



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

JUL 25 2008

Dear Colleague:

As we celebrate the 18th anniversary of the enactment of the landmark legislation, the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 et seq., on July 26, 2008, we reflect upon accomplishments made towards providing educational opportunities free from disability discrimination. The ADA applies in many aspects of American life including elementary, secondary and postsecondary education. Title II of the ADA (Title II) seeks to ensure that qualified individuals with disabilities, including students, are not excluded from or denied the benefits of services, programs or activities of a public entity by reason of disability or otherwise subjected to discrimination by public entities.

America is undeniably stronger because of the ADA and the contributions individuals with disabilities have made to every aspect of our society. The Office for Civil Rights (OCR) has played an important role in implementing and enforcing the ADA, by working with state and local education agencies as well as postsecondary institutions to make groundbreaking strides in providing access to opportunities for students with disabilities on a nondiscriminatory basis. We celebrate the continuation of this progress and are reminded that the foundation of the ADA began 35 years ago this September with the enactment of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794.

At the public elementary and secondary school level, Section 504 and Title II and their implementing regulations have furthered a broad mandate for nondiscrimination, including: 1) requiring that public schools provide students with disabilities a free appropriate public education; 2) ensuring that these students are educated with nondisabled students to the maximum extent appropriate; and 3) providing that evaluation and placement of these students complies with federal requirements.

As the ADA celebrates its 18th anniversary, OCR takes a moment to reflect specifically on the issues concerning college-age students with disabilities. Increasingly, after completing high school, students with disabilities continue their education at institutions such as two- and four-year colleges and universities and at vocational and career schools. Data from the U.S. Department of Education's most recent National Postsecondary Student Aid Study indicated that, in the 2003-04 academic year, more than 2 million postsecondary students reported having some type of disability. They accounted for more than 11 percent of postsecondary students and represented a 2 percent increase in the number of postsecondary students who reported having disabilities just four years earlier. Currently, postsecondary institutions routinely provide academic adjustments, auxiliary aids and services, program access, and housing accommodations to students with disabilities as appropriate to meet the students' documented disability-related needs.

Together, OCR and the academic community learned how to “level the playing field” without lowering academic standards. We have demonstrated that sign language interpreters, real time captioning, textbooks in Braille, accessible web sites, and other simple steps often successfully allow students with hearing, visual, and learning disabilities to meaningfully master the same course content as others. Several of you have gone beyond the minimum steps required by the law and formed consortia to achieve economies of scale in implementing accommodations such as in the production of alternate media. You have also learned how to adjust test conditions to validly measure what students with disabilities have learned rather than merely measuring the impact of their disabilities.

We now know that many changes originally intended to benefit students with disabilities often improve the college experience for everyone. A college’s math course redesigned to meet the needs of students with learning disabilities turned out to be helpful to many other students in the math course. Real time captioning intended for students who are deaf or hard of hearing provides every student two ways to receive the instructional material. Captioned video has proven to be not only accessible but becomes searchable and reusable as components of future classes. “Universal design” in web materials enhances the flexibility and cross platform usability of instructional sites for all students across different operating systems, browsers, personal digital assistants (PDAs), and multimedia.

Today, we face new challenges and must implement creative solutions to meet those challenges. In that vein, I am pleased to announce a groundbreaking “Wounded Warriors Initiative” to help meet one such challenge. Many veterans returning from Operation Iraqi Freedom and Operation Enduring Freedom are “individuals with disabilities” who intend to pursue higher education. (See “So You Want to Go Back to School” at <http://www.ed.gov/about/offices/list/ocr/letters/back-to-school-2008.html>.) Many of these “wounded warriors” have acquired disabilities during their service, making them eligible for protection under the ADA and Section 504. Unlike the vast majority of students with disabilities who attend college, warriors with disabilities often have no history of receiving disability-based accommodations in high school. Accordingly, they are less familiar with their disability-related rights and responsibilities. Most colleges and universities have not had a lot of experience in accommodating students with the types of disabilities common among wounded warriors, including post traumatic stress disorder (PTSD), traumatic brain injury, late acquired blindness or deafness, significantly disfiguring burns, and multiple amputations, among others.

