

Catawba College
Academic AccessAbility Office

DISABILITY

— *Resource Guide* —

SERVICES

*Adopted from:
The North Carolina Community College System
Disability Services Advisory Board*

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INDEX

INTRODUCTION

- What is a disability?
- The Law (*also see Appendix III*)

RIGHTS AND RESPONSIBILITIES

- College Responsibilities
- Student Responsibilities (*also see Appendix III*)

DOCUMENTATION

- Guidance
- Examples
 - Documentation Guidelines for Attention Deficit Disorder/Attention Hyperactivity Disorder
 - Documentation Guidelines for Blindness or Visual Impairment
 - Documentation Guidelines for Chronic Health Disorders
 - Documentation Guidelines for Deaf/Hard of Hearing
 - Documentation Guidelines for Head Injury/Traumatic Brain Injury
 - Documentation Guidelines for Learning Disorders (as endorsed by AHEAD)
 - Documentation Guidelines for Physical Disabilities
 - Documentation Guidelines for Psychiatric/Psychological Disorders
 - Temporary Impairments

TIPS FOR STUDENT SUCCESS

- Tips for Faculty
- Tips for Interacting with People with Disabilities

DEFINITION OF TERMS

APPENDIX I

- Questions and Answers on Disability Discrimination under Section 504 and Title IV

APPENDIX II

- Transition from High School to College

APPENDIX III

- Technology

INTRODUCTION

*What is a Disability?
The Law*

What is a Disability?

A disability under Section 504 of the *Rehabilitation Act* and the *Americans with Disabilities Act*, is described as a mental, or physical impairment that substantially limits a major life activity. Examples of impairments that can have a substantial impact on a major life function are visual impairments and blindness, hearing impairment and deafness, mobility impairment, learning disabilities, or systemic medical conditions.

The definition of a disability and criteria for establishing eligibility for accommodations services under 504 and ADA for post-secondary institutions may be different than the definitions and criteria implemented in the public schools, rehabilitation programs, social security, Veterans Administration, or as covered under insurance policies.

The Law

Section 504 of the Rehabilitation Act:

Section 504 of the Rehabilitation Act of 1973 states that ..."No otherwise qualified individual with a disability in the United States...shall solely by reason of ...disability, be denied the benefits of, be excluded from the participation in, or be subject to discrimination under any program or activity receiving federal financial assistance."

A person with a disability includes ..."any person who (1) has a physical or mental impairment which substantially limits one or more major life activities [including walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks], (2) has a record of such an impairment, or (3) is regarded as having such an impairment."

A "qualified person with a disability" is defined as one..."who meets the academic and technical standards as requisite to admission or participation in the educational program or activity."

Section 504 protects the rights of qualified individuals who have disabilities such as, but not limited to:

Blindness/visual impairment	Specific learning disabilities
Cerebral palsy	Speech and language disorder
Deafness/hearing impairment	Spinal cord injury
Epilepsy or seizure disorder	Tourett's syndrome
Orthopedic/mobility impairment	Traumatic brain injury

Section 504 also protects students with chronic illnesses and "treatable disabilities", such as, but not limited to:

AIDS	Diabetes
Arthritis	Multiple sclerosis
Cancer	Muscular dystrophy
Cardiac disease	Psychiatric disability

Under the provisions of Section 504 of the Rehabilitation Act of 1973 ...colleges may not discriminate in the recruitment, educational process, or treatment of students. Students who have self-identified, provided documentation of disability, and requested reasonable accommodations are entitled to receive approved modifications of programs, appropriate academic adjustments, or auxiliary aids that enable them to participate in the benefit from all educational programs and activities.

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act of 1990 gives civil rights protections to individuals with disabilities. Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all State and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State or local governments.

- Requires that people with disabilities not be excluded from participation in, or be denied the benefits of, or be subjected to discrimination.
- Does not require the institution to receive federal financial assistance.
- Provides clear enforceable standards addressing discrimination against individuals with disabilities by ensuring the federal government plays a significant role.

ADA Amendments Act (ADAAA)

On September 25, 2008, the ADA Amendments Act (ADAAA) was signed into law. It became effective on January 1, 2009. The U.S. Senate and the U.S. House of Representatives both unanimously passed the ADAAA.

