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## Disability and the Law

In 1973, Congress passed Section 504 of the Rehabilitation Act of 1973 (Section 504). This law prohibits discrimination on the basis of physical or mental disability (29 U.S.C. Section 794). It states: *No otherwise qualified individual with a disability in the United States. . . shall solely by reason of her or his 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. . . .*

Under the provisions of Section 504, colleges may not discriminate in the recruitment, admission, educational process, or treatment of students. Students who have self-identified, provided documentation of his/her disability, and requested reasonable accommodation are entitled to receive approved modifications of programs, appropriate academic adjustments, or auxiliary aids that enable them to participate in and benefit from all educational programs and activities. Section 504 regulations apply to all recipients of federal funding, including institutions of higher education.

The Americans with Disabilities Act (ADA) was enacted in 1990. This law reinforces the provisions of Section 504, but also extends accessibility requirements to all state and local agencies, including those who do not receive federal funding. The ADA requires that “No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity or be subjected to discrimination by any such entity.”

Title II of the ADA addresses public entities, including community colleges. Title II mandates that a public entity, including its educational programs, make reasonable modifications to policies, practices, or procedures when modifications are necessary to avoid discrimination on the basis of a disability unless these modifications present undue hardship or substantially alter a program. **Expense of an accommodation or the extra time it may incur for a faculty or staff member is not an undue hardship.** Providing an appropriate auxiliary aid which requires the college to incur a cost does not constitute undue hardship to the college. In determining what constitutes an undue hardship, the OCR examines the entire financial resources of the college or system to which it belongs (in this case, KCTCS) rather than any single department within the college.

Denying appropriate auxiliary aids and academic adjustments to students with disabilities that result in an inability to access programs is discriminatory and prohibited by Section 504. The Office of Civil Rights in the U. S. Department of Education enforces regulations implementing Section 504 with respect to programs and activities that receive funding from the Department. If found to not be compliant with the law, the Office of Civil Rights can impose various means of resolving discrimination, up to removing federal funding from an institution. Also, Title V of the

ADA allows individuals with disabilities to take their cases to court and to receive punitive damages and lawyer fees. Read more at <http://www2.ed.gov/policy/rights/guid/ocr/disability.html>.

## I. Deciding on Accommodations

Disability Services is the department at Gateway assigned to receive documentation of students' disabilities, to receive requests for academic adjustments and auxiliary aids (accommodations), to review that documentation in light of the students' accommodation requests, and to determine accommodations. Disability Services approves accommodations that should give students with disabilities equal access to the college programs and courses and prevent discrimination charges against the college. Students provide Disability Services with the paperwork (documentation) that proves they have a disability that causes a substantial limitation and that should show the current impact of the disability.

Deciding on accommodations is an interactive process between the student and Disability Services. Accommodations are decided on a case-by-case basis, built on the student interview and the functional limitations that the professional describes in the documentation. The interview enables the student to tell Disability Services how his/her disability affects his/her learning. If Disability Services approves the accommodation, then the professor is obligated to provide it *unless* the accommodation alters the essential requirements of the course (see section on deliberative process).

## II. Accommodation Basics/Forms

As an instructor at Gateway, you may encounter a variety of forms from Disability Services. This section explains each form, its purpose, and its contents. The forms are available for reference in the Appendix of this Handbook. The purpose of these forms is to document the agreements made regarding how students will receive their accommodations and verify that the specified accommodations have and will be addressed. The information provided on the forms serve as documentation should a question or concern arise from any party regarding the accommodations throughout the semester.

*Accommodation Memo:*

- Document student gives you (in some circumstances it may be emailed to you by a Disability Services staff member) that includes the student's name, ID number, and accommodations. It also gives the Disability Services staff member who met with the student about accommodation.

- It does not list the student's disability. This information is confidential, but the student is free to tell you his/her disability if he/she chooses. You can ask student if he/she feels comfortable discussing his/her disability with you. If the student refuses, you have the answer.
- The information contained in this memo is CONFIDENTIAL, and should not be shared with other members of the class, nor should the student be identified to others as a student with a disability.
- The student is entitled to the accommodations listed on the memo from the point they deliver the memo to you. The accommodations are NOT retroactive, so you do not have to allow the student to redo any previous work with the listed accommodations. You can, but are not under an obligation to do so.
- The memo lists the accommodations that the student is entitled to by law, with a description of each accommodation. ***Please read the descriptions carefully to ensure accurate provision of the accommodation.***
- The student should discuss the accommodations with you to ensure an understanding of each accommodation and how they will be implemented.
- You keep the copy of the accommodation memo that the student gives to you. This is for your records. The student is given his/her own copy by DS staff.

*Options for Accommodated Tests (see information :*

- If the student receives testing accommodations of any kind (as per the accommodation memo), this form will be attached to the accommodation memo.
- The student will need to discuss with you how he/she is going to receive accommodated testing in your class.
- Accommodated testing may be provided through one of three ways:
  1. There may not be any in class written exams. Please remember that if the exams are online exams that are timed\*, you will still need to extend the time for the student.
  2. You, the instructor, or someone from your division or department, are going to provide the accommodations to the student. Disability Services will send you and the student an e-mail with some hints on accommodating tests when you are providing testing accommodations.
  3. Disability Services can provide the accommodations to the student, meaning the student will not attend your course for the exam. Disability Services will send you and the student an e-mail with directions on how to arrange testing accommodations with us.
    - The notes section is where you can add an explanation. For example, that you are providing testing accommodations for quizzes but Disability Services is providing testing accommodations for the mid-term or final.
    - When you and the student complete this form, the student returns the form to Disability Services.

