

BAY de NOC COMMUNITY COLLEGE BOARD OF TRUSTEES POLICIES

1000 GENERAL ADMINISTRATION

1061 DISABILITY POLICY

It is the policy of Bay de Noc Community College Board of Trustees to comply with the Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 as amended, as well as other applicable federal and state laws and regulations that promote full participation of individuals with disabilities. No otherwise qualified individual with a disability, including students, employees and other program participants, shall be excluded from or denied access to participation in, or the benefits of any program, activity, employment or service offered by the College, or otherwise subjected to discrimination, by reason of disability. The decision shall include a description of any steps the college shall take to prevent the recurrence of any discrimination and to correct discriminatory effects on the complainant and others, if appropriate.

PROCEDURE:

1061.1 Definitions

Disabled: means having a physical or mental impairment which substantially limits one or more of a person's major life activities; a record of such an impairment; or being regarded as having such an impairment.

Functional limitation: means the functions or acts a person cannot do, resulting from a physical or mental impairment which substantially limits a major life activity.

Fundamental alteration: means a significant modification that alters the essential nature of the services, programs, activities, facilities, privileges, advantages or courses offered.

Grievance: means a complaint alleging a violation of any policy, procedure or practice prohibited by the Americans with Disabilities Act, Rehabilitation Act of 1973 or Bay College's Disability and Discrimination Policies.

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Major life activities: means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Modifications: means modification or changes to the course, program or educational requirements as are necessary and appropriate, so that such requirements do not discriminate or have the effect of discriminating on the basis of disability. Academic requirements that are essential to the course, or to the program of instruction being pursued by the student, or which relate directly to licensing requirements will not be regarded as discriminatory within the meaning of this section. Potential modifications that may be considered include, but are not limited to, changes in the length of time permitted for completion of a degree, substitutions of specific courses required for the completion of degree requirements, extended time on an examination or paper, and other appropriate accommodations which do not unduly burden or fundamentally alter the essential nature of a course or instructional program.

Qualified student with documented disability: means a disabled person who meets the standards required for admission and participation in the educational program or activity.

Undue burden: means a significant difficulty, financial or administrative burden or expense.

1061.2 Procedure for Requesting an Accommodation:

Academic Accommodation

Academic Accommodation will be provided to afford equal access for qualified students with documented disabilities in compliance with state and federal laws. For each student, these accommodations will address those functional limitations of the disability which adversely affect equal educational opportunity. It is the responsibility of the student to inform the College that they have a disability and that they are requesting an accommodation. The College shall take appropriate steps to ensure that communications with students with disabilities are as effective as communications with others. Students must contact the Director of the Office of Accessibility to request an accommodation. Contact information for the Director of the Office of Accessibility is:

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Jessica Manier
Office of Accessibility
Student Success Center
Office: 811 HUB
(906) 217-4017
ooa@baycollege.edu

Students seeking an accommodation must also complete, and submit the "[Office of Accessibility Request Form](#)", along with appropriate documentation of the history and functional implications of the impairment. The "[Office of Accessibility Request Form](#)" can be completed online through the students' [myBay](#) account under "Current Student" then "Academic Support".

(Alternative formats of the form will be made available upon request.)

The diagnostic documentation submitted must adequately verify the nature and extent of the disability in accordance with current professional standards and techniques, and it must clearly substantiate the need for all of the student's specific accommodation requests. Appropriate documentation may include, but is not limited to, a letter from a qualified professional or evidence of a prior diagnosis, accommodation, or classification, such as eligibility for a special education program. If the original documentation is incomplete or inadequate to determine the extent of the disability or reasonable accommodation, the College has the discretion to require additional documentation. Any cost incurred in obtaining additional documentation when the original records are inadequate is borne by the student. If the documentation is complete but the College desires a second professional opinion, the College bears the latter cost. In general, it is not acceptable for such documentation to include a diagnosis or testing performed by a member of the student's family.

An academic accommodation is any reasonable modification or adjustment to the learning environment that makes it possible for a qualified student with a disability to enjoy an equal learning opportunity. The College is not required to make an accommodation that constitutes an undue hardship. The College is also not required to, and cannot, make accommodations which fundamentally alter the academic requirements for the degree, course requirements or basic pedagogy. The College also does not guarantee success or bear responsibility for making students succeed in their courses. The College also

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does not pay for or provide items or services of a personal nature such as personal care assistance; personal purchases; personal medical, adaptive or computer equipment; private transportation; or educational supplies used by all students (pens, paper, computer supplies, etc.). These are the responsibility of the student.

