



# ADA Compliance

## Title II Procedures 2022-2023

Effective: November 1, 2022

*The University of Colorado Boulder does not discriminate on the basis of race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation or political philosophy in admission and access to, and treatment and employment in, its educational programs and activities.*

*The information contained within the Title II Procedures is intended to provide general information to the public and members of the CU Boulder community and is not intended to, nor does it, create an express or implied contract between the OIEC or CU Boulder and members of the public. The OIEC reserves the right to change or eliminate any of the language herein at its discretion and without notice. In addition, nothing in the Title II Procedures is intended to conflict with applicable case-law or judicial interpretations of the laws referenced within; in the event of conflict, applicable case-law or judicial interpretations control.*

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## **A. Overview and Mission of ADA Compliance**

ADA Compliance is a unit within the Office of Institutional Equity and Compliance responsible for compliance with applicable civil rights laws and university policy related primarily to the Americans with Disabilities Act (ADA). ADA Compliance is charged with ensuring all members of the public, including the CU Boulder Community, receive access, support, and, when applicable, reasonable accommodations to ensure that qualified individuals with disabilities enjoy full participation in services, programs, and activities available through CU Boulder.

ADA Compliance supports the ongoing development of an accessible university that embraces and celebrates diversity and inclusive excellence by providing disability-related information, services, and resources for members of the CU Boulder community and visitors. ADA Compliance is responsible for educating the campus community about disability laws and promoting equal access and opportunity for those with disabilities.

Additionally, ADA Compliance collaborates with its campus partners and select vendors to address the structural and physical accessibility needs of the campus community (in partnership with Facilities Management and Housing Facilities Services), effective communication needs of the public including American Sign Language interpretation, captioning, and other accessible communication formats, and policy modifications to ensure equal access. For additional information regarding all disability-related resources on campus, please visit: <https://www.colorado.edu/campus-accessibility>.

## **B. Purpose and Scope**

The ADA Compliance Title II Procedures are intended to comply with the related requirements of the following laws, their implementing regulations, and related agency guidance, including:

**[American with Disabilities Act \(“ADA”\)](#)**: The ADA is a federal law that in applicable part prohibits discrimination on the basis of disability in employment and state and local governments, like public universities. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Title II of the ADA requires the university to provide people with disabilities an equal opportunity to benefit from all programs, services, and activities, and provides that the university may be required to make reasonable accommodations and modifications to programs, services or activities that it provides unless the university demonstrates that the requested accommodation or modification would “fundamentally alter” such programs, services or activities.

**Colorado Anti-Discrimination Act (“CADA”)**: CADA is a state law that in applicable part prohibits disability discrimination in employment, housing, and public accommodations. CADA incorporates the Pregnant Workers Fairness Act requiring that employers must provide reasonable accommodations to applicants and employees for health conditions related to pregnancy or the physical recovery from childbirth if the applicant or employee requests the reasonable accommodations, unless the accommodation would impose an undue hardship on the employer’s business.

**Section 504 of the Rehabilitation Act of 1973 (“Section 504”)**: Section 504 is a federal law that protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. Section 504 provides that qualified individuals with a disability shall not, solely by reason of their 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.

This document also constitutes CU Boulder’s “grievance process” related to Title II.

CU Boulder policy prohibits discrimination and harassment based on protected-class identity, including disability. Unfair treatment or intimidating behavior aimed at any member of the campus community based on an aspect of identity protected by CU Boulder policy is reportable to the university. ADA Compliance may refer complaints of disability discrimination or other protected class discrimination/retaliation to the case resolutions unit of the [Office of Institutional Equity and Compliance](#) for investigation, when appropriate. Individuals who experience discrimination or harassment because of a disability should contact the Office of Institutional Equity and Compliance directly at (303) 492-2127 or [cureport@colorado.edu](mailto:cureport@colorado.edu).

## **C. Definitions**

**Accessibility** means that a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally inclusive manner, with substantially equivalent ease of use.

**Architectural Barriers** are physical features that may limit or prevent people with disabilities from accessing offered programs or services in facilities. They can include, for example, parking spaces that are too narrow to accommodate people who use wheelchairs; round doorknobs or door hardware that is difficult to grasp; aisles that are too narrow for a person using a wheelchair, electric scooter, or a walker; a high counter or narrow checkout aisles at a cash register, and fixed tables in eating areas that are too low to accommodate a person using a wheelchair or that have fixed seats that prevent a person using a wheelchair from pulling under the table.