\*More about timed tests: Extended time is for tests that have a specific beginning and ending time, not for the days that the test is available. For example, an in-class test that starts at 9:00 and ends at 10:30 or an online test that ends in 30 minutes once a student starts the test. ***It is not*** for the type of test where students have a specified number of days to retrieve and take the test and the test does not close within a specified time limit once the student starts it.

*Access to Lecture Notes:*

- If the student is approved for access to notes as an accommodation (as per the accommodation memo), this form will be attached to the accommodation memo.
- The student will need to discuss with you how he/she is going to receive access to notes in your class.
- Access to notes can be provided through one of three ways:
  1. Notes may be unnecessary in your course if the course instruction follows the book so closely that no additional notes are needed or if the course is performance-based. You will need to cue students on the pages from which you are lecturing and may need to tell them to mark points that are germane to one or more of the course outcomes i.e., points on which you'll test.
  2. You will provide notes to the student through copies of power points, outlines, or another means.
  3. You will find a student in the course to provide copies of the notes.
    - You will need to create or give the student lecture notes until a supplemental student notetaker is identified.
    - Announce the need for a notetaker using the Script for Announcing for a Notetaker that is attached to the accommodation memo.
      - DO NOT announce the name of the student for whom the notes are being taken. Read the script exactly as printed, and maintain the student's confidentiality.
      - Save this script until a notetaker is found for the student. If no notetaker is found, you will need to re-read this script at a later class period to assist in finding a notetaker for the student.
    - You provide the notetaker with the name or names of the students receiving the notes and provide the students receiving the notes the name of the notetaker.\*
      - Note-takers keep all assignment and customer-related information confidential. They may divulge the name of the student(s) receiving notes to their substitute.
      - The limitation of a student's disability or disabilities may make typing the notes a requirement for the notetaker. This will be in the accommodation memo.

- You can show the notetaker where a copier is that he/she can use to make copies of the notes.\*
- The notetaker makes multiple copies if multiple students are receiving notes in a class.\*
- Notetakers and students discuss and decide on arrangements for note delivery such as e-mail or a common drop-off location.\*
- The note-taker asks another student in the class to be a back-up notetaker when he/she is not able to attend class. The note-taker should give the back-up instructions for delivering the notes to the student.
  - Let Disability Services know the name of the notetaker

\*More information access to notes: Sometimes Disability Services is able to get a notetaker before the start of the class meetings and will send you and the student(s) receiving notes an e-mail with that information. DS can get the notetaker a method to copy notes without using their student account. The notetaker may scan the notes and send them as an attachment to the student or students receiving notes. Often this is an agreeable and efficient method to distribute notes.

*Attendance Agreement Form:*

- Disability Services does not determine class attendance policies because attendance may be integral to the pedagogic process. Policies/procedures identifying the number of allowable absences in a class before they impact grades may be designed to motivate attendance, reflect the interactive or participatory nature of a course, or be based on department, college, or accrediting agency rules. Similar to other policies, attendance policies/procedures are subject to modification, but rarely elimination, based on their nature and purpose in the design and delivery of the course (see section on deliberative process). Disability Services verifies that a student has a *chronic* medical condition or other established reasons related to a disability that has random or cyclical *acute* episodes, and that modifications to attendance policies may be appropriate.
- If the student has Modification in Attendance Policy as an accommodation, this form will be attached to the accommodation memo.
- You and the student will need to discuss the terms of this accommodation and complete the form.
  - You and the student will need to discuss the aspects of the modification in attendance that are outlined on this form. Together, you will need to determine the limitations of this accommodation and the procedures for the student to follow when needing to miss a class due to his/her disability.
- If you and the student are unable to agree to the terms of this accommodation, because you believe that modifying the attendance in your course would fundamentally alter the essential requirements or because you cannot agree on how to modify the attendance policy/procedure, indicate that on the form. Disability Services will set up a meeting with

the appropriate individuals to assist in making a decision (see section on deliberative process).

*Disability Self-Identification Form* (Resource document 'A'):

- This form is to be used by students who have not yet initiated contact with Disability Services.
- Any admitted student with a disability can complete this form and submit it to Disability Services to establish initial contact with our office.
- If a student in your course discloses that he/she has a disability to you, refer them to the Disability Services office (as per your syllabus). You can also, if you choose, provide the student with a copy of this form that he/she can complete and submit it to Disability Services.

### III. Deliberative Process

The deliberative process is used to determine whether a specific standard or requirement is an essential program requirement that cannot be modified. Below is an excerpt from a Department of Education, Office for Civil Rights (OCR) letter describing the need for a college to have a deliberative process in place and what that process should entail:

The Section 504 Regulation, at 104 C.F.R. 104.44 (a), regarding academic adjustments, requires a postsecondary institution to make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate against a qualified student or applicant with a disability. The regulation *also* states that academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory. The regulation implementing Title II of the AE, at 28 C.F.R. 35.130 (b) (7), states that a public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.

A key issue *is* how OCR should review an institution's determination of whether a specific standard or requirement is an essential program requirement that cannot be modified. OCR cannot require an institution to waive or lessen essential requirements. OCR can require a modification of the requirement, if the requested modification does not lower academic standards, fundamentally alter the nature of the program or impose an undue burden on the College or University, and the modification meets the underlying reason for the requirement.

