

Digital Accessibility Exceptions Procedure

Exception: In accordance with the ADA, some digital content or tools **may** qualify for an exception to the technical standards of Subpart H. All exceptions are considered on a case by case basis and require individual analysis. Departments or offices with digital content or tools that **may** qualify for an exception must submit a request for an exception following the procedure outlined below.

- A. Exceptions are limited and require written documentation. The burden of demonstrating an applicable exception is on the requestor. Content may qualify for an exception for the following reasons:
 1. Undue Burden: To qualify for this exception, the requestor must demonstrate that compliance with the policy would result in an undue financial or administrative burden. Consideration for undue financial or administrative burden includes assessment of all resources available for use in the funding and operation of the service, program, or activity.
 2. Fundamental Alteration: To qualify for this exception, the requestor must demonstrate that compliance with the policy would result in a fundamental alteration in the nature of a service, program, or activity. A fundamental alteration is a change that is so significant that it alters the essential nature of the program, activity or service. For example, the activity may be necessary to achieve a core learning outcome.
 3. Technical or Legal Limitations: To qualify for this exception, the requestor must demonstrate that the content or tool cannot be made accessible due to technical limitations or legal limitations. A content or tool may have a technical limitation if the technology is not yet capable of being made accessible. A legal limitation may occur if the content or tool cannot be changed due to legal reasons.
 4. Minimal Impact: To qualify for this exception, the requestor must demonstrate that nonconformance to the policy has such a minimal impact on access that it would not affect the ability of individuals with disabilities to use the web content or mobile app in a manner that provides substantially equivalent timeliness, privacy, independence, and ease of use compared to individuals without disabilities.
- B. Requests for exceptions to this policy must be submitted in writing to the Director of Accessibility using the Request for Exception form. In order to be considered for an exception, the requestor must provide the following:
 1. Written documentation of efforts to make the impacted digital content or digital tool accessible. This may include:

2. Research involving accessibility capabilities for software or course materials
 3. Research regarding best practices in the industry or academic field
 4. Vendors Accessibility Conformance Report
 5. Research regarding alternative options for course development or software
 6. A cost analysis of the financial impact of making the content or software accessible
 7. Critical Use: an explanation of the critical need for the content or tool. For example, is the content or tool critical to the operation of the University?
- C. The Director of Accessibility will review the request for exception and make a recommendation in writing to the Senior Associate Vice President of Finance and Operations for approval or denial. The requestor will be notified via email by the Director of Accessibility regarding the determination of the request. The Director of Accessibility and the Senior Associate Vice President of Finance and Operations may consult the Office of General Counsel as necessary.
- D. Exceptions to the Digital Accessibility policy are not permanent. Requestors may be required to assess the accessibility of the content or tool on an ongoing basis. If a more accessible version or opportunity arises, the requestor is expected to utilize the new content or tool.
- E. If an exception is granted, the requestor is still required to comply with the ADA and must take any other action to ensure that to the maximum extent possible, individuals with disabilities receive the benefits or services being provided. This may require the requestor to provide a Conforming Alternative Version or Equivalent Facilitation as described below.
1. Conforming Alternative Versions: A requestor may use conforming alternative versions only where it is not possible to make web content directly accessible due to technical limitations or legal limitations. If an exception has been granted, Title II requires an Alternative Conforming version to be provided for individuals with disabilities. Alternative Conforming Version is defined as a version that conforms at the designated level, provides all of the same information and functionality in the same human language and is up to date as the non-conforming content. Conforming versions must be accessible via the non-conforming page or content and vice versa.
 2. Equivalent Facilitation: A requestor may use equivalent facilitation when it is not possible to make the content or tool conform to WCAG 2.1AA. Equivalent Facilitation is the use of designs, methods, or techniques as alternatives to those provided and result in substantially equivalent or greater accessibility and usability of the content or tool. The requestor must make the equivalent facilitation available at the same time the content or tool is available.
- F. If a request for Exception is denied the Director of Accessibility may assist the requestor with identifying different content or tools that are accessible. If a

request for Exception is approved, the requestor will work with the Director of Accessibility to determine Conforming Alternative Versions or Equivalent Facilitation to be made available.

- G. The decision of the SAVP is not subject to appeal. Requests for reconsideration, accompanied by updated supporting documentation, may not be submitted until a minimum of 12 months have passed since the date of the previous request.