

Policies and Procedures for Students with Disabilities

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I. Accommodation Procedures for Students with Disabilities

A. Non-Discrimination Policy

It is the policy of Central Valley Opportunity Center (“CVOC”) to comply with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act and all other laws that prohibit discrimination on the basis of disability. CVOC does not discriminate on the basis of disability against a qualified person with a disability in regard to application, acceptance, grading, advancement, training, discipline, graduation, or any other aspect related to a student’s participation in a program of CVOC. This applies to all students and applicants for admission to CVOC. CVOC will provide reasonable accommodations to students with disabilities unless it can demonstrate that the accommodation would impose an undue hardship on the operation of its program or activity.

B. Definition of an Individual with a Disability

An *individual with a disability* is a person who has a physical or mental impairment which substantially limits one or more major life activities of the individual. These persons are protected by Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA). Individuals with a record of such an impairment and individuals who are regarded as having such an impairment are also protected by these Federal laws.

The phrase *physical impairment* means a physiological disorder or condition, a cosmetic disfigurement, or an anatomical loss, that affects one or more of the following body systems: neurological; musculoskeletal; special sense organs (which would include speech organs that are not respiratory such as vocal cords, soft palate, tongue, etc.); respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine. Examples include, but are not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV disease (symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

The phrase *mental impairment* means any mental or psychological disorder, including but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, specific learning disabilities, post-traumatic stress disorder, depression and bipolar disorder. The phrase *substantially limits* must be interpreted without regard to the ameliorative effects of mitigating measures, other than ordinary eyeglasses or contact lenses. Mitigating measures are things like medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications that an individual

may use to eliminate or reduce the effects of an impairment. These measures cannot be considered when determining whether a person has a substantially limiting impairment. An impairment that is episodic or in remission is a disability if, when in an active phase, it would substantially limit a major life activity. For example, a student with bipolar disorder would be covered if, during manic or depressive episodes, the student is substantially limited in a major life activity (e.g., thinking, concentrating, neurological function, or brain function).

The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. *Major life activities* also includes major bodily functions such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

To the extent, if any, any applicable law defining these terms does so more broadly or inclusively than set forth above, CVOC will follow such broader or more inclusive standards.

C. CVOC's Responsibilities to Students with Disabilities

CVOC will provide *academic adjustments, auxiliary aids and reasonable accommodations* to students with disabilities, that are necessary to ensure students are not denied the benefits of, or excluded from participation in, CVOC's programs, unless the accommodation would impose an undue hardship on CVOC's program or activity. CVOC will make modifications to its academic requirements that are necessary to ensure that the requirements do not discriminate against students with disabilities. CVOC will provide physical access to students with disabilities. CVOC also permits students with disabilities to use service dogs on each campus.

The person responsible for implementing these responsibilities at CVOC is Disability Counselor. See contact information below.

When a student informs a CVOC staff member that the student is disabled, or needs accommodations or assistance due to disability, the staff member will refer the Student to CVOC's Disability Counselor.

D. Additional Factors

CVOC is not obligated to provide accommodations that would result in a fundamental alteration of its program. In such case, the Disability Counselor and Executive Director will promptly search for an equally effective alternate accommodation for the student that would not fundamentally alter the program and will offer any such available alternate accommodation to the student.

CVOC is not obligated to provide accommodations that would result in an undue financial or administrative burden on CVOC. CVOC is a non-profit public benefit corporation with limited resources. The Executive Director will evaluate whether requested accommodation might impose such a burden, the Executive Director will

take into account the overall financial resources of CVOC. CVOC's Executive Director will make the final decision, in accord with the requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. If the CVOC's Executive Director determines that the requested accommodation would be an undue burden, the Executive Director and Disability Counselor will promptly search for an equally effective alternate accommodation for the student and offer any such available alternate accommodation to the student.

E. Procedures for Students and CVOC

Documentation of disability by students

Students with disabilities who wish to request reasonable accommodations (including academic adjustments, auxiliary aids, or modifications) must contact the Disability Counselor. Students must provide documentation of disability from an appropriate professional, which depends on the nature of the disability. For example, a student with a psychological disability should provide documentation from a psychologist, psychiatrist or social worker.

