



Association of
Title IX Administrators

Vassar College

504/ADA Special Topics

February 25, 2025

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Academic Accommodations

Academic and Technical Standards

- Academic and technical standards govern the expectations of educational programs
- Elements of academic and technical standards:
 - Curriculum content and design
 - Learning outcomes
 - Assessment and evaluation
 - Resources and facilities, including technology

Documentation

- Documentation of the individual's impairment and the impact on major life activities assists the disability/accessibility staff in:
 - Establishing that the student is a qualified individual with a disability
- Documentation should be provided by health care provider or qualified learning needs specialist
- Information from the student's K-12 experience may be submitted as interim documentation:
 - 504 Plan
 - Individualized Educational Plan (IEP)
 - History of Response to Intervention (RTI)
 - Summary of Performance (SOP)

Documentation

After reviewing the documents, interview the student to gather more information

- Understanding how the disability impacts the student, exploring barriers and functional limitations created by the disability and possible ways to address them
 - This informs the interactive process to determine reasonable accommodations
- If a connection cannot be determined, the institution can request additional information, including getting permission to speak to the student's provider

Interactive Process

- The interactive process is a critical step in the accommodation determination
- Always a **case-by-case assessment**
- Back-and-forth communication with the individual to “get it right”
- May put same/typical accommodations in place for like situations, but always **remain flexible** and **follow interactive process each time**



Accommodation Determinations

The interactive process is a critical step in the accommodation determination:

Consider questions such as:

- Is there sufficient understanding of how the student's disability creates a barrier or functional limitation in the education context?
- What are common accommodations for this need?
- Are additional limitations considered?
- Is further information, such as from a doctor or third-party source, needed to fill in gaps?
- Is the structure of the course or activity for which accommodations have been requested clearly understood?

Fundamental Alteration and Undue Hardship

- A specific accommodation is **not required** when it would result in a fundamental alteration of the nature of the program, service, or job function or create an undue hardship (administrative or financial)
 - A fundamental alteration:
 - Changes a course or course of study so significantly that it alters the **essential nature** of a course or content of the curriculum
 - Changes an approved job description so significantly that it alters the **essential elements** of the job
- Students and employees are still required to meet applicable defined academic, technical, and conduct standards or essential job functions



Fundamental Alteration Analysis

- Work with faculty to identify the course's essential academic and technical standards, the learning outcomes, and the goals for reaching those outcomes
- Determine modification options
- Understand why an essential standard cannot be altered
 - Would an alteration lower the academic standards of the course or program?
 - Are exceptions or alternatives permitted?
 - Is the standard required:
 - In similar programs at other institutions?
 - For licensure or certification?
 - For program accreditation?
- Not a decision to take lightly; high bar to defend

Common Academic Accommodations

- Accessible formats for materials
- Audio recording of classes or note-taking assistance
- Extended time to complete exams, coursework, or graduation requirements
- Flexible attendance policies
- Modifications to assignments
- Modified test-taking/performance evaluations or settings for students with sensory, manual, or speaking impairments
- Substitution of nonessential courses for degree requirements
- Preferential registration or seating options

Common Academic Accommodations

- Examples
 - Electronic access to information
 - Course materials in accessible formats
 - Permission to record
 - Permission to use a laptop or other device
 - Preferred setting
 - Access to research materials in accessible formats
- Copyright law/Fair Use doctrine
 - Permits accessible digital copies of copyrighted materials without permission

Common Accommodations for Anxiety

- Extended time on tests and assignments
- Preferred seating
 - Sitting in a designated area of the classroom where the student feels more comfortable and can easily access support from the faculty member
- Breaks and self-regulation strategies
 - Scheduled breaks and/or self-regulation tools like stress balls or fidget toys can help students manage their anxiety levels and regain focus
- Clear communication about assignments, expectations, and any changes
- Access to counseling and mental health support

Common Accommodations for Depression

- Extended time on tests and assignments
- Preferred seating to reduce distractions
- Regular check-ins with a designated faculty/staff
 - Emotional support
 - Academic support and scaffolding
- Note-taking assistance
 - Individuals with depression may struggle with concentration and memory
- Access to counseling and mental health support

Intersection of BIT, Student Conduct, and Disability Support Services

All Students and Employees Must Meet



Conduct
Codes



Behavioral
Expectations



Academic/
Technical
Curriculum
Standards



Essential Job
Functions &
Requirements

Defining Terms: BIT

BIT

“Behavioral Intervention Teams are small groups of school officials who meet regularly to collect and review concerning information about at-risk community members and develop intervention plans to assist them.”

