

## **ADA 504 Policy and Procedures**

### **POLICY**

It is the policy of The College of Health Care Professions (CHCP) to prohibit discrimination on the basis of disability regarding the administration of all campus programs, services, and activities including the admission of students, employment actions, or other sponsored activities. Section 504 is a civil rights law. The purpose of Section 504 is to protect individuals with disabilities from discrimination for reasons related to their disabilities.

### **Section 504 of the Rehabilitation Act at 29 U. S. C.:**

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the 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 Amendments Act of 2008 (Amendments Act), effective January 1, 2009, amended the Americans with Disabilities Act of 1990 (ADA) and included a conforming amendment to the Rehabilitation Act of 1973 (Rehabilitation Act) that affects the meaning of disability in Section 504. The standards adopted by the ADA were designed not to restrict the rights or remedies available under Section 504.

Section 504 prohibits discrimination based on disability in programs or activities that receive Federal financial assistance from the ED. Title II prohibits discrimination on the basis of disability by state and local governments. The Office of Special Education and Rehabilitative Services (OSERS), also a component of ED, administers the Individuals with Disabilities Education Act (IDEA), a statute which funds special education programs. Each state educational agency is responsible for administering IDEA within the state and distributing the funds for special education programs. IDEA is a grant statute and attaches many specific conditions to the receipt of Federal IDEA funds. Section 504 and the ADA are antidiscrimination laws and do not provide any type of funding.

### **STUDENTS PROTECTED UNDER SECTION 504**

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or

mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Students seeking more information about whether they have a condition protected by Section 504 are encouraged to review the provisions of 34 C.F.R. Part 104 or contact CHCP's ADA 504 Coordinator.

## **DETERMINATION OF PHYSICAL OR MENTAL IMPAIRMENT**

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made based on an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. Part 104.3(j)(2)(i) defines a physical or mental impairment as disclosed on the Definition section, below.

## **PURPOSE**

All campuses of CHCP seek to foster a collegial atmosphere in which students are nurtured and educated through close faculty-student relationships, student camaraderie, and individualized attention. Discrimination of any kind is prohibited. CHCP seeks or intends to resolve complaints of identified discrimination in a timely, effective, and fair manner which respects the rights of all parties involved to the maximum extent possible. CHCP will also take reasonably necessary action (including, for example, appropriate accommodations) to ensure that any identified discrimination does not recur.

CHCP will attempt to provide students with appropriate academic adjustments and auxiliary aids and services that are reasonably necessary to provide an individual with a disability an equal opportunity to participate in a school's program. However, CHCP is not required to make adjustments or provide aids or services that would result in a fundamental alteration of its program or one that imposes an undue burden.

## **RESOURCES: REPORTING DISABILITY DISCRIMINATION OR HARASSMENT**

If you believe you have been harassed or discriminated against based on a disability, CHCP encourages you to promptly contact your campus President and/or CHCP's primary resource for such matters, the **ADA 504 Coordinator, Thoma Brewer, Telephone: (832) 833-9041 or email: [ADA504Coordinator@chcp.edu](mailto:ADA504Coordinator@chcp.edu)**.

When CHCP receives a student complaint report in this regard, it will take prompt corrective action reasonably calculated to stop and/or prevent a recurrence, and, as appropriate, take action to remedy its effects. In some instances, this may require an investigation. Each investigation shall be conducted in a prompt and equitable manner consistent with appropriate due process being provided to all parties

involved. Because every situation is unique, a specific timeframe for resolving a complaint cannot be provided. However, CHCP will begin the investigative process within five (5) business days of any reported incident under this policy. Each investigation will be completed in a fair, impartial, and timely manner. CHCP has a goal of completing each investigation as promptly as can be done in a manner consistent with due process. Each investigation should be completed within sixty (60) calendar days, if possible.

## **DEFINITIONS**

**Physical or Mental Impairment.** The Section 504 regulatory provision at 34 C.F.R. Part 104.3(j)(2)(i) defines a physical or mental impairment as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Major Life Activity.** Major life activity is defined at 34 C.F.R. Part 104.3(j)(2)(ii) to include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Other functions can be major life activities for purposes of Section 504.

**ADA 504 Coordinator.** CHCP's primary resource for ADA matters is its ADA 504 Coordinator or their designee. Each is trained and knowledgeable about enforcement, compliance, communication, and implementation of CHCP's anti-harassment and anti-discrimination policy.

### **The ADA 504 Coordinator's contact information is:**

Thoma Brewer, CHCP  
Phone: (832) 833-9041  
Email: [ADA504Coordinator@chcp.edu](mailto:ADA504Coordinator@chcp.edu)

## **CONFIDENTIALITY**

CHCP may have an independent obligation to investigate or report alleged discrimination which means absolute confidentiality cannot be promised in every instance.

## PROCEDURES & IMPLEMENTATION

**Duty to Report Violations.** Members of the CHCP community including students, faculty, employees, and third parties have a duty to report violations of this policy. Occurrences should be promptly reported to CHCP's ADA 504 Coordinator.

### **Formal Complaint, Investigation, and Resolution Process.**

#### **Complaint Process.**

CHCP is obligated to investigate complaints under this policy. As a result, complaints about disability-based discrimination should be made in writing and delivered to the ADA 504 Coordinator (or verbally communicated to the ADA 504 Coordinator) at: **Thoma Brewer, ADA 504 Coordinator via email ([ADA504Coordinator@chcp.edu](mailto:ADA504Coordinator@chcp.edu)), telephone (832) 333-9041**, or in person. Students should consider the ADA 504 Coordinator the primary resource for claims of disability discrimination and/or harassment.

