



**POLICY TITLE**  
***AMERICANS WITH DISABILITIES ACT &***  
***PREGNANT WORKERS FAIRNESS ACT***

**POLICY NUMBER:**  
***SUS-10-001***

<b>Responsible Unit:</b> <i>System Office for Compliance</i>	<b>Effective Date:</b> <i>10/19/2024</i>
<b>Responsible Official:</b> <i>System Director for Compliance</i>	<b>Last Reviewed Date:</b> <i>10/19/24</i>
<b>Policy Classification:</b> <i>Legislative Affairs &amp; Legal</i>	<b>Origination Date:</b> <i>09/16/2023</i>

**I. POLICY STATEMENT AND RATIONALE**

The Southern University System (System) is fully committed to ensuring compliance with the requirements of the Americans with Disabilities Act of 1990 and its Amending Act of 2008 (collectively “ADA”) to include:

- Title I: Prohibits discrimination against qualified individuals with disabilities in all employment practices, including recruitment, hiring, advancement, compensation, fringe benefits, job training, and other terms, conditions, and privileges of employment. Upon request, the System shall engage in an interactive process and may approve reasonable accommodations, unless the requestor is not a qualified individual; doing so poses an undue hardship to the System; or poses a direct threat to the health or safety of the individual with a disability or others.
- Title II: Ensures qualified individuals with disabilities have equal access to the full range of programs, services, activities, and facilities of the System. Upon request, the System may provide a reasonable accommodation, unless the requestor is not a qualified individual; doing so would fundamentally alter the nature of the System’s service, program, or activity; or poses a direct threat to the health or safety of the individual with a disability or others.

Additionally, the System is fully committed to ensuring compliance with the requirements of the Pregnant Workers Fairness Act (PWFA), which makes it an unlawful employment

practice to:

- Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless the System can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the System.
- Require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived through the interactive process.
- Deny employment opportunities to a qualified employee if such denial is based on the need of the System to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee.
- Require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee.
- Take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

The purpose of this Policy is to outline and unify the System's standards and procedures for ADA and PWFA compliance. This Policy may be referred to as the Americans with Disabilities Act Policy or the Pregnant Workers Fairness Act Policy.

The System Office for Compliance may develop supplemental procedures and forms to further support the implementation of this Policy among the institutions of the System. However, this Policy establishes various mandatory obligations with which all supplemental procedures and forms must comply.

## **II. POLICY SCOPE AND AUDIENCE**

This Policy applies to all System employees, applicants for employment, students, and members of the general public the receives services from the System.

## **III. POLICY COMPLIANCE**

The System and its institutions are subject to this Policy and all related procedures and forms. Each Institution's ADA Coordinator is the responsible official for the implementation of this Policy on the institutional level.

Violations or failure to adhere to this Policy may result in action under the appropriate handbook for faculty and staff, including termination, and discipline under the appropriate code of conduct for students.

#### IV. POLICY DEFINITIONS

1. **ADA Coordinator:** The System’s representative responsible for facilitating the interactive evaluation process relative to any request for accommodation. Each institution of the System shall name an ADA Coordinator. The ADA Coordinator’s contact information shall be available on the website of each institution of the System.
2. **Direct Threat:** A significant risk of substantial harm to the health or safety of an individual with a disability or others that cannot be eliminated or reduced by reasonable accommodation.
3. **Disability:** Under the ADA, the term “disability” means, with respect to an individual: (1) a physical or mental impairment that substantially limits one or more major life activities of such individual; (2) a record of such impairment; or (3) being regarded as having such an impairment. An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. Impairments that are transitory and minor do not qualify. A transitory impairment is defined as an impairment with an actual or expected duration of six (6) months or less.
4. **Essential Functions:** The fundamental and primary job duties of a position. Considerations in determining whether a function is essential include such factors as the written job description; whether the reason the position exists is to perform that function; the limited number of employees available to perform that function; and the degree of expertise required to perform the function.
5. **Impairment:** Any physiological, mental, or psychological disorder or condition, including those that are episodic or in remission, that substantially limits one or more major life activities when active.
6. **Known Limitation:** Under the PWFA, means physical or mental conditions related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the System whether or not such condition meets the definition of disability under the ADA.
7. **Major Life Activities:**
  1. Generally, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
  2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an

individual organ within a body system.