Bay College shall take appropriate steps to ensure that communications with students with disabilities are as effective as communications with others. Primary consideration shall be given to the accommodation requested by the student with a disability. If it is determined by the Director of the the Office of Accessibility that a student may be denied a modification to an academic requirement (except as permitted by the Section 504 regulation at 34 C.F.R. § 104.44, for the reason that the requested modification would fundamentally alter the nature of the program at issue or lower or waive essential program requirements), then prior to refusing any requested academic adjustment on that basis, the Director for the the Office of Accessibility shall convene, and chair, a committee, which shall be known as the Student Accommodation Committee which shall be comprised of persons knowledgeable about the student's disability, and about the program, such as faculty and department chairs. The Student Accommodation Committee shall engage in a careful, thoughtful deliberation of: the program/course requirements at issue; whether such requirements are essential; the feasibility, cost and effect on the program of the requested academic adjustments; and any available alternatives.

The Student Accommodation Committee, only after engaging in the above deliberative process, will make a determination of whether the requested academic adjustment would fundamentally alter the program or lower essential academic standards. The Student Accommodations Committee is also designated by the College President to determine whether a requested accommodation would cause financial or administrative "undue burden." The Student Accommodation Committee's decision will be communicated to the student in writing. The Student may request an alternative accommodation or the College may offer an alternative accommodation, which is subject to the review described above. The College will provide any alternative accommodation that does not result in an alteration or burden, as discussed above. The Student may also appeal the Student Accommodation Committee's decision in accordance with the procedure outlined below.

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Residential Life Accommodations

Residential life accommodations will be provided to afford equal access for qualified students with documented disabilities in compliance with state and federal laws. It is the responsibility of the student to inform the College that they have a disability and that they are requesting a residential life accommodation. A student seeking a residential life accommodation must submit a written request for the accommodation along with diagnostic documentation to the Director of Student Life at the same time the student submits his/her housing application. The request should be sent to:

Dave Laur
Director of Student Life
Escanaba Campus
(906) 217-4031
dave.laur@baycollege.edu

The written request for a residential life accommodation should include:

- The Student's name, student number, current address and telephone number;
- A description of the disability for which an accommodation is requested;
- An explanation of how the disability impacts the student's housing needs; and
- A written description of the accommodation requested.

The diagnostic documentation submitted must adequately verify the nature and extent of the disability in accordance with current professional standards and techniques, and it must clearly substantiate the need for all of the student's specific accommodation requests. All documentation must be submitted on the official letterhead of the professional describing the disability. The report should be dated and signed and include the name, title and professional credentials of the evaluator, including information about license or certification. If the original documentation is incomplete or inadequate to determine the extent of the disability or reasonable

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accommodation, the College has the discretion to require additional documentation. Any cost incurred in obtaining additional documentation when the original records are inadequate is borne by the student. If the documentation is complete but the College desires a second professional opinion, the College bears the latter cost. In general, it is not acceptable for such documentation to include a diagnosis or testing performed by a member of the student's family.

Prior to making a determine of whether to grant the accommodation, the Director of Student Life may consider all of the following: the relationship between the accommodation requested and the documented disability; the objectives of the residence life community in which the student is eligible to live; what accommodations would effectively facilitate the student's participation in the residence life program and community; and the extent to which the student's condition limit his or her opportunity to participate in other college activities. The Director of Student Life may consult with student, and anyone else the Director believes have information that assists with making a determination. The Director of Student Life shall inform the student in writing of the decision, as well as the information upon which the decision was based. Students who are not granted residential life accommodations through this process have the opportunity to appeal the Committee's decision using the procedure below.

Employment Accommodations

Any employee seeking an employment accommodation must submit a written request to the Director of Human Resources:

Beth Berube
Director of Human Resources
Escanaba Campus
(906) 217-4036
beth.berube@baycollege.edu

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The written request must state:

- The employee's name and job title;
- The employee's current supervisor;
- A description of the employee's disability;
- A detailed description of the accommodation being requested;
- A detailed explanation of how the requested accommodation will assist the employee in performing the essential functions of his/her job;

The employee must also submit, attached to the written request, diagnostic documentation from a licensed clinical professional familiar with the history and functional implications of the disability. The disability documentation must adequately verify the nature and extent of the disability in accordance with current professional standards and techniques, and it must clearly substantiate the need for all of the employee's specific accommodation requests. All documentation must be submitted on the official letterhead of the professional describing the disability. The report should be dated and signed and include the name, title and professional credentials of the evaluator, including information about license or certification. If the original documentation is incomplete or inadequate to determine the extent of the disability or reasonable accommodation, the College has the discretion to require additional documentation. Any cost incurred in obtaining additional documentation when the original records are inadequate is borne by the employee. If the documentation is complete but the College desires a second professional opinion, the College bears the latter cost. In general, it is not acceptable for such documentation to include a diagnosis or testing performed by a member of the employee's family.

