Disability Laws in Postsecondary Education

Individuals with disabilities are entitled by law to equal access to postsecondary programs. There are two laws that protect persons with disabilities in postsecondary education: The Rehabilitation Act of 1973 (Pub. L. No. 93-112, as amended) and the 1990 Americans with Disabilities Act (Pub. L. No. 100-336). According to the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA, 1990), a student with a disability is someone who has a physical or mental impairment, has a history of impairment, or is believed to have a disability that substantially limits a major life activity such as learning, speaking, seeing, hearing, breathing, walking, caring for oneself, or performing manual tasks.

The Rehabilitation Act

Title V of The Rehabilitation Act of 1973 is generally regarded as the first civil rights legislation on the national level for people with disabilities. Section 504 of the Rehabilitation Act is a program access statute. It prohibits discrimination on the basis of disability in any program or activity offered by an entity or institution receiving federal funds. Section 504 states (as amended):

No otherwise qualified person with a disability in the United States…shall, solely on the basis of disability, be denied access to, or the benefits of, or be subjected to discrimination under any program or activity provided by any institution receiving federal financial assistance.

Under Section 504, institutions were required to appoint and maintain at least one person to coordinate its efforts to comply with the requirements of Section 504. Individuals working in this office have the ongoing responsibility of assuring that the institution/agency/ organization practices nondiscrimination on the basis of disability and should be included in any grievance procedures developed to address possible instances of discrimination brought against the institution. At Irvine Valley College, the established office is Disabled Students Programs and Services (DSPS).
The Americans with Disability Act (ADA)

The ADA is a federal civil rights statute that prohibits discrimination against people with disabilities. There are four main sections of the law: employment, government, public accommodations, and telecommunications. The ADA provides additional protection for persons with disabilities in conjunction with the Rehabilitation Act of 1973. The ADA is designed to remove barriers, which prevent qualified individuals with disabilities from enjoying the same opportunities that are available to persons without disabilities.

Postsecondary institutions are covered in many ways under the ADA. Employment is addressed by Title I, and Title II addresses accessibility provided by public entities. Accessibility provided by private entities is addressed in Title III, and Title IV addresses telecommunications. Miscellaneous items are included in Title V.

Amendments to the ADA, which took effect January 1, 2009, clarify who is covered by the law’s protections. The Americans with Disability Act Amendments Act (ADAAA) revises the definition of “disability” to more broadly include impairments that substantially limit a major life activity. The amendment also states that mitigating measures, including assistive devices, auxiliary aids, accommodations, medical therapies and supplies have no bearing in determining whether a disability qualifies under the law.

The ADA in Relation to Section 504 of the Rehabilitation Act

Institutions that receive federal funds such as IVC are covered under Section 504. The ADA does not supplant Section 504 but the ADA standards apply in those situations where the ADA provides greater protection. Therefore, postsecondary institutions must adhere to both the Rehabilitation Act and the Americans with Disabilities Act.
Section 508 of the Rehabilitation Act

In 1998, Congress amended the Rehabilitation Act and strengthened provisions covering access to information in the Federal sector. As amended, section 508 of the Rehabilitation Act requires access to the Federal government’s electronic and information technology. The law covers all types of electronic and information technology in the Federal sector and is not limited to assistive technologies used by people with disabilities. It applies to all Federal agencies when they develop, procure, maintain, or use such technology. Federal agencies must ensure that this technology is accessible to employees and the public to the extent it does not pose an "undue burden." The law directs the Access Board to develop access standards for this technology that will become part of the Federal procurement regulations. The Electronic and Information Technology Accessibility Standards were released on December 21, 2000. The deadline for 508 compliance was June 21, 2001.

The scope of section 508 is limited to the Federal sector. It does not apply to the private sector, nor does section 508 impose requirements on the recipients of Federal funds. However, the Department of Education interprets the Assistive Technology Act (the "AT Act"), 29 U.S.C. 3001, to require that States receiving assistance under the AT State Grants program to comply with section 508, including these standards.