8. **Open Meeting:** A meeting of the System as defined in La. R.S. 42:11, et seq.
9. **Qualified Employee:**
  1. Under the PWFA, an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if: (a) any inability to perform an essential function is for a temporary period; (b) the essential function could be performed in the near future; and (c) the inability to perform the essential function can be reasonably accommodated.
10. **Qualified Individual:**
  1. Under Title I of the ADA, an individual with a disability who meets the requisite skill, experience, and education requirements for the position and who can perform the essential functions of the position held or applied for, with or without reasonable accommodation(s).
  2. Under Title II of the ADA, an individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the System, with or without reasonable accommodation(s).
11. **Reasonable Accommodations:**
  1. Under Title I of the ADA and the PWFA, a modification or adjustment to the work environment that will enable a qualified individual with a disability to:
    - i. Participate in the testing, application, or interview process;
    - ii. Perform the essential functions of the job; or
    - iii. Provide equal opportunity to the benefits and privileges of employment.
  2. Under Title II of the ADA, a modification that permits an individual with a disability to effectively communicate with the System or ensure equal opportunity relative to the System's programs, services, activities, and facilities.
12. **Southern University System or System:** The Southern University System and its institutions.
13. **Substantially Limits:** An impairment that prevents the ability of an individual to perform one or more major life activities as compared to most people in the general population when taking into consideration factors such as the nature, severity, duration, and long-term impact of the condition. Such consideration must be regardless of any mitigating measures such as modifications, auxiliary aids or medications used to lessen the effects of the condition (except for use of ordinary eyeglasses or contact lenses).
14. **Undue Hardship:** An accommodation that would be unduly costly, extensive, substantial or disruptive, in light of factors such as the size of the System, the resources available, and the nature of the System's business operations.

## V. POLICY IMPLEMENTATION PROCEDURES

## A. NOTICE OF NON-DISCRIMINATION

The following Notice of Non-Discrimination must be distributed to all students, employees, applicants for admission and employment, and other relevant individuals. The notice must be posted, prominently displayed on the website of each institution of the System, and included in publications of general distribution that provide information to students and employees.

*In accordance with the requirement of Title II of the Americans with Disabilities Act of 1990 and its Amending Act of 2008 (collectively “ADA”), the Southern University System (System) will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The System does not discriminate on the basis of disability or pregnancy in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA and the Pregnant Workers Fairness Act. The System will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the System’s programs, services, and activities, including qualified sign language interpreters, assistive listening devices, documents in Braille, and other ways of making communications accessible to people who have speech, hearing, or vision impairments. The System will make reasonable modifications to policies, procedures, and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the System, should contact the ADA Coordinator. The ADA does not require the System to take any action that would fundamentally alter the natures of its programs or services or impose an undue financial or administrative burden. Complaints that a program, service, or activity of the System is not accessible to persons with disabilities should be directed to the ADA Coordinator.*

*ADA Coordinator: (INSERT THE NAME OF ADA COORDINATOR)*

*Email: (INSERT THE ADA COORDINATOR’S EMAIL ADDRESS)*

*Telephone: (INSERT THE ADA COORDINATOR’S TELEPHONE NUMBER)*

*Address: (INSERT THE ADA COORDINATOR’S ADDRESS)*

## B. PROCEDURES FOR REQUESTING A REASONABLE ACCOMMODATION

It is the responsibility of the qualified individual with a disability, the qualified employee, or the qualified employee’s representative to request a reasonable accommodation when needed. To do so, the individual:

- May initiate a request either verbally, in writing, or via online platform.
- Must submit the request to the ADA Coordinator or designated personnel; and
- Must timely and cooperatively participate in the interactive process as further described therein.

If the accommodation request is from a System employee, the employee may be required, as part of the interactive process, to provide the ADA Coordinator with medical documentation from their health care provider describing the nature of the disability and the functional limitations thereof.

## 1. **Employment**

### a. **Application/Testing Process**

A qualified individual with a disability, a qualified employee, or a qualified employee's representative may address an accommodation request relative to the application or testing process to the following, dependent upon the job type indicated on the vacancy announcement:

- i. For Classified Jobs: Contact State Civil Service, Testing and Recruiting Office at (225) 925-1911. For more information regarding accommodations, applicants may go to <https://jobs.civilservice.louisiana.gov/TestInformation/Accommodations.aspx>.
- ii. For Unclassified Jobs: Contact the System representative identified in the vacancy announcement for the job being sought. The System representative shall notify and collaborate with the ADA Coordinator to address the accommodation request.

