LEGAL PROTECTION OF DISABILITY

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973 tells us, “No otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a public entity.”

For someone to be “otherwise qualified”, they must meet the academic and technical standards requisite to admission or preparation.

AMERICANS WITH DISABILITIES ACT OF 1990

The Americans with Disabilities Act of 1990, commonly referred to as the ADA, provides protection from discrimination on the basis of disability. It upholds and extends the standards for compliance set forth in Section
504 of the Rehabilitation Act of 1973 to employment practices, communications, and all policies, procedures and practices that impact the treatment of students with disabilities.

**Americans with Disabilities Act Amendments Act of 2008**

In 2008, some Amendments were made to the ADA which expanded the definition of “major life activities”. The Amendments state that mitigating measures other than “ordinary eyeglasses or contact lenses” shall not be considered in assessing whether an individual has a disability. It is clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The Amendments provide that individuals covered only under the “regarded as” prong are not entitled to reasonable accommodation. They emphasize that the definition of “disability” should be interpreted broadly.

**Law vs. Right Thing to Do**

Providing access for persons with disabilities is the law, and the University of Louisville is responsible for making sure we meet our legal obligations. While we want you to be aware these obligations, the law is not the lens we want you to use when looking at accessibility issues. We want you to provide access because it is the right thing to do. The University of Louisville values diversity, and ensuring the accessibility of our campus contributes to the diversity of the University community.

**Working with the DRC**

**Student Referrals**

Faculty can assist us by referring students with disabilities to the Disability Resource Center. Faculty are strongly encouraged to include the following statement on the course syllabus:

“The University of Louisville is committed to providing access to programs and services for qualified students with disabilities. If you are a student with a disability and require accommodation to participate and complete requirements for this class, notify me immediately and contact the Disability Resource Center (119 Stevenson Hall, 852-6938) for verification of eligibility and determination of specific accommodations.”

The syllabus statement is helpful because it:

- Informs students of availability of accommodations
- Educates students about the process
- Reduces anxiety that the student may feel about approaching the faculty
- Reduces last minute requests
- Eases the transition for traditional students moving from high school to college

**Confidentiality**

Students with disabilities are protected from discrimination under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Recognizing that discrimination often occurs as a result of attitudinal barriers and misconceptions regarding the potential of persons with disabilities, these mandates presume that the U.S. Constitutional right to privacy applies to the treatment of disability related information.
It is essential that disability information be kept confidential. At no time should the class be informed that a student has a disability, except at the student’s request. Any information that a student gives to the faculty member is to be used only for arranging accommodations for the course of study and may not be disclosed.

**Process Overview**

To begin the process, the student must:

1. Identify to the DRC that they are a student with a disability and provide appropriate documentation.
2. Meet with DRC staff to discuss needs and request accommodations.
3. Request any needed accommodations each semester.

**Accommodation Letters**

Faculty are responsible for requiring verification of eligibility in order to provide accommodations. The standard form of verification is a letter to the faculty prepared by staff of the DRC. Once a student requests accommodations, DRC staff will write up letters to the faculty explaining the student’s accommodations and provide these letters to the student to give to his or her instructors.

An exception to this process occurs when students are in online classes. Since distance education faculty may or may not be physically present on campus, the DRC will email letters to these faculty and copy the student on the email. Please note that as we work to automate some of our processes, we may eventually provide all accommodation letters directly to faculty via email rather than have the student deliver them.

**Academic Standards**

Please note that accommodations are not intended to fundamentally alter essential components of your curriculum or academic requirements of a program of study. The Disability Resource Center values the University’s academic standards. The goal of accommodations is not to lower academic standards, but to provide access to allow students with disabilities to meet the academic standards. If you ever have questions or concerns about this, contact us. We are more than happy to talk through these situations with you.

**Discussion with Students**

It is the student’s responsibility to discuss their accommodations with you. If the student receives exam accommodations, this discussion should include:

- Will you administer the accommodated exams or will exams be administered at the DRC?
- If exams conflict with another class or DRC office hours, the student should seek your permission to take the exams at an alternate time. Then, when would be an acceptable time to take the exam?
- If exams are online, how will the student get access to the accommodated exam?

**Exam Accommodations**

The DRC often collaborates with faculty for the implementation of exam accommodations for eligible students. Faculty have the option to administer exams with the appropriate accommodations themselves or may request that the DRC assist them by administering the exams on the faculty’s behalf.

