

## **Section 3. Elon University Policies and Procedures for Access of Individuals with Disabilities**

### **3.1 Policy Foundation**

Elon University Policies and Procedures for Access of Individuals with Disabilities are based on two major federal laws and one North Carolina law, which protect qualified individuals with disabilities.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination solely because of disability in any program or activity receiving federal funding. “No otherwise qualified handicapped individual in the United States. . . shall solely by reason of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

The Americans with Disabilities Act of 1990 (ADA) extends civil rights protections provided under the Rehabilitation Act and creates stronger enforcement mechanisms. (See Appendix A for definitions pertinent to these laws.) The ADA applies to both public and private entities and provides a private course of action for civil damages and penalties not available under the Rehabilitation Act. The ADA requires that institutions make *reasonable accommodations* for qualified individuals with disabilities to eliminate unlawful discrimination on the basis of disability. These reasonable accommodations may include adjustments to allow a qualified student access to educational services and facilities. However, it is not necessary to alter academic standards or course content in order to comply with these legal requirements.

North Carolina law also provides for similar protections under Chapter 168A of the NC General Statutes.

Former commissioner of the U.S. Equal Employment Opportunity Commission, Paul Miller, summarized the goal of disability legislation when he said the ADA is “based on the premise that disability is a natural part of the human experience and in no way diminishes the rights of individuals to live independently, pursue meaningful careers, and enjoy full inclusion in the economic, political, cultural, and educational mainstream of American society.” (Milani, 1996, 990-991).

### **3.2 Elon University Policy Statement**

An interdisciplinary committee developed this policy to ensure meaningful access at Elon University for individuals with disabilities and to ensure compliance with federal and state laws.

Elon University is committed to the principle of equal opportunity and to the principle of dual right and responsibilities. Policies and procedures will ensure that persons with a disability will not, on the basis of that disability, be denied meaningful

access to or benefit from academic and co-curricular programs or activities offered by the University.

The rights and responsibilities of both Elon University and individuals with disabilities must be considered in translating policy into procedure. This document outlines those rights and responsibilities and creates a mechanism for procedures and for dispute resolution if the usual channels do not result in decisions acceptable to both the individual and the University.

The individual with a disability has a right to access educational programs and services without discrimination based on the disability; the University has the right to set and maintain standards for admitting and evaluating the progress of students. A student's disability is not considered as part of an admission decision.

### **3.3 Rights and Responsibilities of the University**

The following enumeration of rights and responsibilities is intended to provide a general overview of the respective roles of the University and the student. It is not intended to be a complete or exclusive list.

#### **Elon University:**

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;

has the right to identify and establish the abilities, skills and knowledge that are fundamental to academic programs and courses and to evaluate each student's performance against these standards. Fundamental program and course standards are not subject to modifications;

has the right to request and receive documentation that supports requests for reasonable accommodation for individuals with a disability;

has the right to select from among effective reasonable accommodations for individuals with a disability;

has the right to refuse an unreasonable accommodation or one that imposes an undue hardship on the University;

has the right and the responsibility to engage in an interactive dialogue process to identify appropriate reasonable accommodations;

has the responsibility to evaluate applicants based solely on their abilities. If an evaluation method or criterion unfairly discriminates against an individual with a disability, the University may seek reasonable alternatives;

has the responsibility to ensure that its programs viewed in their entirety, including but not limited to academic offerings, housing, transportation, student organizations, counseling, and placement, are accessible and usable;

has the responsibility to adjust or substitute any academic requirement that illegally discriminates against a student with a disability and that is not essential to the integrity of the student's academic program;

has the responsibility to identify for students the procedures for requesting an accommodation. If a request for accommodation is denied, Elon has the responsibility to inform the individual of his or her right to appeal the decision and the procedures for initiating an appeal.

has the responsibility to educate and provide consultation to University faculty and staff on general disability matters.

### **3.4 Rights and Responsibilities of Individuals with Disabilities**

The following enumeration of rights and responsibilities is intended to provide a general overview of the respective roles of the University and the student. It is not intended to be a complete or exclusive list.