### b. **Interview Process**

If contacted for an interview, a qualified individual with a disability, a qualified employee, or a qualified employee's representative should notify Human Resources at that time if an accommodation is needed in order to participate in the interview and, if so, the nature of the accommodation. Human Resources shall notify and collaborate with the ADA Coordinator to address the accommodation request.

### c. **Performance of Essential Functions**

A qualified individual with a disability, a qualified employee, or a qualified employee's representative may address an accommodation request related to the performance of the essential functions of a job to the following:

- i. If needed prior to or at the time of hire for a position, the accommodation request should be submitted to the hiring manager.
- ii. If employed by the System and needed for the current job held, the accommodation request should be addressed to the immediate supervisor.

The hiring manager or immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests must include the duties the individual is unable to perform and the accommodation(s) requested. Such accommodations may include job restructuring, use of accrued paid leave (or once exhausted, unpaid leave), modified or part-time work schedules, acquiring equipment, or reassignment.

d. Benefits and Privileges of Employment

An employee seeking an accommodation related to the benefits or privileges associated with employment should notify the immediate supervisor. The immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests should include the benefits or privileges of employment in which the individual is unable to participate and the accommodation requested. Such accommodations may include restructuring work areas, lunchrooms, break rooms, training rooms and restrooms to make them available and accessible to all employees.

**NOTE:** Guidelines that govern facility standards are based on the date of original construction. Additional guidelines may apply when renovations or alterations are undertaken. The System shall coordinate construction and renovation in conjunction with appropriate state departments, as well as building code, regulatory and leasing entities, as applicable.

e. Pregnancy, Childbirth, or Related Medical Condition

In accordance with the PWFA and La. R.S. 23:341-342, an applicant or employee with limitations arising from pregnancy, childbirth or related medical conditions may request an accommodation to the immediate supervisor. The immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such accommodations may include but are not limited to: providing more frequent, compensated break periods; providing a private place, other than a bathroom stall, for purposes of expressing breast milk; modifying food or drink policy; and other accommodations that permit the individual to reduce or eliminate the need for leave.

**NOTE:** Accommodation requests and information collected during the associated interactive process shall be limited to only those individuals with a business need-to-know.

2. Effective Communication (Title II of the ADA)

A qualified individual with a speech, hearing, or vision impairment may request an accommodation to the ADA Coordinator and shall be furnished with

appropriate auxiliary aids and services so that the individual can participate equally in the System's programs, services, and activities. Such auxiliary aids may include qualified sign language interpreters, documents in Braille, and other ways of making information and communication accessible. Anyone who requires an auxiliary aid or service for effective communication should contact the ADA Coordinator as soon as possible but no later than forty-eight (48) hours before the scheduled event. If notice of the scheduled event occurs less than forty-eight (48) hours before the scheduled event, anyone who requires an auxiliary aid or service for effective communication should contact the ADA Coordinator at least eight (8) hours before the scheduled event.

Requests for reasonable accommodations regarding open meetings of the System shall be directed to the System Director for Compliance at [compliance@sus.edu](mailto:compliance@sus.edu) at least eight (8) hours before the scheduled meeting.

3. **Modifications to Policies, Procedures, or Facilities (Title II)**

A qualified individual with a disability seeking modifications to policies, procedures, or facilities for equal opportunity to enjoy the System's programs, services, and activities should contact the ADA Coordinator. Such requests should include the specific program, service, or facility that the individual is unable to access and the accommodation(s) requested.

C. INTERACTIVE PROCESS – EVALUATION OF ACCOMMODATION REQUESTS

Upon receipt, the individual to whom an accommodation request was submitted must immediately notify the ADA Coordinator. The ADA Coordinator shall:

- Document the request, if not submitted in writing by the requestor, on the appropriate form or online platform;
- Notify the requestor, if he/she is a current System employee, whether a completed medical inquiry form from a health care provider is required;
- Engage in an interactive process involving consultation with the requestor, the Human Resources Director, the treating physician (if applicable) and appropriate management personnel;
- Confer with the Louisiana Rehabilitation Services and/or Job Accommodation Network (JAN), as deemed appropriate, to help evaluate the availability of accommodation options and resources related thereto;
- Where appropriate, discuss any alternative, equally effective accommodations with the requestor;
- Make a final determination of the accommodation request; and
- Notify the requestor, in writing, of the final determination, including information regarding the internal grievance procedure.