- NABITA Industry Standards (2023)

The BIT Process

Gather Data

- Train our communities on indicators of distress, crisis, and threat.
- Create a centralized process for referring concerns.
- Establish a team for regularly reviewing referrals.

Rubric/Analysis

- Train team to use an objective rubric to triage referrals and determine level of risk.
- In cases of higher risk or threatening behavior, conduct a violence risk assessment.

Intervention

- Interventions respond to risk level.
- Connect to resources to address distress or risk.
- Restrict means and engage in safety planning.
- Skill building around conflict management, emotion regulation, softening points of view, etc.

Defining Terms: Student Conduct

Student Conduct

“Student conduct is focused on the growth of the student, preservation of the educational environment, and the safety of the student and of the community.”

- Schiemann & Molnar (2018)



Code of Conduct



**Due Process/Fundamentally
Fair Process**

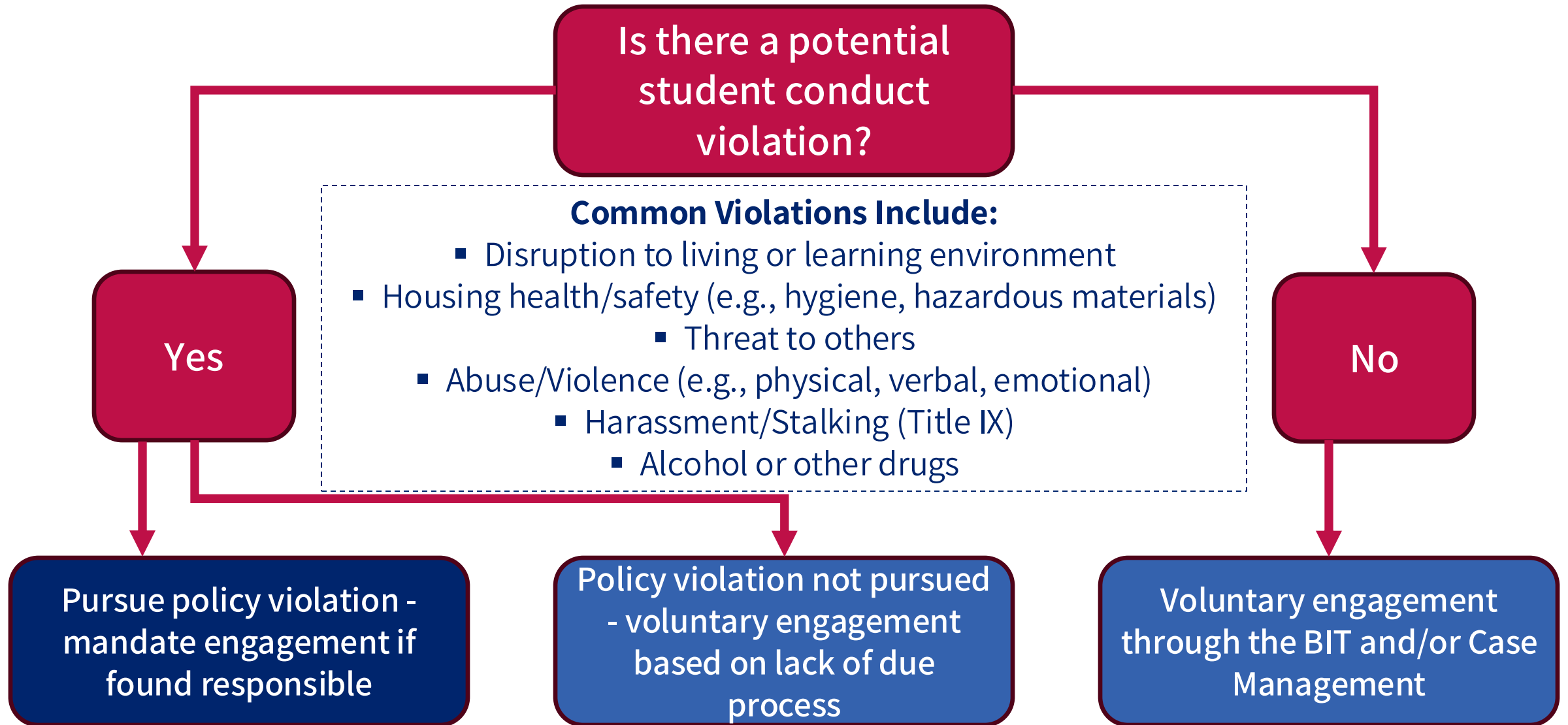
The **student conduct office** has a **responsibility** to carry out the **student code of conduct** and to **ensure the institution's student disciplinary procedures are followed consistently and fairly.**

