

## FUNDAMENTAL ALTERATION PROCESS

### OVERVIEW – FUNDAMENTAL ALTERATION PROCESS

Under the Americans with Disabilities Amendments Act of 2008, “A public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate, however, that the modifications would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification” ([ADA Title II Technical Assistance Manual](#)). Through various Department of Justice Office of Civil Rights case resolutions, the federal government has clarified that colleges and universities must:

1. engage in an individualized, interactive process with each student request for accommodations and avoid blanket statements or policies regarding accommodations ([OCR No. 10-16-2203](#)),
2. not require the student to be put in the place of requesting their accommodation more than once and must not be left to negotiate their accommodation with faculty ([OCR No. 01-16-2113](#))
3. render decision of whether an accommodation may fundamentally alter an essential course/program objective through a group of knowledgeable and trained individuals at the college within the program and the disability services office ([OCR No. 01-16-2120](#); [03-14-2248](#)),
4. ensure the group pursues a thoughtful, careful, rational review of the course/program essential objectives and requirements ([OCR No. 01-16-2120](#)), and
5. consider a series of alternatives and modifications that does not fundamentally alter the course/program even if it is not the accommodation originally requested ([OCR No. 01-16-2120](#)).

Whether the approved accommodation would fundamentally alter an essential requirement of a course or program will generally need to be determined on a case-by-case basis. The goal is to separate out general expectations and what has always been done from what are the truly essential objectives and components of the course or program. Methods of instruction and assessment can be examined to determine how information is taught and what alternative opportunities are available for teaching and learning the information, the format of materials, skills, etc. Flexibility in achieving outcomes may be appropriate depending on the nature of the course and its requirements.

**Center for Disability Access and Resource (CDAR) approved accommodation must remain in place until the committee has made a final determination if the accommodation is denied or modified.**

## DEFINING ESSENTIAL REQUIREMENTS

Essential requirements are the core learning outcomes (such as skills, knowledge, or licensure requirements) all students must demonstrate, with or without accommodations, which are part of a larger interconnected curriculum related to an academic program or degree.

### ESTABLISHING ESSENTIAL REQUIREMENTS OF THE COURSE:

- Clearly articulate and publicly document the overall purpose of the course/program.
- Identify required mastery of specific skills, knowledge, principles, and concepts.
- Convey the framework used to set academic and program standards.
- Ensure fair deliberation when determining if a requested accommodation would be a fundamental alteration.

### To do so, CDAR will Accomplish a Fair Review Process in the Following Manner:

- Ensure a multidisciplinary committee of people are appropriately trained, knowledgeable and experienced in the area for which an analysis will take place;
- Thoroughly considering a series of alternatives as essential requirements;
- Provide a careful, thoughtful, and rational review of the academic program and its requirements; and
- Ensure decision-makers consider a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for the specific student with a disability.

### Steps to be Taken to Determine if an Accommodation Fundamentally Alters an Essential Requirement of a Course or Program:

#### 1. Contact Director of CDAR to Discuss Concerns

CDAR is to be contacted to initiate the interactive process if it is believed that the accommodation would fundamentally alter an essential requirement to a course or program.

#### 2. Determine Essential Components of Courses or Programs

Instructor must complete the *Determining Essential Requirements and Fundamental Alterations Form* that will be submitted to the Fundamental Alteration Committee via email to the CDAR Director.

#### 3. Director will Convene a Committee

CDAR may involve campus partners as needed, faculty members within an academic program/course, the Chair of the academic department, OCRI and other knowledgeable and trained administrators deemed appropriate in determining the

reasonableness of the request, fundamental requirements of the course or program, or possible alternatives to accommodate the student.

#### **4. Director will Notify Student that the accommodation is under review.**

#### **5. Determine if the Accommodation is a Fundamental Alteration**

Once the essential elements are clearly defined by the instructor in the submitted *Determining Essential Requirements and Fundamental Alterations Form* (←This needs to be the link to the form) the committee will meet to assess the information provided and determine if the accommodation is a fundamental alteration through a meaningful, informed, interactive and collaborative process that is case-by-case and fact specific.

#### **6. Final Step - Notify Student**

After deliberation, the CDAR Director informs the student of the final decision from the group of knowledgeable college professionals engaged in the process. If the accommodation is denied or modified, the Director will provide a written explanation of the reasons why it was denied or modified and opportunities for the student to respond to the decision.

### **WHAT RESPONSIBILITIES DOES THE COMMITTEE HAVE?**

- If a reasonable basis exists to believe there is a legitimate fundamental alteration question, the committee will verify that the instructor, department, and/or program have articulated the essential requirements for the course and/or program and provided adequate notice to students.
- The committee will be objective persons who are collectively knowledgeable about the academic area, any related licensing requirements, any applicable accreditation for the course of study, the student's disability, and accommodation methods. The committee will not be limited exclusively to individuals from the department that provides the course or program.
- The committee will identify the objective of the requirement, taking into consideration the information provided by the instructor, program or department concerning essential requirements, including curriculum approval or course creation documents. The committee will ensure that the requirement is not simply based on tradition or routine practice without direct connection to essential requirements.
- The committee will consider whether the requirement is consistent with similar programs at other educational institutions, and with relevant national and expert guidelines; and whether there is any unique justification for a requirement that is not generally adopted by other educational institutions.

- The committee will maintain confidentiality as it relates to the student's disability.
- Provide a timely resolution to the determination of fundamental alteration.