Qualified individuals and qualified employees are encouraged to suggest accommodations based upon their own life or work experiences. Such requested accommodations will be duly considered. Nonetheless, the System reserves the right to

select an equally effective accommodation that may be less expensive or impactful on business operations. All accommodation requests will be evaluated thoroughly and objectively on a case-by-case basis.

The ADA Coordinator may temporarily offer accommodations after the interactive process for the employee to obtain any required documentation. These temporary accommodations cannot exceed thirty (30) days.

Reasonable accommodations for System employees shall be evaluated at least every ninety (90) days unless a permanent accommodation is provided. Permanent accommodations must be approved by the System Director for Compliance and Human Resources Director and are reviewed at least annually.

#### D. INTERNAL COMPLAINT PROCEDURE

The following internal grievance procedures are available to individuals with disabilities for resolution of complaints regarding the disposition of an accommodation request or asserting any action that would be prohibited by the ADA:

##### 1. **Employees**

###### a. Appeals

The System employee wishing to initiate an appeal must do so within ten (10) days from the date of denial or modification of a reasonable accommodation by submitting a written complaint to ADA Coordinator.

Upon receiving a written notice of appeal, the ADA Coordinator shall provide a copy of the employee's entire file to System Director for Compliance or his/her designee for adjudication of the appeal.

Upon receipt of the appeal, the System Director for Compliance or his/her designee shall have fourteen (14) days to issue a written decision to the employee. This decision is the final authority on the matter.

###### b. Discrimination

Any complaints of discrimination by a System employee due to said employee's disability shall be made to Human Resources and handled by Human Resources pursuant to the System's Discrimination, Harassment, Sexual Harassment, and Sexual Violence Policy. However, any discrimination based on pregnancy, childbirth, or related medical condition shall be filed with the Title IX Coordinator pursuant to the System's Power-Based Violence/Sexual Misconduct and Title IX Formal Grievance Procedure policies.

##### 2. **Applicants or General Public**

Complaints regarding the application/testing/interview process for employment or accessibility of a program, service, or activity of the System shall be addressed to the respective ADA Coordinator for the System's institution. The ADA Coordinator will acknowledge receipt of the complaint and provide written response within thirty (30) days.

#### E. RETALIATION PROHIBITION

No individual shall be discriminated or retaliated against, coerced, intimidated, threatened, harassed, or interfered with for:

- Making an accommodation request;
- Opposing any act or practice made unlawful by the ADA;
- Filing a charge, testifying, assisting, or otherwise participating in an investigation, proceeding, or hearing to enforce any provision of the ADA;
- Aiding or encouraging another individual in the exercise of any right granted or protected by the ADA; or
- Having a family, business, social, or other relationship or association with an individual with a known disability.

#### F. FAMILY MEDICAL LEAVE ACT

Should any aspect of the Family Medical Leave Act (FMLA) be triggered during the interactive process, the ADA Coordinator will refer the employee to Human Resources for concurrent evaluation under the FMLA.

#### G. TRAININGS

##### 1. ADA Coordinators

Pursuant to La. R.S. 46:2595(A)(2), all ADA Coordinators in the System shall receive a minimum of one hour of education and training on the Americans with Disability Act within ninety (90) days of hire or appointment to a supervisory position and every three years thereafter. This education and training may be received in person or via the internet through training and education materials approved by the System Director for Compliance.

The System Director for Compliance shall ensure compliance with this Section.

##### 2. Supervisors

Pursuant to La. R.S. 46:2595(A)(1), all supervisors in the System shall receive a minimum of one hour of education and training on the Americans with Disability Act within ninety (90) days of hire or appointment to a supervisory position and every three years thereafter. This education and training may be received in person or via the internet through training and education materials approved by the ADA Coordinator in consultation with the System Director for Compliance.