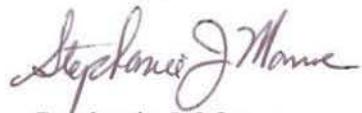
Traditional means of support may not work: warriors with late-acquired deafness may not know American Sign Language, but can benefit from real time captioning and other technologies; those with late-acquired blindness may not know Braille but can use other forms of media such as digital or recorded books. As in other contexts, individualized accommodations should be selected through an interactive process between the institution and the student. For example, a particular student with PTSD may need advance warning of fire alarm tests or a private dorm room, while another individual with PTSD may benefit from having a roommate and being socialized to the greatest extent possible.

Under our new Wounded Warriors Initiative, we will support veterans with disabilities who have questions about their ADA rights and responsibilities. We also will work with institutions and service providers wanting to know how best to support students with disabilities and encourage institutions to adopt innovative approaches to serve this important population. Some are already doing so; some colleges are successfully experimenting with placing transition classes directly at Veterans Administration (VA) facilities or developing cooperative efforts with VA rehabilitation services to help warriors with disabilities transition smoothly to the college environment.

During our 18-year journey since the enactment of the ADA and our 35-year journey since the enactment of Section 504, measurable and undisputable progress has been made, largely due to the initiatives of education institutions at all levels and the work of OCR to eliminate disability discrimination. Despite this undeniable progress, our collective mission is not fully accomplished. Inaccessible schools, postsecondary institutions and programs still exist, and disability discrimination still continues. At OCR, each year complaints of disability discrimination comprise the largest percentage of civil rights complaints filed with our office – to date in fiscal year 2008 (from October 1, 2007 to present) we have received more than 2800 complaints alleging disability discrimination, approximately 50 percent of all complaints filed with OCR. During the remainder of my tenure as assistant secretary for civil rights, I remain committed to enforcing Title II of the ADA and Section 504 and providing technical assistance to those institutions, service providers, and individuals that require and seek assistance.

I hope you will join me in celebrating our continued efforts and our shared interest in realizing the full potential of the Americans with Disabilities Act.

Sincerely yours,

A handwritten signature in cursive script that reads "Stephanie J. Monroe".

Stephanie J. Monroe
Assistant Secretary for Civil Rights

So You Want to Go Back to School

You have honored your country through your military service. You may have earned educational benefits as well. If you are a wounded warrior, you may wonder whether it will be difficult for you to go back to school and what accommodations might be available. The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504) prohibit discrimination against qualified individuals with disabilities by covered entities, including most colleges and universities. Many wounded warriors are people with disabilities protected by these laws.

Since the G.I. Bill was introduced during World War II, millions of veterans have used their educational benefits to return to school and improve the quality of their lives. A college graduate, on average, over his or her lifetime, will earn nearly one million dollars more than a high school graduate. The earnings gap is even greater for persons with disabilities who graduate from high school and persons with disabilities who graduate from college. Having a disability should not deter a veteran from using the educational benefits he or she has earned. Veterans with disabilities who are well informed about their rights and the laws protecting persons with disabilities will find that many perceived barriers and challenges can be removed or addressed, or simply do not exist.

YOUR RIGHTS AS A STUDENT WITH A DISABILITY

Individuals with disabilities have important protections and rights under Federal law. The ADA and Section 504 prohibit discrimination on the basis of disability and apply to nearly every postsecondary institution in the United States. Among other provisions, these laws require postsecondary institutions to provide academic adjustments, auxiliary aids or reasonable modifications (also referred to as accommodations) to school policies and practices for students with mental or physical disabilities. These laws protect students with a variety of disabilities as defined by the laws' criteria, including loss of limb, severe burns, Post Traumatic Stress Disorder, Traumatic Brain Injury, deafness, vision disabilities, and learning disabilities.

BE PROACTIVE

To receive academic adjustments, veterans with disabilities must be proactive! Postsecondary schools do not have a duty to find students with disabilities. Rather it is incumbent on a student to notify a school about any disability that may require academic adjustments.

After admission, if you believe you will need academic adjustments, find out which office provides services to students with disabilities. Contact the office as early as possible and determine what supporting documentation is required to establish that you have a disability and are eligible for academic adjustments. You should expect the postsecondary school to work with you in an interactive process to identify the needed documentation and to determine the appropriate academic adjustments, if any. If you do not actively participate in the process, you are much less likely to receive appropriate academic adjustments.