This documentation may be the student's existing medical records, or reports created by the student's medical provider or an appropriate professional who conducts an assessment of the student. It may be documentation from the student's past educational records such as reports from teachers or CVOC psychologists, or records that show the student's educational history, disability assessment, and the accommodations the student previously received. It may be records from the state department of rehabilitation or the U.S. Department of Veterans Affairs. Documentation should be current and relevant, but that does not mean that a recent report or record is needed in all cases. Some disabilities are stable lifelong conditions and historic documentation will be sufficient. Some disabilities are readily apparent and observable and thus little or no documentation will be needed.

The documentation of disability is kept at all times in a locked, private file at CVOC. To protect privacy, direct access to this documentation is by written consent only. The Disability Counselor will determine what information needs to be shared with CVOC's staff and Learning Leaders, on an "as needed basis," in order to facilitate academic accommodations or other services.

F. Student Requests for Accommodations and Interactive Discussion with Disability Counselor

Students who plan to request accommodations should contact the Disability Counselor promptly, so there is time for the Disability Counselor to review the student's documentation and discuss accommodations with the student before the student begins the class or program for which the accommodation is being requested. When a student contacts the Disability Counselor, the Disability Counselor will keep a record of the dates and contacts with the student, including a record of the accommodations requested by the student. Students who have questions about the type of documentation they need to provide should contact the Disability Counselor to discuss this.

The student and the Disability Counselor will discuss how the student's impairment impacts the student, how the student expects the impairment to impact the student in CVOC's program, the types of accommodations the student has previously received (if any), and the accommodations being requested by the student from CVOC. The Disability Counselor and the student should discuss accommodations needed during all phases of the program, and for classroom instruction, skills based instruction and skills practice.

The documentation (or observation) must show the nature of the student's disability and how it limits a major life activity. The accommodations requested by the student should be related to these limitations. There are no pre-set accommodations for specific disabilities. Instead, the Disability Counselor and the student must discuss and determine what the student's limitations are, and how they can be accommodated. Here are some examples:

- A student with an orthopedic disability may need cushioned floor mats and scheduled times to sit down. These students may also need particular kinds of chairs.
- A student with a learning disability or attention deficit disorder may need extra time to take tests, such as ninety minutes to take a test instead of the sixty minutes allowed to other students. These students may need to take their tests in a location that is quiet and has no distractions, such as an office rather than the classroom.
- A student with a learning disability or psychological disability may need a note taker, a copy of the instructor's notes or presentation, or to use a tape recorder during instruction.
- A student with post-traumatic stress disorder or an anxiety disorder may need to take periodic leaves of absence, or may need to structure their program so that it is scheduled over a longer period of time than usual. These students may need to take breaks in a quiet room during skills practice.
- A student with a hearing impairment may need instructors to use voice amplification systems, or may need CVOC to provide a sign language interpreter.
- A student with diabetes may need periodic breaks to check his or her blood sugar level.

G. Decision About Accommodations, and Ensuring Implementation of Accommodations

The Executive Director, in consultation with the Disability Counselor will decide questions of whether a proposed accommodation: (1) would result in a fundamental alteration of the program; and/or (2) would result in an undue financial or administrative burden on CVOC.

Otherwise, the Disability Counselor will decide the accommodations to be provided to the student. The Disability Counselor will consider any past accommodations that

have been effective for the student, and will give primary consideration to the type of accommodation requested by the student. Alternate accommodations may be provided if there is an alternative accommodation that would be equally effective for the student.

The Disability Counselor will make a decision as soon as possible after the student states the request for an accommodation. If the student does not submit documentation of disability at the time the student requests an accommodation, the Disability Counselor will make a decision, if possible, no later than two weeks after the student provides the documentation.

The Disability Counselor will list the approved accommodations in writing and provide this to the student. The Disability Counselor will inform the appropriate Learning Leaders and CVOC's staff of the accommodations they are responsible for providing to the student, how to provide the accommodations, and when to provide the accommodations. The Disability Counselor will keep a written record of these contacts about the student's accommodations. The Disability Counselor will verify that the accommodations are being implemented for the student through direct observation, report by the student, and/or documentation from CVOC's staff. If the student informs the Disability Counselor that an accommodation is not being fully implemented, the Disability Counselor will immediately intervene with relevant staff members to ensure the accommodation is provided to the student.

