



Disability Services Procedure Manual

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Adapted for Student Engagement & Academic Success Center, Cal Maritime from:

Selected Resources Consulted in Preparation of this Guide:

Massachusetts Maritime Academy Disability Resource Office Handbook

Americans with Disabilities Act

Title II

Section 504

Americans with Disabilities Act Amendments Act

Bridgewater State University

Disability and Higher Education: Guidance for Section 504 and ADA Compliance

Disability Services for Higher Education, 2007 Handbook

Disability Services for Higher Education, 2008 Handbook

FERPA

Massachusetts University of Liberal Arts

Testing Accommodations in Higher Education: Complying with the ADA and Section 504

The Disability Services Office Manual: Model Forms, Policies and Procedures

The University of California, Merced

University of Massachusetts, Dartmouth

United States Department of Justice

United States Department of Education

Students with Disabilities: Preparing for Post-Secondary Education

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Introduction

This guide is designed to serve as a reference for information, accommodations and legal requirements in providing equal access for students with disabilities to education at Cal Maritime – a campus of the California State University System.

The mandate to provide *reasonable* accommodations for students with disabilities is summarized and developed from federal law and from the mission of Cal Maritime and the California State University System to provide an educational opportunity to all its students. Cal Maritime is committed to providing campus and academic accessibility for all qualified students.

Appropriate academic adjustments must be determined based on a student’s disability and individual needs. However, the university is *not* required to provide any academic adjustments that would lower academic standards, fundamentally alter the nature of the program, or impose an undue burden on the university.

Required *performance assessments for licensing and/or documentation* (for example, “6 Minute Radar Plotting Assessment”) cannot be changed to allow for accommodations due to licensing standards.

Licensed clinicians determine appropriate and reasonable accommodations and Disability Services Office (DSO) implements predetermined accommodations in conjunction with Cal Maritime faculty. Licensed clinicians may diagnose disabilities, but when accommodations are not clearly stated by the clinician, the Disability Services Office will help recommend reasonable and appropriate accommodations or may request further clarification from licensed clinicians where appropriate.

The Disability Services Office does not determine the accommodations a student is entitled to under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Rather, the DSO reviews the documentation submitted by the student. This documentation, provided by an outside clinician/evaluator, includes the credentials of the evaluator, a diagnostic statement identifying the disability, a description of the diagnostic methodology used, a description of the current functional limitations, a description of the expected progression or stability of the disability, a description of current and past accommodations, services and/or medications, and finally, recommendations for accommodations. It is by reviewing this documentation that DSO verifies and/or recommends the accommodations to which the student is entitled.

When a professor sees a student struggling academically and suspects a disability, the natural instinct may be to provide an accommodation without consulting the Disability Services Office. This could put the institution at legal risk and put other students at a disadvantage. Only students with documented disabilities should be provided accommodations as directed by the DSO. Please read this guide thoroughly and direct questions about Disability Services to disabilityservices@csum.edu for review so that accommodation needs are met in a fair and consistent manner.

Confidentiality Statement:

Disability Services views all materials pertaining to a student’s disability as confidential based on governmental mandates regarding the confidential treatment of disability-related information. In addition, all discussions regarding learning disabilities and

coordination of accommodations are strictly confidential and are protected by ADA legislation and FERPA regulations.

The DSO will not release any information regarding a student's disability without his or her informed written consent. The information a student shares with faculty members regarding their disability is confidential and must be treated as such in accordance with state and federal regulations governing student records and confidentiality.

The DSO will retain all disability documentation for six years after the student leaves Cal Maritime.

The Law

Americans with Disabilities Act

The ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation and telecommunications.

To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one of more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.

Americans with Disabilities Act: Title II

Subject to the provisions of this subchapter, 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.

Rehabilitation Act of 1973: Section 504

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. For the purposes of this section, the term "program or activity" means all of the operations of a university, college, or other post-secondary institution, or a public system of higher education.

