

ADA 101 - Basics College Students and Parents

The Basics

The Americans with Disabilities Act of 1990 defines “disability” as a physical or mental impairment that substantially limits one or more major life activities.

The ADA covers virtually all colleges and universities in the United States. Title II covers state funded colleges, universities, community colleges, and vocational schools. Title III covers private colleges and vocational schools. Any institution that receives federal dollars, whether public or private, is also covered by the regulations of Section 504 of the Rehabilitation Act that require school programs be accessible to qualified students with disabilities.

A school may **not** discriminate on the basis of disability. Admissions cannot screen out students based on disability. All programs, including extracurricular activities, must be accessible to students with disabilities. This includes architectural access, providing aids and services for communication, and by the modification of policies, practices, and procedures where necessary.

What Students/Parents Need to Know

There are some basic principles about ADA accommodations that college students and their parents need to know and understand

1. Unlike K-12 education, there is no IEP meeting. Under the IDEA the school district is responsible for ensuring that students with disabilities receive the services they need. But that’s not the case in college!
2. If you don’t ask, you don’t get. It is the student’s responsibility to request accommodations, not the administration’s responsibility to hunt for students who need them. Colleges and Universities have internal procedures in place to request accommodations – know them and use them.
3. Bring a solution (or two) to the table. The ADA is an interactive process. Tell the college what you need to be able to succeed in school. If you don’t know, try to do some research; it will be good practice for your college classes.
4. Don’t wait! Begin the ADA accommodations process as soon as possible. The more time you have, the better. Don’t wait until you are struggling in your classes and on the verge of academic probation!
5. Some degree of medical documentation may be required to verify your disability. And yes, that’s legal. The college cannot require your entire medical record but they are allowed to request proof of your disability.
6. Sorry parents, you’re out. At the college level, the ADA is all about the student and the institution interacting to find a reasonable accommodation. The school probably doesn’t want to talk to you and the law doesn’t say they have to.

Procedures to Establish Accommodations

1. The process is typically initiated by the student. The law does not require schools to accommodate students with disabilities of which they are unaware. The student will make a request, usually in writing or via email.
2. Schools may, but are not required to, request current documentation of a disability. If the disability is obvious (i.e. a wheelchair, blindness, hearing impairments) then documentation is not necessary.
3. Documentation should be current (no more than three years old) signed by professional familiar with the student and his/her disability such as a physician, psychologist, or rehabilitation counselor. If no documentation is available, it is the student's responsibility to have such documentation prepared.
4. Documentation of a disability is for the purpose of verifying the validity of a request for accommodations and to help identify what accommodations are necessary.
5. Accommodations should be reasonable and should be agreed upon with the student. The goal of accommodations is to allow the student to enjoy full participation in college life.

Note: Both the ADA and Section 504 apply to individual instructors up to and including tenured college professors. It is a school's responsibility to educate faculty and staff on the ADA, the purpose of accommodations, and their legal obligations under federal law. Courts can and will hold schools legally responsible for ADA violations committed by professors.

Accommodations

There are two main types of accommodations to consider: accessibility accommodations and educational accommodations.

1. Architectural Accommodations Requirements
 - a. Any building constructed after June 3, 1977 must comply with the accessibility standards of Section 504 and buildings constructed after January 26, 1992 must comply with the ADA.
 - b. Buildings constructed before June 3, 1977 need not be made accessible if the school can ensure that students with disabilities can enjoy the full range of program through other means. However, all programs and services must be delivered in an integrated setting.
 - c. If housing is provided to students on campus, a school must provide comparable accessible housing to students with disabilities at the same cost. Housing options must be equivalent to students without disabilities.
 - d. Parking lots and sidewalks must also conform to ADA accessibility standards. There are requirements for the slope of wheelchair ramps, the width of doors, and the number of "blue" spaces in a parking lot of a given size. Technical assistance is available for free via the federal government.
2. Educational Accommodations

- a. Accommodations must be provided unless such doing so would result in a fundamental alteration of the program or would result in undue financial or administrative burdens.
- b. Communication accommodations examples - qualified interpreters, assistive listening devices, captioning, TTYs, qualified readers, audio recordings, taped texts, Braille materials, large print materials, electronic versions of materials, and adapted computer input devices.
- c. Primary consideration must be given to the student's preferred form of communication unless it can be shown that another method is equally effective exists.