The degree of deference accorded the institution on these types of decisions should correspond with the nature of the decision. Courts generally defer to academic determinations by Colleges and Universities based on the expertise of the institution and the right to academic freedom, but may not defer to those institutions regarding non-academic determinations. To the extent that a decision or standard *is* an academic one, it is entitled to more deference. In general, a determination of the requirements to graduate with a degree in mathematics, law or art *is* an academic determination. To the extent that a decision at issue *is* more about the accommodations or academic adjustments that a student needs to complete the requirements in a program, it is not an academic determination and therefore *is* entitled to less deference. The elements and content of a history test typically are academic determinations. Generally, the academic adjustments that would be appropriate to provide to disabled persons, such *as* additional time to complete the same history test to compensate for a learning disabled person's reading deficiencies, are not academic determinations. Other examples of academic adjustments might include the amount of time to complete a course or program, unless time is of the essence, and the provision of other testing accommodations, such as a reader or extended time.

There typically are two types of essential requirements. Certain requirements are related to an intended course of study to prepare an individual for a type of job or profession, such as doctor, lawyer, truck driver, teacher, nurse, or physical therapist. These requirements are often related to a student mastering certain skills that are believed to be necessary to perform the duties of the job upon completion of the program. The second type of requirements, such as language requirements, involve liberal arts curricula or requirements for what a "properly educated person should know".

Courts indicate that an appropriate process to determine whether an academic requirement is an essential requirement should have the following elements:

- A. The decision is made by a group of people who are trained, knowledgeable and experienced in the area;
- B. the decision makers consider a series of alternatives *as* essential requirements; and,
- C. the decision should be a careful, thoughtful and rational review of the academic program and its requirements.

OCR strongly recommends that the decision should be documented, including an explanation for the purposes or objectives of the academic program and how the essential requirement is necessary to achieve those objectives. It *is* very helpful for this to be clearly documented prior to a challenge.



Upon request by a disabled student for a modification of a requirement, a college or university has an additional duty. At that time, the institution should have a request by an individual with specific disability-related limitations who is requesting specific accommodations or modification(s) to the institution's academic program. The institution should determine if the requested changes would lower academic standards, fundamentally alter the nature of the program or impose an undue burden on the institution. In making the first portion of this determination, courts indicate that the institution's process should include the elements identified above and the institution should also:

- A. carefully consider whether appropriate alternatives are available, including a consideration of feasibility and cost;
- B. determine if the essential requirement in question cannot be modified for a specific disabled student; and,
- C. ensure that the determination is not based only on the past tradition of the institution, such as an assertion that we have "always" done this or required this, without a valid basis for the determination.

The requested modifications should not lower academic standards or require substantial alteration of the program. A requirement may be essential but the institution should consider if a disabled student could meet the required aspects of the requirement with modifications or academic adjustments. The institution should focus on the underlying reason for the requirement, and whether an appropriate alternative is available that meets the underlying reason for the requirement. For example, an institution should consider whether, if the underlying reason for a foreign language requirement is to expose a student to different cultures, a disabled student could meet this requirement by taking a course such as Asian history or European or African art and culture. The determination should not be based on inaccurate presumptions, prejudices or stereotypes about disabilities or disabled persons. For example, an institution should not presume that persons who have received counseling cannot withstand the rigors of law school or that a person with a certain type of disability automatically cannot complete a certain program. It may be that a person with a disability cannot meet the requirements for completing a requirement or a program but the individual should be judged on the ability to meet requirements, not on assumptions about the individual's limitations. A disabled student also should be provided with appropriate academic adjustments or auxiliary aids, such as extended time for testing or a quiet environment for testing, if such requests are properly supported by documentation.

## IV. A Word about Technology...

The Department of Education, Office of Civil Rights, has been looking closely at the accessibility of currently available and emerging technologies. You can read the entire “Dear Colleague” sent to college presidents <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100629.html> and the complementary FAQs <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-ebook-faq-201105.html>. While the letter speaks specifically to e-readers and students who are blind or have a visual impairment, both address colleges using technology that is not accessible to students with disabilities.

## V. Types of Disability

The following are some of the types of disability that exist. This is not meant to be an all-inclusive list, but rather lists some of the more common types of disability and the accommodations that *may* be deemed appropriate for an individual with that disability. Accommodations are determined on an individual, case-by-case basis through an interactive process, so every accommodation listed may not be appropriate for every student.

### Asperger’s Syndrome

Asperger’s Syndrome is a spectrum disorder, meaning that there is a wide range of possible manifestations and implications within the diagnosis. In general, however, individuals with Asperger’s Syndrome commonly have difficulty in general with social interaction. Asperger’s Syndrome commonly affects an individual’s ability to read and interpret communication constructs such as body language, social cues, non-literal language, and vocal tone. This can cause difficulty in social relationships, although individuals with Asperger’s Syndrome do desire positive social relationships. Individuals with Asperger’s Syndrome also commonly develop pre-occupations with a particular area of interest or topic, or develop a repetitive behaviors or routines. In general, individuals with Asperger’s Syndrome have cognitive abilities comparable to individuals without Asperger’s Syndrome. Of course, due to the nature of Asperger’s Syndrome, every person presents the disability differently.

Some Common Accommodations include:

- Distraction Reduced Testing
- Access to Notes
- Extended Time Tests

### Tips and Strategies for Instructors:

- Set clear expectations for class attendance, class participation, tests, and assignments. Clear, concise written expectations are best. Do not be subtle or vague.
- If the student becomes disruptive to the flow of the class (i.e., asking too many questions or providing too much factual information), speak with the student individually after class. Explain in clear and specific terms what behaviors are expected in your classroom.
- If possible, use the student's area of interest for research or class projects. Highlight his or her areas of strengths in the classroom setting.
- The student may not be capable of understanding/taking another's perspective, so papers or projects that involve this skill may be impossible for the student to complete satisfactorily.
- Work to minimize sensory distractions within the classroom. Remove auditory and visual distractions if possible.