Americans with Disabilities Act: Amendments Act

The **ADA Amendments Act of 2008** (Public Law 110-325, ADAAA) became effective January 1, 2009. The ADAAA expands interpretation of the ADA's coverage, which has been narrowly construed by case law in a number of decisions by the Supreme Court. Because Congress viewed those decisions as limiting the rights of persons with disabilities, the ADAAA explicitly reversed those decisions. It also rejected portions of the regulations published by the Equal Employment Opportunity Commission (EEOC) that interpret Title I (the employment-related title) of the ADA. The ADAAA makes changes to the definition of the term "disability," clarifying and broadening that definition -- and therefore the number and types of persons who are protected under the ADA and other federal disability nondiscrimination laws.

The ADAAA requires that courts interpreting the ADA focus on whether the covered entity has discriminated, rather than whether the individual seeking the law's protection has an impairment that fits within the technical definition of the term "disability." The Act retains the ADA's basic definition of "disability" as: 1) an impairment that substantially limits one or more major life activities; 2) a record of such an impairment; or 3) being regarded as having such an impairment. However, it changes the way that the statutory terms should be interpreted.

The ADAAA renews Congress' commitment to ensuring that all Americans with disabilities are able to participate to the fullest possible extent in all facets of society. By broadening the definition of disability in the ADA, the ADAAA provides protection for persons previously excluded by Supreme Court cases. Future cases under the ADA will focus less on the threshold question of whether a person is disabled, and will focus more on whether discrimination occurred, including whether an accommodation or modification was unjustly denied.

Disability Services Office (DSO)

Philosophy

Documented students should take full advantage of the accommodations to which they are entitled during the first university year and also into the second year. During the third and final years at Cal Maritime, the DSO encourages a gradual weaning of reliance upon accommodations for two reasons:

- 1) Depending upon selected majors, a Coast Guard licensing examination will be required in the senior year, and as the Coast Guard does not allow accommodations for this exam, a student will be better prepared to pass the exam if (s)he has been weaned from accommodations in the year or two preceding;
- 2) Notwithstanding the choice of majors, accommodations for learning disabilities are not a reality in certain careers upon entering the professional world. The DSO policy is to encourage a gradual weaning from accommodations as skill and confidence in a particular discipline increase in order to better approximate employment conditions in the Merchant Marine and other maritime related careers in general. However, it is at the student's discretion as to whether to reduce his or her reliance upon accommodations. The Director nor faculty may deny reasonable accommodations to students with documented disabilities recognized by the Disability Services Office. Cal Maritime's academic tutoring program can assist in the gradual transition away from accommodations.

Policies and Procedures

Cal Maritime is committed to providing reasonable accommodations for students with documented disabilities. The DSO works in collaboration with the faculty and other campus departments to provide support for students with disabilities. This coordination of efforts complies with the mandates of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

At the post-secondary school level, students must disclose their learning disabilities in order to receive reasonable academic accommodations. The student is required to complete a Self-Assessment form and an Intake Form, available online at <https://www.csum.edu/web/seas/disability-services>

The student must submit documentation from a licensed clinician stating the nature of the disability and its impact on the student's learning in the university environment. This evaluation documentation must be current. Current is defined as having been completed within three (3) years of enrollment to Cal Maritime or having been completed upon or after the applicant's eighteenth birthday. A High School Individualized Education Plan (I.E.P.) without complete underlying assessment documentation may not be acceptable. The specific documentation criteria required is available online at <https://www.csum.edu/web/seas/disability-services>

Depending upon the nature of the disability, students may be eligible for one or more of the following accommodations:

- Additional time for quizzes and tests (not to exceed time and one half unless specifically recommended by the clinician including specific subject areas where applicable)
- Preferential seating
- Reduced distraction area for testing
- Course notes and additional course information when available from the

instructor

- Word processor use or spell check use or spelling waived
- Use of recoding device for lectures
- Alternative text(s) if and when available
- Use of calculator
- Use of other accessible technologies
- Use of a note taker

Reasonable accommodations will be arranged for a student provided the accommodation does not substantially alter the fundamental nature of the academic class or program.