#### **Qualified Individuals with Disabilities:**

have the right to an opportunity to participate meaningfully in and benefit from programs offered at Elon University. This includes access to services, benefits, co-curricular activities, housing, and transportation, that when viewed in their entirety, are comparable to those provided to any student;

have the right to confidentiality and the right to choose to whom information about their disability will be disclosed (except in the case of a health or safety emergency, as permitted by law);

have the right to an opportunity to learn. In order to ensure this, they have a right to reasonable accommodation;

have the right to access published information regarding procedures for requesting accommodation;

have the right to be informed of procedures for initiating an appeal of a decision regarding accommodations;

have the right and the responsibility to engage in an interactive process to identify appropriate reasonable accommodation related to their disability;

have the same responsibility as all students to meet and maintain the institution's academic standards;

have the responsibility to inform the appropriate university personnel (the Disabilities Services Coordinator) of the disability and to advocate for their own individual needs and to seek information, counsel, and assistance as necessary to be effective self-advocates;

have the responsibility to self disclose a disability and to demonstrate and document how their disability substantially limits their ability to benefit from a particular delivery system, instructional method, or evaluation criterion when they make a request for accommodation. Students requesting an accommodation must provide documentation of need of accommodation from an appropriate professional such as a psychologist, learning disabilities specialist, or medical doctor (when the disability is health related), dated within the four years prior to enrollment at Elon;

have the responsibility to follow published procedures for making accommodation requests and to do so in a timely fashion;

have the responsibility of promptly informing Disabilities Services of any difficulty in receiving the approved accommodation(s).

have the responsibility to follow published procedures for filing an appeal.

### **3.5 Reasonable Accommodation**

A *reasonable* accommodation provides a student with a disability an opportunity to benefit from a program in the most integrated setting possible; it does not mean the accommodation is required to produce identical results or achievement. Academic requirements that the university has determined as essential to the program of instruction or to a directly related licensing requirement are not regarded as discriminatory.

The university is not obligated to provide accommodation when

- (1) the student is not qualified
- (2) the accommodation would result in a fundamental alteration of the course or program, or a change in the standards of the course or program;
- (3) the institution is being asked to provide a service of a personal nature (attendants, individually prescribed devices, etc.);
- (4) the accommodation would impose an undue financial or administrative burden on the university.

When accommodation is determined to be appropriate and reasonable, Elon strives to find a flexible accommodation consistent with the documented need.

Accommodation must be requested in a reasonable and timely manner, dependent upon the request. In general, Disabilities Services requests a two-weeks' notice; some

accommodations may require more lead-time (hiring an interpreter, getting books on tape, for example).

### **3.6 Eligibility for Services**

Students initiate services through self-identification to the Disabilities Services office. They should contact Disabilities Services early and should follow the procedure outlined below. Timely self-identification and documentation are required for eligibility for services.

(1) Self-Identification. Students must self-identify with disabilities services by completing a “Disability Disclosure and Request for Accommodation” form (see Appendix D). Students are not eligible for accommodation until they request accommodation from Disabilities Services and are determined to be eligible. Accommodations are requested each semester.

(2) Documentation. It is the student’s responsibility to provide documentation, per the guidelines in Section 504 or ADA. (See Appendix B, “Evaluation and Documentation Criteria”). Disabilities Services will determine whether the student has satisfied the documentation requirements. The documentation, the student’s “Request for Accommodation” form, and any information gained in consultation with the student provide the basis for determining accommodations to be granted.

(3) Interim Services. If a student received accommodations for a disability before entering Elon, but does not provide documentation initially, he may receive interim reasonable services, provided that he informs Disabilities Services of the nature of the disability and the type of accommodation formerly provided. However, documentation is still required and must be provided in a timely manner for services to be continued.

The provision of interim services, pending the submission of acceptable documentation, is not an acknowledgement by the University that the student is a qualified student with a significant disability.

If the coordinator of Disabilities Services determines through a screening procedure that there is strong evidence of a disability, interim services will be provided while formal assessment and documentation are in process. Records are reviewed at the beginning of each semester, and services are discontinued if documentation is incomplete or does not meet eligibility requirements of the University.

(4) Temporary Medical Condition. Though not required by law, the University recognizes that it is sometimes beneficial to provide assistance to students who have temporarily disabling medical conditions. These may include conditions resulting from surgery, accidents, severe illness, or other medical conditions that temporarily impair regular attendance or academic performance. Documentation is required and appropriate accommodations may be provided at the discretion of the University.

### **3.7 Procedure for Requesting Accommodation**

Individuals who document that their disabilities substantially limit their ability to benefit from a particular delivery system, instructional method, or evaluation criterion may make a request for reasonable accommodation by following the procedure below:

Students requiring modifications for a disability complete a Disability Disclosure and Request for Accommodation form (see Appendix B) and return it to the Disabilities Services Coordinator. This must be submitted in a timely manner.

Students also provide documentation of need for accommodation from an appropriate professional in the field of the disability: a psychologist, psychiatrist, neuropsychologist, or learning disabilities specialist for learning disabilities-- dated no more than four years prior to enrollment at Elon. For physical disabilities (hearing, vision, mobility, physical health) documentation must come from a medical doctor in the field, and should be no more than six months old. Documentation for mental health should come from a psychologist or psychiatrist, and should be no more than six months old.