The Director of Human Resources, within two (2) business days of receiving a written request for an employment accommodation, will submit the employee's written request to the employee's supervisor for comment. The employee's supervisor will be responsible for reviewing the request and determining what impact the accommodation will have in the following areas:

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Operations - if providing the accommodation would be unduly disruptive to the department or the College's ability to conduct business, then the supervisor may indicate his/her opinion that the accommodation would be an undue hardship. For example, flexible scheduling may not be able to be accomplished without negatively affecting the operation of a particular department.

Staffing - if the accommodation will create a heavier workload for other employees in the department, the supervisor may indicate that this may pose an undue hardship.

Budget - when determining whether the cost of the accommodation may be an undue hardship, the focus should be on the financial resources available to the College. If the supervisor feels that the cost of providing the accommodation would be an undue hardship, he/she can indicate this on the request form.

The Supervisor will conduct this review within five (5) business days after receiving the request from the Director of Human Resources. After conducting the above review, the Supervisor will forward a written statement to the Director of Human Resources stating either that the requested accommodation does not pose an undue hardship or that the requested accommodation poses an undue hardship. The Supervisor's written statement shall contain the basis of his/her decision, including an analysis of the above criteria.

Within two (2) business days of receiving the Supervisor's recommendation, the Director of Human Resources will consult with the employee and the Supervisor about the request and the Supervisor's recommendation. The consultation may include determining alternatives or modifications to the requested accommodation. The consultation may be in person or by telephone. The Director of Human Resources will then forward the request and the Supervisor's recommendation to the appropriate Vice President of the College, who will then review the request, the Supervisor's recommendation and all available information and make a final determination of whether the requested accommodations poses an undue hardship. Within five (5) days, the Vice President will make his/her final determination and forward that determination in writing to the Director of Human Resources. The Vice President may ask for additional information, or discuss the request and

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recommendation with the employee and supervisor, so long as this is done with the five (5) day decision making period.

The Director of Human Resources will then meet with the employee and supervisor and inform them of the Vice President's decision. If the Vice President approved the requested accommodation, the Director of Human Resource will work with the employee and supervisor to ensure that the requested accommodation is implemented. The supervisor shall periodically follow-up with the employee to ensure that the accommodation is adequate for the employee to perform his/her essential job duties. The supervisor shall report in writing his/her findings regarding this follow-up to the Director of Human Resources.

1061.3 Disability Grievance and Appeal Procedure

Student Grievance and Appeal Procedure

Any student who believes that he or she has been discriminated against on the basis of his or her disability or has been denied access or accommodations required by law may file a grievance or appeal to the College in accordance with the procedures outlined below. Specifically, students may file a grievance or an appeal about:

1. A requested service or accommodation, including appeals of the Office of Accessibility's determinations regarding accommodations;
2. Inaccessibility of a college program or activity;
3. Harassment on the basis of disability in violation of College policy;
or
4. Any other alleged College violation of the ADA or the Rehabilitation Act.

This is the procedure for complaints against the College itself, or College's employees or agents related to disability discrimination. Also, this is the complaint procedure to be used related to disability discrimination by any third-party, which would include, but not be limited to: parties (and their employees) contracting the College or visitors at the College. This is not the

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procedure for students initially seeking an academic accommodation. Students who have a disability that require accommodations should follow the procedure outlined above. This is also the procedure for allegations by students against other students or student organizations.

Informal Grievance Procedure

The College encourages informal resolution of grievances regarding complaints of discrimination. However, students are not required to resolve their grievances informally, and they may proceed directly to filing a formal grievance or appeal. Informal resolution involves the student directly addressing his/her concerns, either in person or in writing, with the individual directly responsible for the concerned actions. If the matter is not resolved, the student may then proceed through the formal grievance or appeal process.

Formal Grievance or Appeal

All formal grievances regarding complaints of discrimination and appeals from the denial of a requested accommodation must be submitted in writing to:

Jessica Manier
Director of the Office of Accessibility
Student Success Center
Office: 811 HUB
(906) 217-4017
ooa@baycollege.edu

within ten (10) business days of the alleged discrimination or denial of a requested accommodation. The Director shall submit the formal grievance or appeal within two (2) business days to the Grievance/Appeals Committee Chairperson. A written grievance regarding a complaint of discrimination or appeal of the denial of a requested academic accommodation must state the following:

- The grievant's name, student number, address, e-mail address, and phone number.

