



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

## Operating Policy and Procedure

**HSCEP OP:** 10.15, **Americans with Disabilities Act**

**PURPOSE:** The purpose of this Texas Tech University Health Sciences Center El Paso Operating Policy and Procedure (HSCEP OP) is to ensure understanding of Texas Tech University Health Sciences Center El Paso's (TTUHSCEP) responsibilities regarding the Americans with Disabilities Act (ADA and ADAAA of 2008).

**REVIEW:** This HSCEP OP will be reviewed by November 1 of even-numbered years (ENY) by the Executive Director for Human Resources and the Assistant VP for Student Services, with recommendations for revision submitted to the President by December 1.

### **POLICY/PROCEDURE:**

#### **1. Policy**

a. The Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101 *et seq.*, as amended) mandates equal opportunities for persons with disabilities in all public facilities, programs, activities, services, and benefits derived from them. Title V, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended, mandates equal opportunity for qualified persons with disabilities in all programs, activities, and services of recipients of federal financial assistance. Both ADA and Section 504 of the Rehabilitation Act are civil rights statutes that prohibit discrimination on the basis of disability, if applicable, obligate colleges and universities to make certain adjustments and accommodations and offer to persons with disabilities the opportunity to participate fully in all institutional programs and activities. TTUHSCEP adheres to these laws and regulations as well as the Texas Commission on Human Rights Act.

In addition, on September 23, 1996, the U.S. Department of Justice issued certification that the Texas Accessibility Standards, the Texas Architectural Barriers Act, and the Architectural Barriers Administrative Rules meet or exceed the new construction and alterations requirements of Title III of the Americans with Disabilities Act. TTUHSCEP complies with these regulations.

b. TTUHSCEP provides that all educational and other programs, activities, and services are available to persons with disabilities in the most integrated setting appropriate. Students, employees, residents, applicants, and other individuals with disabilities served by TTUHSCEP are not segregated, separated, or treated differently. If applicable, TTUHSCEP will make reasonable accommodations for a known disability. Reasonable accommodation includes modification or adjustment of a job process that will enable a qualified applicant with a disability to be considered for that position. A reasonable accommodation, if applicable, will ensure that essential functions of the job can be accomplished.

c. An individual may request a reasonable accommodation if his/her disability limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. A qualified individual with a disability can perform the essential functions of the position with or without reasonable accommodation.

d. TTUHSCEP fully complies with ADA and ADAAA guidelines regarding employment of persons with disabilities. Skills or aptitudes necessary to perform the job are clearly

stated and available to applicants.

- e. As provided by the Genetic Information Nondiscrimination Act (GINA) (29 C.F.R. Part 1635), TTUHSCEP will not collect genetic information from any employee requesting accommodation. TTUHSCEP will adhere to all guidelines regarding genetic information, and is prohibited from retaliating against an individual for opposing acts made lawful by GINA.

## 2. Procedures

- a. Communications and printed materials for students, faculty, employees, residents, and program participants, are accessible to persons who require Braille, large print, audio formats, interpreters or Telecommunications Devices for the Deaf (TDD). Individuals requiring such accommodations are requested to notify the appropriate program sponsor 72 hours prior to the need for such accommodations so that there will be sufficient time to provide accessible materials. Classroom accommodations may require three to ten working days' notice.
- b. The President of TTUHSCEP or his/her designee will be responsible for overseeing the reasonable workplace accommodation policy and procedures to ensure compliance.
- c. Any employee requesting an accommodation should complete a *Reasonable Accommodation Request* form (Attachment A) and submit the form, and a copy of his/her position description, to his/her supervisor and likewise inform the supervisor of the nature of the disability. If necessary, the employee shall provide a *Request for Medical Information for Reasonable Accommodation* form (Attachment B) completed by his/her health care provider that contains a diagnosis, prognosis, and an evaluation explaining the impact the impairment will have on the employee's ability to perform the essential functions of the employee's position. The statement must also identify the major life activity that is substantially limited as a result of the disability.
- d. If the employee is a faculty member, copies of the aforementioned documentation should be provided to the Executive Director for Human Resources. In the case of an accommodation request for a staff member, documentation should be provided to the Executive Director for Human Resources.. In the case of a request for accommodation from a student, copies of the documentation should be provided to the ADA compliance officer for students, the AVP of Student Services(AVPSS). For residents/fellows, copies of the aforementioned documentation should be provided to the Program Director and/or Chair who will forward it to the Associate Dean for Graduate Medical Education (GME)
- e. Based on the information provided by the health care provider and affected applicant/requestor, the TTUHSCEP designee assigned to the relevant group, along with the immediate supervisor, will establish procedures for providing reasonable accommodation. In the case of a student, the AVPSS will consult with all parties to assure that reasonable accommodation is accomplished. For further direction on establishing a reasonable accommodation for students, please refer to HSCEP OP 77.14 Establishing Reasonable Accommodations for Students with Disabilities.
- f. If accommodation would constitute an undue hardship for the university, the TTUHSCEP designee and the immediate supervisor, or the AV{SS in the case of a student, shall provide documentation stating the reasons for such a decision.
- g. An undue hardship to the institution could include an accommodation which creates an adverse impact on (a) the institution's operations and business, (b) the institution's financial viability due to cost factors involved, and/or (c) the safety of the requestor or other individuals.