Section 508 in no way replaces or otherwise limits the rights or remedies available under any other existing Federal law that protects the rights of people with disabilities. As part of the Rehabilitation Act, it clarifies and strengthens the Federal government’s existing obligation to ensure that technology is accessible to people with disabilities.

Section 104.44 Academic Adjustments (I.E. Recording Classes)

According to the US Department of Education, Office for Civil rights, the recording of classroom sessions as an accommodation for students with disabilities may not be restricted. It is specifically addressed under Section 504 of the 1973 Rehabilitation Act and the Americans with Disabilities Act. The legal reference, found in the code of Federal Regulations 34CFR104.44 (b) for Section 504 reads as follows:
(b) Other rules. A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.
Documentation and Confidentiality

Documentation of Disability

Irvine Valley College (IVC) requests that students notify DSPS of any accommodation needs. This notification will help ensure the quality and coordination of services requested. Students are responsible for providing the appropriate documentation to DSPS before or on the day of their intake appointment. A letter, written report, or medical record from a professional (such as a physician or an audiologist) stating the student’s disability(s) and functional limitations in an educational environment is required. All accommodations are discussed and determined with a DSPS counselor through an interactive process. Furthermore, it is the student’s responsibility to request their accommodation(s) from their instructors by presenting to them a current IVC Accommodations Form.

Confidentiality

Information that a student does or does not have a disability for which accommodation must be made is not a part of public information and must be treated as confidential. Every effort must be made to preserve the privacy of the student who requests accommodation(s) and to treat the individual with the same dignity and courtesy accorded to all other students in the classroom.

In addition to ADA and Section 504, the key federal law that applies to students with disabilities and institutions’ treatment of the students are the Family Educational Rights and Privacy Act of 1974 (FERPA). FERPA regulates the keeping and the dissemination of education records at all institutions that receive federal funds. Consent must be obtained to release education records to a third party, with certain exceptions contained in the law. College officials with a legitimate educational interest in the record may have access to it.
Responsibilities of Faculty and Student

Responsibilities of Faculty

- Cooperate with DSPS to provide approved accommodations and support services in a fair and timely manner.
- Meet with the student with a disability, when necessary, to discuss access and accommodations in the classroom.
- Provide reasonable accommodations determined by DSPS.
- The student’s documentation of his or her disability is confidential information, so it cannot be shared with anyone outside of DSPS, including faculty or other staff. However, it is permissible to ask the student how the learning process is occurring or have the student describe how he or she learns best might be helpful.
- Arrange with the student the requested accommodations in class.
- Expect the student to be responsible for the same course content as all the other students in the class.
Responsibilities of Student

- Self-identify to DSPS and provide documentation of disability.
- Request accommodations for support services from DSPS.
- Consult with DSPS to determine specific academic adjustments.
- Request specific accommodations and show the DSPS Accommodation Form to faculty.
- Maintain the same responsibility for academic standards, attendance, participation and behavior as is required of all students.
- Give timely notification of any requests for reasonable accommodations, (i.e. interpreter, note taker).
- Self-advocate appropriately, independently and through DSPS for classroom/campus support.
Faculty FAQ

How will I know if there are students with a disability requiring accommodations in my class?

The student who requires an accommodation(s) in your class will present to you an IVC Accommodations Form listing the accommodation(s) they are eligible for. These accommodation(s) have been requested by a student and approved by a DSPS counselor. Be sure that your student is presenting to you a form that has the current academic year on top. If your student does not present a current form, please send them to DSPS to receive an updated form. You are only required to provide accommodations when the student presents a current Accommodations Form. (Attach link to IVC Accommodations form)

How do I know that the accommodation the student has requested is appropriate and legitimate?

If the student presents to you an IVC Accommodations Form, prepared by DSPS, you can be assured that student has provided the College with proof of a disability under the legal definition of the word. The specific accommodation requested on the form will be one which has legitimacy in relation to the verified disability.