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- A clear statement of the request or concern, identifying the type of grievance or appeal and the grounds on which the complaint is based, such as: (i) disagreements regarding disability status, requested service, accommodation, or modification of a College/Course practice or requirement; (ii) inaccessibility of a program or activity; (iii) harassment or discrimination on the basis of disability in any College program or activity, including grade disputes and reinstatement; (iv) violation of privacy in the context of disability; (v) complaints of retaliation based on having filed or participated in a prior complaint of disability discrimination at the College. This statement must also include all relevant and necessary facts related to the grievance or appeal.
- The date of action the alleged discrimination occurred.
- The names of all College members involved.
- A description of what efforts, if any, have been made to resolve the issue informally.
- A statement of the remedy requested.

The Grievance/Appeals Committee, shall be appointed by the President, and will have the authority to recommend sanctions on any instructor, student or staff member appearing before it. The chairperson of the Grievance/Appeals Committee is appointed by the President. The Grievance/Appeals Committee will consist of two faculty members, two staff members, and one student to equal a total of five members. The College President may appoint alternates as becomes necessary. All committee members must be present to constitute a quorum and hear a case. To ensure a fair and impartial hearing, any member of the committee who has a direct interest in the case should recuse himself/herself from the committee, and an appropriate alternate shall serve on the committee for that case.

Upon a written (or alternative format) request to the Grievance/Appeals Committee, the committee chairperson will within three (3) business days contact the committee members to arrange a hearing date, time, and place and will advise the Director of the Office of Accessibility of such. The Director of the Office of Accessibility will issue a written notice to the student at mailing

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address stated on the grievance or appeal. The student will be given at least five (5) business days' notice of the date, time and place of the scheduled hearing. The hearing shall be conducted no later than fifteen (15) days from the date the grievance/appeal is filed.

All Grievance/Appeals Committee hearings will be conducted in private in order to protect the confidential nature of the proceedings. Any student or employee requiring accommodations for this hearing shall make the request for such accommodations to the Director of the Office of Accessibility at least three (3) business days prior to the hearing. In the event that an essential accommodation cannot be provided by the College by the date of the hearing, the hearing shall be rescheduled with the respective date to be no more than one week later. The chairperson will preside at the hearing, and be responsible for ensuring that procedural matters are followed. The hearing shall be of an informal nature and need not adhere to the rules of procedure or technical rules of evidence followed by courts of law.

Deviations from prescribed procedures will not necessarily invalidate a decision or proceeding unless significant prejudice to a student or the College. A written record of the proceedings will be kept by the committee chairperson. No audio recordings will be permitted. The record of the hearing will be filed in the office of the President and only for the purpose of appeal be accessible to the College and the student. Neither party shall be represented by counsel, however, both parties may have counsel present in the room as silent observers.

Hearings will proceed in the following order:

1. reading of the charges by the committee chairperson;
2. the grievant's statement of position with respect to the charges (no more than 5 minutes);
3. the presentation of evidence by the respondent and questions by the Grievance/Appeals Committee members (no more than 10 minutes total, including questions);

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4. the presentation of evidence by the grievant and questions by the Grievance/Appeals Committee members (no more than 10 minutes, including questions);
5. brief closing statements by both parties (no more than 3 minutes with the respondent speaking first, followed by the grievant).

Upon conclusion of the hearing, the Grievance/Appeals Committee will consider the merits of the case. The Grievance/Appeals Committee chairperson will transmit the Committee's findings and determinations in writing, to only the grievant, the respondent, and the Director of the Office of Accessibility within three (3) business days. The decision of the Grievance/Appeals Committee is final. The decision shall include a description of any steps the college shall take to prevent the recurrence of any discrimination and to correct discriminatory effects on the complainant and others, if appropriate.

In the event the appeal challenges a determination regarding an academic accommodation of the Student Accommodation Committee, the Committee Chair person shall present the respondent's evidence. In the event the appeal challenges a determination regarding a residential life accommodation, the Director of Student Life shall present the respondent's evidence.

Employee Complaint Procedure

Any employee who believes that he or she has been discriminated against on the basis of his or her disability may file a grievance under this procedure. The Director of Human Resources is responsible for handling all complaints of discrimination, including disability based discrimination.

Any employee who believes that they have been discriminated against on the basis of a disability shall provide a written complaint to the Director of Human Resources:

Beth Berube
Director of Human Resources
Escanaba Campus
(906) 217-4036
beth.berube@baycollege.edu

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The written complaint must contain the following information:

- The employee's name and job title;
- The employee's current supervisor;
- The name of the individual the employee believes has discriminated against him/her;
- A detailed description of the behavior which the employee believes shows that he/she was discriminated against;
- A description of any action the employee has taken to resolve the alleged discrimination;
- A list of the names of each and every individual the employee believes to have witnessed the discriminatory activity.

