



ACCOMMODATION APPEALS

Fall 2022 through Spring 2023

Last updated 4.28.22

Objective

The purpose of these procedures is to ensure that the Verto Education complies with the provisions of the Americans With Disabilities Act of 1990 as amended (ADA), Rehabilitation Act of 1973, as amended (Section 504) and that faculty, staff, participants, applicants, and visitors with disabilities are provided the means to seek recourse in the event a violation is perceived to have occurred.

Authority

These procedures are authorized under the ADA and are consistent with the requirements of the Rehabilitation Act of 1973, Section 504.

Policy

All members of the Verto Education community are entitled to learn, study, and work in an atmosphere free from illegal discrimination. Verto's equal opportunity policies prohibit discrimination against participants, employees, applicants, or visitors on the basis of their disability as well as race, creed color, sex, religion, national origin, age, veteran or marital status, sexual orientation, gender identity, gender expression, or any other protected group status. Under the *Non-Discrimination Policy* intent to discriminate is irrelevant, the focus is instead on whether participants, employees, or applicants have been treated differently or subjected to an intimidating, hostile, or offensive environment as a result of their disabilities.

Procedures

Any grievances or complaints alleged as violations of the Americans With Disabilities Act as amended (hereafter referred to as ADA), to include denials of reasonable accommodation requests, may be filed with the Health, Wellness, and Accommodations Manager, Academic Success Coordinators, or the Dean of Student Affairs. These entities will receive, review, and investigate the complaint(s) and work towards achievement of full resolution. Ultimately, all intakes of complaints or grievances should be **listed** or **reported** to the Health, Wellness, and Accommodations Manager for monitoring and record-keeping purposes. The responsible entities will not concurrently investigate any ADA-related complaints or grievances, and where possible, should confer to avoid duplication of efforts. The Health, Wellness and Accommodation Manager will monitor investigations to ensure expeditious resolution.

Review Process

The following procedures will be used for all complaints or grievances alleging violations of the ADA or Section 504:

1. All complaints alleging violation of the ADA or Section 504 **must be made in writing** to the appropriate investigating area (Health, Wellness, and Accommodation Manager) within sixty (60) class days of the alleged violation or claim of failure to provide reasonable accommodation. The written complaint should specify the time, place, and nature of the act claimed to be in violation and may be supplemented by supporting documents and/or affidavits from persons having firsthand knowledge of the facts. A participant complaint must be filed within thirty (30) class days of the end of the term in which the alleged violation occurred.
2. The Health, Wellness, and Accommodation Manager will investigate all pertinent facts and circumstances in support of the alleged violation within twenty (20) class days of receipt of the complaint, to include review and verification of all documentation and testimony by involved and/or knowledgeable parties.
3. The Health, Wellness, and Accommodation Manager may attempt resolution of a complaint through mutual agreement of the affected parties at any point during the course of the investigation. Should such resolution be achieved, the investigation shall be ended. The terms and conditions of the resolution agreement shall be issued to the charging party within ten (10) class days for review and signatures.
4. Where resolution through mutual agreement is not achieved, written findings from the investigation, along with a recommendation for resolving the complaint shall be forwarded simultaneously to the complainant, charged department, and Dean of Student Affairs, immediately upon completion of the investigation.
5. A complainant with a disability who believes that his or her grievance has not been handled appropriately, should bring this to the attention of the Health, Wellness, and Accommodations Manager.
6. The Health, Wellness, and Accommodations Manager shall take final action on the recommendation within ten (10) class days after receipt of the recommendation. Consultation will be provided by Health, Wellness, and Accommodation Manager as requested.
7. Either party (complaintant or charged department) may appeal the findings of the investigating department to the Dean of Student Affairs by filing a request for a review of a complaint alleging discrimination on the basis of disability or failure to

provide reasonable accommodation within ten (10) class days of receipt of finding.

8. Within seven (7) class days of receipt of the initial findings, the Dean of Student Affairs may render a final decision on the complaint or choose to appoint a hearing panel to review the appeal. If a hearing panel is used, the Dean of Student Affairs shall appoint a three to five member hearing panel that will include at least one person with a disability. In the case of a participant appeal, the panel shall include at least one participant with a disability. The hearing panel shall conduct a hearing, consider evidence and testimony in justification of the appeal, and render its decision within twenty one (21) days of appointment. The Dean of Student Affairs may accept, reject, or modify the decision of the review panel.
9. Upon final resolution of a complaint, copies of records will be forwarded to and maintained by the Health, Wellness, and Accommodations Manager. All records relating to complaints of failure to provide reasonable accommodations are evaluative in nature and all medical information contained in complaint records shall be deemed confidential pursuant to, but not limited to, the provisions of Sections ADA/ADAAA and The Rehabilitation Act of 1973, Section 504.

External Complaint Resources:

Participants, faculty, staff, or visitors who believe that the university established system have failed them or insufficient to address their complaint may also contact the Office of Civil Rights at <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

**This document will be made available in alternative formats by the Verto Education Health, Wellness, and Accommodations Manager upon request: by email at jennifer.mitchell@vertoeducation.org*