How is the best way to approach a student and refer them to DSPS?

If you notice a student struggling in your class who could benefit from DSPS, it may be appropriate for you to make a referral. Address your concerns with the student directly and in private. Mention that you have noticed the student has been having difficulty in an academic area, despite their effort and encourage the student to seek out support services on campus such as DSPS. Our office can then assist your student by determining program eligibility, referring them for an assessment and/or providing support services. Listing some of our services to your student such as, providing extra
time on exams, note taking services and priority registration may sound helpful to them. It is a best practice to walk the student to DSPS (SSC 171) when possible.

What if a student is requesting an accommodation, but refuses to use DSPS services?

If a student requests an accommodation, but states that they do not want to apply for DSPS services, you are still required to provide the requested accommodation(s). The student must present to you appropriate documentation stating a disability and signed by an appropriate professional. Please contact DSPS to assist you with verifying the documentation and the appropriate accommodation(s) the student is eligible to receive.

How can I be sure I am doing what is necessary to provide academic access?

The most successful way to ensure academic access is to discuss with the student what his/her needs are. No two students with disabilities are alike. Only a personal conference with the student in which you discuss both the course demands and the student’s accommodation needs is likely to provide both parties with a satisfactory outcome.

Am I being asked to compromise academic standards or give the student with a disability an advantage?

Definitely not. If the existence of the disability has been verified, the approved accommodation’s purpose is to provide an equal educational opportunity to the student. To compromise standards or “water down” the requirements would not assist the student to acquire a competitive degree. The student with a disability should fulfill all the essential course-related requirements; however, altering the font, substituting an equivalent requirement, or modifying the teaching method provides the student a more equitable opportunity to succeed.
Where do I go for assistance in providing accommodations?

The Office of Disabled Students Programs and Services (DSPS) is located in SSC 171, and can provide information and assistance with the concerns you may have about accommodating students. Do not hesitate to contact us with any of your questions or concerns at: 949-451-5386 (Voice), 949-333-0595 (Video Phone), or at ivcdsp@ivc.edu. We are here to assist you!

Note Taker Requests

A student requesting a note taker accommodation will present a Note Taker Request form indicating that the student has been approved a note taker as an accommodation. The form also provides the instructor with the classroom announcement and Instructor’s Tips for note taker requests. Although it is helpful for
the instructor to find a note taker who attends class regularly and writes legibly, the instructor is NOT responsible for the content or accuracy of the notes. Note Taker Guidelines
Extended Time on Assignments Policy

(Attachment to page)
Creating an Accessible Learning Environment for Deaf and Hard of Hearing Students

Service providers such as, sign language interpreters and captionist are essential components of communication access in a classroom. Although there are some strategies that are unique to each profession, the guidelines listed below can promote effective communication, no matter what service is provided.

- Remember to communicate directly with a student who is Deaf or Hard of Hearing (DHH).
- In using demonstration and visual aids, DHH students are not able to listen to the instructor and, at the same time, watch what is being explained. Brief but frequent pauses while using visual aids and demonstration are appreciated by the service provider and the student who is deaf or hard of hearing. Doing this will allow the student time to see what is being said and then watch the demonstration. Most likely students in the classroom who are trying to take notes also will appreciate these pauses.
• It always helps to write general class announcements on the board to make sure all involved are aware of the change.
• Question and answer periods may create challenges for effective communication. Allowing one person to talk at a time enables the service provider to identify who is talking.
• It is useful for the service provider and the instructor to become acquainted at the beginning of a course. At that time, questions involving these guidelines and other points may be discussed.
• Remember, service providers are ethically bound to convey everything you and the other students say. The DHH student has the right to know everything, just as hearing students do.
• The service provider is there to facilitate communication, not evaluate the teacher or the student.
• When new materials or terminology are presented, supply a list of these terms in advance to the student and interpreter or captionist.
• Repeat questions and comments from the class before responding to allow a student using an ALD to hear class discussion.
• Do not talk to the class while simultaneously having students read something.