INFORMATION YOU MAY NEED TO PROVIDE

Institutions of higher education are not required to conduct or pay for an evaluation to document your disability and need for an academic adjustment, although some institutions do. Some institutions may help you locate a qualified individual who may be able to provide the required documentation. The State's Vocational Rehabilitation (VR) agency or similar agency may also be a source of relevant information, through the evaluations it conducts to determine eligibility for VR services, and through the Individualized Plan for Employment developed for students who are determined VR-eligible. Evaluations and documentation developed by military or Department of Veterans Affairs (VA) personnel may be helpful to this process if they address the extent of the impairment and need for academic adjustments. In general, documentation focusing on how the disability affects learning and other major life activities related to the postsecondary setting would be appropriate.

The amount of information a postsecondary school may seek from an individual requesting academic adjustments is limited. The school is entitled only to information needed to provide a sufficient basis to evaluate the student's disability and whether requested academic adjustments are necessary and appropriate for the individual.

It is important to note that the standards used by the military in determining disability for purposes of separation and benefits, as well as the standards used by the VA to review disability claims, are different from the definition of disability in Section 504 and the ADA. Therefore, a determination by the military or VA that a veteran did not have a disability at the completion of service does not necessarily mean the veteran does not have a disability for purposes of Section 504 or the ADA, and does not necessarily limit a veteran's ability to independently document disabilities and receive academic adjustments in a postsecondary setting. Likewise, a finding by the military or VA that a veteran is entitled to disability-related benefits or services does not mean that he or she is automatically entitled to receive academic adjustments in a postsecondary setting.

WHAT YOU CAN EXPECT

Depending on the level and type of disability involved, some examples of common academic adjustments are reduced course loads, priority in class registration, extra time on examinations, real-time transcription technology or sign language interpreters for people who are deaf or hard of hearing, audio books for people with vision disabilities, and modified desks that will accommodate wheelchairs. Neither the ADA nor Section 504 requires postsecondary schools to provide personal attendants to persons with disabilities, but many schools will help students find funding for one through other sources.

Based on your own documentation and individual circumstances, postsecondary schools should help you identify necessary and appropriate accommodations. Some postsecondary schools may extend academic adjustments on a temporary basis while you are collecting your documentation. If you have questions, you should talk to a counselor or other staff member in the postsecondary school office or department that provides services to students with disabilities.

As noted above, the interactive process between the postsecondary institution and the student should result in academic adjustments that the postsecondary school will put into operation. A school may reject a proposed academic adjustment because it would fundamentally alter the school's program (for example, by lowering its academic standards) or because it would result in undue financial or administrative burdens. Generally, though, once it has agreed to an academic adjustment, the school should abide by the results of the interactive process. If a postsecondary school decides that it cannot implement an academic adjustment, it must work with you to find an effective alternative. If you believe that the academic adjustments are not meeting your needs, it is your responsibility to notify the school as soon as possible.

MORE INFORMATION

The U.S. Department of Education, Office for Civil Rights (OCR) is responsible for ensuring that postsecondary institutions afford all individuals an equal educational opportunity with regard to race, national origin, age, sex, and disability. Veterans with disabilities are among those protected by these laws.

For more information from OCR on receiving academic adjustments in postsecondary school go to <http://www.ed.gov/policy/rights/guid/ocr/disability.html> and <http://www.ed.gov/ocr/docs/auxaids.html>. Other information about the prohibition against disability discrimination in education is available at <http://www.ed.gov/ocr/disabilityresources.html>.

OCR has the authority to investigate and resolve complaints alleging that a postsecondary institution is violating civil rights laws, including laws prohibiting discrimination on the basis of disability. For example, if you believe that a postsecondary school has not established an adequate process for you to request academic adjustments or to allow you to appeal decisions with which you disagree, you may file a complaint with OCR. In addition, if the school agrees to provide academic adjustments and then fails to do so, you may file a complaint with OCR. It is also unlawful for a postsecondary institution to retaliate against you because you have requested an academic adjustment. Complaints can be filed with OCR in writing or online. For specific information on filing an OCR complaint, please call 1-800-421-3481, TDD 1-877-521-2172, email at ocr@ed.gov, or visit our website at <http://www.ed.gov/ocr/know.html>.

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