### **Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder (ADD/ADHD)**

ADD/ADHD is a neurological condition that affects learning and behavior. Students may be easily distracted, impulsive, and hyperactive. This disorder may affect the student's concentration, memory, distractibility, ability to control fidgeting, organizational focus, and decision- making.

### Some Common Accommodations include:

- Extended Time Testing
- Distraction-Reduced Testing
- Books in Alternate Format
- Access to notes

### Tips and Strategies for Instructors:

- Students benefit from the use of visual aids, handouts and any multimedia approach.
- Allow time for clarification of directions and essential information.
- Work to minimize sensory distractions within the classroom. Remove auditory and visual distractions if possible.
- Choose textbooks that are published by a company that participates in Access Text Network ([www.accesstext.org](http://www.accesstext.org)).

## **Blind or Low Vision**

Persons are considered legally blind when visual acuity is 20/200 or less in the better eye with the use of corrective lenses. The effects of a visual impairment vary widely. Some students may use a guide dog, others a cane, while others may not require any mobility assistance.

Persons with low vision may rely on residual vision with the use of adaptive equipment such as magnification devices or closed circuit magnifying device.

Some Common Accommodations Include:

- Enlarged Print Materials & Exams/Alternate Format Materials & Exams
- Enlarged Print Books/Alternate Format Books
- Audio Record Lectures
- Academic Assistant (for labs and other similar courses/experiences)
- Extended Time Testing
- Preferential Seating
- Scribe or Use of Assistive Technology for Exams

Tips and Strategies for Instructors:

- Have copies of syllabus and reading assignments ready three to five weeks prior to the beginning of classes so documents are available for audio recording, enlarging, or Braille transcription.
- Repeat aloud what is written on the board or presented on overheads and in handouts.
- Guide dogs may be used by the student. These dogs are highly trained and disciplined and should cause no distraction. It is important to remember not to pet the dog or otherwise distract it from its duties.
- Plan field trips and special projects well in advance. If classes involve field trips to off campus locations, discuss traveling needs with the blind student, and what accommodations may be needed at the destination.
- Notify the student of any schedule or location changes.
- Choose textbooks that are published by a company that participates in Access Text Network ([www.accesstext.org](http://www.accesstext.org)).

## **Chronic Illness**

There are a wide variety of other medical conditions that may cause limitations rising to the level of disability needing accommodations in college. Some of these may include:

- *AIDS*
- *Cancer*
- *Diabetes*
- *Epilepsy*
- *Multiple Sclerosis*

Accommodations for chronic illnesses vary, depending on the illness, current state of the illness, and current treatments being undergone by the student. Accommodations for students with chronic illnesses may change greatly from semester to semester, as well as within a semester.

Some Common Accommodations Include:

- Modification in Attendance Policy
- Permission to Leave Class
- Permission to Eat/Drink During Class

### **Deaf or Hard of Hearing**

The causes and degrees of hearing loss vary greatly. Deafness does not always affect intelligence or ability, but it may affect English language skills if the student has always been deaf.

Some Common Accommodations Include:

- Sign Language Interpreters
- Transcribers/Captionists
- Assistive Listening Devices
- Access to Notes
- Preferential Seating

Tips and Strategies for Instructors:

- Look directly at the person with a hearing loss during a conversation even when an interpreter is present.
- Speak clearly, and do not shout.
- If you have problems being understood, rephrase your wording. Writing is also a good way to clarify. If you have problems understanding a student, repeat back the parts you understood and ask for clarification on the rest.
- Repeat the comments and questions of other students, especially those from the back rows; acknowledge who has made the comment so the student can focus on the speaker.
- Face the class while speaking. If an interpreter is present, make sure the student can see both you and the interpreter.
- Audio material, such as podcasts, need a transcript.
- Film and video need to be captioned.

### **Learning Disabilities**

Learning disability (LD) is a broad term for a group of neurologically-based conditions that affect individuals' acquisition, processing, storage, retrieval, and expression of information. Lately, students have returned to using the term Dyslexic to describe having a learning disability.

They are identified by deficits in one or more areas of academic functioning, which may include written expression, reading, processing, and/or mathematics. Students with learning disabilities have difficulty processing information they receive and then accurately transporting it the brain, as well as retrieving information from the brain and accurately expressing it. Individuals with learning disabilities have average or above average intelligence.

Some Common Accommodations Include:

- Texts in Alternate Format
- Reader for Exams
- Use of a Calculator
- Extended Time Testing
- Access to Notes
- Use of a Dictionary
- Use of Assistive Technology

Tips and Strategies for Instructors:

- Repeat instructions, and write them down. Explain the instructions thoroughly.
- Allow the use of spell-check and grammar-check for in-class work.
- Announce in-class readings ahead of time (or include on the syllabus), so that students may pre-read them before arriving to class.
- If memorization of formulas is not an essential element of an exam or your course, allow the students to use a formula sheet or provide formulas to them.
- Refer students to the various resources available on campus and online, such as tutoring, Assistive Technology software in Gateway Libraries, and online assistance.

### **Mobility Impairments**

Mobility impairments are broadly defined as any disability which restricts a person's independent movement. Mobility impairments range in severity and may or may not require assistive devices for movement. Some mobility impairments are caused by conditions present at birth. These conditions may be consistent over time, or may be degenerative. Other mobility impairments are the result of illness or physical injury.

Some Common Accommodations Include:

- Access to Notes
- Scribe
- Books in Alternate Format
- Extended Time Testing
- Academic Assistant

Tips and Strategies for Instructors:

- A wheelchair is part of a student's personal space; do not lean on or touch the chair, and do not push the chair unless asked.
- If necessary, arrange for a room change before the term begins.
- If necessary, move a desk or rearrange seating at a table so the student is part of regular classroom seating.
- If off-campus assignments or field trips are planned as part of the course, make sure locations are accessible.