**Disability** is defined under the ADA as any of the following: (1) a physical or mental impairment that substantially limits one or more major life activities of an individual; (2) a record of this kind of impairment; or (3) being regarded as having such an impairment.

**Equal Access** is the equal opportunity of a qualified person with a disability to participate in or benefit from employment or educational aid, benefits, or services.

**Event Accommodation** is an adjustment, auxiliary aid, or service that provides a qualified individual with a disability equal access to an event, lecture, meeting, or facility. Event accommodations can include, but are not limited to, interpreters, captions, written materials in alternate format, listening devices, and physically accessible locations.

**Fundamental Alteration** is a change that is so significant that it alters the essential nature of the program services, facilities, privileges, or advantages offered.

**Interactive Process** is a practice in which an individual seeking accommodation and the relevant university representatives identify the precise limitations caused by the disability, how the limitations impact the individual in the workplace, and how best to respond to the need for accommodation. This is the mutual communication process between the individual and the university that is triggered by the individual giving notice of the individual's medical condition and the individual's interest in or need for an accommodation or modification. The interactive process requires both parties to directly communicate, exchange essential information, and provide good-faith consideration of possible accommodations to identify an accommodation or modification that allows members of the public, including students and employees of the university, equal access to the campus and its services, programs, employment opportunities, and events. For privacy considerations during the interactive process, see Section D.iii below.

**Major Life Activities** include, but are not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, major bodily functions, and working.

**Qualified Individual** is an individual with a disability who with or without reasonable modification meets the essential requirements for participation in the activity, program, or service.

**Reasonable Modification** is a change in policies, practices, or procedures; removal of architectural, communication, or transportation barriers; or provision of auxiliary aids and services. The purpose of a reasonable modification is to avoid discrimination on the basis of disability. A reasonable modification does not fundamentally alter the nature of the service, program, or activity.

**Substantial Limitation** is the inability to perform a major life activity or a significant restriction as to the condition, manner, or duration under which a person can perform a particular major life activity as compared to the average person in the general population.

**Undue Hardship** is an action requiring significant difficulty, expense, or disruption when considered in light of factors such as the university's size, financial resources, nature and structure of its operation, and the impact of the accommodation on operations and the ability on other employees to performing their job.

## **D. Title II Accommodations Process**

The university provides reasonable accommodations or modifications to individuals (including but not limited to members of the CU Boulder community, visitors to campus, and members of the public) with a disability, experiencing pregnancy, or lactating, in order to enable the individual to participate fully in services, programs, or activities offered by CU Boulder. Examples of reasonable accommodations or modifications may include, but are not limited to: making existing facilities readily accessible to and usable by persons with disabilities, facilitating effective communication, adjusting or making exceptions to campus policies, providing assistive technology, or implementing emergency access plans.

An individual seeking a reasonable accommodation for their visit, participation or attendance in an event, program, or activity should contact ADA Compliance by email at [adacoordinator@colorado.edu](mailto:adacoordinator@colorado.edu) or by phone at (303) 492-9725 **at least two weeks in advance of the anticipated need**. If an individual makes a request to an event organizer or facility manager, the organizer or manager should refer the individual to ADA Compliance, and the organizer or manager should also contact ADA Compliance directly to communicate the request. For requests related to an ongoing need for accommodations, ADA Compliance will assess requests as long as there is an anticipated future need. Regardless of when a request is received by ADA Compliance, every effort will be made to respond to the request in advance of the anticipated need.

### **i. Interactive Process to Assess for Reasonable Accommodation**

ADA Compliance will engage in an interactive process to discuss and identify (1) whether the individual has a disability, pregnancy, or lactation need pursuant to applicable law and if so, (2) what reasonable accommodations or modifications will ensure access. The interactive process requires good faith participation from both the individual and the university.

ADA Compliance, in collaboration with event organizers and facility managers, will determine the feasibility and reasonableness of any potential accommodation, considering factors such as the nature and cost of the accommodation, the accommodation's impact on the operation of the facility or event, and the accommodation's impact on the ability of other attendees or participants to access and participate in the event or facility. The university is not required to provide personal use items or amenities (a personal use item is one that is needed in accomplishing daily activities - thus, the university is not required to provide an

individual with a prosthetic limb, a wheelchair, eyeglasses, hearing aids or similar devices if they are also needed in daily life activities). In addition, the university is not required to provide the individual's preferred accommodation and may instead identify reasonable alternatives for accommodations which are effective in removing barriers that impede access for the individual with a disability.