- h. TTUHSCEP will maintain the confidentiality of all medical and ADA information concerning employees and students. These records will be kept separate from personnel files and will be accessible only by authorized personnel.

### 3. Notices

#### a. Faculty Responsibility

- (1) Each faculty member is required to insert one of the following into each course syllabus:

**Option I:** “The University is committed to the principle that in no aspect of its programs shall there be differences in the treatment of persons because of race, creed, national origin, age, genetic information, sex, or disability, and that equal opportunity and access to facilities shall be available to all. If students require special accommodations in order to participate, they are to contact their instructor at \_\_\_\_\_. Students should present appropriate verification from the AVPSS. No requirement exists that accommodations be made prior to completion of this approved university process.”

**Option II:** “Any student who, because of a disability, requires some special arrangements in order to meet course requirements should contact the instructor at \_\_\_\_\_ as soon as possible to request necessary accommodations. The student should present appropriate verification from the AVPSS. No requirement exists that accommodations be made prior to completion of this approved university process.”

- (2) Each faculty member is encouraged to provide notice regarding one of the options above within the first two class periods.
- (3) Any resident/fellow who, because of a disability, requires some special arrangements in order to meet residency training requirements should contact his/her Program Director or Chair, who will forward information to the Associate Dean for Graduate Medical Education (GME) as soon as possible to request necessary accommodations. A resident/fellow should present verification from his/her health care provider as to the nature of the accommodation required. No requirement exists that accommodations be made prior to the completion of this approved university process.

#### b. TTUHSCEP Responsibility

- (1) TTUHSCEP Responsibility

The following statement should be included in materials developed and available through the university:

- (a) Public Statement

“TTUHSCEP provides for program accessibility for members of the public. Individuals requiring accessible materials in Braille, large print, audio format, interpreters, or Telecommunications Devices for the Deaf are requested to notify the appropriate person(s) as noted in 4(a) at least 72 hours prior to the need for such services in order that time will be adequate for their preparation.”

(b) Patient Statement

"Patients with disabilities who may need auxiliary aids or services are requested to contact (Name of Person) at (Phone number) at least 72 hours prior to a scheduled appointment in order that appropriate arrangements to provide auxiliary aids or services can be made."

Such notice should be inserted in university-related programs open to the public.

(2) Faculty and Staff

Every employer covered by the nondiscrimination and Equal Employment Opportunity (EEO) laws is required to post the "Equal Employment Opportunity is the Law" notice on its premises. The notice must be posted prominently, where it can be readily seen by employees and applicants for employment. The notice provides information concerning the laws and procedures for filing complaints of violations of nondiscrimination or EEO laws with the Office of Federal Contract Compliance Programs. The posting of this notice is required under the Civil Rights Act of 1964, Title VII (P.L. 88-352) §§2003-2010. TTUHSCEP is in compliance with this law.

4. **Grievance**

ADAAA provides for private right of action for injunctive relief, attorney fees, and compensatory damages against both individuals and institutions. At least one person is required to be designated to coordinate an institution's effort under ADA, ADAAA, and Section 504 of the Rehabilitation Act. At TTUHSCEP, the following may be contacted:

- (1) Faculty, Staff and Public Concerns –Executive Director for Human Resources;
- (2) Student Concerns –Asst. VP for Student Services;
- (3) Patient Concerns – Individual named at each center; or
- (4) Residents or Fellows – Chair, GME Committee or the Designated Institutional Official (DIO)

TTUHSCEP fully complies with ADA and ADAAA guidelines regarding employment of persons with disabilities. Skills or aptitudes necessary to perform the job are clearly stated and available to applicants.

5. **Right to Change Policy.**

TTUHSCEP reserves the right to interpret, change, modify, amend or rescind this policy in whole or in part at any time without the consent of employees, faculty or students.