

# Make Confident Decisions

**A Practical Framework to Determine Necessary and Reasonable Accommodations**

Paul Harwell & Maddie Adams | July 2025 | AHEAD Denver, CO

# Learning Outcomes

- Participants will understand, and be able to articulate, the structured framework for making accommodation decisions.
- Participants will be able to describe the legal concepts that underpin "reasonable and necessary" accommodation determinations.

# Context Before the Framework

- No one wants to be the bad guy or enjoys saying “no” but it is sometimes necessary
- Conflict is inevitable in roles that serve people
- Remember your role and scope
  - Generally about access not success
  - Target metaphor
- The ADA is not prescriptive; “interactive process” comes from case law
- Applying a framework should solidify the interactive process, make informed decisions, and provide confidence in the process



# Context Before the Framework <sup>(2)</sup>

- Understand your institutional culture
  - Know your role and scope (stated and unstated)
  - Administration expectations and chain of command
  - Appellate process and people
- Continuously reflect on your philosophy as a practitioner
- Reframe your perspective — this role is not a burden, its a privilege

# Some Elements Not Included

- This presentation provides a lot of information, but it does not include other critical conversation that will be part of how the framework is applied.
- Other areas to focus on include:
  - Principles of documentation
  - Triangulation
  - Diplomacy for the interactive process and navigating conflict
  - Additional resources cited, linked, and available at end of slides

# Framework Overview

- Four elements to determine “**REASONABLE**” accommodations
  - From regulations and caselaw
- Three Questions to Determine “**NECESSARY**”
  - Guide the interactive process
  - Help determine if an accommodation is “**NECESSARY**”
- Combine to create a framework to determine if potential accommodations are Necessary and Reasonable

# Four Elements to Determine Reasonable

- An accommodations is generally considered reasonable when:
  - It is **NECESSARY** to ensure equitable access
  - It is not a fundamental alteration of an essential element of the course or program
  - It does not pose a legitimate safety risk
  - It does not create an undue burden (administrative or financial)
- This will reappear in the full framework, but most time is spent evaluating whether the request is **NECESSARY**

# Three Questions to Determine Necessary

- Is there a disability? (Yes - move on; No - deny request)
  - Don't take this for granted.
- Is there a barrier with a nexus to the disability? (Yes - move on; No - deny request)
  - Must be an arbitrary institutional barrier
  - Most of the interactive process is answering this question
- Would the requested/potential accommodation **EFFECTIVELY** remove the barrier? (Yes - accommodation is **NECESSARY**; No - deny request)
  - Is there an equally effective alternative that would be more appropriate? Consider providing the least amount of accommodation necessary to create access

# Remaining Questions to Determine Reasonable

- Does the potential accommodation pose a:
  - Fundamental alteration? (Don't assume; be certain and show your work)
  - Legitimate safety risk? (Don't assume; be certain and show your work)
  - Undue burden (administrative or financial)? (Almost never defensible)
  - **If the answer to these questions are no, then the accommodation is reasonable.**
- If this process reveals the accommodation is **NECESSARY** and **REASONABLE**, then you should approve it

# The Full Decision-Making Framework

- Is there a disability? (Yes - move on; No - deny request)
- Is there a barrier with a nexus to the disability? (Yes - move on; No - deny request)
- Would the requested/potential accommodation **EFFECTIVELY** remove the barrier? (Yes - accommodation is **NECESSARY**; No - deny request)
- Does the potential accommodation pose a fundamental alteration, legitimate safety risk, or an undue burden? (Yes - deny request; No - accommodation is **REASONABLE**)
- If potential accommodation is both **NECESSARY** and **REASONABLE**, then you should generally approve the accommodation

# Additional Resources

- [AHEAD Post with more discussion: How to Determine Necessary and Reasonable Accommodations](#)
- AHEAD HUB: The Point of Triangulation by Dr. Amanda Bell: [ahead.org/professional-resources/publications/hub/may-2020](https://ahead.org/professional-resources/publications/hub/may-2020)
- [AHEAD Guidance on Documentation](#)
- [Documenting Hidden Disabilities in Higher Education: Analysis of Recent Guidance from the Association on Higher Education and Disability](#)

# Resource Downloads

**Download resources from Google Drive:**

Link: [bit.ly/Accommodation\\_Framework](https://bit.ly/Accommodation_Framework)

**Contact Information:**

Paul Harwell, Ph.D.

[harwellp24@ecu.edu](mailto:harwellp24@ecu.edu)

Maddie Adams

[adamsmad23@ecu.edu](mailto:adamsmad23@ecu.edu)



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