**Autism Spectrum Disorder (ASD)**

Autism is marked most commonly by significant deficits in the following areas:

• Social Communication (lacking or diminished social gestures and utterances)
- Expressive (or verbal) Language

Additionally the autistic person may experience:

- High levels of self-stimulatory (or repetitive) behavior
- A desire or demand for sameness in routine
- Perseverative behavior regarding a particular topic or thought
- Impaired social skills/communication/interactions
- Typical, if not precocious, expressive language development, but difficulties with receptive language as well as the pragmatics of language and conversation. Speech may also have an unusual cadence.
- A desire or demand for sameness in routine
- Perseverating behavior regarding a particular topic or thought
- Intellectual functioning varies

Frequently individuals with Autism may also:

- Have impaired motor skills
- Have difficulty with handwriting
- Have tactile, visual and/or auditory sensitivities
- Have difficulty maintaining eye gaze with others
- Struggle with tasks that involve executive functioning (i.e. planning, organizing and managing time and space)
Accommodations for Students with Autism

Below is a list of possible characteristics a student with Autism may experience. Also provided are accommodations that may be helpful for a student with such characteristics. Accommodations with an “*” must be approved by the Disabled Students Programs and Services (DSPS) each academic year.

Remember that when you’ve already met one person with autism, you’ve only met ONE person with autism.
<table>
<thead>
<tr>
<th>CHARACTERISTIC</th>
<th>ACCOMMODATION</th>
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<tbody>
<tr>
<td>Limited eye contact</td>
<td>• Do not assume that the student is not listening or attending sometimes not</td>
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<td></td>
<td>looking at the speaker increases the student’s ability to focus. Forcing the</td>
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<td></td>
<td>student to make eye contact can be very uncomfortable for them.</td>
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<tr>
<td>Auditory sensitivities</td>
<td>• Assist student in locating a place in the room with reduced auditory stimuli.</td>
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<tr>
<td></td>
<td>• Allow student to wear ear plugs during tests</td>
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<td></td>
<td>• *Student may need to take tests in a private room.</td>
</tr>
<tr>
<td>Visual sensitivities</td>
<td>• Assist student in locating a place in the room with reduced visual stimuli</td>
</tr>
<tr>
<td></td>
<td>(This could be at the front near the instructor)</td>
</tr>
<tr>
<td></td>
<td>• *Student may need to take tests in a private room.</td>
</tr>
<tr>
<td>Tactile sensitivities</td>
<td>• Ask before touching the student. Some students may have a heightened sense</td>
</tr>
<tr>
<td></td>
<td>touch and feel physical discomfort when touched.</td>
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<tr>
<td>Expressive language delays</td>
<td>• Allow for longer pauses in conversation, resist filling blank “air time”.</td>
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<td>Some students will need extra time for word finding or to clearly express their</td>
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<td></td>
<td>thoughts.</td>
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<td>Difficulty interacting with others</td>
<td>• When having to work in groups or pairs, assist student in finding a group,</td>
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<td></td>
<td>or assign group members. The instructor can also ask the student if there are</td>
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<td></td>
<td>people in the class they know or feel comfortable working 'with.</td>
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</table>
| Inability to multitask | • Write assignments or multi step directions on the board/overhead, or provide information on a handout.  
• *Student may need to use a note-taker or tape recorder. |
|-----------------------|------------------------------------------------------------------------------------------------------|
| Easily overwhelmed    | • Talk with student privately regarding developing a signal or cue for when student may need to take a break during class time.  
• *Student may need extra time and a private room for testing |
| Difficulty with handwriting | • *Student may need to use a note-taker  
• *Student may need to use a laptop/word processor during class time and for in class written exams/assignments  
• *Student may need extra time for tests |
| Difficulty getting “the gist” or understanding “bigger picture concepts” | • Ask student to paraphrase concepts or complex assignments to check for comprehension during class time or office hours |