Intake Meeting

After a student has been admitted to Cal Maritime and the proper documentation has been submitted, verified and accepted by the DSO, an intake meeting with the student and the DSO will be arranged. Preferably, this can be scheduled during the summer before enrollment commences at Cal Maritime. Arrangements for an intake meeting with students who travel a great distance may be made to coincide with uniform fitting, orientation week or the first week of classes.

Forms Process

Following the intake meeting, the Director will consider the learning needs of the student and develop a disabilities services plan to best to accommodate learning differences for the duration of the student's studies at Cal Maritime. During the first two weeks of class, a student should visit the DSO (or its website) to complete and submit the Request for Accommodations form (Appendix 2, Form 102). The form provides the DSO with a list of courses for which the student wishes to receive accommodations. The specific accommodation needed by the named student will be indicated by a bold **X** next to it along with an asterisk for any additional comments or suggestions (e.g. tutoring appointments) that will help the professor support the student's learning disability. Requests for Accommodations must be verified by the Director. Once verified, Form 102 serves as a stimulus to the DSO to mail a notice of accommodations letter to the professors listed for that student. The student will also receive a copy of the notice of accommodations mailed to his/her professors. Following receipt, the student and her professor should meet in the professor's office so they can have a thoughtful and private discussion on how best the professor might accommodate the student's accommodations. When possible, accommodations should be provided in the classroom to maximize the student's contact with the instructor during testing.

With proper documentation and notification, students are entitled to accommodations at any point during the semester. However, for students' academic success, since accommodations are not required to be given until the professor has been notified, these procedures are strongly encouraged during the first two weeks of class.

Once accommodations have been verified and instructors notified, a student's responsibility does not end. Because classes are so tightly scheduled and space is limited, a student must notify the professor (and the Director when serves are needed in the DSO) in advance of any test or quiz for which (s)he will require additional time or a separate, reduced-distraction room. This is in order that room and/or proctoring arrangements may be made ahead of time when needed. For scheduled quizzes and exams, the professor

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and/or Director should be notified one to two class periods or one week beforehand

whenever possible. For a final exam, notification should be made one week in advance. Failure to give adequate notice of the need for separate exam room accommodations *may* result in those accommodations not being provided.

Mid-Semester Accommodation

Occasionally, a student may not want to disclose a known disability, expecting that (s)he will succeed without academic accommodations. When the academic workload, coupled with Corps of Cadets responsibilities, becomes overwhelming, a student at mid-semester may suddenly realize (s)he needs help. Provided that this disclosure and documentation submission is timely (timely is not considered to be the day of an exam), the same initial procedures and forms are to be followed: documentation submission, intake meeting, signed agreement forms, notification of accommodations letter to professors, and adequate notification of testing/accommodation needs.

As the semester progresses, a previously undiagnosed student may suspect that (s)he may have a latent learning disability. A professor may also refer a student to the DSO if a student's classroom performance suggests the possibility of a learning disability. A discussion with the student and his or her professors to determine the extent of the academic issues will ensue. If testing is recommended, the DSO will provide a list of Bay Area professionals who specialize in learning disability assessment. A student may also choose to be tested by any licensed clinician. No accommodations may be granted until test results and recommendations are received by the DSO. It is for this reason that testing and documentation is recommended *prior* to enrollment at Cal Maritime.

Temporary Disability

Students who suffer from a temporary disability may also be eligible to receive reasonable accommodations at Cal Maritime. The DSO works interactively with all campus departments to ensure compliance under the Americans with Disabilities Act. Forms requesting such accommodations are available online at <https://www.csum.edu/web/seas/disability-services>. When a request is made to the DSO, submission of supporting medical documentation may be requested. Depending upon the particular nature and duration of the disability, periodic medical documentation and/or an independent evaluation may be required.