Complaints should be filed as soon as possible after an alleged incident. Time delay can have a negative effect on CHCP's ability to conduct an effective investigation. Written complaints are preferable because they reduce the likelihood of a miscommunication or other ambiguities. Initial verbal complaints may be sufficient in extraordinary circumstances.

A complaint should include the following information:

- a) Complainant's full name, home address, email, telephone number, and CHCP Student/Employee ID number.
- b) Name of the person against whom the complaint is being made, including job title or student status, if known.
- c) The protected status that is the basis for the alleged disability-based discrimination.
- d) A clear statement of the facts.
- e) A statement of the Complainant's academic or employment status.
- f) The full name, address, and telephone number of complainant's academic advisor or supervisor, if any.
- g) The specific harm that resulted from the alleged act.
- h) A statement of the remedy sought.
- i) The complainant's signature and the date on which the complaint report was made.

While prompt reporting is expected, complaints reported beyond 30 days of the alleged incident will be processed. However, if more than 365 days have elapsed since the day of the alleged discriminatory act, the complaint may not be processed because of the detrimental effect prolonged delay has on the ability to effectively investigate complaints.

Each investigation will be conducted in a fair, impartial, and timely manner designed to provide all parties with a resolution consistent with the requirements of due process. Several factors may impact the ability to conduct a prompt investigation, including, but not limited to, the Complainant's accessibility and responsiveness, witness availability and responsiveness, the number of witnesses, complexity of the facts, and the timing of the investigation (e.g., if an investigation is being conducted at a time when students are taking final exams or on recess).

### **Investigation of Complaints.**

The ADA 504 Coordinator or their designee will investigate complaint reports. Each investigation will be performed in a prompt, reliable, and impartial manner consistent with the requirements of due process. CHCP will address violations of policy found to have occurred through the investigative process.

The ADA 504 Coordinator shall make a reasonable effort to schedule an intake interview with the complainant within five (5) business days of receiving a complaint report. While each investigation involves unique facts and circumstances, CHCP has a goal of completing investigations within sixty (60) calendar days of receiving a complaint report. To the extent it is reasonably determined that a fair and impartial investigation cannot be completed within this timeframe, the parties shall be promptly informed that the investigation cannot be completed within sixty (60) calendar days. Each party will be promptly notified once a final determination is made. Factors that may affect the length of the investigation include, but are not limited to, the following examples:

- i. Availability or unavailability of a witness or relevant/material documents;
- ii. Recalcitrant or reluctant witness and/or any necessary party;
- iii. Delay or other uncooperative actions of any necessary party;
- iv. Number of witnesses;
- v. Complexity of the facts and issues and the severity of the allegations;
- vi. Holiday and vacation periods; or
- vii. Any unforeseen event/circumstance which impacts the investigation.

Each party to a grievance shall have the opportunity to present evidence, including through witnesses. They may also present questions to the other party.

The ADA 504 Coordinator shall report the findings of the investigation to a designated, impartial Fact Finder. The Fact Finder shall issue a determination promptly once it is made. The determination should include, among other elements: (a) a statement of whether there is probable cause to believe an offense or misconduct (including, though not necessarily limited to a violation of CHCP policy) occurred with respect to each allegation of discrimination based on disability, (b) a description of actions taken, if any, to prevent similar problems from occurring in the future, and (c) the proposed resolution of the complaint.

### **Intake Interview.**

After receiving a complaint, the ADA 504 Coordinator or their designee will meet with the Complainant to start the investigation. Because of the significance of their input, the Complainant must be available to meet with the ADA 504 Coordinator or their designee.

The meeting will include an intake interview in which the ADA 504 Coordinator or their designee will inform the Complainant about the investigation procedures and expected timeline. The Complainant should sign a complaint form during the meeting if they have not already done so. In some circumstances, a complaint may proceed even without a signed written complaint.

**Duty to Cooperate and Facilitate.** All members of the CHCP community are expected to cooperate fully with any investigation about unlawful discrimination. A faculty member, staff member, or student who has relevant information but refuses to cooperate with an ongoing investigation may be subject to disciplinary action, and for employees that includes termination of employment.

### **Preponderance of the Evidence.**

In making a determination, the Fact Finder shall observe a preponderance of the evidence standard. This means reaching a conclusion based upon all available reliable facts and information about whether one party's evidence outweighs the evidence of the other. This standard is not the more stringent standard a court may use in considering criminal responsibility.

### **Notice of Determination and Further Action.**

The Complainant and the Respondent (i.e., the alleged perpetrator of the misconduct or offense) shall be informed of the Fact Finder's decision promptly. Each will be informed about any actions or precautions, including, for example, any reasonable accommodations, that will be taken based upon

determination. Questions concerning these further actions should be directed to the ADA 504 Coordinator.

## **EXTERNAL REPORTING**

Members of the CHCP community are always subject to local, state, and federal laws, and nothing in these procedures is intended to limit or postpone the right of an individual to file a complaint or charge with appropriate federal, state, or local departments or agencies.

Among other options, students may contact the Office for Civil Rights of the U.S. Department of Education for inquiries concerning the application of ADA 504 as well as the implementation of its regulations. The Office for Civil Rights' contact information is:

**U.S. Department of Education**  
**Office for Civil Rights**  
**1999 Bryan Street, Suite 1620**  
**Dallas, Texas 75201-6810**  
**Phone (214) 661-9600**  
**Fax (214) 661-9587**  
**email: [OCR.Dallas@ed.gov](mailto:OCR.Dallas@ed.gov)**