who has a record of such impairment, or who is regarded as having such impairment. In California the standard is "limits" one or more major life activities.

Regulatory Information: Section 504 of the Rehabilitation Act of 1973 and Federal Regulations promulgated thereunder prohibiting discrimination based on disability in all University programs and activities; and Title III of the Americans with Disabilities Act of 1990 and Federal Regulations promulgated thereunder prohibiting discrimination based on disability in all University services, programs, and activities, and state laws.

References, if applicable:

Related Policy: [^{HF}CDHP's Confidentiality, Release of Information, and Maintenance of Records Policy](#); ^{HF}CDHP's Provision of Accommodation(s) Policy

Related Links: [Student Academic Accommodation Grievance Procedures](#)

Responsible Department: Harris Family Center for Disability and Health Policy (^{HF}CDHP)

Contact: Marcelle Daniels, Director of ^{HF}CDHP

Email: disabilityaccommodations@westernu.edu

Policy reviewed by: (check all that apply)

	Academic Senate	X	General Counsel	Provost's Office
	Biosafety Committee		Human Resources	Radiation Safety Committee
	Board of Trustees		IACUC	VP Research & Biotechnology
	Chief Financial Officer		Information Technology	Sponsored Programs
	Clinic Administration		Institutional Review Board	University Risk Management
	Dean's Council		Operations Council	University Compliance Office
	Directors of Operations		President's Office	University Policy Office
	Environmental Health & Safety		Procurement	X University Student Affairs