When you receive the letter for a student with exam accommodations, you will find the Exam Accommodation Form attached to it. This is where you will let us know whether you plan to provide accommodations yourself or if you want assistance from the DRC. Please complete this form, detach it from the letter, and give the form back to
the student for delivery to the DRC. Please note that as we automate some of our processes, this information may eventually be collected electronically rather than through a hard-copy form.

**Obtaining Exams**

Students are responsible for scheduling each exam to be administered by the DRC at least 5 business days in advance. If the student does not schedule the exam with us, we assume that he or she plans to take the exam in class or has made arrangements for the faculty to administer the accommodated exam.

Emails are sent to the faculty a few days prior to the scheduled exam to inform you that we will need to obtain the exam from you. Please provide the DRC your exams as quickly as possible to allow us time to complete any necessary conversions or other preparations.

**Exam Administration**

When a student completes an exam, the exam is sealed in an envelope for faculty pickup or for DRC to return to the academic unit. When faculty prefers that we return the exam, we deliver it to the department’s main office so we can obtain a signature verifying receipt.

Every precaution is taken to maintain test security. Tests in the care of the DRC are kept confidential and handled by authorized personnel only. If a student is caught cheating or suspected of cheating on an exam administered by the DRC, we will stop the exam, gather materials from the student, report the incident, and return all materials to the instructor for action by the academic unit.

**Supplemental Note Takers**

Some students with disabilities may request a supplemental note taker for your class. A supplemental note taker will be another student enrolled in the class who shares a copy of his or her notes with the student with a disability. Supplemental note takers receive community service hours for volunteering with this program.

When given sufficient notice by the student, the DRC will attempt to find a note taker for the student before the semester begins by sending an email to the class. If we are unable to identify a note taker by email or if the student does not give us sufficient notice, we may request your help in identifying a supplemental note taker with an In-Class Announcement.

If your assistance is needed, the student should bring you an In-Class Announcement from our office. We ask that you read the announcement to the class to assist in our efforts to find a note taker.

**Class Attendance**

Some students may need to suddenly leave class or miss class frequently due to a disability. Reasonable flexibility with regard to attendance may sometimes be listed in the accommodation letters for these students. Like all accommodations, this accommodation is not intended to fundamentally alter the curriculum. The amount of flexibility that is reasonable will vary from class to class depending on how essential attendance is to the course.

The Office for Civil Rights has compiled a list of questions you may ask yourself to help you determine how essential attendance is to your course:

- Is there classroom interaction between the instructor and students, and between students?
- Do student contributions constitute a significant component of the learning process?
• Does the fundamental nature of the course rely upon student participation as an essential method for learning?
• To what degree does a student's failure to attend constitute a significant loss to the educational experience of other students in the class?
• What does the course description or syllabus say?
• What is the method by which the final course grade is calculated?
• What are classroom practices and policies regarding attendance?

When assessing whether a request for accommodation of attendance alters an essential aspect of a course or program the following questions can be helpful:

• Is the absence a direct result of the student's disability?
• Does the faculty member consider attendance an essential aspect of the course?
• Does the course reasonably meet one or more of the above criteria?
• Is the attendance policy equally applied?

If, after making these inquiries, the college determines that attendance in a particular course is essential, the Office for Civil Rights will give significant deference to that determination.

**Deadlines**

In some cases, consideration for flexibility with deadlines may be requested for a student with a disability. Use caution when this request is made and consider whether routine extension of deadlines create a vicious cycle that ultimately results in “Incompletes”. Also consider whether assignments could be provided earlier to allow the student more time to complete them by the deadline. If request for extension becomes habitual, the student may want to speak with DRC about the possibility of reducing their course load.

**Universal Design**

Universal Design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. Universal Design for Instruction takes into consideration the variety of abilities, disabilities, racial/ethnic backgrounds, reading abilities, ages, and other characteristics of the student body.

Universal Design benefits everyone! For example, closed captions on a video you assign as homework are necessary for someone who is deaf, but might also help:

• An individual for whom English is a second language, who may understand written English better than spoken English.
• An individual who is watching the video in an environment where they must be quiet – like a library or while caring for a sleeping child.
• An individual whose computer speakers are not working.