The ADAAA focuses on the discrimination at issue instead of the individual's disability. It makes important changes to the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of Equal Employment Opportunity Commission's (EEOC) ADA regulations. The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it

changes the way that the statutory terms should be interpreted. Most significantly, the ADAAA:

- Directs EEOC to revise the portion of its regulations that defines the term "substantially limits";
- Expands the definition of "major life activities" by including two non-exhaustive lists:
 - The first list includes many activities that the EEOC has recognized (e.g., walking) as well as activities that EEOC has not specifically recognized (e.g., reading, bending, and communicating);
 - The second list includes major bodily functions (e.g., "functions of the immune system, normal cell growth, digestive, bowel, bladder, respiratory, neurological, brain, circulatory, endocrine, and reproductive functions");
- States that mitigating measures other than "ordinary eyeglasses or contact lenses" shall not be considered in assessing whether an individual has a disability;
- Clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
- Provides that an individual subjected to an action prohibited by the ADA (e.g., failure to hire) because of an actual or perceived impairment will meet the "regarded as" definition of disability, unless the impairment is transitory and minor;
- Provides that individuals covered only under the "regarded as" prong are not entitled to reasonable accommodation; and
- Emphasizes that the definition of "disability" should be interpreted broadly.

RIGHTS & RESPONSIBILITIES

College Rights & Responsibilities
Student Rights & Responsibilities

College Rights & Responsibilities

College Rights

- Identify and establish essential functions, abilities, skills, knowledge, and standards for courses, programs, services, jobs, and activities, and to evaluate students on this basis;
- Request and receive current documentation from a qualified professional that supports requests for accommodations, academic adjustments, and/or auxiliary aids and services;
- Deny a request for accommodations, academic adjustments, and/or auxiliary aids and services if the documentation does not demonstrate that the request is warranted, or if the individual fails to provide appropriate documentation;
- Select among equally effective accommodations, adjustments, and/or auxiliary aids and services;
- Refuse to provide an accommodation, adjustment, and/or auxiliary aid and service that impose a fundamental alteration on a program or activity of the college.

College Responsibilities

- Accommodate the known limitations of an otherwise qualified student with a disability;
- Ensure that courses, programs, services, and activities, when viewed in their entirety, are available and usable in the most integrated and appropriate settings;
- Provide or arrange accommodations, academic adjustments, and/or auxiliary aids and services for students with disabilities in courses, programs, services, and activities;
- Maintain appropriate confidentiality of records and communication, except where permitted or required by law;
- Maintain academic standards by providing accommodations without compromising the content, quality, or level of instruction.

Student Rights & Responsibilities

Student Rights

- Equal access to courses, programs, services, jobs, and activities offered by the college;
- Equal opportunity to work, learn, and receive accommodations, academic adjustments and/or auxiliary aids and services;
- Confidentiality of information regarding their disability as applicable laws allow;
- Information available in accessible formats.

Student Responsibilities

- Meet qualifications and maintain essential institutional standards for the programs, courses, services, and activities;
- Self-identify disability status in a reasonable and timely manner;
- Provide disability documentation from a qualified professional that reflects the student's current disability status, and how their disability limits participation in courses, programs, services, and activities;
- Follow published procedures for obtaining academic adjustments, and/or auxiliary aids and services.

Suggestions for students

- Some accommodations require extra time so it is imperative to self-identify and request accommodations as soon as possible;
- Attend classes and follow instructions provided in the class syllabus concerning absences, emergency needs, or other information specific to class;
- If possible inform instructor ahead of time of any absences;
- Contact other outside agencies for possible eligibility in additional services;
- Arrange for personal attendants if needed, whether paid for by an agency or family (colleges are not required under ADA to provide personal attendants, tutors, or personal items such as hearing aids, prostheses, individually designed and fitted special extensions or wands for computer or other resource operation).
- Students with disabilities should process their own college business i.e., registration, drop/add, refunds, etc.