## **Psychological Disabilities**

Psychological Disabilities include a variety of disorders, from phobias to Post-Traumatic Stress Disorder, to personality disorders. Some of the common psychological disorders are Depression, Bi-Polar Disorder, and Anxiety Disorders. Post-Traumatic Stress Disorder is becoming more prevalent amongst returning veterans.

Some Common Accommodations Include:

- Modification in Attendance Policy
- Permission to Leave Class
- Extended Time Testing

Tips and Strategies for Instructors:

- In your discussions with the student, do not attempt to diagnose or treat the psychological disorder. Focus on the student's behavior in the course.
- A psychological disability does not necessarily mean a risk to self or others exists. If a student with a psychological disability exhibits and inappropriate or disruptive behavior, follow the standard procedure for addressing such behaviors.

## **VI. Responsibilities**

**Disability Services Office (DS) is responsible for:**

1. Verifying disabilities and need for accommodations
2. Approving reasonable accommodations
3. Informing students of their rights and responsibilities
4. Advocating program access

DS does not have either the right or the responsibility to look over the shoulders of students with disabilities. Students are ultimately responsible for themselves. Disability Services works with students and, when appropriate, with their instructors, to determine two things. First, which

accommodations are reasonable and second, identification and referral for other campus and community services that may be appropriate. DS provides students with the tools necessary for achieving equal access.

**Students are responsible for:**

1. Self-Identification
2. Requesting reasonable accommodations in a timely manner
3. Meeting the academic standards expected of all students

Ultimately, responsibility lies with the student. They must contact DS and faculty with questions and concerns in a timely manner. Through the cooperation of all parties reasonable accommodations are provided.

**Faculty is responsible for:**

1. Being open to accommodating students
2. Providing program access
3. Meeting with students to discuss their needs
4. Implementing reasonable accommodations
5. Maintaining confidentiality

Shared Responsibility

It is the obligation of the faculty to assume a shared responsibility in providing reasonable accommodations for students with disabilities.

*Referral*

If a faculty member is notified by a student of a disability or if the student brings a medical statement to the instructor, it is the faculty member's responsibility to refer that student with the medical statement to Disability Services.

*Confidentiality*

Faculty must maintain appropriate confidentiality and discretion regarding both records and communication when working with students with disabilities. Any explicit or implicit inference to a particular student and the disability is inappropriate.

Faculty members have a responsibility to assist in the provision of accommodations as described in the accommodation memo.

**Everyone is responsible for:**

- Problem-solving issues/concerns
- Maintaining academic standards for course and degree program



## VII. What if...?

### **What if faculty suspects a student has a disability?**

Approach as any other student having difficulty.

Inquire what might be impacting their performance.

If presence of a disability is disclosed, refer the student to the DS.

If the student suspects they have disability refer them to DS.

### **What if a student with a disability requests a letter of recommendation?**

The letter should be written to report what was achieved, not how it was achieved. The letter should be written with regard to how well the student performed in relation to peers.

### **What if a student says their disability may limit regular attendance?**

Attendance during scheduled class times is a necessary part of the learning process. DS staff may recommend flexibility in attendance requirements for some students. Generally, this accommodation is requested when the nature of the disability results in varying functioning levels, i.e., “good and bad days.” Flexibility is negotiable, contingent upon the student and circumstance. Variables such as the course, the material and the necessity of interaction in the classroom are all factors considered.

**Example:** Discourse between an instructor and a student is a critical aspect of learning in a literature course. Thus, it would not be possible simply to read the assigned texts and copy another student’s notes before an exam. Similarly, a science lab course requires students to work, often together, to observe phenomena in experiments and record findings. In these examples, minimal leniency is appropriate.

In other courses, such as large lecture courses, there may be more flexibility in attendance than in the previous two examples. Discussion between the student and instructor is essential. DS staff is also willing to participate in such discussions. There is no substitute for attendance and participation. Exam grades may reflect this and would not be altered as a result of missed material due to absence leniency.

### **What if a classroom is moved?**

Classrooms may be moved if the room is inaccessible to a student registered in the course. Whenever possible, the least intrusive intervention is taken. For instance, a student may be moved to another section of the same course at the same time if that section is scheduled in an accessible location. Faculty should be advised that not all students with severe mobility disabilities, who may require room changes, have visible disabilities.

### **What if an off-campus activity is planned or required?**

Some courses/programs require the completion of activities outside of the classroom as part of the standard curriculum.

Examples of such courses are:

- field trips
- field experiences
- practicum
- student teaching
- professional internships

DS adheres to its over-arching policies regarding program access, reasonable accommodations and prohibition against discrimination with respect to these educational experiences.

When a student asks us to do so, DS provides reasonable accommodations such as readers, scribes, signed language interpreters, and assistive technology. At no time does a student pay fees for reasonable accommodations. However, personal services such as personal care attendants, drivers, etc. are the responsibility of the student.

**Example:** The student arranges a practicum, internship, field trip or field experience, through the appropriate Gateway process. If accommodations are likely to be required, the student must make the request. For example, use of an aid in student teaching would be requested by the student in advance. The purpose, activities, and time necessary for the accommodations would be discussed by the DS and the student, along with the practicum supervisor. Staff at the practicum site may need to be included as well. In other cases, the student makes the requests directly to the practicum site personnel. DS and the student agree on which accommodations are necessary and reasonable, and the authorization to implement them is granted to the student. Supervising faculty should discuss the potential need for accommodations with students when appropriate.

