# **Procedure**

* All colleges are required to have a procedure for students with disabilities to request services.
* In the Seattle College District, that procedure is to refer students to Disability Services (DS).
* Services and accommodations are individualized based on documented disability and functional limitations

# **Procedure**

* At the post-secondary level, students must self-identify
* The College’s obligation begins when the student makes the request for services to any employee of the College.
* The correct response is to refer the student to the DS office

# **Procedure**

* The student must complete an intake appointment with DS and provide current documentation of disability.
* An accommodation form will be issued to the student if indicated.
* The student is advised to give the form to faculty in private at the start of each quarter and to discuss their accommodations.

# **Shared Responsibility**

* Accommodating students with disabilities in higher education is a shared responsibility.
* Faculty and administrators, students and disability services staff must work together to coordinate reasonable accommodations for students with disabilities who request support.

# **Landmark Disability Legislation**

# **Rehabilitation Act of 1973**

* **Section 504** provides protection of the rights of those with disabilities in education
* No otherwise qualified individual with a disability shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination
* Applies to any program or activity receiving Federal financial assistance

A qualified person is defined as one who meets the academic and technical standards requisite to admission or participation in the institution’s programs and activities.

A disability is defined as “a physical or mental impairment which substantially limits one or more . . . major life activities,” including learning.

Reasonable accommodations must be made by the College to ensure maximal participation by students with disabilities.

An accommodation is an adjustment in an academic program to allow a person with a disability to compete equally with non-disabled peers.

# **Under the provisions of Section 504, Colleges and Universities may not:**

* Limit the number of students with disabilities admitted.
* Make preadmission inquiries regarding whether or not an applicant is disabled.
* Use admission tests that inadequately measure academic levels because special provisions were not made.
* Exclude a student from a course of study.
* Counsel a student with a disability toward a more restrictive career.

# **Colleges and Universities may be required to:**

* + Extend the time permitted for a student with a disability to earn a degree.
  + Modify teaching methods and examinations to meet the needs of students with disabilities.
  + Develop course substitutions or waivers for students with disabilities.
  + Provide auxiliary aids, such as audio recorders, spelling aids, etc., for students with disabilities.

# **Americans with Disabilities Act**

The Americans with Disabilities Act (ADA) was signed into law in July 1990 and provides civil rights protections for people with disabilities similar to those provided on the basis of race, color and national origin under the Civil Rights Act of 1964.

# **Americans with Disabilities Act**

The ADA thus effectively broadened the scope of 504, while not replacing or invalidating it, allowing people with disabilities equal participation in mainstream American society.

Areas of society affected by the ADA include employment, public accommodations, government services, transportation, and telecommunications.

Schools are considered to be public accommodations and must provide full and equal enjoyment of their goods, services, facilities, privileges, and advantages.

# **ADA Amendments Act**

* Signed into law in 2008, effective January 2009
* Response to narrow interpretation of ADA definition of disability in Supreme Court
* Congress intends the scope of ADA be broad and inclusive

# **ADA Amendments Act**

* Impairment need not significantly restrict major life activity to be substantially limiting
* Substantial limits shall be interpreted without effects of mitigating measures
* Determination of disability should not demand extensive analysis or documentation

# **Additional Legal Guidance**

* Washington Core Services
* Case Law
* DOJ Rulings
* OCR Settlement Agreements

# **Washington Core Services**

RCW 28B.10.912 – The institution of higher education shall provide students with disabilities with the appropriate core service or services necessary to ensure equal access.

# **Case Law**

* Decisions of courts
* New interpretations of the law
* Can be cited as precedents

# **Case Law—specific case**

* Tylicki V. St. Onge precedent cited in subsequent cases
* Court ruled that college did not discriminate against student with psychiatric disability
* ADA and 504 permit college to discipline student for misconduct even if result of disability

# **U.S. Department of Justice—recent ruling**

* Service Animals defined as dogs individually trained to do work or perform tasks for people with disabilities
* Revised final regulations implementing ADA Titles II & III
* Publication in Federal Register 2010

# **Office for Civil Rights Settlement Agreement - recent case**

* OCR received complaint in 2012 of disability discrimination against University of Montana (UM)
* Alleged inaccessible electronic and information technology (EIT)
* Included inaccessible LMS materials, videos not captioned, inaccessible documents on websites, inaccessible library database materials, inaccessible course registration

# **OCR Resolution Agreement**

* UM must develop draft EIT Accessibility policy by March 2014, to include
* Procurement procedures that require UM to purchase only accessible EITs
* Faculty and staff training in their obligation to ensure EIT accessibility
* Web pages published or hosted by UM shall be accessible

# **OCR Resolution Agreement – key ruling**

* Definition of ‘Accessible’
* Individuals with disabilities are able to independently acquire same information and enjoy same services within the same timeframe with equivalent ease of use