The **student** has the **responsibility** to **follow the code of conduct** and the **right** to **due process/fundamentally fair process** before any disciplinary action is taken.

Applying the Code of Conduct

- Address the behavior, regardless of disability status/mental health diagnosis (e.g., classroom disruption, threatening behaviors, failure to comply).
- If there is a potential violation of the code of conduct, you can initiate the conduct process.
 - Does the behavior/reported violation warrant interim action?
 - Yes – initial appropriate interim action.
 - No – Student participates in activities/benefits (e.g., housing, class) normally while the student conduct process proceeds.

Decision Making Flowchart



Defining Terms: Section 504 of the Rehabilitation Act

Section 504

Section 504 states that an individual may not be discriminated against on the basis of their disability in any program or activity receiving federal financial assistance.

Defining Terms: Americans with Disabilities Act

ADA

ADA requires schools and employers provide an equal opportunity for success and access by providing reasonable accommodations.

504 & ADA in Action

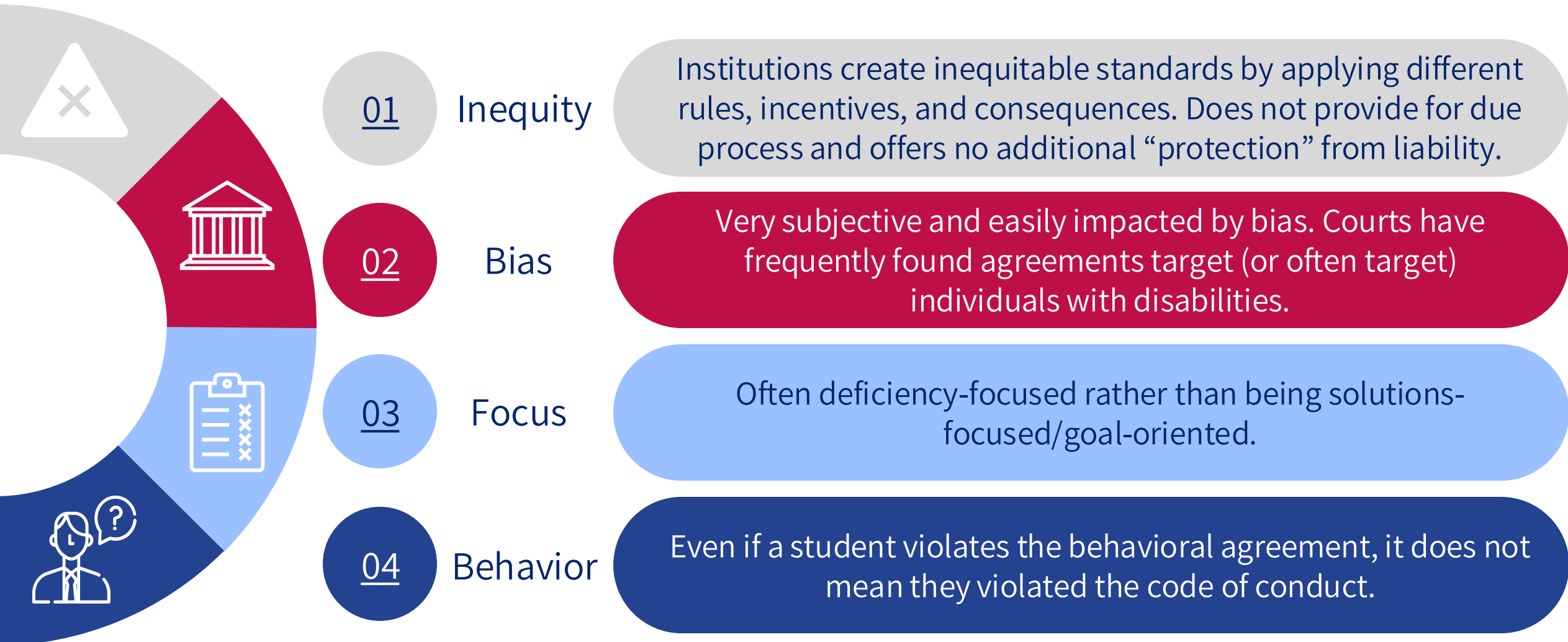
504/ADA

