

Elon University Fundamental Alteration Process

Disabilities Resources Office

Elon University, through its Disabilities Resources Office, provides reasonable accommodations to qualified students with disabilities. However, a requested accommodation may not be provided if it would fundamentally alter a course or program. This document outlines the process Disabilities Resources will follow to determine whether a requested accommodation is reasonable or if it would constitute a fundamental alteration.

Key Terms

- Disability: Under the Americans with Disabilities Act (ADA), a person with a disability is someone who has, has a record of, or is regarded as having a physical or mental impairment that substantially limits one or more major life activities. Examples of major life activities include but are not limited to: breathing, walking, talking, hearing, seeing, sleeping, caring for oneself, performing manual tasks, working, and major bodily functions.¹
- Accommodation: Any modification or adjustment to a given environment that will enable a person with a disability to participate in, receive the benefits of, and perform the essential functions related to the particular environment. “Accommodation” includes academic modifications and auxiliary aids, as well as other reasonable modifications that allow a student to receive the benefits and services offered to students.²
- Fundamental Alteration: A requested accommodation or modification that is considered to make significant changes to the **essential requirements** of a

¹ These definitions are based on statutory and regulatory definitions under Section 504 of the Rehabilitation Act of 1973 (Section 504); and under the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments of 2008 (collectively, the ADA). For a discussion of how these terms are used and construed in the context of higher education, see United States Department of Education, OCR Complaint No. 11-17-2001 Letter of Findings to the University of North Carolina at Greensboro (Apr. 4, 2017). Although UNCG is a public institution of higher education, the key concepts in that OCR determination also apply to private universities that receive federal funding.

² See OCR Complaint 11-17-2001, at footnote 1.

course or program, thereby changing the essential learning outcomes and/or components of the course or program.³

Fundamental Alteration Concern

If a faculty member believes that an accommodation approved by Disabilities Resources (DR) would fundamentally alter the essential learning outcomes and/or essential components of the course or program, the faculty member should immediately contact DR. Many situations can be resolved through a discussion between DR and the faculty member about the accommodation(s). Important information for consideration includes, but is not limited to, the following:

1. The nature of your course, including attendance policies, deadlines, general policies, major assignments, your teaching methods/pedagogies, and similar factor.
2. The essential requirements as outlined in your course syllabus and the program, which may include learning outcomes and expectations required of every student in the class.
3. Whether students in the past have been allowed exceptions or modifications similar to those resulting from the approved accommodation, and the ways in which the approved accommodation(s) would differ from such past exceptions or modifications.
4. Whether there is some alternate accommodation that the faculty member might find reasonable.

If the faculty member and DR are able to identify an alternate accommodation, DR will review the matter with the student as a continuation of the interactive process. If the student, DR and the faculty member come to an agreement, DR will confirm the resolution in a modified accommodations letter.

³ Colker, R. & Grossman, P.D. (2014). Chapter 4: Higher Education, Part E Reasonable Modifications. In *The Law of Disability Discrimination for Higher Education Professionals* (pp. 205-207). Carolina Academic Press.

Fundamental Alteration Review Committee

If the faculty member, after discussion with DR, continues to believe that the granted accommodation and/or proposed alternates constitute a fundamental alteration to the course or program, the faculty member may request review by a Fundamental Alteration Review Committee. The faculty member shall initiate this request by submitting the Fundamental Alteration Process Form to the Executive Director of the Koenigsberger Learning Center. A notification email will be sent to the faculty member's department chair or Dean with a carbon copy to the faculty member. The Executive Director of the Koenigsberger Learning Center will serve as the Review Committee Administrator providing administrative oversight of the review committee and its process.

