



National Network

Information, Guidance and
Training on the Americans with
Disabilities Act

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Postsecondary Institutions and Students with Disabilities

This document explains the legal obligations that postsecondary institutions have toward students with disabilities under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Fair Housing Act.

How the Laws Apply

The Americans with Disabilities Act (ADA) covers both public and private universities; Section 504 of the Rehabilitation Act (Section 504) covers federally funded programs and services; and the Fair Housing Act (FHA) covers student housing and dormitories. However, both the ADA and Section 504 cover most postsecondary institutions,, and all three laws may apply to student housing.

Architectural Requirements

New Construction

All new construction or alterations must comply with the 2010 ADA Standards for Accessible Design.

Existing Facilities

- **Private Universities:** A private university shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense. Whether or not something is readily achievable depends on the overall financial resources of the university.

- Some examples of barrier removal include installing ramps; making curb cuts in sidewalks and entrances; repositioning shelves; and rearranging tables, chairs, vending machines, display racks, and other furniture.
- Public Universities: A public entity shall operate all services, programs, and activities so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This does not necessarily mean that a public entity must make all of its existing facilities accessible to and usable by individuals with disabilities.
- Accommodation Idea: When barrier removal is not readily achievable or otherwise not required by law, a public or private postsecondary institution might need to make other accommodations to grant access to a student with a disability. One accommodation may be to relocate the class into an accessible building or classroom.

Service Animals and Emotional Support Animals

Service Animals on Campus

A person with a disability who uses a service animal may bring the animal to the same areas on campus where the handler may go. Both ADA Title II (which covers public postsecondary institutions) and Title III (which covers private postsecondary institutions) **define a service animal as a dog that is individually trained to do work or perform tasks for an individual with a disability.** The task(s) performed by the dog must directly relate to the person's disability.

To determine whether an animal qualifies as a service animal, a member of the school's staff may ask only these two questions:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?

Colleges and universities may have a policy asking students who use service animals to contact the school's Disability Services Coordinator to register as a student with a disability. Higher education institutions may not require any documentation about the training or certification of a service animal.

They may, however, require proof that a service animal has any vaccinations required by state or local laws that apply to all animals.

Under Titles II and III of the ADA, service animals are limited to dogs. However, institutions must make reasonable modifications in policies to allow individuals with disabilities to use miniature horses if they have been individually trained to do work or perform tasks for individuals with disabilities.

Service Animals in Training: The ADA does not cover service animals in training because it defines a service animal as one that has been trained to perform tasks. However, state and local laws may cover service animals in training.

You can contact your regional ADA Center to check the service animal laws in your state.

Assistance Animals in Dormitories

The Fair Housing Act (FHA) covers dormitories and other student housing facilities and has broader protections than the ADA. Under the FHA, an **assistance animal (which includes both service animals and emotional support animals)** does not have to be trained to perform a task for the individual but **can provide emotional support that alleviates one or more identified symptoms or effects of a person's disability.**

- An assistance animal may be a dog, cat, snake, pig, or any other animal. When a disability or disability-related need is not readily apparent, housing providers may request reliable documentation of a student's disability and their disability-related need for an assistance animal. A letter from a medical professional that explains the disability-related need for the animal is usually sufficient.
- If the animal meets the ADA definition of a service animal, staff may not ask further questions about the person's disability..
- If the animal does not meet the ADA definition, staff may ask questions to determine if it meets the FHA definition of an assistance animal.



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- If an animal meets the FHA definition of an assistance animal but not the ADA definition of a service animal, the assistance animal cannot accompany the student to areas other than the dormitory or student housing facility.

Service Animals in Training

- The ADA does not cover service animals in training.
- The FHA does cover service animals in training, as long as the trainer is the person with the disability. In other words, a student with a disability has a right to train a service animal in the dormitories and other housing.

Fees

Universities may not ask students with service or assistance animals to pay a surcharge, even if other students with pets must pay a fee or a deposit for a pet. The person with the service or assistance animal may, however, be charged for damages the service or assistance animal causes.

When Can Service Animals Be Excluded on Campus (ADA)

Under the ADA, an individual with a disability may be asked to remove a service animal from the premises if (1) the animal is out of control and the animal's handler does not take effective action to control it, or (2) the animal is not housebroken.

When Can Assistance Animals Be Excluded in Housing (FHA)

Under the FHA, an individual with a disability may be asked to remove an assistance animal if it (1) poses a direct threat to the health or safety of others or (2) would cause substantial physical damage to the property of others.

Equal Access and Full Participation

Accommodations and Academic Adjustments

Educators must make necessary modifications to the academic requirements of a course of study if these requirements have a discriminatory impact on a student with a disability. Educators, however, do not have to waive or change the requirements if they are essential to the course or if the changes would fundamentally alter the program. This should be determined on a

case-by-case basis by consulting with the educator and reviewing the course description.

If a requested accommodation or adjustment is not reasonable, staff should work with the student to find alternatives that are reasonable and feasible. Common academic adjustments include extended time for exams, taking exams in quiet locations, or taking tests in alternative formats (such as substituting multiple choice exams for written exams, or vice versa). In other cases, it may be reasonable to substitute specific courses required for the completion of degree requirements or modify the manner in which specific courses are conducted.

Grievance Procedure

Both Section 504 and the ADA require postsecondary institutions to have a grievance procedure for students to appeal decisions about disability-related accommodations or issues. In addition, every school must have a staff person who is responsible for compliance with Section 504, Title II of the ADA, or both.

Auxiliary Aids and Services

Postsecondary institutions must provide auxiliary aids and services in a timely manner to ensure participation by students with disabilities.

- Examples of auxiliary aids and services include notetakers, American Sign Language (ASL) interpreters, electronic readers, open and closed captioning, and specialized gym equipment. For more examples, go to the U.S. Department of Education document “Auxiliary Aids and Services for Postsecondary Students with Disabilities”:
<http://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html>.

Technology

- Courses or class materials posted online must be in an accessible format.
- Videos must have closed captioning to ensure that people with hearing loss can understand the information.
- All materials such as class handouts or readings must be accessible by screen readers commonly used by people with vision loss.

- Materials passed out in class should be available in accessible electronic or alternate formats at the same time they are given to the class as a whole.

Non-Academic Services

Postsecondary institutions must ensure that students with disabilities have equal access in extracurricular and nonacademic activities.

- For instance, people with disabilities should be able to easily access the resources and assistance of the University's Career Services..
- Printed material should be available in alternative formats like Braille, audio, electronic text or large print.
- A Career Services counselor who meets with a student with hearing loss may need an ASL interpreter to communicate.

Is an Accommodation Appropriate?

Staff need to analyze each request for an accommodation on a case-by-case basis and avoid making assumptions about a disability. For instance, a person with vision loss may not be able to read Braille.

- Talk to professors or instructors (without disclosing the student's medical information) to determine whether a request is appropriate or if it fundamentally alters the academic requirements.
- The accommodation process should be interactive and may require some negotiation.

An accommodation may be appropriate under some circumstances but not others. For example, a transcription service (for a student with hearing loss) may be appropriate in a lecture where the communication is generally one-sided. If a student needs to participate in class discussions, an ASL Interpreter may be more appropriate. Discuss the situation with the student and work together to resolve the request for an accommodation.

If you have more questions about Postsecondary Institutions and Students with Disabilities, contact your Regional ADA Center for assistance at 1-800-949-4232 or e-mail us at adakt@u.washington.edu.

Content was developed by the Southwest ADA Center, and is based on professional consensus of ADA experts and the ADA National Network.

Southwest  Center

<http://www.southwestada.org>

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