### **What if a student uses a sign language interpreter or captionist in class?**

Students who are d/Deaf may request the use of a sign language interpreter or captionist in order to have access to course lectures and other college activities. A sign language interpreter's job is to provide access by interpreting lecture and other spoken communication into signed communication, usually American Sign Language (ASL). A captionist's job is to type what is said in class while the student reads the typing on a computer. Interpreters maintain a professional level of distance in the classroom when interpreting. Students handle requests for sign language interpreters and captionists directly with the DS.

DS usually sends the instructor an e-mail in advance of the start of classes if a student in the class is using interpreting or captioning services. That way, you will not be surprised if a stranger shows up in your class.

**Example:** The instructor should look directly at the student and speak in the first, not the second, person; he/she does not look at the interpreter or captionist. Likewise, if a student does not speak and wishes to ask a question, the interpreter will voice the student's question or comment or the captionist will type what the student says. It is not ethical for the interpreter or captionist to carry the student's part of the conversation with the instructor or other students. The interpreter's job is to interpret spoken language into sign, and to voice signed language. The captionist's job is to type any spoken communication. Neither is responsible for the student's grasp of material, homework, testing arrangements, or attendance. These are the student's responsibility.

### **What if a student needs to take an exam at the Disability Services Office?**

The first step involves the student reminding the instructor of the agreement to test at the DS. Second, as exams are scheduled, students have the obligation to inform the DS in advance (preferably a week) with the date, hour, course, and professor name. Then, DS contacts the professor via telephone or email requesting a directive for acquiring the exam. The professor may hand deliver the exam, email the exam, or send the exam through campus mail.

### **What if a student is observed cheating on an exam at the Disability Services Office?**

All students must leave textbooks, notes, backpacks, and electronic devices in a place separate from where they are taking the test or away from their reach before beginning an exam. They are permitted additional materials only when the respective professor provides a note explaining exceptions. Students are monitored by DS staff during the exam. In the rare instance when a student is found to be cheating on an exam DS removes the exam and returns it uncompleted to faculty with a note explaining the situation. The course of action taken against the student is determined by the professor and based on previously established policy, usually the Student Handbook. Further testing accommodations cannot be withheld from a student, but additional caution will be used to maintain the integrity of the exam.

### **What if a student with a disability is enrolled in a program that requires specific certification?**

No student can be denied access to any program based solely on his or her disability. All students must adhere to the standards of the program with necessary accommodations made according to his or her disability so long as the accommodations do not fundamentally alter the objectives of the program. When the standards are not met and the student has been given appropriate accommodations, it is reasonable that the student may be denied certification in the program.

**What if I am an adjunct faculty member and have a student with a disability enrolled in my course?**

Adjunct faculty have the added burden of limited time on campus and access to departmental offices during business hours. DS would be happy to assist adjunct faculty in implementation of accommodations in keeping with the ADA and Gateway policy.

**What if a student with a disability registered with the DS is absent from class, should I require a letter from a physician before excusing the absence?**

Verification by accommodation letter for students who do not have reoccurring illnesses is adequate notification. For students who receive the accommodation for modification in attendance a request for additional verification is appropriate for extended absences and hospitalizations.

**What is a reasonable accommodation?**

Reasonable accommodations are adjustments in the learning environment or to policies/procedures that permit students with disabilities to compete at the college. The accommodations modify nonessential elements of college programs. Examples of “reasonable accommodation” include: extended testing times, audio books, large print material, sign language interpreters, adaptive computer software, accessible classrooms, or a way to get notes from lectures.

DS coordinates and provides reasonable accommodations to qualified students with disabilities. Accommodations are individualized to address specific functional limitations resulting from a disability. There must be a logical link between the functional limitation and the accommodation.

DS staff rely on documentation of the disability and a student interview discussing the history, functional limitations, and possible strategies when determining accommodations. Accommodations not requested by students will not be provided. Students with disabilities must perform at satisfactory levels in their academic pursuits at Gateway. If they do not request reasonable accommodations and perform poorly without them, their civil rights have not been violated. The student must then deal with the consequences of unsatisfactory academic progress.

**Are these accommodations fair to other students?**

This question is often asked of students with disabilities. The underlying assumption of the question is that fairness and equal treatment are synonymous with “the same” treatment. However, the same treatment doesn’t always measure fairly.

ADA and 504 of the Rehabilitation Act protect students with disabilities. The assumption of the law is that modifying non-essential tasks through accommodations should give the student with a disability an equal or fair chance to demonstrate their ability.

A student whose limitations in the way they learn, i.e., a learning disability that involves eye hand coordination or thought processing, may need accommodations that assist with their learning. These include, but are not limited to audio books, readers and scribes for tests, screen readers (text-to-speech software), or help with marking Scantron answer sheets. Providing these accommodations helps with effectively expressing the knowledge of the course subject.

DS staff make a point to give case-by-case consideration as required under the law. What one student receives does not necessarily mean that other students with disabilities will receive the same accommodations. The laws protect students with disabilities from being measured in an area that they cannot show their true level of abilities. Reasonable modification allows students with disabilities an equal opportunity to perform at a standard equivalent to students without a disability. While an accommodation may present an advantage to students without a disability, it isn't an advantage for a student with a disability, but an equalizer.

**Example:**

A student whose limitations in the physical task of writing or other fine motor manipulations may be an excellent writer even though they cannot print or type the letters and words. Thus, the physical act of writing is a non-essential task. The student's mastery of language and course material must not, under the law, be judged by their ability to manipulate a pencil or pen, or by use of a keyboard. Accommodating the student by providing a scribe or allowing the use of computer software to record the student's essay responses permits the student to show whether they can write effectively and whether they have acquired the information and critical skills the instructor wished to convey in the course.