Modification of Procedures, Policies, and Practices

Most modifications for students with disabilities are relatively simple and are rarely expensive. The critical aspect is **time**. Failing to plan is planning to fail. Modifications will vary based on each student's needs and the nature of his/her particular disability. Modifications are not required when it would fundamentally alter the nature of the service, program, or activity.

Examples:

1. Rescheduling or relocating a class to an accessible building
2. Early enrollment for students with disabilities to arrange accommodations
3. Substitution of specific courses for degree requirements
4. Providing students with disabilities with a syllabus prior to the beginning of class
5. Communication of due dates, course requirements, etc. in oral and written form
6. Providing written summaries or outlines of lectures
7. Allowing students to use note takers or recording devices

Testing Accommodations

Schools must establish a process for making tests accessible to people with disabilities. Accommodations are to enable the student to demonstrate their mastery of the subject matter, and not to allow lesser academic standards for people with disabilities. In other words, accommodations should only affect how the test is taken, not the material it covers. Methods will vary on a case by case basis.

Examples:

1. Extended time
2. Isolated testing environment
3. Sign language interpreters for oral exams
4. Reading assistance
5. Alternative testing formats

Service Animals and Emotional Support Animals

Service Animal - Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability (2010 Department of Justice Final Rule amending Title II).

The work a dog performs must be directly related to the person's disability and can include a variety of services.

Examples:

1. Guide dogs for people with visual impairments
2. Alerting people with hearing impairments
3. Pulling a wheelchair
4. Retrieving items such as medication or the telephone
5. Recognizing impending seizures
6. Preventing or disrupting self-destructive behavior

The 2010 DOJ rule explicitly excludes animals that are not dogs even if they are domesticated and trained, though there is a special provision allowing miniature horses. The rule also excludes guard dogs and emotional support, comfort, or companionship animals.

Title III of the ADA uses the same definition as Title II.

The US Department of Education Office of Civil Rights has adopted the definition of service animal in Title II and III of the ADA. It requires that service animals that meet that definition be permitted on campus under Section 504 of the Rehabilitation Act.

The Fair Housing Act is a wild card. The FHA requires covered entities to accommodate a larger universe of "assistance animals." College dormitories may or may not be included in the FHA's definition of the term "dwelling" but it is an unsettled question of law and the courts have not settled on a definitive answer.

BUT, while the courts are undecided, the Office of Housing and Urban Development is **not!** HUD regulations clearly consider a college dorm to be a dwelling, and that it's regulations on assistance animal accommodations apply to college housing units. HUD can and will bring enforcement actions against colleges and universities, and **their regulations require accommodation of a larger range of animals than the ADA.**

Service animals under the ADA must be permitted access to all facilities open to students and to the general public.

Rights and Responsibilities Regarding Service Animals

1. **The student** is responsible for the animal's care, food, and other expenses. Service animals must be housebroken, have updated vaccinations, etc.

2. **The school** may not require documentation of training or certification of the service animal, but may require proof of vaccinations, and some basic registration of the fact that the student has the animal on campus.

Dispute Resolution - Students have several options of which school personnel should be aware.

1. Informal resolution - The student comes to talk to you about the problem and it is resolved in some way. This is the fastest, least expensive method for all parties concerned and schools should encourage students to attempt to resolve issues in this way.
2. Internal grievance procedure - All government funded educational institutions are required to have an internal grievance procedure. This procedure can be used to bring ADA/504 complaints.
3. Office of Civil Rights - A student may file an ADA or 504 complaint with the Office of Civil Rights of the US Department of Education. The Department will investigate and may enforce a resolution to the matter.
4. Federal Court - A student may file a private lawsuit in federal court to enforce his/her rights under the ADA/504. If successful, the court will likely grant the student injunctive relief (i.e. the requested accommodation) and attorney's fees.