



# Policy Considerations for Serving Student Survivors of Domestic Violence, Dating Violence, Sexual Assault and Stalking with Disabilities

By Vera Institute for Justice for the Working with Student Populations within Campuses Program with Esperanza United



## Introduction

This document provides an overview to enhance policies impacting college student survivors of domestic violence, dating violence, sexual assault and stalking who are living with disabilities. In this document, you will learn about best practices related to accessibility, accommodations, compliance matters related to Title III of the Americans with Disabilities Act (ADA) and other information needed to create safe and accessible campus policies and procedures.

A university's policies affirm its mission, provide a framework to operationalize values, establish expectations for students, faculty, administration, and the broader campus community. Integrating access for people with disabilities and Deaf Culture into its general policies communicates a commitment to the campus community. Furthermore, adopting policies specific to people with disabilities commits campus services to ensuring a comprehensive approach and consistent follow through. While each campus may need to include certain additional elements in their policies, the following elements should be included to contribute to a culture and framework for effectively serving people with disabilities and Deaf people.

## Eligibility

Programs should have eligibility policies that state services to survivors are available regardless of a person's:

- Disability status
- Medication usage and needs
- Guardianship status (for adults based on individual state laws)
- Need for auxiliary aids

## Why This Matters

Historically, some people with disabilities have been excluded from goods and services offered by higher education institutions because of their disability and circumstances surrounding it, such as use of certain medications, need for auxiliary aids, and assumptions about their capacity to legally consent to services. Title III of the Americans with Disabilities Act (ADA) sought to address this discrimination by prohibiting entities from

establishing eligibility requirements that exclude, discriminate against, or segregate people with disabilities. Making explicit through policy that a campus service is available regardless of a person's disability and factors surrounding that disability establishes an expectation within the program that its staff and volunteers comply with the law and do not exclude people with disabilities from services.

## **Accommodations**

Campuses should have an accommodations policy for student survivors that outlines that it will:

- Ask all individuals at intake whether any accommodations are needed to ensure full participation in services (i.e. counseling services, auxiliary services, academic advisement, staff communication, policy review)
- Ask all individuals receiving services about needed accommodations on an ongoing basis
- Secure reasonable accommodations upon request within an established timeframe
- Determine if any costs need to be assumed, and who would be responsible for covering these costs, if any, of providing accommodations

## **Why this Matters**

It is important to note that not all disabilities are visible, and therefore it is important to ask all individuals whether accommodations are needed. The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act prohibits discrimination and ensures equal opportunity for persons with disabilities in post-secondary education. Title II of the ADA applies to public universities while Title III of the ADA applies to private universities. All public or private schools that receive federal funding are required under Section 504 of the Rehabilitation Act to make their programs accessible to students with disabilities, which includes providing auxiliary aids and services, such as ASL interpreters and materials in Braille, to people with disabilities to ensure effective communication. The ADA also requires these entities to make reasonable modifications to their policies, practices, and procedures when necessary to allow equal opportunity for individuals with disabilities to participate. An accommodations policy articulates a program's expectations for its staff to identify accommodation needs and its willingness to fulfill those needs.

## **Full Participation**

Programs' policies should promote the full participation of student survivors with disabilities by allowing:

- Flexibility in where staff can meet survivors (e.g., at an accessible location)
- Flexibility in moving internal programming to accessible locations on campus
- Personal care attendants to accompany survivors while participating in programming
- Staff to tailor the length of sessions with individual survivors based on that survivor's needs

### **Why This Matters**

Fidelity to confidentiality and safety contributes to effective responses to survivors of domestic violence, dating violence, sexual assault, and stalking (DVSAS). To maximize confidentiality and safety, programs must develop policies and procedures that limit public exposure of people receiving their services and that limit the information shared about survivors they serve. While this has enhanced survivors' comfort and safety, it has also created some tensions around meeting the needs of survivors with disabilities and, in some cases, has limited their full participation in services. For example, policies may be in place that limit where staff can provide services, which some have interpreted to mean that they cannot move programming to a location with greater accessibility. As another example, some policies aimed at preventing perpetrators from gaining access to survivor information have resulted in people with disabilities being unable to have the assistance of their personal care attendant or caregiver while receiving services. Nonetheless, this also requires policies to ensure that the caregiver is not someone who has perpetrated abuse or may undermine the safety and confidentiality of the survivor.