**What if a student with a disability is failing my course?**

Do what you would do for any student in your class who is struggling plus contact the DS Staff person who created the accommodation memo. It is OK to give a student with a disability a failing grade if he/she did not meet the course objectives.

**How can I provide notes for a student who is to receive “access to notes” as an accommodation?**

There are many ways to provide notes to students in your classes that will also accommodate students with disabilities. A simple solution is to post your notes on Blackboard for all students to access. Another suggestion is to assign a “floating” notetaker for each class meeting. Assign one student per class session to take notes and then post them to Blackboard for all students in

the class to access. One more idea is to ask for one student to be a notetaker for the class (or just the student(s) with a disability). Find a way to hold the student accountable and reward them for volunteering- perhaps letting them opt out of one homework assignment, receive extra credit, or receive an extension on one assignment. Think of something that is appropriate for your class structure. There are many ways to provide access to notes, so we encourage you to be creative and come up with a solution that works for you and your class.

## VIII. Disability Stereotypes

Negative attitudes toward students with disabilities are often more disabling than the disability itself. Negative attitudes are often based on the following myths and stereotypes about students with disabilities.

### Stereotype or Myth Fact:

✗ Students with disabilities who request accommodations are looking for a way to do less work.	✓ Most students with disabilities have to work much harder than non-disabled students. Many students with disabilities don't want to ask for help.
✗ Providing accommodations means lowering academic standards.	✓ The law does not require lowering standards for students with disabilities. Accommodations allow students with disabilities to meet the college's standards.
✗ Accommodations give students with disabilities an unfair advantage over other students.	✓ Providing accommodations simply "levels the playing field" for students with disabilities. Barriers created by a student's disability must be removed or at least lessened, in order to fairly evaluate the academic performance of disabled students.
✗ If a student with a disability can't perform like non-disabled students, she or he doesn't belong in college.	✓ Students with disabilities can have the same intellectual potential as non-disabled students. If they meet admissions and program standards, they are entitled by law to attend and to receive accommodations
✗ Students with learning disabilities aren't intellectually capable of doing college work.	✓ Students with learning disabilities have average to above average intelligence. The process by which they learn, not their ability to learn, is what is impaired.
✗ Providing accommodations takes too much time for faculty and costs too much.	✓ 90% of all accommodations require minimal time and money.

## IX. Frequently Asked Questions

Q: Who is responsible for obtaining equipment and services for the student?

**A:** After the student is approved for services, a DS staff person makes arrangements for assistive technology, special furniture, or services. If a student experiences any problems with the accommodations or finds the special furniture is not in the appropriate location, the student should contact the DS office. At no time should the student risk injury by moving the furniture.

Q: Can I see the documentation of a student's disability?

**A:** Under FERPA, only those with a "need to know" may see the documentation. Faculty do not need to review diagnostic information about a student's disability. Faculty do need to know what accommodations are necessary to provide the student with an equal educational opportunity.

Q: May I talk with the student about his or her disability?

**A:** Yes, but only if the student wants to discuss her/his disability. Focus on the need for accommodations. Be wary about appearing to probe for information about the disability itself, and do not discuss the disability in class. Information about the student's disability is confidential and should not be discussed with other faculty members.

Q: Does extra time to complete assignments or exams give the student with the disability an advantage?

**A:** Extra time as an accommodation for a student with a disability gives that student the opportunity to demonstrate knowledge of the subject by removing the barrier posed by the disability. Although many students are concerned about the amount of time allotted to complete exams, there is a distinction between the need for extra time due to a disability and the preference for extra time shared by many non-disabled students.

Q: Can a student request an accommodation after an exam or assignment has been completed?

**A:** The student is responsible for requesting an accommodation in a timely manner, prior to the date of an assignment or exam. If a student asks for an accommodation after the fact, a faculty member may allow the student to redo the assignment or take another test with the requested accommodation, but is not obligated to do so.

Q: When a deaf or hard of hearing student has an interpreter or transcriber/captionist, what are the interpreter's/transcriber's/captionist's responsibilities in the classroom?

**A:** The interpreter/transcriber/captionist is there to facilitate classroom communication. The interpreter/transcriber/captionist is not an extra pair of hands to pass back exams or tutor the student who is hearing impaired.

## X. Resources

### A. Disability Self-Identification Form

#### GATEWAY COMMUNITY AND TECHNICAL COLLEGE

#### DISABILITY SELF-IDENTIFICATION FORM

The purpose of this form is for students who have been admitted to Gateway Community and Technical College and who have a disability to identify themselves and begin contact with Disability Services. *Completion of this form is strictly voluntary. Form will be treated confidentially.*

Name \_\_\_\_\_ Date \_\_\_\_\_

Local mailing address \_\_\_\_\_  
\_\_\_\_\_

Telephone number \_\_\_\_\_ E-mail address \_\_\_\_\_

Best time to contact you by telephone or alternate contact means \_\_\_\_\_  
\_\_\_\_\_

Student number (Emplid) if known \_\_\_\_\_

Primary disability \_\_\_\_\_  
Secondary disability or disabilities \_\_\_\_\_

Are you a consumer with any state or federal rehabilitation agency (Vocational Rehabilitation, Department for the Blind, Veteran's Administration, etc.)? \_\_\_\_\_

If yes, which agency? \_\_\_\_\_

Other information you would like Disability Services to know about you \_\_\_\_\_  
\_\_\_\_\_

Return Form by mail, fax or e-mail scan to:  
Disability Services  
GCTC 790 Thomas More Parkway  
Edgewood, KY 41017  
Fax: 859-341-6859

OR Drop off at Disability Services  
Room E105-R  
Lower level, Student Services Center  
Edgewood Campus