After accommodations have been approved for a student, the Executive Director or Disability Counselor will make an appointment with a student for a time when the student's program is expected to change. The purpose of the appointment is to determine whether the student's accommodations should be changed when the student's program phase changes, or the type of instruction changes.

H. Appeals by Students

When a student appeals a decision made by the Executive Director on questions of whether a proposed accommodation: (1) would result in a fundamental alteration of the program; and/or (2) would result in an undue financial or administrative burden on CVOC, then the appeal be directly to the CVOC Board of Directors or a committee of the Board designated to hear that or such appeals when such an appeal is presented, the Board of Directors or committee will decide the appeal as soon as possible and inform the student of its decision in writing.

A student may appeal any accommodation decision made by the Disability Counselor if the student disagrees with the decision. Here are some examples: A student may appeal the Disability Counselor's decision to deny a requested accommodation. A student may appeal a decision to provide an alternate accommodation rather than the specific accommodation requested by a student. A student may appeal a decision that the student has not presented sufficient documentation to support the requested accommodation. A student may also file an appeal when a CVOC's staff member fails to provide an approved accommodation, and the Disability Counselor has not effectively addressed the situation.

When a student wishes to file an appeal, the student must notify the Executive Director. See contact information below. The student must explain his/her reasons for disagreeing with the decision, or explain how the student's accommodation is not being implemented, and submit any relevant documentation.

As soon as possible after receiving a student's appeal the Executive Director will arrange to meet with the student and the Disability Counselor to discuss the issues presented by the student's appeal. If appropriate, the Executive Director will also discuss the issues with other CVOC staff members.

When a student appeals a decision made by the Disability Counselor, the Executive Director will determine whether the Disability Counselor's decision should be revised or remain the same. If the decision is revised, the Disability Counselor or designee will ensure that the revised decision is implemented.

When a student files an appeal on the basis that an approved accommodation is not being implemented, the Executive Director will determine whether the accommodation is being fully implemented, and if it is not, ensure that the accommodation is implemented.

The Executive Director will inform the student of the decision in writing as soon as possible after receiving the student's appeal.

I. Training and Mediation Responsibilities of the Disability Counselor

The Disability Counselor will deliver disability training sessions for all campus staff members at least once each calendar year. In these training sessions the Disability Counselor will explain the basic requirements of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act as they apply to CVOC. The Disability Counselor will address: CVOC's responsibility to provide accommodations to students with disabilities; how to appropriately interact with students with particular kinds of disabilities; how to go about implementing accommodations that the Disability Counselor has approved for students; how to support students with disabilities in CVOC's programs; that students with disabilities cannot be penalized for using approved accommodations. The Disability Counselor will keep a record of each training session.

The Disability Counselor may also provide trainings for students who wish to learn about CVOC's process for providing accommodations, or about CVOC's grievance procedures.

To help ensure that future campus staff members and students are aware of CVOC's policies, the Disability Counselor will make sure that the Accommodations Procedures and the Grievance Procedures are continually posted at each CVOC campus.

The Disability Counselor will assist students with disabilities who have concerns about implementation of their accommodations or their treatment by CVOC's staff members or other students. At the request of a student, the Disability Counselor will informally mediate or attempt to resolve issues related to the student's disability. If this informal process does not resolve the student's concerns, the student may file a grievance as described in Section II below.

II. Grievance Procedures for Students who have Complaints on the Basis of Disability

A. Policy

CVOC provides a grievance procedure to students who feel they have been discriminated against on the basis of disability. The grievance procedure provides students the opportunity to file a complaint. CVOC then has the responsibility to objectively investigate the allegations in the complaint and determine whether the student has been discriminated against. If CVOC determines that discrimination occurred, CVOC will take appropriate steps to correct the discrimination and prevent it from reoccurring.

B. Grievance complaints

A student may file a grievance if the student feels he or she has been discriminated against because the student is disabled, or because the student is regarded as being disabled, or because the student has a record of being disabled. A student may also file a grievance if the student feels that he or she has been retaliated against for advocacy based on disability. Here are some examples of discrimination:

- An instructor or other students refer to the student in a derogatory way related to the student's disability.
- An instructor generally refers to students with particular types of disability in a derogatory way.
- Other students refuse to work with the student because the student is disabled.
- A CVOC staff member refuses to provide a service to the student that the staff member provides to other students.
- A CVOC staff member takes a negative action toward the student after the student asked for accommodations for a disability.
- A guest presenter at CVOC makes derogatory statements about students with disabilities, or states that students with disabilities can never be employed in the presenter's field.
- A student's request for accommodation was denied by CVOC, or an instructor did not implement an accommodation for the student that was approved by CVOC.