These laws may affect how an institution's actions to suspend, place on leave, or withdraw a student that has a disability.

Protection under the law applies to those who have a documented disability, those with a history of disability, and those regarded as having a disability.

Institutions may not discipline on the basis of the disability itself, but they can address the conduct/behavior exhibited with the student conduct process.

Avoid Behavioral Agreements/Contracts



Mental Health and Disability

ADA/504 Guidelines Regarding Mental Illness

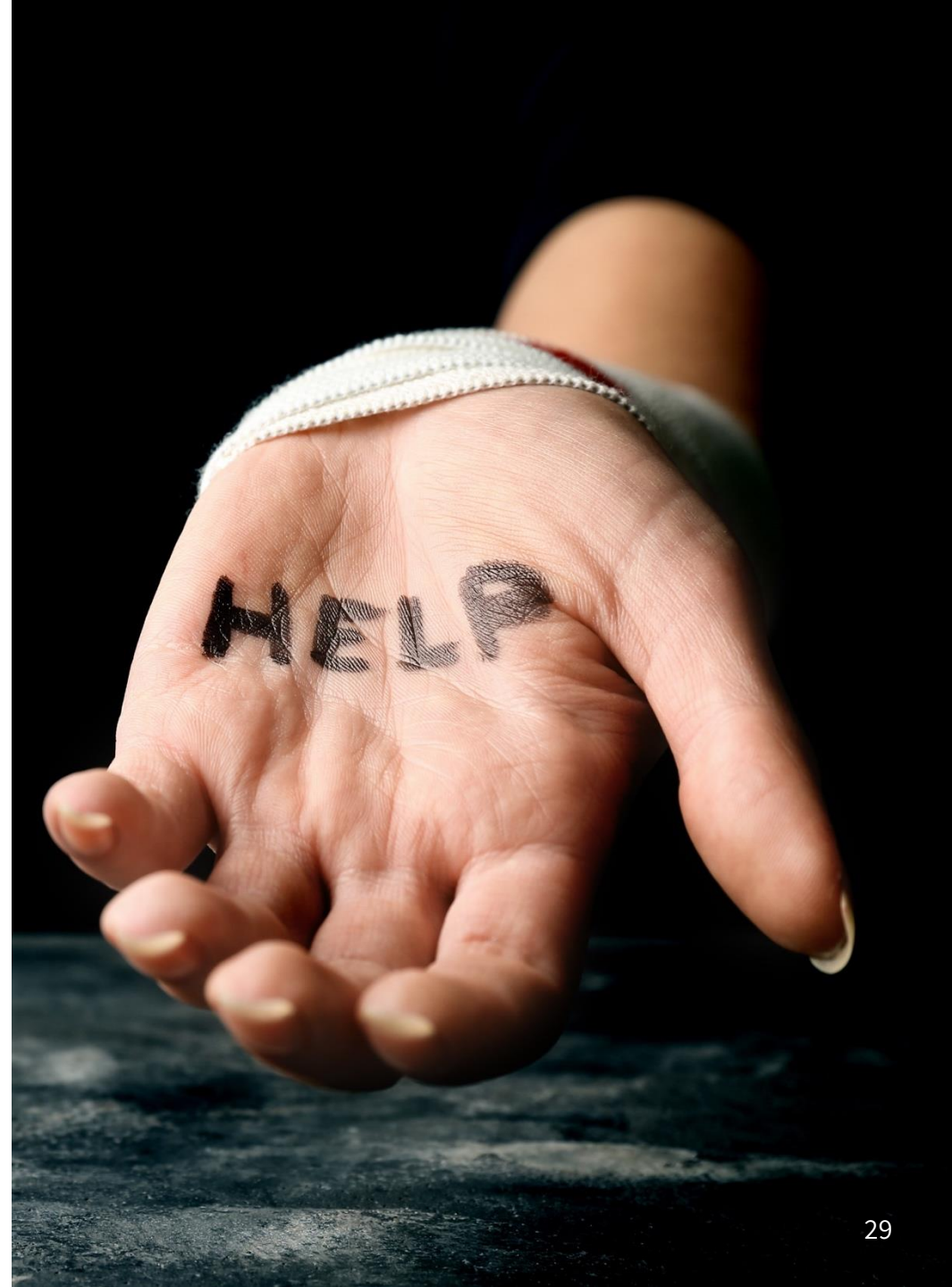
- A student with a documented mental disorder has a qualifying disability even if they are on medication to control the disability
- **Both the ADA and Section 504 apply**
 - Section 504 gives recourse to students who are discriminated against on the basis of a recognized disability
 - ADA entitles students, who are otherwise qualified to participate in the programs and activities, to reasonable accommodations once they seek qualification through the institutional disability/accessibility services office
 - Neither law requires that a suicidal student engage the disability/accessibility services office to qualify as disabled

