



Old Main 345  
516 High Street  
Bellingham, Washington 98225  
(360) 650-3307  
[www.CRTC.edu](http://www.CRTC.edu)

## Memorandum

**FROM:** Daniel Records-Galbraith  
Director & Title IX/ADA Coordinator  
Civil Rights & Title IX Compliance (CRTC)

**TO:** WWU Disability Access Center (DAC) Advisors and Administrators

**DATE:** May 17, 2022

**RE:** Essential Academic Requirements and Fundamental Alterations

### **When is a request for an accommodation due to a disability considered a fundamental alteration?**

Whether a requested accommodation would fundamentally alter an essential requirement of a course or program will generally need to be determined on a case-by case basis. It is important to distinguish general expectations and common practice from what are true essential objectives and components of the course or program. Methods of instruction and assessment and alternative accommodations should be evaluated and considered for achieving the course outcomes.

Formal determinations about fundamental alterations must be made by a group of people who are trained, knowledgeable, and experienced in the area. This group may include individuals familiar with:

1. The Instructor's course policies, teaching methodology, and assessment criteria,
2. The academic requirements of the course, program, or activity,
3. Licensure and accreditation requirements,
4. The individual student's disability related needs and limitations, and
5. Appropriate accommodations for individuals with disabilities.

Decisions must be made through a careful, thoughtful and rational review of the academic program and its requirements, and decision-makers must consider a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability, or whether an alternative accommodation would allow the student to successfully complete the essential requirement in question.

Factors to be considered include the nature and purpose of the program; the relationship of the standard to the functional elements of the program; whether exceptions or alternatives are

permitted; whether the standard is required in similar programs in other institutions; whether the standard is essential to a given vocation for which the program is preparing students; and whether the standard is required for licensure or certification in a related occupation or profession.

When an institution makes fundamental alteration decisions using these standards, the courts and OCR accord substantial deference to the decision reached by the institution. The University must therefore comply with these standards prior to finding that any requirement is essential and that accommodations will therefore not be granted to students in meeting that requirement. Furthermore, if it is determined that a requested academic adjustment would result in a fundamental alteration, the University must then consider whether there are alternative academic adjustments that could accommodate a student without fundamentally altering the course.

### **Reasonable Accommodation Basics:**

Qualified students with disabilities at postsecondary educational institutions have the right to request appropriate academic adjustments and auxiliary aids and services that are necessary to afford them with an equal opportunity to participate in a school's program. Institutions are not required to make adjustments or provide aids or services that would:

1. Result in a fundamental alteration of an educational institution's program;
2. Impose an undue burden; or
3. Constitute a direct threat to the health and safety of others.

At the postsecondary educational level, a qualified student with a disability is a student with a disability who meets the academic and technical standards, with or without a reasonable accommodation, requisite for admission or participation in the institution's educational program or activity.

### **The Interactive Process:**

Once a student identifies that they have a disability and a need for a modification, adjustment, or auxiliary aid or service, they should be referred to the access center. The University must engage in an interactive process to assess the student's request for a reasonable accommodation. Typically, the interactive process involves the following:

1. A student discloses that they have a disability and the need for an adjustment or auxiliary aid.
2. The student is referred to the DAC.
3. A DAC Advisor may gather medical documentation from the student to assess the student's disability related limitations and needs.
4. The student and the DAC Advisor develop a set of recommended adjustments and auxiliary aids.
5. Instructors are notified of the recommended accommodations and are asked to confirm that the instructor will implement the requested accommodations.

6. If the instructor has any questions about how to implement the accommodations or is not agreeable to the requested accommodation (e.g., fundamental alteration of the academic program, undue burden, etc.), they contact the DAC to discuss.
7. The accommodations or agreed to alternative accommodations are implemented unless they may result in a fundamental alteration of the academic program or are otherwise not appropriate.
8. Any difficulties or inadequacies with the accommodations raised by the student later may require revisiting the interactive process between the student, the DAC Advisor, and the instructor.

### **What are “Essential Requirements?”**

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

### **Deliberative Process is Required**

The following deliberative process must be followed if it is believed that an accommodation would fundamentally alter an essential requirement:

- Instructor contacts the DAC Advisor to discuss concerns.
- If a reasonable basis exists to believe there is a legitimate fundamental alteration question, the matter should be discussed with an ad hoc committee of objective persons who collectively are knowledgeable about the academic area, any relating licensing requirements, any applicable accreditation standards for the course of study, the student’s disability, and accommodation methods.
- In general, individuals involved in a deliberative discussion process may include the Instructor(s), Department Chair, Academic Advisor, Associate Dean or other College Administrator, DAC Advisor, DAC Administrator, ADA Coordinator, and/or any other administrators deemed appropriate to determine the reasonableness of the request and any possible alternative solutions, if needed.
- This committee must 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.

- To ensure a fair deliberation when determining if a requested accommodation would be a fundamental alteration, the following should be considered in defining requirements and expectations:
  - *Courses*
    1. What are the Instructor's general class policies and process and how do they affect equal access determinations? Do these policies include how each individual disabled student's access needs are determined and met?
    2. Does the requested accommodation directly correlate with the student's disability or barrier?
    3. How has the college's accommodation(s) or modification(s) been taken into consideration? What is the DAC Advisor recommending and why?
    4. What is the course designed to do and measure?
    5. What discipline or course is the professor or instructor teaching and what activities are being used to determine or measure the student's understanding, implementation, and expression of gained knowledge? For example, how is the student's knowledge and performance being measured against course requirements and curriculum? and how does the requested accommodation affect or not affect this measurement?
    6. Does the requested accommodation lower the learning standards? If so, exactly how?
    7. Does the requested accommodation fundamentally alter the class requirement(s)? If so, be very detailed in describing how this is the case.
    8. Does the request give the student an unfair advantage over other students? In other words, is the request exceeding equal access? If so, exactly how? Please note that giving the student equal access to remove barriers does not provide an unfair advantage. An inappropriate unfair advantage means that the accommodation would actually exceed equal access by giving the student an unfair edge.
    9. Would the accommodation result in undue administrative burden? If so, be very specific in describing how.
      - Please note that burden determinations must involve senior leadership or their designee after considering all resources available for use in the operation of the service, program or activity (the entire program, i.e. the entire WWU budget not just a departmental budget), and must be accompanied by a written statement of the reasons for reaching that conclusion.
    10. What other equally effective accommodations can be considered and provided that will offer equal access for the student if the requested accommodation is denied?

11. Does the appeal process afford immediate opportunity for the student to have their petition addressed in a timely manner in order to prevent irreparable harm to the student if their appeal prevails?

- *Programs or Degrees*
  1. What skills or competencies will be needed within the field after graduation?
  2. What are the requirements for licensing or professional accreditation? Are these required during the course of the educational program (i.e., a limited license required for clinical rotations)?
- The DAC Advisor or DAC Administrator will notify the student of the final decision regarding the request for accommodation.