A student must file a grievance complaint within 90 days of the date the discriminatory act occurred, or within 90 days of the end of an informal attempt to resolve the complaint, whichever is later. The complaint must be written. In the complaint, the student must describe what happened and the dates the acts took place, and state who was involved. The student should explain why the student believes the acts were taken based on disability. The student should describe or provide copies of any relevant documents or emails, if available.

A student may ask the Human Resources (HR) Director or Disability Counselor to try to informally resolve the student's complaint before the student files a written complaint. However, the student is not required to try informal resolution before filing a written complaint.

The complaint must be sent to Disability Counselor, Human Resources (HR) Director or designee.

C. Investigation of the Complaint

When the Disability Counselor or HR Director receives a written complaint, the Human Resources (HR) Director will immediately begin an objective investigation. As soon as possible the HR Director, Disability Counselor or designee will discuss the allegations in the complaint with the student, and obtain any needed additional information from the student. The Disability Counselor or designee will obtain from the student the names of any persons the student believes will have relevant information. The HR Director or designee will gather all information necessary to determine what took place. To do so, the HR Director or designee will interview any CVOC staff members or students who engaged in the actions or may have witnessed the actions that the student is complaining about. The HR Director, Disability Counselor or designee will interview persons that the student stated may have relevant information. The HR Director, Disability Counselor or designee will gather any relevant documents such as emails, student work or instructor's records. During the investigation, the HR Director, Disability Counselor or designee will disclose the complaint, and confidential information about the student, only to the extent necessary to investigate the allegations of the complaint.

After reviewing all the evidence gathered, the HR Director, Disability Counselor or designee will determine whether the student was treated differently from other students based on disability; or whether the student was harassed based on disability; or whether the student was retaliated against because the student advocated on the basis of disability; or whether the student was denied an accommodation that CVOC should have provided to the student.

D. Written Decision

The Executive Director, HR Director or designee will provide the student with a written decision no later than sixty days after the date the student filed the complaint. The decision will state the determination reached by the Executive Director, HR Director or designee at the conclusion of the investigation, and the reasons the Disability Counselor or designee reached that determination. If the Executive Director, HR Director or designee concludes that the student was discriminated against on the basis of disability, the decision will state the types of remedial action that CVOC has taken or will take to correct the discrimination. The decision will also state how CVOC will prevent the discriminatory acts from occurring again.

E. Appeals by Students

If the student who filed the complaint disagrees with the decision made by the Executive Director or designee, or disagrees with the remedial action specified, the

student may appeal the decision to the Board of Directors. The appeal must be written and sent to the Executive Director. The appeal must state the specific reasons that the student disagrees with the decision. Appeals must be filed no later than thirty days after the student receives the written decision from the Executive Director or designee.

The Board of Directors will meet in the executive session and will review all the information provided by the student in the appeal, the decision by the Disability Counselor or designee, the interview records made by the Executive Director or designee and the documents gathered by the Executive Director or designee. The Board of Directors will issue a written decision to the student after receiving the student's appeal. The Board of Directors will determine whether the decision should be revised or remain the same. If the Board of Directors determines that the decision should be revised, the Board of Directors will ensure that any necessary changes in the remedies are implemented.

F. U.S. Department of Education

Students or CVOC staff with questions or concerns about disability issues may contact the Office for Civil Rights (OCR), U.S. Department of Education. OCR enforces Section 504 of the Rehabilitation Act and the Americans with Disabilities Act as they apply to post-secondary educational institutions.

The OCR National Headquarters is located at:
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 877-521-2172
Email: OCR@ed.gov

OCR has regional offices located throughout the country. To find the office for our state, you can check the OCR website at: <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>, or call the telephone number above.

G. CVOC Contact Information

CVOC Human Resources EEO Mgr

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CVOCDisabilityPoliciesandProceduresSeptember2016