(See Appendix I, Auxiliary Aids and Services for Postsecondary Students with Disabilities, for additional information)

DOCUMENTATION

Guidance

Examples of Documentation

Attention Deficit Disorder/Attention Hyperactivity Disorder

Blindness or Visual Impairment

Chronic Health Disorders

Deaf/Hard of Hearing

Head Injury/Traumatic Brain Injury

Learning Disorders

Physical Disabilities

Psychiatric/Psychological Disabilities

Temporary Impairments

Documentation has two main purposes:

- to establish an individual has a disability
 - to describe and document the functional impact of the disability for use in establishing the need for and design of accommodations
-

Acceptable sources of documentation for substantiating a student's disability and request for particular accommodations can take a variety of forms:

- Student's Self-Report – interview, questionnaire
 - Observation and Interpretation – impressions and conclusions formed by disability services personnel
 - Information from External and Third Parties – educational, medical records/reports
-

Regarding documentation:

- The amount and type of documentation will depend on the individual situation.
- Colleges should request relevant medical documentation as needed.
- Colleges should apply a consistent process for documentation instead of requiring identical information.
- Documentation should be relevant and demonstrate the current functional impact of the disability.
- Documentation should illustrate a connection between the impact of the disability, the described barrier, and the requested accommodation.
- Each college should develop its own policies and procedures concerning documentation including confidentiality.
- Colleges are under no obligation to follow IEPs or 504 Plans used in the public school system.

Examples

The following examples are adapted from:

Longwood College, <http://www.longwood.edu/disability/15740.htm>

University of Colorado at Boulder, <http://www.colorado.edu/disabilityservices/>
Association on Higher Education and Disabilities (AHEAD)

Documentation Guidelines for Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation that legitimizes a student's request for appropriate accommodations. (A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation.) Recommended documentation includes:

1. Evaluations must be comprehensive. Documentation must show that DSM-IV criteria for attention deficit/hyperactivity disorder have been met.
2. Information and/or test scores to rule out possible diagnoses including medical and psychiatric disorders as well as educational and cultural factors which impact then individual and may result in behaviors mimicking ADHD/ADD.
3. Documentation must give clear and specific evidence of attention deficit/hyperactivity disorder. A brief statement on a prescription form or letterhead is not acceptable.
4. The process of diagnosis should be reported, providing test scores and/or appropriate data.

5. Documentation should reflect the current level of functioning and is dependent on the condition, the current status of the student and the student's request for reasonable accommodations.
6. If medication is recommended, this should be noted.
7. Professional conducting assessment and rendering diagnosis of attention deficit/hyperactivity disorder must be qualified to do so. The person who signs the report must be the one who conducts the evaluation and writes the report. (Documentation by family members, immediate or otherwise, is not acceptable.)

Documentation Guidelines for Blindness or Visual Impairment

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation that legitimizes a student's request for appropriate accommodations. (A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation.) Recommended documentation includes:

1. A clear and current statement of the vision related disability with supporting data (the age of acceptable documentation is dependent upon the condition, the current status of the student and the student's request for reasonable accommodations).
2. A summary of assessment procedures and evaluation instruments used to make the diagnosis and the summary of results including standardized scores.
3. A summary of present symptoms that meet the criteria for diagnosis.
4. Medical information relating to the student's needs and the status of the student's vision (static or changing) and its impact on the demands of the academic program.
5. Narrative or descriptive text providing both quantitative and qualitative information about the student's abilities including the use of corrective lenses and ongoing visual therapy (if appropriate).
6. Suggestions of reasonable accommodation(s), which might be appropriate at the postsecondary level, are encouraged. These recommendations should be supported by the diagnosis.

Documentation Guidelines for Deaf/Hard of Hearing

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation that legitimizes a student's request for appropriate accommodations. (A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation.) Recommended documentation includes:

1. A clear statement of Deafness or hearing loss, with a current audiogram (the age of acceptable documentation is dependent upon the condition, the current status of the student, and the student's request for reasonable accommodations).
2. A summary of assessment procedures and evaluation instruments used to make the diagnosis and a narrative summary of evaluation results, if appropriate.
3. Medical information relating to the student's needs and the status of the individual's hearing (static or changing) and its impact on the academic program.
4. A statement regarding the use of hearing aids or cochlear implants (if appropriate).