The employee shall sign the written complaint. Within five (5) business days of receiving the written complaint, the Director of Human Resources, shall commence an investigation into the allegations included within the complaint. The investigation will include interviewing: the employee, the accused, the employee's and accused's supervisor, and any witnesses identified. The investigation may also include reviewing any appropriate documentation and/or policies, and any other action(s) the Director of Human Resources deems necessary to completing the investigation. To complete the investigation, the Director of Human Resources will make a final determination on the merits of the complaint. The Director of Human Resources will document in writing his/her findings and determination. If the Director of Human Resources determined that the complaint has merit, the following actions will be taken:

- The Director of Human Resources will coordinate with the appropriate supervisor(s) and vice president(s) to determine what action is necessary to resolve the complaint and prevent a reoccurrence.

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- The Director of Human Resources will inform the employee and the accused in writing of the findings and determination, and where appropriate, of the action to be taken.
- Appropriate discipline will be imposed where applicable, based upon the severity of the incident and the prior record of the accused. In the event that the penalty imposes less than termination of employment, the Disability Policy will be reviewed with the offender.
- The findings and determination, as well as the documented disciplinary action will be placed in the offender's personnel file.
- All documentation regarding the complaint and investigation will be maintained in a separate file. The College will discard this file three (3) years after the date of the findings and determination, unless litigation or charges have been brought related to the complaint and investigation.

In the event the Director of Human Resources determined that the grievance is without merit, the following actions will be taken:

- The findings and determination will be discussed individually with the grievant and the person about whom the complaint was made. In addition, the individuals who need to know (in the opinion of the College) will be advised of the findings and conclusions.
- All references to the complaint will be removed from the personnel file to the person about whom the complaint was made and the grievant.
- All documentation regarding the complaint and the investigation will be maintained in a separate file. The employer will discard this file three (3) years after the date of the findings and determination, unless litigation or charges have been brought relating to the complaint and the investigation.

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1061.4 Information

Appropriate notice will be provided to students of these procedures in publications such as the college catalog, class schedules, business & industry training materials, promotions of college-sponsored events, course syllabi and the college's website. New employees should be notified of these procedures when hired. Existing employees can access them from the College's posted procedures. The Director of Human Resources and the Director of the Office of Accessibility shall annually provide training to students and employees regarding Bay College's unlawful discrimination and unlawful harassment policies and procedures. All first year employees and first year students are required to participate in this mandatory training. Additionally, all first year supervisors are required to participate in this mandatory training. In years thereafter, in years in which a substantive policy or procedural change has occurred all College employees will attend a training update and receive a copy of the revised policy and procedure. Training for academic staff will emphasize potential unlawful harassment in the classroom environment.

1061.5 Monitoring Compliance

Once a year the ADA Disabilities Committee should meet to review requests for accommodations during the past year. Likewise, new projects to improve accessibility for students, employees, and guests with disabilities should be considered. Those recommendations will be submitted in writing to the Vice President of Administrative Services. The committee should include representation from administration, faculty, instructional support, human resources and student services. The committee should meet prior to completion of the annual budget development process. Annual walk-through of the college's buildings will be performed.

1061.6 Outside Agencies' Programming

Individuals requesting accommodation for participation in activities sponsored by an off-campus agency should request accommodation services from the sponsoring agency.

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1061.7 Prohibition Against Retaliation

Retaliation and/or reprisals against an individual who in good faith reports or provides information in an investigation about behavior that may violate this policy are against the law and will not be tolerated. Intentionally making a false report or providing false information, however, is grounds for discipline. The College expressly prohibits retaliation against any employee and/or student who brings forth any complaint or assists in the investigation of any complaint regarding discrimination of any kind, including discrimination on the basis of disability.

1061.8 Compliance

Compliance inquires about the ADA and Section 504 of the Rehabilitation Act may be directed to:

Travis Blume
Vice President Student Services
(906) 217-4116
travis.blume@baycollege.edu

1061.9 Responsibility/Reporting

All employees, agents and representatives have a responsibility for keeping the campus community free of conduct that violates this Policy. Any employee who becomes aware of an incident of unwelcome behavior towards another individual, which may violate this Policy, whether by witnessing the incident or being told of it, must report it to the Director of Human Resources in writing as provided above. Individuals who do not report incidents in accordance with this Policy will be subject to discipline, up to and including termination. The College shall endeavor to take prompt and appropriate action whenever a report is made regarding a violation of this Policy, regardless of whether the subject of the offensive behavior wants it to do so.

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