Division of Graduate and Extended Learning

Each student enrolled in coursework at Cal Maritime has the right to reasonable accommodations according to his/her disability, regardless of the delivery system. Students enrolled through the Special Projects and Extended Learning (SPEL) follow the same procedures described above. Intake meetings for distance education students may be completed via Skype or other online technologies upon request with arrangements in advance.

Documentation Requirements

Disability documentation for the purpose of providing accommodations must accomplish two goals so that effective accommodations can be identified:

1. To establish the disability, and
2. To provide adequate information on the functional impact of the disability.

To that end, the following criteria for evaluation have been established for providing documentation to Cal Maritime.

Criteria for Evaluation of Learning Disabilities

- Ideally documentation completed within three (3) years of the date of enrollment or upon or after the student's eighteenth birthday is most helpful in implementing an accommodations plan to meet students' needs.
- A specific learning disability must be stated within the submitted documentation.
- The following individually administered intelligence tests must have been performed with both scores and sub-scores reported:
 1. WAIS-R WISC-R
 2. WISC-III Stanford Binet
 3. DTLA 3
 4. Or other alternative tests as listed on the Verification of ADD or ADHD Form
- Cognitive processing strengths, weaknesses, and deficits should be discussed. Clear documentation of deficit areas is necessary in order for the DSO to provide appropriate accommodations. Discussion must include the following processing areas:
 1. Visual spatial abilities
 2. Memory: auditory and visual; short-term and long-term
 3. Fine motor dexterity
 4. Executive functions (verbal and nonverbal reasoning). Knowledge of student's cognitive flexibility and automaticity with cognitive tasks is helpful.
 5. Attention: auditory and visual
- Oral language skills should be assessed and discussed. Formal instruments or an informal analysis of a language sample are appropriate. Cal Maritime is primarily interested in whether a student's learning disability impacts oral language and/or if a speech disorder is present.
- Social-emotional status should be assessed and discussed. Formal assessment instruments and/or clinical interview are appropriate. The university requires differential diagnosis of any psychological disorder that can impact academics as

a result of a learning disability. University study can be stressful for students who have learning disorders. In an attempt to better serve students, it is helpful to know about personality characteristics, psychological welfare, self-esteem, and stress levels.

- Achievement assessment in the following areas is required:
 1. Written Language (spelling and written expression). It is helpful if a written language sample is provided for review.
 2. Reading (decoding and comprehension).
 3. Mathematics (applied word problems and calculations). It is helpful to indicate student's success level with algebra problems since scores rarely provide this. Students, for example, can score within the low-average range on the WRAT-R without attempting algebra problems.
- Assessment instruments must have age appropriate norms for high school seniors/university freshmen or older students. Standard scores must represent all standardized measures or percentile ranks based on published norms. These can be supplemented by informal assessment and Verification of Diagnosis Form.

Documentation must be delivered to:

Disability Services Office

California Maritime Academy

200 Maritime Academy Drive, Vallejo, CA 94590

Other communication may be sent via e-mail: disabilityservices@csum.edu

Information Release Authorization

Because all discussions and documentation regarding learning disabilities and coordination of accommodations are strictly confidential and are protected by ADA legislation, release of such information must be authorized. Students who have reached age 18, or who are enrolled in post-secondary education, must personally authorize the release of medical and/or educational records to Cal Maritime. To assist in that process, the "Information Release Authorization Form" may be printed and submitted to a school, agency and/or medical provider, to authorize the release of information necessary to provide evidence of a documented learning disability.

Appeals Procedure

A faculty member/instructor is entitled to deny a particular accommodation if the accommodation (see also page 10):

- fundamentally alters a requirement of a course or program
- results in an undue financial or administrative hardship for *the institution*
- is not actually an accommodation, but rather a personal service.