Documentation Guidelines for Chronic Health Disabilities

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning. Chronic health impairments (such as, but not limited to, AIDS, arthritis, Crohn's disease, cystic fibrosis, fibromyalgia, heart disease, muscular dystrophy, multiple sclerosis, respiratory conditions) are considered disabilities under ADA if a major life activity is substantially limited.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation that legitimizes a student's request for appropriate accommodations. Documentation from family members, immediate or otherwise, is not acceptable. A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation. Recommended documentation includes:

1. A clear and current statement of the medical diagnosis of the condition with supporting data (the age of acceptable documentation is dependent upon the disabling condition, the current status of the student, and the student's request for reasonable accommodations).
2. A summary of assessment procedures and evaluation instruments used to make the diagnosis, including evaluation results and standardized scores if applicable.
3. A description of present symptoms which meet the criteria for diagnosis.
4. Medical information relating to the student's needs should include the impact of treatments, medications, devices or services currently prescribed.
5. Suggestions of reasonable accommodation(s), which might be appropriate at the postsecondary level, are encouraged. These recommendations should be supported by the diagnosis.

Documentation Guidelines for Physical Disabilities

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning. Physical disabilities (such as, but not limited to, mobility impairments, multiple sclerosis, cerebral palsy, chemical sensitivities, spinal cord injuries, muscular dystrophy, and spinal bifida) are considered disabilities under the ADA if a major life activity is substantially limited.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation that legitimizes a student's request for appropriate accommodations. Documentation from family members, immediate or otherwise, is not acceptable. A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation. Recommended documentation includes:

1. A clear and current statement of the medical diagnosis of the condition with supporting data (the age of acceptable documentation is dependent upon the disabling condition, the current status of the student and the student's request for reasonable accommodations).
2. A summary of assessment procedures and evaluation instruments used to make the diagnosis, including evaluation results and standardized scores if applicable.
3. A description of present symptoms which meet the criteria for diagnosis.
4. Medical information relating to the student's needs should include the impact of treatments, medications, devices or services currently prescribed.
5. Suggestions of reasonable accommodation(s) that might be appropriate at the postsecondary level are encouraged. These recommendations should be supported by the diagnosis.

Documentation Guidelines for Head Injury/Traumatic Brain Injury

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning. Head injuries are considered disabilities under the ADA if a major life activity is substantially limited. Head Injury or Traumatic Brain Injury is considered a medical or clinical diagnosis.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation to legitimize a student's request for appropriate accommodations. Documentation from family members, immediate or otherwise, is not acceptable. A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation. Recommended documentation includes:

1. A clear statement and classification of the head injury or traumatic brain injury including date of injury and classification and dates pertaining to history of multiple concussions (as applicable).
2. Documentation should reflect the current level of functioning and is dependent upon the disabling condition, the current status of the student and the student's request for reasonable accommodations).
3. A summary of cognitive and achievement measures used and evaluation results (neuropsychological report) including standardized scores or percentiles used to make the diagnosis.
4. A summary of current residual symptoms and cumulative damage (as applicable and as a result of repeated injuries) which meet the criteria for diagnosis.
5. Medical information relating to the student's needs should include the impact of treatments, medications, devices or services currently prescribed.
6. Suggestions of reasonable accommodation(s) which might be appropriate at the postsecondary level are encouraged. These recommendations should be supported by the diagnosis.

Documentation Guidelines for Psychiatric/Psychological Disabilities

Under the Americans with Disabilities Act, a "qualified individual with a disability is one who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provisions of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or participation in programs or activities provided by a public entity." A person with a disability is anyone with a physical or mental impairment that substantially limits one or more of such major activities as walking, seeing, hearing, caring for self, performing manual tasks, working or learning. Psychiatric/Psychological disabilities (such as, but not limited to, depressive, anxiety, and bipolar disorders) are considered disabilities under the ADA if a major life activity is substantially limited.