Disability Services will call you for an appointment to discuss your disability-related needs and disability documentation guidelines

Equal Opportunity M/F/D



## B. Directions to Arrange Accommodated Tests with DS

Instructions for Accommodated Test when Disability Services is providing the testing accommodations

**Note: Disability Services cannot always proctor the test at the same time and on the same day as the class takes the test. Disability Services may have other proctored tests scheduled. Because of this, the student may not take the test before the next class meeting.**

Student responsibilities

1. Remind your professor that you get test accommodations. Do this when she or he announces the test.
  - A. **Note: You may not get accommodations if you do not remind your instructor.**
2. Contact Disability Services *before the scheduled test date*. We would like at least a week's notice. Call DS at XXX-XXXX or e-mail her at XXXXXXXX. XX will work with you to arrange the test date and time.
  - A. **Note: You may not get test accommodations if you don't contact Disability Services before the test date. We really prefer a week in advance.**
  - B. DON'T TALK TO OTHER STUDENTS ABOUT THE TEST IF YOU DON'T TAKE THE TEST WITH THE CLASS. You can't tell other students what is on the test if you take the test before the class does. You can't ask other students what is on the test if you take the class after the class does. This is a form of cheating. See the KCTCS Student Code of Conduct 2.3.

Professor responsibilities

1. Announce tests far enough in advance so that accommodated test can be scheduled.
2. Contact Disability Services at least a week in advance if you are going to give an unannounced, that is "pop," test, so that arrangements can be made with the student for accommodations.
  - A. **Not following this will mean the professor is responsible for providing accommodations for unannounced tests.**
3. Send DS an e-mail at XXXXXXXX to arrange to get the test and directions for completion to Disability Services before the test date. The test can be in hard copy or electronically and should be at Disability Services at least one full working day before the test.
  - A. Include what student can use when taking the test—calculator, notes, text, etc.—and if the student can leave the testing area for a bathroom break.
  - B. **If Disability Services does not have the test when the student is scheduled to take it, the professor could become responsible for providing the testing accommodations.**
  - C. Let us know how you want the completed test returned to you. Disability Services usually returns the test through inter-campus mail to your campus mailbox. However, we can return the test as a scanned PDF file or to a different campus if you want. In the e-mail, please include directions on how you want test returned to you.

Disability Services responsibilities:

1. Notify student and professor of date and time when the test is scheduled.
2. Notify professor of who is providing the testing accommodations and on what campus.

## C. Directions to Arrange Testing Accommodations by Professor

### Instructions for Accommodated Test When Professor Providing Accommodations

#### Professor and student responsibilities

1. Discuss how test accommodations will be provided
  - A. when (before, during, or after the class takes the test),
  - B. where (professor's office, different campus, in what room).
2. Make sure that the student knows how test accommodations are arranged.

#### Student responsibilities

3. Remind the professor that you get testing accommodations when she or he announces the test or after the professor reminds students of an upcoming test if test dates are listed on the syllabus.
  - B. ***Note: Failure to remind your professor that you get test accommodations may result in you not receiving accommodations for that test.***
  - C. DO NOT CONSULT OTHER STUDENTS ABOUT THE CONTENT OF THE TEST IF YOU TAKE THE TEST AFTER THE CLASS TAKES THE TEST OR DISCUSS THE CONTENT OF THE TEST IF YOU TAKE IT BEFORE THE CLASS TAKES THE TEST. DOING SO MAY RESULT IN YOU BEING CHARGED WITH ACADEMIC DISHONESTY AS REFERENCED IN THE KCTCS ACADEMIC POLICIES AND PROCEDURES 2.3.

#### Professor responsibilities

1. Announce tests far enough in advance so that accommodated test can be scheduled.
2. Arrange with student for test date and time.
  - A. ***Note: It is agreeable for you to designate another person to be the test proctor or reader.***

## D. Web Resources

### Disabilities, Opportunities, Internetworking, and Technology (DO-IT)

University of Washington DO-IT Faculty Room <http://www.washington.edu/doi/Faculty/>  
Cornucopia of Disability Information

Texas A&M University, Corpus Christi <http://codi.tamucc.edu/>  
University of CA, Berkley <http://www.dsp.berkeley.edu/teachstudentswithdisab>  
Assistive Technology: <http://assistivetech.net/>

### LD

International Dyslexia Society <http://www.interdys.org/>  
Learning Disabilities Association of America <http://www.ldanatl.org/>

### ADD/ADHD

Virginia Tech Cook Counseling Center Attention Deficit Disorder Student Handbook  
[http://www.ucc.vt.edu/academic\\_support\\_students/attention\\_deficit\\_disorder\\_handbook/index.html](http://www.ucc.vt.edu/academic_support_students/attention_deficit_disorder_handbook/index.html)

Children and Adults with Attention Deficit/Hyperactivity Disorder (CHADD) <http://www.chadd.org/>

### Blindness/Low Vision

American Foundation for the Blind <http://www.afb.org/>  
National Federation of the Blind <https://nfb.org//>

### Autism

Understanding Asperger Syndrome: A College Professor's Guide, Part 1 <http://www.youtube.com/watch?v=233-3jtEZck>  
Understanding Asperger Syndrome: A Professor's Guide (Part 2) <http://www.youtube.com/watch?v=lmv-KA5VQBE>

Global and Regional Asperger Syndrome Partnership (GRASP) <http://www.grasp.org/>

### Deaf/Hard of Hearing

PepNet online training <http://www.pepnet.org/quickclasses/>  
National Association of the Deaf <http://www.nad.org/>

### Psychological

National Alliance on Mental Illness (NAMI) <http://www.nami.org/>  
ULifeline <http://www.ulifeline.org/page/main/Home.html>