

# FAYETTEVILLE STATE UNIVERSITY

## AMERICANS WITH DISABILITIES ACT SECTION 504 OF THE REHABILITATION ACT

### COMPLAINT POLICY AND PROCEDURES

<b>Authority:</b>	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
<b>Category:</b>	University-Wide
<b>Applies to:</b>	●Faculty      ●Staff      ●Students      ●Campus Visitors
<b>History:</b>	Revised - August 19, 2011 Approved - January, 2003 First issued - January, 2003
<b>Related Policies:</b>	●Section 504, Rehabilitation Act of 1973 ●Title II of the Americans with Disabilities Act
<b>Contact for Info:</b>	General Counsel (910) 672-1145 Assistant Vice Chancellor for Human Resources (910) 672-1146 Director of the Center for Personal Development (910) 672-1222/1203

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## I. INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of a physical or mental handicap by programs receiving federal assistance. Section 504 focuses on program accessibility, academic accommodations, and integrated settings. Title II of the Americans with Disabilities Act prohibits discrimination based on disability in all programs, activities, and services of State and local governments.

As an institution that receives federal assistance from the U.S. Department of Education and as an institution, which is a constituent institution of the University of North Carolina (a state agency), Fayetteville State University (University) must comply with the laws and regulations pertaining to Section 504 and Title II of ADA.

It is the University's belief that no qualified individual with a disability will be excluded, by reason of such disability, from the participation in or be denied the benefits of the services, programs, or activities offered by FSU or be subjected to discrimination.

A student, employee, applicant or member of the public who wishes to file a complaint regarding the University's compliance with Title II of ADA/Section 504 must file such a complaint in accordance with this procedures outlined in this policy (*Policy*).

## II. EMPLOYMENT DISABILITY COMPLAINTS

This *Policy* is not intended to address employment related disability complaints. An employee with a concern, grievance or complaint of discrimination based upon a disability should utilize the University's internal grievance procedures available under the University's *SPA Grievance Policy* (SPA employees), Tenure and Promotion Policies, Regulations and Procedures (faculty grievances) or *Employees Exempt from the State Personnel Act* policy (EPA non-faculty grievances).

## III. DEFINITIONS

- A. **ADA** shall mean Title II of the Americans with Disabilities Act.
- B. **ADA Coordinator** shall mean the individual who is responsible for managing the complaint process.
- C. **Complainant** shall mean the individual filing a complaint.
- D. **Day(s)** shall mean university day(s).
- E. **FSU** shall mean Fayetteville State University.
- F. **Respondent** shall mean the university official(s) (faculty/staff) who is accused of the alleged discriminatory action.
- G. **Review Officer** shall mean either the Provost/Vice Chancellor for Academic Affairs or the Vice Chancellor for Student Affairs who will review the formal complaint.
- H. **Section 504** shall mean Section 504 of the Rehabilitation Act of 1973.

## III. INFORMAL COMPLAINT PROCEDURES

An individual who wishes to complain about a matter involving FSU's compliance with Section 504 and/or ADA may initially attempt to resolve the matter informally by communicating (orally or in writing) their concerns to the appropriate ADA/Section 504 Compliance Officer ("ADA Coordinator") within five (5) days of the incident. (See the listing in Section V for the appropriate officer.)

Upon receipt of the complaint, the ADA Coordinator should attempt immediately to discover whether the allegations are true and in the case of valid complaints, should seek resolution by discussion, counseling, mediation or agreement of the parties or by administrative action. The nature of the complaint and any information obtained should be treated with the utmost confidentiality and with sensitivity to the issues involved.

The effort to resolve the complaint informally should be completed no less than thirty (30) days from the date the original complaint was received.

At the end of the efforts to resolve the complaint informally, the ADA Coordinator should record the complaint in a written statement identifying all parties, the complaint and the outcome of the informal review. Copies of the report should be provided to the Vice Chancellor for Student

Affairs (if a non-academic issue), the Provost/Vice Chancellor for Academic Affairs (if an academic issue) or the University Legal Counsel (if an employment and/other related issue).