Safety Concerns Related to Mental Health Disabilities

- **Legitimate safety concerns**
 - Self-harm
 - Suicidality
 - Threats to others
 - Disruptive behaviors
- **Always follow the process**
 - Role of Behavior Intervention Team (BIT)/Care Team and other supports
 - Reasonable accommodations to reduce the impact (when applicable)
 - Student conduct process (when alleged behavior violates the conduct code)
 - Voluntary and involuntary medical leave policy and procedures

Harm to Self/Suicidality

- Consider accommodations that support the student's academic success while supporting student access to mental health care on or off campus
 - Institutions offer different levels of care and support
 - Students may receive care off campus and be able to meet self-care obligations
- Address any student conduct violations through the conduct process



Harm to Self/Suicidality

- Avoid skipping to involuntary leave for students who present with suicidality or self-harming behavior
- A 2011 federal disability law regulatory clarification requires that institutions determine that a **legitimate safety risk** exists in order to involuntarily separate a student for self-harm or behavior related to suicide
 - Consider involuntary leave only when student behavior presents as a **legitimate safety risk** to self or a **direct threat** of harm to others

Threat to Others

- ADA provides a legal framework to evaluate threats and threatening behaviors
 - Direct Threat Test
 - Avoid generalizations, stereotypes, discrimination
- Institution should have trained individuals available to assess students (and employees) when possible threatening behaviors occur
 - BIT/Care Team
 - Violence Risk Assessment protocols and tools



Applying Direct Threat or Legitimate Safety Risk

Process for determining the presence of a direct threat or legitimate safety risk that suggests removal from school should include the following at a minimum:

- Letter of notice
- Hearing or opportunity to request hearing to refute LOA determination
- Objective evidence obtained and used in an individualized assessment related to the level of risk posed (ideally conducted by an institutionally provided assessor)
- Opportunity to have an institutional Advisor or select personal Advisor
- Opportunity to respond to the information presented to support involuntary leave, and present (expert) witness/evidence to show standard met/not met
- Opportunity to appeal

ADA “Direct Threat” Test

- **“Direct Threat”**: **significant risk to the health or safety of others** that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services
- Due Process is necessary to challenge factual assumptions that behavior being exhibited represents a “Direct Threat” of harm that would support involuntarily removing a student or employee from the institution (only for so long as they continue to be a direct threat)
- A “Direct Threat” analysis applies to any individual who poses a “significant risk” of substantial harm or safety to others that cannot be eliminated or reduced by reasonable accommodation

Leave Protocols

Leave Policies and Procedures

- Distinct from the conduct process and accommodation process
- Must always be applied in a non-discriminatory way