The following guidelines are provided to assist the college in collaboration with each student to determine appropriate accommodations. Documentation serves as a foundation that legitimizes a student's request for appropriate accommodations. Documentation from family members, immediate or otherwise, is not acceptable. A school plan such as an Individualized Educational Plan [IEP] or a 504 Plan is insufficient documentation. Recommended documentation includes:

1. A clear statement of the disability, including the DSM-IV diagnosis, and a summary of present symptoms.
2. Documentation should reflect the current level of functioning is dependent upon the disabling condition, the current status of the student and the student's request for reasonable accommodations).
3. A summary of assessment procedures and evaluation instruments used to make the diagnosis, and a summary of evaluation results, including standardized or percentile scores.
4. Medical information relating to the student's needs should include the impact of medication on the student's ability to meet the demands of the postsecondary environment.
5. Suggestions of reasonable accommodation(s) that might be appropriate at the postsecondary level are encouraged. These recommendations should be supported by the diagnosis.

Documentation Guidelines for Learning Disabilities (as Endorsed by AHEAD)

Introduction

In response to the expressed need for guidance related to the documentation of a learning disability in adolescents and adults, the Association on Higher Education And Disability (AHEAD) has developed the following guidelines. The primary intent of these guidelines is to provide students, professional diagnosticians and service providers with a common understanding and knowledge base of those components of documentation, which are necessary to validate a learning disability and the need for accommodation. The information and documentation that establishes a learning disability should be comprehensive in order to make it possible for a student to be served in a postsecondary setting.

The document presents guidelines on four important areas: 1) qualifications of the evaluator, 2) recency of documentation, 3) appropriate clinical documentation to substantiate the learning disability, and 4) evidence to establish a rationale supporting the need for accommodations.

Under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, individuals with learning disabilities are guaranteed certain protections and rights of equal access to programs and services; thus the documentation should indicate that the disability substantially limits some major life activity. The following guidelines are provided in the interest of assuring that LD documentation is appropriate to verify eligibility and to support requests for accommodations, academic adjustments and/or auxiliary aids. It is recommended that postsecondary institutions using these guidelines consult their legal counsel before establishing a policy on documentation relating to individuals with disabilities. In countries not regulated by this legislation further modification may be appropriate.

These guidelines are designed to be a framework for institutions to work from in establishing criteria for eligibility. It is acknowledged that different educational settings with different student populations will need to modify and adapt these guidelines to meet the needs and backgrounds of their student populations.

Recommendations for consumers are presented in Addendum A to assist them in finding and working with a qualified professional in regard to documentation.

Documentation Guidelines

I. Qualifications of the Evaluator

Professionals conducting assessments, rendering diagnoses of learning disabilities, and making recommendations for appropriate accommodations must be qualified to do so. Comprehensive training and direct experience with an adolescent and adult LD population is essential.

The name, title and professional credentials of the evaluator, including information about license or certification (e.g., licensed psychologist) as well as the area of specialization, employment and state/province in which the individual practices should be clearly stated in the documentation. For example, the following professionals would generally be considered qualified to evaluate specific learning disabilities provided that they have additional training and experience in the assessment of learning problems in adolescents and adults: clinical or educational psychologists, school psychologists, neuropsychologists, learning disabilities specialists, medical doctors, and other professionals. Use of diagnostic terminology indicating a learning disability by someone whose training and experience are not in these fields is not acceptable. It is of utmost importance that evaluators are sensitive and respectful of cultural and linguistic differences in adolescents and adults during the assessment process. It is not considered appropriate for professionals to evaluate members of their families. All reports should be on letterhead, typed, signed and otherwise legible.

II. Documentation

The provision of all reasonable accommodations and services is based upon assessment of the impact of the student's disabilities on his or her academic performance at a given time in the student's life. Therefore, it is in the student's best interest to provide recent and appropriate documentation relevant to the student's learning environment.

Flexibility in accepting documentation is important, especially in settings with significant numbers of non-traditional students. In some instances, documentation may be outdated or inadequate in scope or content. It may not address the student's current level of functioning or need for accommodations because observed changes may have occurred in the student's performance since the previous assessment was conducted. In such cases, it may be appropriate to update the evaluation report. Since the purpose of the update is to determine the student's current need for accommodations, the update, conducted by a qualified professional, should include a rationale for ongoing services and accommodations.