In many cases, policies do not specifically limit the full participation of people with disabilities, but staff interpret them in ways that do. Creating policies that establish expectations around confidentiality and safety, while allowing staff flexibility to meet the diverse needs of survivors, is an effective strategy to promote full inclusion. The need for flexibility cuts across most policies within services for survivors of violence. Determining how best to do this requires programs to review their policies.

### **Service Animals/Emotional Support Animals**

Programs should have policies that:

- Establish a distinction between a service animal and emotional support animal
- Allow service animals and emotional support animals into areas on campus,

- Address concerns emerging from the presence of service animals and emotional support animals, including allergies and phobias
- Designate a service animal and emotional support animal relief area

### **Why This Matters**

The ADA defines service animals as “dogs that are individually trained to do work or perform tasks for people with disabilities.” Such work includes guiding people who are blind, alerting people who are D/deaf, pulling a wheelchair, alerting and protecting a person who is having—or about to have—a seizure, reminding a person with a mental health issue to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Under the ADA, state and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. In addition, the 2010 revised regulations of the ADA permit miniature horses that have been trained to do work or perform tasks for people with disabilities where reasonable. A service animal policy affirms a university’s commitment to meeting these legal requirements and also provides guidance to its staff on the definition of a service animal, establishes a safe area near the agency for service animal relief, and other important considerations when serving survivors who are accompanied by service animals.

Emotional Support Animals (ESA’s) are not covered by the ADA but are often used as part of a medical treatment plan as therapy animals. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities. As such, programs should have clarity in their policies about the distinction between service animals and ESA’s and when ESA’s are allowed in services.

### **Mandatory Reporting**

Mandatory reporting language is often found in policies and within internal reporting obligations. Institutions should use this term only as it is consistent with the state law of where their campus resides. It is also important to understand mandatory policies, how they impact survivors, and cross-reference other institutional policies to ensure consistency. Campus programs should have a policy about mandatory reporting of abuse of people with disabilities that outlines:

- Who is a mandated reporter and what is their role
- What type(s) of abuse triggers a report
- What type(s) of disability the person must have to trigger a report
- To whom mandated reporters should report abuse

## Why This Matters

Every state and territory of the United States has mandatory reporting laws for “vulnerable adults,” which require specified individuals to report certain injuries or cases of abuse or neglect of “vulnerable adults” to law enforcement, social services, and/or a regulatory agency. These laws are often vague in their definitions and requirements, leading to variations in how they are interpreted and applied from person to person and program to program. Without policy guidance, the responsibility to report can be over-interpreted, which can lead to significant barriers to confidential avenues for reporting.

Providing staff with clear guidance creates an environment in which students with disabilities who have experienced violence can feel safe and comfortable enough to talk about their experiences with staff within campus services. Policies should provide transparency in mandatory reporting requirements and consistency in how those requirements are applied. A mandatory reporting policy articulates a program’s expectations for its staff regarding who mandatory reporters are within the program, the type of abuse that triggers a report, the type of disability a person must have to trigger a report, and who the mandatory reporter must report allegations of abuse to, both inside and outside of the agency.

## Resources

Information and Technical Assistance of the American with Disabilities Act (ADA)

[https://www.ada.gov/ada\\_title\\_III.htm](https://www.ada.gov/ada_title_III.htm)

Association on Higher Education and Disabilities

<https://www.ahead.org/home>

End Abuse of People with Disabilities

[www.endabusepwd.org](http://www.endabusepwd.org)

Office for Civil Rights: Protecting Students with Disabilities

<https://www2.ed.gov/about/offices/list/ocr/504faq.html>

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