

Equal Opportunity; Access and Accommodations in Higher Education

Under the Americans with Disabilities Act (ADA) and the Rehabilitation Act (Rehab Act), colleges and universities must ensure they do not exclude qualified persons with disabilities from their programs, services, and benefits by reason of disability. They are thus prohibited from discriminating against individuals with disabilities and are responsible for establishing practices that allow students with disabilities to have meaningful opportunities to participate in and benefit from higher education.

Colleges and universities have obligations to:

- provide reasonable accommodations;
- make reasonable modifications to policies, practices, and procedures;
- administer services in the “most integrated setting appropriate”;
- remove architectural and transportation barriers;
- provide necessary auxiliary aids and services; and take appropriate steps to ensure that communications with persons with disabilities are as effective as communications with others
- remove communication barriers, including those posed by the design of the web resources,
- ensure that communications with persons with disabilities are as effective as communications with others. For instance, in the case of a deaf student, communications with the instructor, media presentations (e.g. class video), and audio web course materials must be provided in an alternate format, that is equally effective as the audible components of these activities for the student’s peers.
- ensure that disabled students have a meaningful opportunity to join their peers in an integrated setting
- create accessible distance learning opportunities
- develop staff awareness of the access needs of students and faculty with disabilities, and developing skills

How to Secure Accommodations:

Contacting Student Services:

Students are not required to disclose a disability on an application for admission to an institution or upon enrolling in a college or university. However, a student who chooses to disclose their disability to the college or university can receive accommodations and educational counseling.

Under the Family Educational Rights & Privacy Act, students who choose to disclose a disability in order to receive accommodations have some rights to medical privacy.

Disclosing a disability to the appropriate college or university office does not mean the disability will become broader public knowledge.

Most colleges and universities have a disability services office dedicated to disability-specific issues. If the college or university does not have a disability services office, students should seek services from the student affairs or student services offices.

It may be helpful to speak with a disability services or student affairs/services representative before applying or enrolling in a college or university to ensure that the types of accommodations the student requires will be fully provided to the student by the college or university.

Documentation:

After self-disclosure, a college or university has the right to require official documentation of a student's disability before providing any requested accommodations. Normally this is satisfied with a statement from a doctor or healthcare provider that indicates the student has a disability. In some instances, documentation may need to specify or explain the types of limitations or needs associated with the disability, and/or the accommodations the student has received in past, if any.

What Accommodations Can Be Provided?

After admission, the college or university is not permitted to exclude an individual from services or activities provided by the university, including extracurricular activities, such as athletics, or student clubs.

Examples of accommodations a college or university may provide include, but are not limited to:

- extended time for exams or different exam settings,
- note takers for classes,
- substituting or altering requirements to improve accessibility,
- the use of recording devices or sign language interpreters,
- tutoring,
- installing adaptive software and hardware on school computers,
- the relocation of a class to an accessible building, and/or
- the use of service animals.

College or universities also have partial responsibility to provide access to buildings on campus. In practice, a university is not required to provide access to all buildings on campus as long as all programs or services are made available to persons with disabilities to participate with their peers.

Colleges and universities are usually not required to change the substance or content of an examination, or fundamentally change the service, program, or activity.

A college or university is also not required to make accommodations that would be extremely costly or pose an undue burden on the school's resources.

The college or university does not have to provide or pay for devices or services that are personal to a student, such as a service animal.

Protecting Your Rights to Access and Accommodation:

Although colleges and universities are prohibited from discriminating against individuals with disabilities, not all schools are successful in fully complying with the laws or responding to the needs of students with disabilities.

If you find that you are not receiving the accommodations, or getting the access you are legally entitled to, you have a number of options:

- *Seek assistance from the University or College Ombuds' office:* Most schools will have an Ombuds office, which is responsible for helping people and offices within the university to resolve conflict. An ombudsperson, or mediator, can assist you in sitting down with representatives of the university to identify a solution that works for both parties. It is usually helpful to bring a friend, advocate or other support person with you to this type of meeting.
- *Document the problem in a letter or memo to the appropriate university office,* and make clear that you are asking for access, or for reasonable accommodations, as provided for under the Americans with Disabilities Act, the Rehabilitation Act, and/or any laws in your state. Sometimes school officials, faculty, or staff may be unaware that the request for accommodation is protected by law. Most schools are mindful of their obligations and, once reminded or informed, will be more likely to work out the problem, in order to avoid the possibility of a lawsuit.
- *Reach out to support or social networks for people with disabilities:* For instance, student organizations for people with disabilities will often include members who have navigated the same or similar obstacles or difficulties. Peers may be able to tell you which staff person assisted them, or how they overcame the same barrier. Or you may be able to meet collectively with the university, in order to support and advocate for each other. In addition, community organizations for people with disabilities, or other groups that advocate for civil rights, may be able to play a role in counseling you about your rights, and in advocating directly to the school, to resolve the problem.
- If need be, *consult an attorney.* Keep in mind that you may not actually need to pursue a lawsuit in order to resolve an issue. Many colleges or universities will be more willing to address a problem, once they receive a letter from an attorney about the issue, and understand that they have an opportunity to avoid a lawsuit.

Filing a Complaint with Applicable State Human Rights Commission

Under the law, everyone has the right to be free from discrimination at work, in housing, in a public accommodation, or when seeking credit and insurance. Discrimination occurs whenever we treat someone differently and deny him or her equal treatment or access.

If you believe you are being discriminated against, try to document what is happening:

- Keep notes of the dates, times, words used, and actions or conduct you believe is discriminatory.
- Keep copies of any relevant letters, emails or answering machine messages.
- Note any witnesses to the action or situation.

You have a responsibility to act in a timely manner. Under the Law Against Discrimination, you must file a formal complaint with the Commission within six months of the alleged discriminatory incident or action.

If you believe that you have been discriminated against call one of the Commission offices and ask to speak with an Intake Officer. When you speak with the Intake Officer, you should have some basic information on hand to assist in expediting your complaint:

- *Where did the alleged discrimination occur?* If possible, supply the correct names and addresses of any witnesses to the alleged act(s) of discrimination.
- *Who allegedly discriminated against you?* Provide the names, titles, addresses, and phone numbers of all persons alleged to have discriminated against you.
- *Why do you believe that they discriminated against you?* Provide photocopies of any documentation that supports the allegations made in your complaint.
- *What did the person do or say to you that was different from how they treated others?*

Investigative Procedure:

1. The regional office will:
Receive your complaint of discrimination and notify the respondent(s). (A respondent is a person or entity about whose action you complain). If you are unable to file, a complaint will be prepared and forwarded to you for your review and notarized signature.
2. Resolve questionable issues of jurisdiction.
3. Forward, upon your request, a copy of your complaint to the Equal Employment Opportunity Commission (EEOC) or the U.S. Department of Housing and Urban Development (HUD).
4. Investigate through appropriate methods (written inquiry, field investigation, investigatory conference, etc.)
5. Determine whether or not, there is probable cause to believe that an act of discrimination has occurred, and will notify you and the respondent(s) in writing.

More Information:

For more information on the obligations of post-secondary schools, please see:

- <http://www2.ed.gov/about/offices/list/ocr/transition.html>
- <http://www.pacer.org/publications/adaqa/504.asp>.

For more information on auxiliary aids, please see:

- <http://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html>.