III. Substantiation of the Learning Disability

Documentation should validate the need for services based on the individual's current level of functioning in the educational setting. A school plan such as an individualized education program (IEP) or a 504 plan is insufficient documentation, but it can be included as part of a more comprehensive assessment battery. A comprehensive assessment battery and resulting diagnostic report should include a diagnostic interview, assessment of aptitude, academic achievement, information processing and a diagnosis.

A. Diagnostic Interview

An evaluation report should include the summary of a comprehensive diagnostic interview. Learning disabilities are commonly manifested during childhood, but not always formally diagnosed. Relevant information regarding the student's academic history and learning processes in elementary, secondary and postsecondary education should be investigated. The diagnostician, using professional judgement as to which areas are relevant, should conduct a diagnostic interview which may include: a description of the presenting problem(s); developmental, medical, psychosocial and employment histories; family history (including primary language of the home and the student's current level of English fluency); and a discussion of dual diagnosis where indicated.

B. Assessment

The neuropsychological or psycho-educational evaluation for the diagnosis of a specific learning disability must provide clear and specific evidence that a learning disability does or does not exist. Assessment, and any resulting diagnosis, should consist of and be based on a comprehensive assessment battery that does not rely on any test or subtest.

Evidence of a substantial limitation to learning or other major life activity must be provided. A list of commonly used tests is included in Addendum B. Minimally, the domains to be addressed must include the following:

1. Aptitude

A complete intellectual assessment with all subtests and standard scores reported.

2. Academic Achievement

A comprehensive academic achievement battery is essential with all subtests and standard scores reported for those subtests

administered. The battery should include current levels of academic functioning in relevant areas such as reading (decoding and comprehension), mathematics, and oral and written language.

3. Information Processing

Specific areas of information processing (e.g., short- and long-term memory, sequential memory, auditory and visual perception/processing, processing speed, executive functioning and motor ability) should be assessed.

Other assessment measures such as non-standard measures and informal assessment procedures or observations may be helpful in determining performance across a variety of domains. Other formal assessment measures may be integrated with the above instruments to help determine a learning disability and differentiate it from co-existing neurological and/or psychiatric disorders (i.e., to establish a differential diagnosis). In addition to standardized tests, it is also very useful to include informal observations of the student during the test administration.

C. Specific Diagnosis

Individual "learning styles," "learning differences," "academic problems" and "test difficulty or anxiety," in and of themselves, do not constitute a learning disability. It is important to rule out alternative explanations for problems in learning such as emotional, attentional or motivational problems that may be interfering with learning but do not constitute a learning disability. The diagnostician is encouraged to use direct language in the diagnosis and documentation of a learning disability, avoiding the use of terms such as "suggests" or "is indicative of."

D. Test Scores

Standard scores and/or percentiles should be provided for all normal measures. Grade equivalents are not useful unless standard scores and/or percentiles are also included. The data should logically reflect a substantial limitation to learning for which the student is requesting the accommodation. The particular profile of the student's strengths and weaknesses must be shown to relate to functional limitations that may necessitate accommodations. The tests used should be reliable, valid and should document both the nature and severity of the learning disability. Informal inventories, surveys and direct observation by a qualified professional may be used in tandem with formal tests in order to further develop a clinical hypothesis.

E. Clinical Summary

A well-written diagnostic summary based on a comprehensive evaluation process is a necessary component of the report. Assessment instruments and the data they provide do not diagnose; rather, they provide important elements that must be integrated by the evaluator with background information, observations of the client during the testing situation, and the current context. It is essential, therefore, that professional judgement be utilized in the development of a clinical summary. The clinical summary should include:

1. demonstrations of the evaluator's having ruled out alternative explanations for academic problems as a result of poor education, poor motivation and/or study skills, emotional problems, attentional problems and cultural/language differences;
2. indication of how patterns in the student's cognitive ability, achievement and information processing reflect the presence of a learning disability;
3. indication of the substantial limitation to learning or other major life activity presented by the learning disability and the degree to which it impacts the individual in the learning context for which accommodations are being requested; and
4. indication as to why specific accommodations are needed and how the effects of the specific disability are accommodated.