Voluntary

- Student initiates the leave of absence (LOA)
- Institutional policy sets forth the procedures for a student to take a LOA
- Medical/mental health matters, such as:
 - Significant illness treatment
 - Mental health treatment
 - Other significant circumstances
- Conditions for return not permitted

Involuntary

- Institution initiates the leave of absence (LOA)
- Consider whether accommodations needed
- Procedures include:
 - Written notice to the student
 - Objective and individualized assessment
 - Student has opportunity to respond and provide additional documentation
- Conditions for return permitted

Initiating a Voluntary Leave for Students

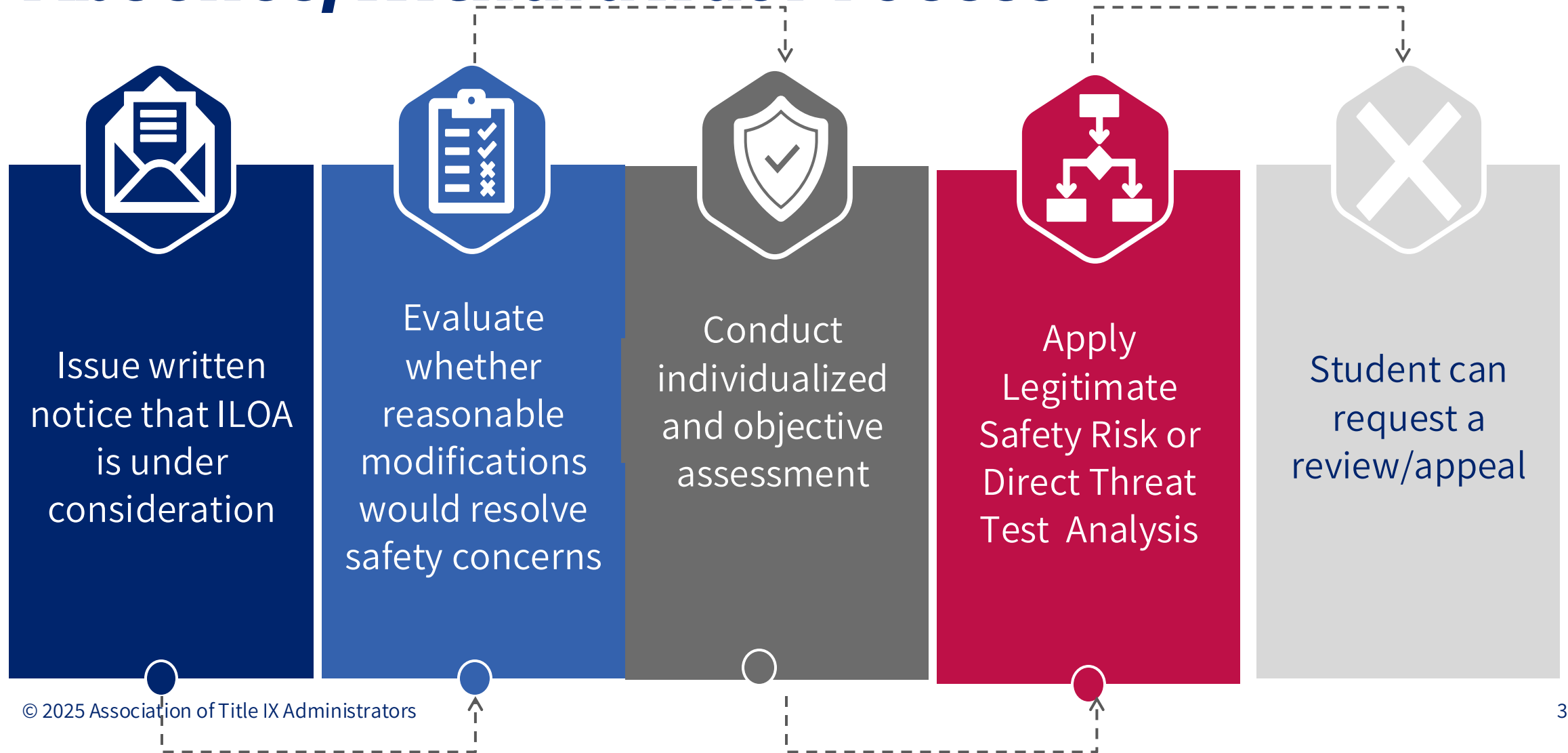
- Process should be outlined in the student handbook, academic handbook, and disability/accessibility services webpage
- Process is the same for **all students** regardless of the reason for the leave
- If LOA occurs mid-semester, or after withdrawal deadline, supporting documentation may be required, but must be the same for all students
- A voluntary LOA should not be a result of pressure, coercion, or feeling as though the school left them with no other option