Documentation must be on letterhead and must be signed by an evaluator qualified to make the diagnosis. It must include: a clear statement of the diagnosed disability / disabilities; a description of the functional limitations resulting from the disability; a complete educational, developmental, and medical history relevant to the disability; a list of all test instruments and relevant subtest scores used to document the disability; an explanation of how the disability currently impacts the student; adequate support of requested accommodations. (See Section 4.1 for a general description of evaluation requirements and Appendix B for evaluation criteria of specific disabilities.)

In a collaborative process using information from the documentation/evaluation, the Request for Accommodation, any consultation with the student, and consultation with particular professors to the extent necessary, Disabilities Services will identify appropriate reasonable accommodations for students on a case-by-case basis. Then, Disabilities Services will write letters verifying the existence of a significant disability and suggesting appropriate accommodations for each student (see Appendix C).

At the beginning of each semester or term, the requesting students pick up verification letters from Disabilities Services and deliver the letters to their professors. It is strongly recommended that students deliver the letters in the first few days of the semester since accommodations are not retroactive. At this time, the student and professor may elect to discuss the student's strengths, need for accommodation, and the implementation of the accommodation. Disabilities Services is available for collaboration in this process if either the student or professor requests it. At the time of the discussion, students get professors' signatures, indicating that the professors received the verification form.

If the accommodations need to be changed, the student and the Coordinator (and professor in some cases) will collaborate on the changes, and the Coordinator will write a revised letter for the professor(s).

Students should keep Disabilities Services informed of their progress and should promptly report any difficulty receiving approved accommodations.

The final decision regarding the appropriate reasonable accommodation rests with the University.

### **3.8 Procedure for Dispute/Grievance Resolution**

This dispute/grievance resolution procedure was designed to reflect Elon University's commitment to complying with requirements of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA), which require that no qualified person, by reason of disability, should be denied access to, participation in, or benefits of any program which is operated by the University. Each qualified person shall receive reasonable accommodation to ensure equal access to educational opportunities, programs and activities in the most integrated setting appropriate. The Americans with Disabilities Act (ADA) also prohibits discrimination against any individual on the basis of disability.

Individuals with disabilities who have followed published procedures for requesting accommodations and have done so in a timely fashion, but who believe they have not been granted approved accommodations or access to a University program or activity, may file a grievance according to this policy. Students' grievances will be heard in accordance with the process outlined below. University community standards and administrative policies prohibit any retaliatory actions toward students as a result of filing a grievance or for participating in any manner in the investigation.

This disabilities grievance procedure addresses only those grievances based on a documented disability and does not supersede other University policies and procedures (general grade appeals, honor code violations, for example). Students are encouraged to consult with the Coordinator of Disabilities Services regarding the most appropriate University policy or procedure for addressing a particular concern not covered by this grievance procedure.

#### **Step One: Procedure for Informal Process for Resolving Complaints**

An informal process, while completely voluntary, is encouraged whenever possible. The informal review should be initiated as soon as possible after the student reports an incident. Students must report incidents as soon as possible, but reports must be received within 30 calendar days (excluding University holidays) after the last incident. This informal procedure is the recommended first step as it allows for greater

flexibility, is less adversarial, and does not preclude utilizing the administrative review or formal procedure if that proves necessary.

The student may choose to consult with the Coordinator of Disabilities Services at any time in the grievance process. The first step in the informal grievance procedure is for the student initiating the grievance (hereafter known as the Grievant) to meet directly with the person perceived to have not provided an accommodation or to have discriminated against him or her due to the student's disability (hereafter known as the Respondent). They may be able to resolve the issue or agree on some corrective action in a cordial atmosphere. The Coordinator of Disability Services may be asked to assist either or both parties in the informal process.

If the grievance is resolved, the Coordinator will write a memorandum of understanding to both the Grievant and the Respondent summarizing the resolution. A copy of this document will be signed by the Grievant, the Coordinator for Disabilities Services, and the Respondent.

If the grievance is against the Disabilities Services Coordinator for not providing a reasonable accommodation, the student should attempt to resolve the matter with the Coordinator directly. If the matter is not settled with the Coordinator, then the student should appeal directly to the University's 504 Coordinator, who will assist the grievant through the procedure described in step two below. If the grievance is against another student, the matter may be referred to the Office of Judicial Affairs under the Elon University Honor Code.

### **Step Two: Procedure for Administrative Review**

If the grievance is not resolved at Step One or the student wishes to move directly to an Administrative Review, the student should consult with the Section 504 Coordinator, the University official designated to oversee compliance with disability laws. A request for Administrative Review must be filed with the 504 Coordinator no more than 30 calendar days (excluding University holidays) after the last incident or within 14 calendar days (excluding University holidays) of the dispensation of an informal review. The 504 Coordinator will attempt to resolve the grievance in a more structured but informal manner through an Administrative Review. The Section 504 Coordinator, or her designee, will investigate and attempt to resolve the grievance. The investigation may include a meeting with the student, the Disabilities Coordinator, the faculty or staff respondent, the department head or academic dean and other parties who may have information or insight pertinent to the case. The Grievant should also sign and file with the complaint a "release of information" statement regarding information in the student's disability file, permitting review of such information by individuals involved in the grievance process. These forms may be obtained from the Office of the Section 504 Coordinator.