The summary should also include any record of prior accommodation or auxiliary aids, including any information about specific conditions under which the accommodations were used (e.g., standardized testing, final exams, licensing or certification examinations).

IV. Recommendations for Accommodations

It is important to recognize that accommodation needs can change over time and are not always identified through the initial diagnostic process. Conversely, a prior history of accommodations does not, in and of itself, warrant the provision of a similar accommodation.

The diagnostic report should include specific recommendations for accommodations as well as an explanation as to why each accommodation is recommended as well as an explanation as to why each accommodation is recommended. The evaluators should describe the impact the diagnosed learning disability has on a specific major life activity as well as the degree of

significance of this impact on the individual. The evaluator should support recommendations with specific test results or clinical observations.

If accommodations are not clearly identified in a diagnostic report, the disability service provider should seek clarification and, if necessary, more information. The final determination for providing appropriate and reasonable accommodations rests with the institution.

In instances where a request for accommodations is denied in a postsecondary institution, a written grievance or appeal procedure should be in place.

V. Confidentially

The receiving institution has a responsibility to maintain confidentiality of the evaluation and may not release any part of the documentation without the student's informed and written consent.

Addendum A: *Recommendations for Consumers*

- 1) For assistance in finding a qualified professional:
 - a) Contact the disability services coordinator at the institution you attend or plan to attend to discuss documentation needs; and
 - b) Discuss your future plans with the disability services coordinator. If additional documentation is required, seek assistance in identifying a qualified professional.

- 2) In selecting a qualified professional:
 - a) Ask what his/her credentials are;
 - b) Ask what experiences he/she has had working with adults with learning disabilities; and
 - c) Ask if he/she has ever worked with the service provider at your institution or with the agency to which you are sending material.

- 3) In working with the professional:
 - a) Take a copy of these guidelines to the professional;
 - b) Encourage him/her to clarify questions with the person who provided you with these guidelines;
 - c) Be prepared to be forthcoming, thorough and honest with requested information; and
 - d) Know that professionals must maintain confidentiality with respect to your records and testing information.

- 4) As follow-up to the assessment by the professional:
 - a) Request a copy of the assessment report;
 - b) Request the opportunity to discuss the results and recommendations;
 - c) Request additional resources if you need them; and
 - d) Maintain a personal file of your records and reports.

Addendum B: *Tests for Assessing Adolescents and Adults*

When selecting a battery of tests, it is critical to consider the technical adequacy of instruments including their reliability, validity and standardization on an appropriate norm group. The professional judgement of an evaluator in choosing tests is important.

The following list is provided as a helpful resource, but it is not intended to be definitive or exhaustive.

Aptitude

- Wechsler Adult Intelligence Scale - Revised (WAIS-R)
- Woodcock-Johnson Psychoeducational Battery _ Revised: Tests of Cognitive Ability
- Kaufman Adolescent and Adult Intelligence Test
- Stanford-Binet Intelligence Scale (4th ed.)

(The Slosson Intelligence Test - Revised and the Kaufman Brief Intelligence Test are primarily screening devices which are not comprehensive enough to provide the kinds of information necessary to make accommodation decisions.)

Academic Achievement

- Scholastic Abilities Test for Adults (SATA)
- Stanford Test of Academic Skills
- Woodcock-Johnson Psychoeducational Battery - Revised: Tests of Achievement
- Wechsler Individual Achievement Test (WIAT)

Other specific achievement tests

- Nelson-Denny Reading Skills Test
- Stanford Diagnostic Mathematics Test
- Test of Written Language - 3 (TOWL-3)
- Woodcock Reading Mastery Tests - Revised

(Specific achievement tests are useful instruments when administered under standardized conditions and interpreted within the context of other diagnostic information. The Wide Range Achievement Test - 3 (WRAT -3) is not a comprehensive measure of achievement and therefore is not useful if used as the sole measure of achievement.)

Information Processing

Acceptable instruments include the Detroit Tests of Learning Aptitude -3 (DTLA-3), the Detroit Tests of Learning Aptitude - Adult (DTLA-A), information from subtests on WAIS-R, Woodcock-Johnson Psychoeducational Battery - Revised: Tests of Cognitive Ability, as well as other relevant instruments.