**Faculty Perspective on Universal Design**

For a faculty perspective on how Universal Design affects his teaching, watch [this video](#) from Dr. Kimo Ah Yun, Professor of Communication Studies at Sacramento State University.
Universal Design for Instruction Principles

Equitable use
The design is useful and marketable to people with diverse abilities. For example, a professor’s website is designed so that it is accessible to everyone, including students who are blind and using screen reading software.

Flexibility in use
The design accommodates a wide range of individual preferences and abilities. For example, a museum, visited as a field trip for a course, allows each student to choose to read or listen to a description of the contents of display cases.

Simple and intuitive
Use of the design is easy to understand, regardless of the user’s experience, knowledge, language skills, or current concentration level. For example, control buttons on science equipment are labeled with text and symbols that are simple and intuitive to understand.

Perceptible information
The design communicates necessary information effectively to the user, regardless of ambient conditions or the user’s sensory abilities. For example, a video presentation projected in class includes captions.

Tolerance for error
The design minimizes hazards and the adverse consequences of accidental or unintended actions. For example, educational software provides guidance and background information when the student makes an inappropriate response.

Low physical effort
The design can be used efficiently and comfortably, with a minimum of fatigue. For example, doors to a lecture hall open automatically for people with a wide variety of physical characteristics.

Size and space for approach and use
Appropriate size and space is provided for approach, reach, manipulation, and use regardless of the user’s body size, posture, or mobility. For example, a flexible science lab work area has adequate workspace for students who are left- or right-handed and for those who need to work from a standing or seated position.

Universal Design for Instruction Tips

- Determine the fundamental elements for each course or curriculum (essential skills, technical standards, etc.).
- Provide all critical info on class syllabus including field trips, any additional assignments, method of evaluation, oral presentation requirements, etc. This allows all students to evaluate what steps they may need to take to meet the class expectations and helps students with disabilities identify any access issues early.
- Provide info on the textbook and other reading requirements early.
**Technology Accessibility**

**Assistive Technology**
Assistive technology is software or hardware that helps students with disabilities do something that might otherwise be difficult or impossible. Examples include

- Text-to-speech software (Read & Write Gold, Kurzweil)
- Screen reading software (JAWS)
- Screen magnifying software (Zoomtext)
- CCTV document magnification

**Using Technology with Accessibility in Mind**
While assistive technology assists students with gaining access, it does not guarantee access. In order to use assistive technology to effectively gain access, the content on which the technology is being used must be created with accessibility in mind.

The Delphi Center for Teaching and Learning has developed a [Creating Accessible Courses] webpage with some resources to assist faculty in using technology with accessibility in mind. Beth Case, the Program Manager for Digital, Emerging, and Assistive Technologies at the Delphi Center, is also a resource for helping faculty incorporate accessibility and Universal Design into their courses.

**PDFs**
Many instructors post PDFs on their course’s Blackboard site or send links to PDFs to students for class readings. PDFs can be accessible for students using screen readers, but unfortunately, they are not always created with accessibility in mind. The Delphi Center has created some “how-to” documents that show faculty step-by-step how to [Create Accessible Word Documents and PDF Files] and [Convert PDF Files].

**Videos & Podcasts**
Some instructors show videos in class or post videos or podcasts on Blackboard for their students. When a student is deaf, it is essential that the video or podcast be captioned so that the student will be able to know what is being discussed. If a video or podcast is not captioned, you have some options for making sure it will be accessible to deaf students:

- Contact the publisher of the video or podcast to see if they have a captioned version or transcript available.
- You can transcribe the video or podcast yourself, or see if a student worker in your department may be able to do this for you.
- For a fee, you can hire a professional to transcribe the video for you. Contact Cathy Patus in the Disability Resource Center for some local transcription resources.

**Images**
Images in a document, presentation, or webpage can be simply decorative or can convey information to the person viewing them. When a student is blind, they do not have access to this information unless the individual that inserts that image provides alternative text (commonly referred to as "alt text"). When a person using a screen reader encounters an image that has alt text, the screen reader reads the text provided which describes
what is conveyed in the image. This allows individuals who are blind to gain the same information as a sighted person who views the image. The Delphi Center has created a “how-to” document on Writing Effective Alt Text.

**Contact Us**

If you have any questions, please contact the Disability Resource Center by phone at 502-852-6938, by email at askdrc@louisville.edu, or by stopping by our office in 119 Stevenson Hall.