Despite the existence of a formal grievance procedure, the burden of proof lies with the university. Thus meticulous record keeping is *required* to protect against potential personal and institutional liability when refusing to grant accommodations. Any denial and appeal process shall be documented as follows:

1. The professor should note, in writing, on the Accommodation Denial Form

why (s)he is not agreeable to the accommodation and what alternatives, if any, will be made. However, the DSO will put requested accommodations in place pending denial resolution.

2. The professor and student should discuss the reason for denial and suggested alternatives.
3. If agreement is reached, both parties should initial the Testing Accommodation Cover Sheet listing the suggested alternatives and submit to the DSO to be verified. If verified, no further action is required.
4. If no explanation is given, or if the student is not in agreement, or if the denial appears arbitrary, the DSO will mediate the accommodation issue.
5. If no mutual resolution can be reached, a meeting with the Academic Dean and Department Chair will be arranged to fully discuss the issue.
6. Arbitrary denials of accommodations can violate civil rights afforded to disabled students under the ADA and Section 504 of the Rehabilitation Act and can predispose parties to personal and institutional liability. As a result, a final determination by Cal Maritime/CSU legal counsel (form attached at the end of this section) will be made, if necessary.

Faculty Accommodation Denial – Legal Counsel Resolution

The “Accommodation Denial Form” is used when campus arbitration cannot resolve a professor’s denial of an accommodation.

Formal Complaint Procedures

The Cal Maritime Human Resources Office is responsible for the resolution of Affirmative Action grievances arising under Title II of the Americans with Disabilities Act. While the university encourages the immediate resolution of issues through the procedures outlined above (see page 10 - 11), parties may also access formal appeals procedures.

The Human Resource Office and the Director of Disability Services are responsible for providing advice and assistance to individuals who believe they have been discriminated against on the basis of disability. An individual may choose to take action as follows:

1. Request an informal investigation and mediation process. This process may be used with or without the use of the complainant’s name. If the complainant is not satisfied with the conclusions reached in the informal investigation and mediation process, a formal complaint may be filed at a later date.
2. Request a formal investigation and hearing process. This option may be used with the complainant's permission to use his/her name.
3. File a charge directly with the local, state or federal agency having jurisdiction. This option may be used separately or in conjunction with the informal or formal investigation process.

Contact Information:

U.S. *Department of Education Office for Civil Rights*
 Lyndon Baines Johnson Department of Education Building
 400 Maryland Avenue
 SW Washington, DC 20202-1100
 OCR@ed.gov

Rights and Responsibilities

Faculty Rights

It is the faculty member's right to:

- determine course content and general methods of teaching
- ensure that course standards are not lowered or compromised
- ensure that a student has demonstrated mastery of the essential course requirements in order to obtain an appropriate grade
- fail any student if he/she does not demonstrate mastery of essential course requirements
- expect *all* students to adhere to the university code of conduct, regardless of their disability
- challenge an accommodation request if he/she believes the accommodation would result in a fundamental alteration of the program, or the accommodation would impose an undue financial or administrative burden on the Academy.

Responsibilities

Cal Maritime has compliance obligations under federal laws, faculty have a shared responsibility in providing reasonable academic accommodations for students with disabilities. It is the faculty member's responsibility to:

- provide the accommodations listed on the student's accommodation form unless the student has agreed otherwise
- contact the DSO if there is a question or concern about the accommodations and how they will be provided
- respect a student's right not to request or use accommodations
- direct student questions about disability accommodations to the Disability Services Office
- provide a "Reasonable Accommodation" statement on each course syllabus. Please include a statement similar to the one below:

"Cal Maritime is committed to providing reasonable accommodations to students with

documented disabilities. Students who believe they may have a disability and need class accommodations are encouraged to contact the Disability Services Office within the first two weeks of class at disabilityservices@sum.edu.”

Student Rights

Each student has the right to:

- confidentiality of all information related to his/her disability
- equal access to courses, programs, services, jobs, activities, and facilities available through the university
- reasonable accommodations according to his/her disability
- self-disclose and to seek accommodations
- decline accommodations
- contact the DSO to discuss learning difficulties, academic accommodations and the accommodation process at Cal Maritime.

