

Academic Adjustments & Auxiliary Aids & Documentation



**Office for Civil Rights
US Department of Education**

Office for Civil Rights New York Office

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Legal Jurisdiction

- ◆ Title VI of the Civil Rights Act of 1964
- ◆ Title IX of the Education Amendments of 1972
- ◆ Section 504 of the Rehabilitation Act of 1973
- ◆ Title II of the Americans with Disabilities Act of 1990
- ◆ The Age Discrimination Act of 1975
- ◆ Boy Scouts of America Equal Access Act

How does OCR enforce the law?

OCR

- ◆ resolves complaints
- ◆ conducts compliance reviews
- ◆ provides technical assistance

Complaint Evaluation

- ◆ Jurisdiction
- ◆ Timeliness
- ◆ Sufficient information to proceed with complaint resolution

Complaint Resolution

- ◆ Early Complaint Resolution
- ◆ Investigation
- ◆ Resolution Agreement (to settle the matter)
- ◆ Letter of Findings and Enforcement

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 participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....

Section 504

"Program or activity" means all of the operations of -

* * *

(b)(2)(A) a college, university, or other postsecondary institution, or a public system of higher education;

Title II of the ADA

- ◆ Prohibits discrimination on the basis of disability by public entities, including state colleges and universities, regardless of whether they receive Federal financial assistance
- ◆ Section 504 and Title II of the ADA have similar compliance standards.

Person with a disability

◆ Has a physical or mental impairment that substantially limits a major life activity

or

◆ Has a record of such an impairment

or

◆ Is regarded as having such an impairment.

ADA Amendments Act of 2008

- ◆ Effective Jan. 1, 2009.
- ◆ Amends ADA and conforms definition of disability in Section 504 with Amendments Act.
- ◆ Retains the elements of the term “disability,” but changes the meaning of
 - “substantially limits a major life activity” and
 - being “regarded as” having an impairment.
- ◆ Requires “disability” to be construed broadly.

Academic Adjustments

- ◆ College must make modifications to academic requirements necessary to ensure requirements do not discriminate on the basis of disability against a qualified person with a disability.
- ◆ Examples of possible modifications are:
 - change in length of time to complete a program
 - substitution of courses
 - adaptation of manner in which courses are conducted

What Is Not Required

- ◆ College is not required to change academic requirements that are essential to
 - The instruction being pursued by the student; or
 - Any directly related licensing requirements.
- ◆ College is not required to alter the fundamental nature of its program.
- ◆ OCR gives appropriate deference to the academic discretion of a college.

Auxiliary Aids

Colleges must take such steps as are necessary to ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

Examples of Possible Auxiliary Aids

- ◆ Taped texts
- ◆ Notetakers
- ◆ Interpreters
- ◆ Readers
- ◆ Adapted classroom equipment
- ◆ Braille versions of written materials

What Is Not Required

- ◆ College is not required to provide auxiliary aids or services that it can demonstrate would result in
 - A fundamental alteration in the nature of its program; or
 - Undue financial or administrative burdens.

What Is Not Required

- ◆ Colleges are not required to provide devices or services of a personal nature.
- ◆ Examples:
 - Attendants
 - Individually prescribed devices
 - Readers for personal use or study

Accessible Communications & Auxiliary Aids (ADA)

- ◆ Communications must be “as effective as” communications with non-disabled persons.
- ◆ Public entity must furnish “appropriate” auxiliary aids and services where necessary for equal opportunity.
- ◆ Public entity must give “primary consideration” to requests of person with disability but is not required to honor preference if effective alternative available.

Tests & Examinations

- ◆ Test format and administration should measure a student's achievement, not the student's impaired sensory, manual, or speaking skills (except where such skills are the factors the test purports to measure).
- ◆ Examples:
 - tape vs. print
 - extended time
 - reader

Basic Principles—Academic Adjustments, Auxiliary Aids, and Testing

- ◆ If a college student wants an academic adjustment or auxiliary aid or service, the student is responsible for notifying the college of his or her disability and need for academic adjustments or auxiliary aids or services.
- ◆ Academic adjustments and auxiliary aids and services must be provided in a timely manner.

2 Steps to Making Decisions

One: Determination of whether individual has an impairment that substantially limits a major life activity (is it a disability?)

Two: Determination of whether academic adjustment or auxiliary aid or service is required and, if so, what

Initiating the Process

If a student wants an academic adjustment, he or she has the initial obligation to provide notice of a disability and need for academic adjustment or auxiliary aid or services.

Documentation

- ◆ Postsecondary schools may establish reasonable standards for documentation.
- ◆ Some schools require more documentation than others.
- ◆ The following list identifies the type of documentation some schools require.

Documentation Some Schools Require

- ◆ Diagnosis of physical or mental impairment.
- ◆ Evaluation by a qualified professional.
- ◆ The name, title, and professional credentials of the evaluator, including information about license or certification as well as the area of specialization, employment, and state in which the individual practices.

Documentation *cont'd*

- ◆ Current testing and evaluation data.

Documentation demonstrating existing disability. While some disabilities may be life-long, documentation may be required to demonstrate the current impact of those disabilities.

Documentation *cont'd*

- ◆ Demonstration of the need for services based on the individual's functional limitations and current level of functioning in the educational setting.
- ◆ Comprehensive and complete documentation.

3 C's of Documentation

- ◆ Students should attempt to provide documentation that is:
 - Current
 - Comprehensive
 - Complete

Paying for Evaluation

- ◆ Colleges are not required to conduct or pay for a new evaluation to document a student's need for an academic adjustment. This may mean the student must pay or find funding to pay an appropriate professional to do it.
- ◆ An institution may choose to conduct its own evaluation at its own cost.
- ◆ In order to clarify the documentation and obtain needed information, it is often helpful for the school to simply talk to the student's diagnostician with the student's permission.

Interactive Process

The school and student should engage in an interactive process to determine whether an academic adjustment is required and, if so, what academic adjustment is appropriate.

OCR Contact Information

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