

San Bernardino Valley College Americans with Disabilities Act (ADA) Process for Filing an ADA Complaint

San Bernardino Valley College (SBVC) prohibits discrimination against any person on the basis of race, color, religion, sex, age, marital status, physical disabilities, mental impairments, or sexual orientation.

Pursuant to the above statement, SBVC supports full access to all college facilities as outlined in Title II of the Americans with Disabilities Act of 1990 (ADA), as amended and complies with Section 504 of the Rehabilitation Act of 1973 (Section 504) as it pertains to prospective students or currently enrolled students.

The ADA is a federal civil rights law that mandates equal access and protects individuals from discrimination based on their disabilities. The ADA trumps all other acts regarding students in post-secondary education. The ADA is divided into five titles (or sections). Each title relates to different areas of public life. Title II of the ADA applies to state-funded schools such as universities, community colleges and vocational schools. Title II requires these institutions to have a grievance process so that students can report allegations of discrimination.

In a similar vein, Section 504 of the Rehabilitation Act of 1973 protects individuals from discrimination based on their disabilities. It governs any public school or college that accepts any type of federal financial assistance. Section 504 is divided into seven subparts. Subpart D specifically applies to kindergarten through 12 grade schools whereas subpart E specifically applies to postsecondary institutions. Like the ADA, Section 504 mandates institutions to have a grievance process in place that provides for the resolution of complaints alleging disability discrimination.

Sometimes confusion arises with regard to eligibility for academic accommodations for a disability when a student transitions from high school to SBVC. In order to reduce the chance for confusion or delay in the delivery of services, it is very important that the student be informed of his/her rights and responsibilities when preparing to enroll at SBVC (or any other post-secondary institution). Being well informed will help the student benefit the most from his/her educational experience at SBVC. It is also very important for a student to initiate and maintain communication with relevant college professionals when requesting academic accommodations. This communication typically includes faculty and staff in the Disabled Student Programs and Services (DSPS) office. While protections do exist at the post-secondary level, a student needs to understand that he/she has significantly more responsibility to both identify the disability and request and/or design his/her own academic accommodations compared to his/her responsibility in primary and secondary educational settings. When requesting an academic accommodation there should be less of a focus on the language a student is using and more emphasis on what specific issue he/she is bringing forward. The transition from high school to college necessitates that the student go from an environment that is structured to “ensure student success” to one that is designed to “allow equal access.” The student is encouraged to have a discussion with a DSPS professional regarding the differences between the high school accommodation process and the college accommodation process. The success of the student is up to the student in the college setting. The college must ensure access, NOT success.

Confusion regarding eligibility for post-secondary academic accommodations can also occur when the student believes that his/her Individualized Education Program (IEP) or Section 504 Plan can be carried over to the post-secondary institution. IEP and Section 504 Plan are terms that are used in the kindergarten through 12th grade (<http://www.wrightslaw.com/info/sec504.college.accoms.brown.htm>; <http://www.pacer.org/publications/adaqa/504.asp>; <http://www.vernoncollege.edu/Resources/ADA/Diff%20IDEA%20IEP%20504%20Plans%20and%20College%20Accommodations.pdf>). While data contained in an IEP or Section 504 Plan might inform the post-secondary institution what services have been effective for the student, this documentation is typically not sufficient to determine what academic accommodations a student is eligible for at the post-secondary level (US Department of Education, 2011). This might be particularly true for a student who was served

under a Section 504 Plan because evaluation procedure can be different compared to a student who was served under an IEP. That is, a student served under an IEP is required to have a multi-factored evaluation that uses a variety of assessment instruments and strategies in order to yield relevant functional and developmental information. This is not always the case with a student served under a Section 504 Plan. Therefore, the documentation from a 504 Plan may not be adequate or comprehensive enough to serve as the basis for academic accommodations at college. If the documentation from your Section 504 plan IEP does not meet SBVC's requirements, then a professional from the DSPS office will advise the student in a timely manner regarding the additional documentation he/she needs to provide. The student may need to complete a new evaluation in order to provide the documentation that is required (US Department of Education, 2011).

Pursuant to the above-mentioned legal requirements that a grievance process be available to students, the DSPS office in consultation with the Office of Civil Rights (OCR) has been advised that SBVC's current grievance policy meets this requirement. **In a college environment there is not an ADA requirement for a separate grievance or appeal process for 504 plans or accommodations.** The requirement is that a college has a complaint process, a discrimination process, a hearing or grievance process, and a way to appeal a decision. If a student feels that he/she has been discriminated due to a disability, he/she may refer to the SBVC catalogue which covers our non-discrimination policy and the appeal process and/or the process to file a complaint. The processes are covered on the following webpage as well as in the SBVC catalogue on the pages listed:

<http://www.valleycollege.edu/academic-career-programs/college-catalog>:

- Page 17 Non-Discrimination Policy
- Page 21 Disabled Students Programs and Services
- Page 28 Students Rights and Responsibilities
- Page 31 Student Complaints
- Page 31 Student Grievances and Due Process
- Page 32 Request for a Hearing and Appeal Process

Additionally, the Student Grievance and Discrimination processes appear on the websites for DSP&S and Student Life:

<http://www.valleycollege.edu/student-services/specialized-counseling-services/disability-services>.
<http://www.valleycollege.edu/current-students>

A hardcopy of this document is also available in the form of a flyer in both the offices of DSP&S and Student Life.

One of the benefits of having a formal grievance process is that a student can get an issue resolved before it gets to the OCR. The OCR looks favorably on colleges that have allowed a student to go through a formal process before a complaint reaches its desk. It demonstrates a student-centered best practices approach.

As mentioned above, the DSPS office has contacted OCR to verify that our processes meet ADA and Section 504 requirements for providing access to our educational programs. Students who wish to file a complaint with the OCR are encouraged to do so by contacting:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section, NYAV
Washington, D.C 20035-6738
(800) 514-0301 (Voice)
(800) 514-0383 (TDD)
www.ada.gov