#### IV. FORMAL COMPLAINT PROCEDURES

##### A. Filing A Formal Complaint

1. An individual may file a formal complaint about a matter involving FSU's compliance with Section 504 and/or ADA if:
  - a. the individual does not want to utilize the informal complaint process; or,
  - b. after utilizing the informal complaint process the parties were unable to *resolve the complaint*.
2. A formal complaint should be, in writing and signed by the complainant or his or her representative. The complaint should contain:
  - a. the name address, and a telephone number or TDD number of the person filing the complaint ("complainant");
  - b. a detailed description of the alleged discriminatory action(s);
  - c. the date(s) the action(s) occurred; and,
  - d. the name(s) of the party(ies) responsible ("respondent")
3. The complaint should be addressed to one of the following Review Officers:

##### **For Academic Related and Other Issues**

Provost/Vice Chancellor for Academic Affairs  
Fayetteville State University  
Fayetteville, North Carolina 28301

##### **For Student Non-Academic Issues:**

Vice Chancellor for Student Affairs  
Fayetteville State University  
Fayetteville, North Carolina 28301

4. A formal complaint may be filed at any time within thirty (30) days from the date of the discriminatory practice or action. If a complainant has utilized the informal complaint process, a formal complaint must be filed no less than ten (10) days following the receipt of the ADA Coordinator's report on the outcome of the informal process. There must be compelling reasons (good cause) for extending either the thirty (30) day or ten (10) day time limit for filing a complaint.

If an individual needs assistance in writing the complaint and is unable to locate someone to assist, an ADA Coordinator will, upon request, assist in locating an advocate or representative to assist with writing the complaint.

##### B. Review of Complaint

All timely filed complaints which raise allegations relevant to the applicable laws and regulations will be thoroughly and impartially reviewed and investigated.

The complainant will be afforded the opportunity to meet with the appropriate Review Officer within ten (10) days of their complaint being received by the Review Officer. At the meeting the complainant will have the opportunity to submit evidence to the Review Officer.

The complaint will be resolved by the Review Officer based on his or her review and investigation and the report submitted by the ADA Coordinator. A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the Review Officer and a copy sent to the complainant and respondent no later than thirty (30) days after the complaint has been received by the Review Officer.

If extenuating circumstances dictate an extension of time, the Review Officer will notify the complainant and respondent in writing of the delay and the estimated time for completion.

The ADA Coordinator shall maintain all files and records of the complaint.

**C. Appeal**

The complainant may appeal the Review Officer's decision if s/he is dissatisfied. Notice of appeal should be made in writing, addressed to the Chancellor and filed with the appropriate ADA Coordinator within ten (10) days after receipt of the Review Officer's decision. Written memoranda setting forth the basis of the appeal and reason(s) should be included with the notice of appeal.

The ADA Coordinator will provide a copy of the appeal to the respondent within five (5) days of his or her receipt of the appeal. The respondent will then have ten (10) days thereafter to respond, in writing, to the appeal. Any response should be filed with the ADA Coordinator, who will provide a copy of the response to the complainant.

Within five (5) days of his or her receipt of the response from the respondent, the ADA Coordinator will forward the entire record, to include the report of the informal process, the decision of the review officer, the complainant's appeal and the response of the respondent to the Chancellor.

The appeal will be resolved by the Chancellor. The Chancellor will either personally review the matter or will designate another person to do so. Meetings with the complainant and/or the respondent, if any, will be at the discretion of the Chancellor or designee.

The Chancellor or designee normally will issue a written decision as to the appeal within fifteen (15) days after the due date of the appeal response. The decision will address and determine the validity of the appeal and its resolution, if any. Copies of the appeal decision will be sent to the complainant and the respondent. This appeal is the final recourse within the University.

If extenuating circumstances dictate an extension of time, the Chancellor or designee will notify the complainant and respondent in writing of the delay, and an estimate of the time frame for completion will be given.

The ADA Coordinator will maintain all files and records of the appeal.

Questions concerning these complaint procedures should be directed to the appropriate ADA Coordinator.

**VI. ADA Coordinators**

**A. Student Non-Academic/Academic Issues**

Director of the Center for Personal Development  
Spaulding/Infirmary Building, Room 155  
(910) 672-1222/1203

**B. Employee Non-Employment Related Issues**

Associate Vice Chancellor for Human Resources  
Office of Human Resources  
Carlton J. Barber Administration Building, Lower Level  
(910) 672-1146

**C. Other Issues**

General Counsel  
Carlton J. Barber Administration Building, 2<sup>nd</sup> Floor  
Office of Legal Affairs  
(910) 672-1145