The 504 Coordinator will initiate the review and attempt to resolve the complaint within 14 calendar days of receiving the complaint (excluding University holidays). The

time frame may be extended if the Grievant or the 504 Coordinator provides compelling reasons for a time extension. Once the Administrative Review has been concluded, the 504 Coordinator will issue a written notice of the outcome of the process to the Grievant, the Respondent, and the Coordinator of Disabilities Services.

If the Grievant is not satisfied with the disposition of the grievance at the Administrative Review level or if a decision has not been reached in 14 calendar days (excluding University holidays), the student may initiate Formal Grievance Procedures.

### **Step Three: Procedure for Formal Grievance**

**Initiating a Formal Grievance:** A formal grievance should be filed with the 504 Coordinator no more than 30 calendar days (excluding University holidays) after the last incident or within 14 calendar days (excluding University holidays) of written notice of the results of the Informal Process or the Administrative Review. The time frame may be extended if the Grievant or the University provides compelling reasons for a time extension.

To initiate Formal Grievance proceedings, the student must submit a formal grievance in writing to the 504 Coordinator. The grievance must include all of the following information and must be signed and dated by the Grievant. A grievance will not be considered to have been filed unless it includes all the required information in the time frame indicated.

- The name and contact information of the Grievant;
- The name of the person allegedly responsible for not providing an accommodation or for committing a discriminatory act(s) based on the disability (Respondent), to include a description of the nature of the person's relationship to the University;
- The accommodation not provided or type of discrimination alleged, based on the disability;
- A description of the circumstances of the alleged discriminatory act(s), including, dates, location(s), witnesses, and supporting documents if available; and
- The names and contact information of any individuals with knowledge of the incident(s) comprising the student's complaint, who could serve as a witness (es) if needed.
- The Grievant should also sign and file with the grievance a "release of information" statement regarding information in the student's disability file, permitting review of such information by individuals involved in the grievance process. These forms may be obtained from the Office of the Section 504 Coordinator.

Upon receiving the formal grievance, the 504 Coordinator or her designee will, in writing, send a timely acknowledgement of receipt to the student that a formal review has been initiated. Once the Formal Grievance has been received the 504 Coordinator will convene a Disabilities Hearing Committee within 30 calendar days (excluding University holidays) to hear, read and review all evidence presented in the disability grievance. The Provost will appoint three persons to serve on the committee. These three persons and

the 504 Coordinator (non-voting member) will comprise the Disability Hearing Committee. The Provost will appoint a chair for the committee. The Hearing Committee will not include the person(s) against whom the grievance is filed or anyone whose participation would create a conflict of interest.

#### Hearing Guidelines:

The Hearing Committee will read the formal grievance and then interview the Grievant and any relevant witnesses named by the Grievant. The Grievant may have a Grievance Advisor present throughout the formal hearing procedures to provide guidance and support. The Grievance Advisor must be a currently enrolled student or current faculty or staff member; attorneys are not allowed to participate in these proceedings. The Grievance Advisor may not address the Hearing Committee unless permitted to do so by the chair of the Hearing Committee. In extreme situations where the Grievant's disability prevents him or her from presenting their grievance to the committee, the student may request an accommodation to have the Grievant's Grievance Advisor to assist in the presentation of Grievant's complaint.

The Hearing Committee will interview the Respondent and any relevant witnesses as requested. The Hearing Committee may request additional information, interview other witnesses, request a written response from witnesses, and choose to examine relevant written materials if any. Once the Hearing Committee has considered relevant statements and materials they will meet in closed session, deliberate, and render a finding. As expeditiously as possible and within 14 calendar days (excluding University holidays) of the conclusion of the hearing and upon conclusion of committee deliberations, the chair of the Hearing Committee will write a letter of determination to the 504 Coordinator, who will forward a copy of the letter to the Grievant, the Coordinator of Disability Services and the Respondent.

The decision of the Hearing Committee is final and represents the final word of the University on this matter.

All records regarding grievances based on disabilities will be kept for a period of at least five years in the Office of the Disabilities Services Coordinator and the Section 504 Coordinator. All standards with regard to disclosure or release of records will be in accordance with federal guidelines and regulations that govern student educational records.

#### **Federal Agency Grievance Procedures and Complaints**

The above processes neither prevent nor substitute for a student's right to file a complaint with the Federal Office of Civil Rights. Students may consult the web site of the Office of Civil Rights at <http://www.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>.

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