

Faculty Petition for Review of Reasonable Accommodation Request

Purpose

New Mexico Tech is committed to accessible learning environments that meet the needs of its diverse students. While most accommodations that address access barriers are straightforward and simple to implement, sometimes faculty members may have questions. For general questions, first direct inquiries to Student Access Services. If there is a larger concern regarding how the implementation of an accommodation may alter the course or learning outcomes, please complete this petition for review. This process is intended to better understand the objectives of the course, and the concerns of the faculty member, and to reach a timely resolution for the student's access needs.

Timeline Requirements for Petition

Once a faculty member receives a Student Course Accessibility Letter (CAL) or a request from Student Access Services regarding an accommodation the faculty member who would like to have the accommodation reviewed within the context of the course must submit this petition within 3 business days of receipt of the CAL. The resolution must be determined within 5 business days of the petition. While the petition is in review, **all accommodations, including the one in this petition, must be implemented upon receipt of the Course Accessibility Letter unless or until a suitable alternative accommodation can be immediately identified.** Refusal to do so could be considered a violation of civil rights.

Context and Guidance for Denial of Accommodation

ADA and Section 504 determine that accommodations in a post-secondary educational setting can only be denied in the following contexts:

1. Fundamental alteration:
 - a. Fundamental alteration is a change that is so significant that it alters the essential nature of a course or program or instruction
 - i. e.g.: Removing or waiving acquisition of a skill that is considered essential
2. Unfair advantage
 - a. e.g.: A student taking an exam home to complete, unsupervised, or open book, when the rest of the class takes the exam closed book in class.
3. Undue financial/administrative burden.

- a. Undue Financial Burden: Must consider the totality of the institutional resources, not just the program, department, or course. These are rarely upheld in court for those reasons.
 - b. Administrative Burden might be considered if the complexity or volume of staffing needed to accommodate are unreasonable.
4. Direct Threat to the health and safety of the student themselves or others.

As determined by a landmark disability rights case: “[Colleges have a] real obligation to seek suitable means of reasonably accommodating [disabled students].” ([Wynne v. Tufts Univ. Sch. of Med., 932 F.2d 19, 25-26 \(1st Cir. 1991\)](#)). Through various Department of Justice Office of Civil Rights case resolutions, the federal government has clarified that colleges and universities must adhere to the following guidelines:

1. Engage in an individualized, interactive process with each student request for accommodations and avoid blanket statements or policies regarding accommodations ([OCR No. 10-16-2203](#)),
2. The decision of whether an accommodation may fundamentally alter an essential course/ program objective must be made by a group of knowledgeable and trained individuals at the college within the program and the disability services office ([OCR No. 01-16-2120](#); [03-14-2248](#)),
3. The group of knowledgeable and trained individuals at the college will pursue a thoughtful, careful, rational review of the course/program essential objectives and requirements ([OCR No. 01-16-2120](#)), and
4. Consider a series of alternatives and modifications that does not fundamentally alter the course/program even if it is not the accommodation originally requested ([OCR No. 01-16-2120](#)).

Whether accommodations “would fundamentally alter the nature of its service, program, or activity” are reviewed on a case-by-case basis using the following procedure (Title II, Americans with Disabilities Act).

Once Student Access Services has identified generally reasonable accommodation for a student at New Mexico Tech, the instructors’ request to reevaluate an accommodation must be presented in an active way and provide the rational for how and why the denial of equal access through the specific accommodation is warranted. Instructors must be active participants in identifying alternative accommodations for the student in the particular course or program. A denial of accommodation cannot be justified based on the instructor’s personal doubts about the student’s ability to meet future requirements of a degree or profession. The denial may only be based on the present class or program requirement(s).

The denial of a reasonable accommodation must include documentation of a clear interactive process with the student, dialogue with Student Access Services, review of the course syllabus, curriculum, technical requirements and accrediting body requirements, careful consideration of the denial by a group of people (Student Access Services staff, the faculty and the Department Chair or the Dean). Disability experts must be included in the accommodation determination, not faculty alone.

If no agreement can be reached, the Student Access Services Director will make the decision on whether the accommodation is reasonable in the context of the individual course requirements and in consideration of the individual student's barriers due to disability.