Responsibilities

Each student is responsible for:

- contacting the DSO for an appointment
- submitting documentation that meets Cal Maritime's guidelines
- discussing academic accommodations with the DSO
- picking up a Request for Test Accommodation form EACH semester
- self-disclosing to each instructor and ensuring that each instructor has recognized the accommodation for EACH semester
- working with each instructor and DSO to arrange to receive the academic accommodations needed.

Students registered with the Disability Services Office who require academic accommodations must request their Testing Accommodation Cover Sheet from the DSO before receiving accommodations. The form is sent to professors who then meet with the student to discuss accommodations. Accommodations for The Training Ship *Golden Bear*/Commercial Cruise or alternative GSMA international study trips must be in place one month prior to beginning of travel to allow for adequate planning.

By law, the DSO may not disclose the nature of a student's disability. However, to enhance the learning environment, and to cultivate a supportive professor-student relationship, it is strongly encouraged that students meet with their professors to discuss their learning preference and how the professor may help to accommodate their learning style. When an exam is scheduled, students must notify the professor of their special exam accommodations so that the professor can make timely arrangements:

- for a scheduled quiz, test or mid-term, notify the professor *at least five (5)* business days before the exam;
- for a final exam, notify the professor *at least ten (10)* business days before the exam.

Cal Maritime is committed to providing reasonable accommodations for students with documented disabilities. However, if a requested accommodation fundamentally alters the nature of a particular class or program, the professor may deny the accommodation. A dialogue between student, professor, and the DSO can ensure a reasonable accommodation alternative in the event of a denial.

Qualified Status

The student has a continuing obligation to be qualified. The protections provided by the law are to ensure that he/she has the same opportunities as nondisabled individuals to compete and/or participate.

The law does not insulate nor shield the student from the obligation to demonstrate entitlement to those opportunities nor is it intended to permit them "to obtain an advantage over non-disabled peers." (See *Long v. Howard University (2006)*)

Two important aspects of the law are:

1. Educational institutions are not required to either "lower academic standards" or "fundamentally alter" programs or services to accommodate students with disabilities.
2. The student with disabilities must "meet essential standards required for participation in order to remain qualified, regardless of disability." (See *Long v. Howard University, supra*; and *University of Texas Medical Branch, 30NDLR 154, March 2005 (Disability and Higher Education: Guidance for Section 504 and ADA Compliance, p 1:5)*)

Accommodation Differences: K-12 versus University

The table below may be instructive in clarifying some of the differences between services in high school and services in university.

High School University Laws: IDEA & Section 504	Laws: Section 504 & ADA
Responsibility: School district identifies, evaluates and plans educational interventions in attempt to facilitate student success	Responsibility: Students must self-identify, provide their documentation, and request disability services to facilitate access
Parental Rights: Parents/Guardians are involved and must approve plan for students under 18	Parental Rights: Students 18 and over are their own advocates; parents are not involved; FERPA applies, mandating non-disclosure to parents
Services: School may provide academic and non-academic services	Services: Students are provided access to any service, program or activity sponsored by the institution. Services of a personal nature (personal care, personal attendants, academic coaches, readers, typists, etc. for out of class work) are the responsibility of the student
Accommodations: Educational programs, student outcomes, class requirements, etc. may be modified to facilitate student success	Accommodations: Reasonable accommodations are provided, based on student request, to facilitate access; success is the responsibility of the student and the fundamental nature and outcomes of classes are not modified
Plans: IEPs and 504 Plans are provided	Plans: Accommodation sheets are developed each semester. It is the responsibility of the student to request the sheets, to deliver them to their instructors and to discuss with the instructor the requested accommodations
Confidentiality: The school district shares student plans with school personnel as deemed appropriate	Confidentiality: The student is in charge of his/her disability information and disclosure is made only at the request of the student or on a need to know basis
Intent: Legal mandate with aim to foster success	Intent: Civil rights, non-discrimination to foster access