1. Assembling and Training the Committee

The Review Committee Administrator will convene a committee of knowledgeable Elon community members as promptly as possible. This committee typically will include:

- a. Two faculty members from the same School as the professor challenging the accommodation. Every effort will be made to also request faculty from the same Department.
- b. Two faculty members from any other School on campus.
- c. The Director of Compliance & Title IX Coordinator or appointee

Composition of the committee may be modified, if necessary, based on faculty availability, time constraints, and other factors as appropriate. The committee will **not** include a representative from DR nor the faculty member who has requested the review.

The Fundamental Alteration Review Committee will receive the following:

- a. A copy of this process document, including explanation of the committee's purpose, key terms, and factors for consideration.

- b. Information from the faculty member requesting the review (which will include their syllabus, relevant class materials, and other materials they wish to share).
- c. Information from DR (which will include any materials received from the faculty member, a redacted copy of the student's accommodation letter, an explanation of the accommodation(s), if not included on the letter, and any other materials they wish to share).
- d. In some cases, it may also be relevant for students to submit materials. The committee may decide on a case-by-case basis whether to request materials from the student.

2. Assessment

The committee's purpose is to fully consider the requirement or essential function that is believed to be fundamentally altered by the accommodation and determine whether or not the accommodation does fundamentally alter that requirement and change the required learning outcome(s) of the student and/or other students in the course or program. The committee may consider the following factors⁴:

- a. The nature and purpose of the course and program;
- b. The relationship of the objective/standard to the functional elements of the course and program;
- c. Whether exceptions or alternatives to the objective/standard are or have or have been permitted;
- d. Whether the standard is required in similar programs in other institutions;
- e. Whether the standard is essential to the vocation and/or discipline for which the program is preparing students;

⁴ Adapted from Towson University Fundamental Alteration Process. <https://www.towson.edu/accessibility-disability-services/accommodations-services/class-attendance.html>

- f. Whether the standard is required for licensure or certification in a related occupation or profession, if the program has an objective licensure; and
- g. Other factors as appropriate.

If the accommodation in question concerns class attendance, the committee may consider the following additional factors:

- a. Whether there is classroom interaction between the faculty member and students, and among students;
- b. Whether student contributions constitute a significant component of the learning process;
- c. Whether the fundamental nature of the course relies upon student participation as an essential method for learning and assessment;
- d. To what degree a student's failure to attend constitutes a significant loss to the educational experience of other students in the class;
- e. What the course description and syllabus say;
- f. The method by which the final course grade is calculated;
- g. What are classroom practices and policies regarding attendance? Is the attendance policy applied equally? Has the policy been modified for others or have any exceptions been made to the policy for students without identified disabilities (e.g., are athletes or students participating in Elon-sponsored activities allowed excused absences)?
- h. Is the attendance policy similar to that of faculty teaching other sections of the course?

3. Determination

The committee will submit its **written determination** to the Review Committee Administrator, who will then share that determination with the faculty member and the student. The Review Committee Administrator will send a determination notification

email to the faculty member's department chair or Dean with a carbon copy to that faculty.

- a. If the committee determines that the accommodation **does not** fundamentally alter the course's essential requirements, the accommodation will be implemented. DR will work with the faculty member to provide support in implementing the accommodation.
- b. If the committee determines that the accommodation **does** fundamentally alter the course's essential requirements, the committee's written decision may also include discussion if there are alternative adjustments that could accommodate the student without fundamentally altering the course or program. DR will then continue its interactive process with the student to promptly consider any such alternative accommodations and other next steps.

4. Interim Determinations

Time is of the essence when assessing whether an accommodation fundamentally alters a course/program. The Fundamental Alteration Review Committee will convene and deliberate as quickly as practicable. If an interim decision regarding an accommodation needs to be made before the committee has completed their assessment, the interim decision will be made jointly by the Director of DR and the Review Committee Administrator, based on consultation with the student and faculty member. The interim determination will only be in place until the committee issues its final written determination.

Questions About This Process

Questions about this process may be directed to the Disabilities Resources Office. Faculty members may also direct questions to the Office of the Provost.