Initiating Involuntary LOA/Withdrawal

- Use rarely (explore voluntary options first)
 - Common risk for discrimination concerns and claims
- Must follow due process for removal:
 - Four-part direct threat test (harm to others)
 - Legitimate safety risk (harm to self)
 - Conduct Process
- Establish and follow a process for determining the presence of a direct threat or legitimate safety risk
- Must offer due process, hearing, and appeal



Involuntary Leave of Absence/Withdrawal Process



Returning from Leave

- Conditions for return should be detailed at the onset of the leave and be related to the risk:
 - Risk/Threat must be reduced/averted, but not the disability or condition
- Establish process and procedures for all students who return from a leave
- Consider accommodations upon return
- Support plan is critical
 - Role for BIT/CARE Team

On-Campus Housing and Dining Services

Housing Accessibility

- Accommodations related to housing policy
 - Live-on requirements
 - Requests for certain types of rooms
 - Requests for particular bathroom access needs based on disability



Single Room Requests

- Goal: provide equal access to housing
 - Accessible hall and room design
- Evaluated on a case-by-case basis:
 - Space availability
 - Specific student needs and barriers presented
- Requires:
 - Documentation of a disability and how it impacts their housing needs
 - Request from the student
 - Interactive process
 - Review and approval
 - Room assignment by housing/residence life office



Dining Accommodations

- Institutions must ensure equal access to campus dining facilities
- Dining accommodations may be requested based on the following needs:
 - Medical
 - Food allergies
 - Physical disabilities
 - Mental health
 - Religious practices*
- Students living on campus may require access to a kitchen for meal preparation if they are unable to access dining facilities

*Not a disability accommodation, but required accommodation under Title VI

Dining Considerations

- Train dining staff on ADA requirements, accessibility awareness, and best practices for accommodating individuals with disabilities
 - Service animals may accompany disabled individuals in public spaces, and this includes dining halls
- Collaborate with accessibility/disability support services to accommodate students with specific needs
- Establish feedback mechanisms for individuals to provide input on dining accommodations and accessibility needs

Other Accessibility Topics

Supporting Deaf/Hard-of-Hearing Individuals

- Deaf individuals have profound hearing loss
 - Increasingly common to capitalize Deaf, but not deafness
 - Individuals may also have a strong identity/association with Deaf community
- Hard-of-hearing individuals have mild-to-moderate hearing loss
 - May rely on lipreading, hearing aids
- Not all individuals know/use American Sign Language (ASL)



