



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, most postsecondary institutions are covered by both the ADA and Section 504, 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 may 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 is permitted to go. Title II (public postsecondary institutions) and Title III (private postsecondary institutions) of the Americans with Disabilities Act both define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability.

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

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

A student who has a service animal cannot be required to register the animal at the university's office for disability services or provide other documentation or certification. School officials are prohibited from making inquiries other than the two questions mentioned above.

Under Title II and III of the ADA, service animals are limited to dogs.



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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: Service animals in training are not covered by the ADA because the ADA defines a service animal as one that has been trained to perform tasks. Generally, state and local laws may govern the specifics of service animals in training. You can contact your regional ADA Center to check the pertinent laws in your area.

Assistance Animals in Dormitories

Dormitories and other student housing facilities are also covered by the Fair Housing Act (FHA), which 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 and 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 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.



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The Fair Housing Act vs. the Americans with Disabilities Act:

Because dormitories are covered by both the ADA and the FHA, the relevant staff should proceed with the ADA analysis mentioned earlier.

- If the animal meets the ADA definition of a service animal, then the analysis ought to end.
- 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.
- If an animal meets the FHA definition of an assistance animal but not the ADA definition of a service animal, the student does not have a right to be accompanied by the assistance animal to areas not covered by the FHA, like classrooms.

Service Animals in Training: The FHA does not require that assistance animals be trained to perform a task. This means that the FHA, unlike the ADA, covers 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 facilities (even when state or local laws do not address the issue).

Fees

Universities may not ask students with service or assistance animals to pay a surcharge, even if other students with pets are required to pay a fee or a deposit for a pet.



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The person with the service or assistance animal may however be charged for damages done by the service or assistance animal.

When Can Service Animals (ADA/on Campus) Be Excluded

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 (FHA/in Housing) Be Excluded

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 that cannot be reduced or eliminated by another reasonable accommodation, or (2) would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation.

Equal Access and Full Participation

Reasonable Accommodations and Academic Adjustments

Educators must make necessary modifications to the academic requirements of a course of study when these requirements have a discriminatory impact on a student with a disability. Educators, however, are not required to waive the requirements that are essential to the course or if it would constitute a fundamental alteration to the program. Whether a requirement is essential is determined on a case-by-case basis. Consulting with the professor or instructor and reviewing the course description may be helpful in determining if a requirement is essential.

If a requested accommodation or adjustment is unreasonable, 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.



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Grievance Procedure

Section 504 and the Americans with Disabilities Act require that postsecondary institutions 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 ensures compliance with Section 504, Title II of the ADA, or both.

Auxiliary Aids and Services

Postsecondary institutions have an obligation to provide auxiliary aids and services in a timely manner to ensure effective participation by students with disabilities.

- Examples of auxiliary aids and services include notetakers, American Sign Language interpreters, electronic readers, open and closed captioning, and specialized gym equipment. For more information on auxiliary aids and services, go to <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 should have closed captioning to ensure that people with hearing loss can effectively understand the information.



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- Materials such as class handouts or readings must be accessible by screen readers commonly used by people with vision loss.
- Physical handouts passed out in class also should be made available in accessible electronic or alternative formats.

Non-Academic Services

The duty to accommodate students with disabilities is not exclusive to the classroom. Postsecondary institutions must ensure that students with disabilities are afforded equal access in extracurricular and nonacademic activities.

- For instance, the resources and assistance available at the University's Career Services should be easily accessible to people with disabilities.
- Printed material offered 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 to provide an ASL interpreter to communicate effectively.



Determining What Is a Reasonable or Proper Accommodation

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 fundamentally alters the academic requirements.
- The reasonable 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.

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Original content was developed by George Powers at the Southwest ADA Center, and is based on professional consensus of ADA experts and the ADA National Network.

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