[Instructions for completing this form](#)

Please answer as completely as possible. This is a serious consideration that must be made very deliberately with a focus on intentionality and impact. Be advised that "industry standards" or "job requirements" alone are NOT acceptable reasons for denial of accommodation, but may be part of the consideration. In many cases, if those standards and requirements are discriminatory in nature, the institution of higher education is expected to correct the standards to be non-discriminatory.

Any reference to industry standards, technical requirements, and accreditation requirements, in addition to curriculum or course Student Learning Outcomes MUST BE ATTACHED in your submission. You may attach a copy of the syllabus, most recent accreditation packet, and links to the accrediting body requirements page.

Policies which serve as a blanket exclusion to certain accommodations or disabilities are prohibited by Section 504.

Student Name	Student ID # 900	Course Name	Course Number	Instructor Name

Please Enter the Accommodation(s) on the CAL being reviewed.

Course Analysis Questions

Answer as completely as possible so reviewers can easily understand the specific course needs and requirements.

- 1) What class policies and procedures are impacting the determination regarding this accommodation?

- 2) How do these policies include individual access needs?

- 3) What is your understanding of the requested accommodation and why it is being requested?

- 4) How has the student's accommodation been taken into consideration?

- 5) What is this class designed specifically to do and measure? (What knowledge is the instructor teaching, what activities are being used to determine/measure the student's understanding, implementation, and expression of gained knowledge?)

- 6) How does the requested accommodation impact that design?

Legal Standard proposed for Reason for Denial

For the following 5 questions, answer only the one that applies to this situation.

- 1) If there is a concern about this accommodation *lowering the learning standards*, please describe exactly how this accommodation would do that. (i.e.: omitting whole assignments, activities, or altering the grading structure)

- 2) Does the requested accommodation *fundamentally alter* the course requirements? If so, be very detailed in how this is the case. (Include documentation of course curriculum, syllabus, any technical standards, and accreditation requirements)

- 3) Does the requested accommodation give a student *an unfair advantage* over other students? (An example may be allowing a student with disabilities to retake an exam multiple times until they earn a passing score)

- 4) Does the accommodation result in *undue financial or administrative burden*? (Example would be a student requesting that a building be remodeled to include only specific colors).

Two things to note:

- i. The undue Burden determination must involve the head of the college or their designee **AFTER CONSIDERING ALL RESOURCES AVAILABLE** to the institution and must be accompanied by a written statement for the reasons for reaching this conclusion.

1. If undue burden is the legal standard being cited, additional levels of administration must be involved.

- 5) Is there a *direct threat* to the health and safety of student or others that is created by this accommodation?

Proposed Alternative Accommodation

For the final question, think about alternative accommodations that may work in your classroom; be creative.

- 1) What other equally effective accommodations could be considered to offer the student equal access to the learning environment?

Accessibility Services Rationale (completed by Student Access Services)

1. How does this specific accommodation(s) directly correlate with the student's disability or limitations? (I.e., describe the barrier the student encounters in relation to their disability, and how this accommodation removes this barrier.)

2. What is Student Access Services recommending and why?

Appeal Process

If the accommodation is denied, a student has 10 business days to appeal the decision to the ADA Compliance Officer, 575-835-5005, randy.saavedra@nmt.edu whose decision is final. The ADA Compliance Officer's decision is based on whether the legal standard cited is backed up by the documentation presented and if the accommodation(s) identified is needed and appropriate for the context of the course.

Acknowledgement

Please sign to acknowledge you understand the petition process, that you have submitted the information based on your subject matter expertise, and that you are willing to implement accommodations in your course in compliance with the ADA and Section 504. The Department Chair or Dean must also sign indicating they are aware of the petition.

_____	_____	_____
Faculty/Petitioner Printed Name	Faculty/Petitioner Signature	Date

_____	_____	_____
Chair/Dean Printed Name	Chair/Dean Signature	Date

Each petition is considered on its own merits and the specific circumstances of the course and student need. No two petitions are alike. Prior determinations of fundamental alteration cannot be used to justify future accommodation requests.