## **ii. Notification**

After engaging in an interactive process, ADA Compliance shall notify in a timely manner, via email or telephone, the individual and the event organizer or facility manager of any approved accommodation, as well as any others with a legitimate need to know the accommodation to effectively implement the accommodation.

## **iii. Privacy and Confidentiality**

Disability-related information is treated as private information, meaning that information will be shared only with a limited number of individuals who have a legitimate need to know in order to assist in the review of the accommodation request, the determination, and the implementation of accommodation(s).

General disability-related information is distinguished from confidential medical information submitted by individuals and/or their medical providers regarding specific diagnoses or conditions. ADA Compliance personnel who receive confidential medical information for purposes of evaluating requests and determining accommodations receive specific training and guidance about safeguarding this confidential medical information in accordance with applicable laws. Confidential medical information is not shared by ADA Compliance without express permission of the individual or as otherwise permitted or required by law.

## **E. Title II Grievance**

If an individual does not believe the Title II accommodation determination effectively meets their need, the individual can submit a grievance to the Director of ADA Compliance/ADA Coordinator within the OIEC.

### **i. Grievance Process**

**An individual who wishes to grieve a Title II determination must submit a written statement to the Director of ADA Compliance/ADA Coordinator to be received within ten (10) business days of the accommodation determination responsive to their original request.** Grievances may be submitted by email to: [adacoordinator@colorado.edu](mailto:adacoordinator@colorado.edu) or by fax to 303-496-2330. For assistance with submission, individuals can call 303-492-9725.

The individual's statement should indicate the following relevant information:

- a. Date accommodation request was submitted to ADA Compliance;
- b. Original requested accommodation(s);
- c. Explanation or summary of how or why the Title II determination did/will not meet the individual's needs;
- d. Detailed information about any upcoming or ongoing need for accommodation, including date, time, location, and specific requested accommodation; and
- e. Specific basis for grievance review (see below) and supporting arguments. If material information that was previously unavailable is submitted, the matter will be referred for re-engagement in the interactive process.

## **ii. Basis for Grievance Review**

If a requested accommodation was denied in whole or in part, identify:

- a. Any procedural errors by ADA Compliance that materially impacted the interactive process or the determination to deny the requested accommodation(s); or
- b. Any information made available during the interactive process that was not adequately considered by ADA Compliance; or
- c. Any factual or analytical errors in the Title II determination notification which materially impacted the denial of accommodation(s).

If no basis for grievance is specified in the grievance, or if the grievance indicates no future or ongoing need for accommodation, the submission will be considered by the Director of ADA Compliance for feedback purposes, but no grievance determination will be made.

## **iii. Grievance Determination**

When the grievance submission relates to a future or ongoing need for accommodation, the Director of ADA Compliance/ADA Coordinator will consider information available during the interactive process, the Title II determination, and the individual's grievance statement before making a grievance determination. The determination of the Director of ADA Compliance/ADA Coordinator may result in:

- a. Upholding the determination in its entirety;
- b. Sending information back for reconsideration (by the same or different employees within ADA Compliance) and reengagement in the interactive process; or
- c. Reversing or amending the Title II determination in part or in whole.

The decision of the Director of ADA Compliance/ADA Coordinator is final and not subject to further appeal.

## **F. Employee Applicants Seeking Reasonable Accommodation**

The university will not deny employment to any qualified applicant with a disability, nor will it subject any applicant to discrimination in recruitment activities. Any interview or hiring evaluation results will be treated equally, regardless of any accommodation that may have been provided during evaluation or interview.

An employee applicant to a position at the university who has a disability is entitled to reasonable accommodation(s) to enable the applicant to fully participate in the application process. An employee applicant to a position at the university may contact the Human Resources recruiter for the position to which they are applying to request an accommodation, or they may contact ADA Compliance directly. Requests for accommodation during the application process will be handled as expeditiously as possible. Please see our [universal design applicant interview procedures](#).

## **G. Related Policies**

- i. [CU Boulder Discrimination and Harassment Policy](#)
- ii. [ADA Compliance Employee Accommodation Procedures](#)

### **Contact Information:**

Director of ADA Compliance and ADA Coordinator: Caitlin M. O'Donnell

[Office of Institutional Equity and Compliance – ADA Compliance](#)

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