Supporting Deaf/Hard-of-Hearing Individuals

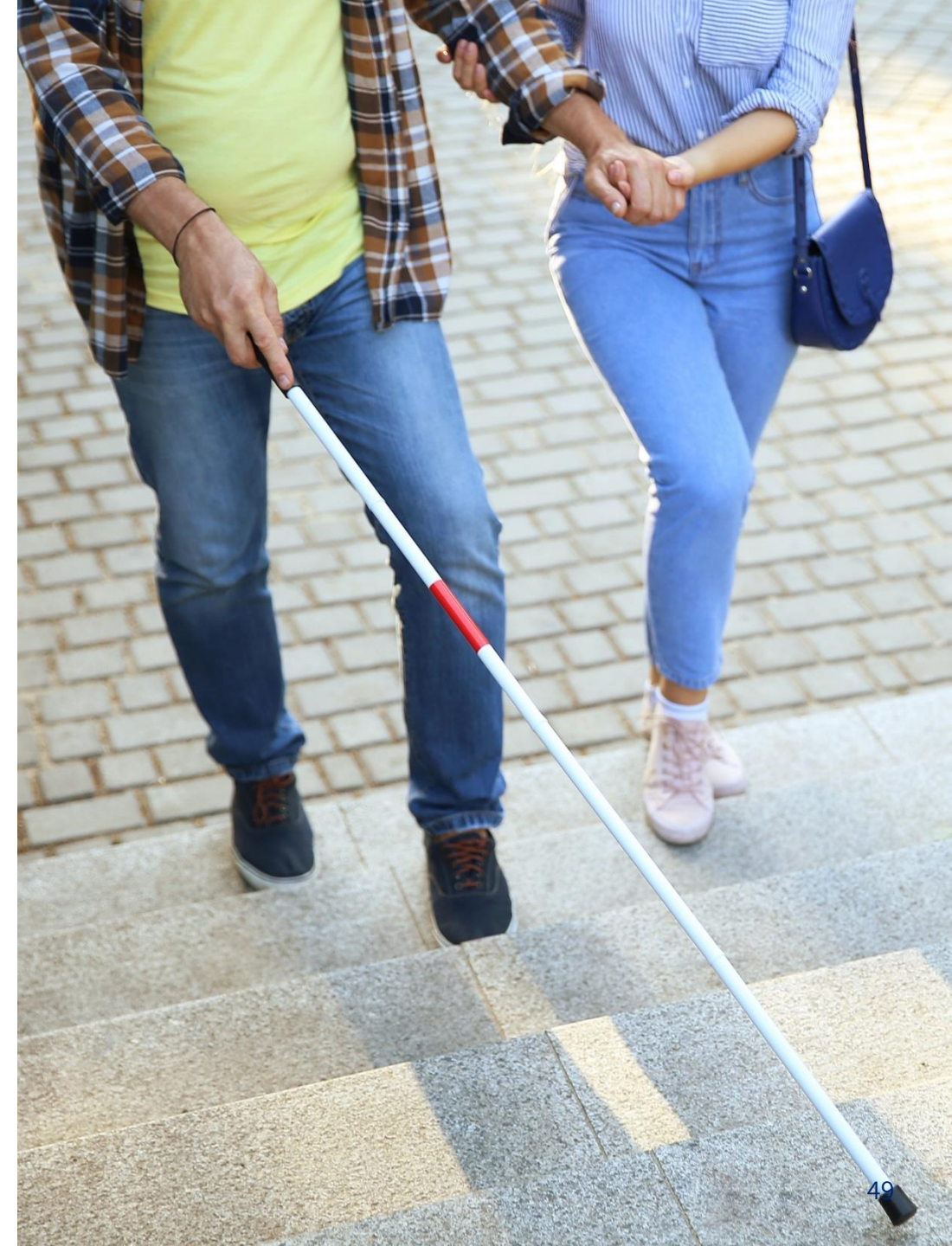
- ADA requires institutions to “provide effective communication”
 - Ensure that a person can understand and be understood in the same way as a person without a hearing disability
 - Applies to students, faculty, staff, and visitors
 - Provide equal opportunity to participate and benefit
- Consult with the person needing the auxiliary aid
 - Title II requires consultation (public institution)
 - Title III encourages consultation (private institutions)
- Cannot charge for the auxiliary aid

Sign Language/Interpreters

- Cannot charge for provision of an interpreter, but Deaf individual will typically request in advance
- Cannot require someone to bring their own interpreter, but if they would like to, accommodate the request
 - Example: Not charging for a second concert ticket
- Interpreters must be qualified as interpreters
 - Just as with languages, a person who simply knows ASL is not a qualified interpreter
- Interpreters may require team interpretation, depending on factors
 - Highly technical content, length of program/class, size of the group, needs of the individual

Supporting Blind/Vision-Impaired Individuals

- “Effective communication” requirement applies to blind individuals, too
 - Students, faculty, staff
 - Visitors, including family members
- Tools:
 - Braille
 - Large print materials
 - Screen-reader compatible materials
 - Providing other methods than print to access materials



Universal Design Approaches

- Visual aids (in course materials or elsewhere)
- Written notices for announcements made orally
- Digital message boards in classrooms, offices, and common spaces
- Ready access to microphones/amplification including in classrooms
- Good lighting
- Seating arrangements in circle/semi-circle (for small classes/groups)
- Manage background sound
- Training for faculty/staff on teaching with ASL interpreters



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Questions?



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