The ADA Coordinator shall ensure compliance with this Section.

#### H. DATA PUBLICATIONS

The ADA Coordinator shall compile an annual report by January Tenth (10) of each year for the previous calendar year for the ADA Coordinator's respective institution, which shall include the following required information from La. R.S. 46:2596:

- The number and percentage of supervisors and ADA Coordinators, respectively, who have completed the training requirements;
- The number, nature, and cost of accommodation requests granted;
- The number of accommodation requests denied;
- The amount of time required to resolve each request from date of receipt to the date the individual was notified in writing of the final determination of the request; and
- Number of ADA-related charges of discrimination filed with the United States Equal Employment Opportunity Commission, Louisiana Commission on Human Rights, and the United State Department of Justice and civil actions filed in state and federal court.

The ADA Coordinator's annual report shall be submitted to the System Director for Compliance by January Fifteenth (15) of each year.

The System Director for Compliance shall compile ADA Coordinator's annual reports into a System annual report and submit to the Office of the State Americans with Disabilities Act Coordinator within the Office of the Governor, Division of Administration by February First (1) of year.

#### I. STATE AS A MODEL EMPLOYER

Pursuant to La. R.S. 46:2597, all employees, at the time of employment and every five years thereafter, complete a voluntary self-identification of disability form for effective data collection and analysis for the percentage of individuals with disabilities employed by the System. The form shall only request disclosure regarding whether an employee has a disability, without reference to or identification of the actual impairment, disability, or medical condition. The completed form shall be confidential and filed in a folder separate from the employee's personnel file. The ADA Coordinator in conjunction with the Human Resources Director shall ensure compliance with this Paragraph.

The System Director for Compliance in consultation with the Human Resources Directors of each institution of the System shall prepare and submit a System plan, by December First (1) of each year, to the Office of the State Americans with Disabilities Act Coordinator within the Office of the Governor, Division of Administration, that includes the strategies and goals for the upcoming year and the progress and outcomes for the current year, related to employment of individuals with disabilities.

J. SELF-EVALUATION, TRANSITION, AND ACTION PLANS UNDER THE ADA

An institution's ADA Coordinator is responsible for drafting, updating, and maintaining the institution's ADA self-evaluation, transition, and action plans.

K. CONFLICTS OF INTEREST

Any conflicts of interest regarding the ADA Coordinator shall be resolved by the System Director for Compliance or his/her designee. Any conflicts of interest regarding the System Director for Compliance shall be resolved by the General Counsel or his/her designee.

L. CONFIDENTIALITY

All documentation obtained as part of an accommodation request, including medical and other relevant information, shall be maintained as confidential records, separate from the employee's personnel file, and subject to disclosure only as allowed by law or with the individual's permission.

**VI. POLICY RELATED INFORMATION**

- Americans with Disability Act and its Amending Act of 2008
- Section 504 of the Rehabilitation Act of 1973
- The Pregnant Workers Fairness Act
- Louisiana Employment Discrimination Law (La. R.S. 23:301, et seq.)
- La. R.S. 46:2591, et seq.
- La. R.S. 42:14(E)
- La. R.S. 42:17.2.1

**VII. POLICY HISTORY AND REVIEW CYCLE**

This is a revised policy. The effective date of this revised policy is determined by the approval dates and signatures of the Chair of the Southern University System Board of Supervisors and the President of the Southern University and A&M College System. This revised policy is subject to a five-year policy review cycle.

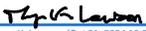
**VII. POLICY URL**

The approved policy will be posted on the Southern University System website under Board Policies at [www.sus.edu/policies](http://www.sus.edu/policies).

**IX. POLICY APPROVAL**

  
Dennis J. Shields (Oct 21, 2024 20:05 CDT)  
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***Dennis J. Shields***  
***President, Southern University and A&M College System***

***10-19-2024***  
\_\_\_\_\_  
***Effective Date of Policy***

  
Myron K. Lawson (Oct 21, 2024 18:57 CDT)  
\_\_\_\_\_  
***The Honorable Myron K. Lawson***  
***Chair – Southern University System Board of Supervisors***

***10-19-2024***  
\_\_\_\_\_  
***Effective Date of Policy***

# ADA and PWFA Policy - 10-19-24

Final Audit Report

2024-10-22

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