Temporary Impairments

Some disabilities are temporary and may require accommodations for a limited time. Each case is considered individually. The following documentation may be requested:

- Letter on letterhead from a qualified professional stating diagnosis, functional limitations necessitating the accommodations and estimated length services will be needed.

Services will be provided for *(to be filled in by the college)* number of working days pending receipt of documentation. If documentation is not received by that time, services will be cancelled.

TIPS FOR STUDENT SUCCESS

Tips for Faculty
Tips for Interacting with People with Disabilities

Tips for Faculty

Many teaching strategies that assist students with disabilities are known to also benefit nondisabled students. Instruction provided in an array of approaches will reach more students than instruction using only one method. The following are some dos and don'ts to assist students in an academic setting.

DO...

- write key terms or an outline on the board, or prepare a lecture handout
- create study guides
- assign advance readings before the topic is due in the class session
- briefly review the previous lecture
- use visual aids such as overheads, diagrams, charts, and/or graphs
- allow the use of tape recorders
- emphasize important points, main ideas, and key concepts
- explain technical language and terminology
- speak distinctly and at a relaxed rate, pausing to allow students time for note-taking
- leave time for questions
- administer frequent quizzes to provide feedback for students
- give assignments in writing as well as orally
- treat an individual with a disability the same way you would treat anyone--with dignity and respect

DON'T...

- turn your back to the class when speaking
- embarrass a student with a disability by drawing attention to the disability in front of the class
- assume that certain professions or majors are more suited to persons with disabilities
- assume a student with a disability does not belong in a certain major or program
- assume a student with a disability cannot perform well in your class
- make medical judgements
- feel apprehensive about discussing the student's needs as they relate to the course

Tips for Interacting with People with Disabilities

When interacting with people with disabilities, it is important to extend them the same courtesies and respect that is shown to others. However, there are some rules of etiquette that will help both you and the person with the disability feel more comfortable.

General

- Relax. Be yourself. Don't be embarrassed if you happen to use accepted, common expressions such as "See you later" or "Got to be running along" that seem to relate to the person's disability.
- Offer assistance to a person with a disability if you feel like it, but wait until your offer is accepted BEFORE you help. Listen to any instructions the person may want to give.
- Be considerate of the extra time it might take for a person with a disability to get things done or said. Let the person set the pace in walking and talking.
- When talking with someone with a disability, speak directly to that person rather than through a companion who may be present.
- It is appropriate to shake hands when introduced to a person with a disability. People with limited hand use or who wear an artificial limb do shake hands.

Hearing

- To get the attention of a person who is deaf or hard of hearing, tap the person on the shoulder, wave your hand, stamp your foot or flash the lights.
- Follow the person's cues to find out if he/she prefers sign language, gesturing, writing or speaking.
- Look directly at the person and speak clearly to establish if the person can read your lips. Those who do will rely on facial expressions and other body language to help in understanding. Remember, not all persons who are deaf or hard of hearing can lip read.
- Speak in a normal tone of voice. Talking too loudly or with exaggerated speech can cause a distortion of normal lip movements. Shouting won't help.
- Try to eliminate background noise.
- Written notes can often facilitate communication.
- Encourage feedback to assess clear understanding.
- If you have trouble understanding the speech of a person who is deaf or hard of hearing, let him/her know.

Vision

- When greeting a person with a severe loss of vision, always identify yourself and others who may be with you.
- When speaking in a group, remember to say the name of the person to whom you are speaking to give verbal cues.
- Speak directly to the vision impaired student and address him or her by name.
- Speak in a normal tone of voice, indicate when you move from one place to another and let it be known when the conversation is at an end.
- When you offer to assist someone with vision impairment, allow the person to take your arm. This will help you to guide rather than propel or lead the person. When offering seating, place the person's hand on the back or arm of the seat.
- Use specifics such as "left a hundred feet" or "right two yards" when directing a person with a visual impairment.

Speech

- Give whole, unhurried attention when you're talking to a person who has difficulty speaking. Allow extra time for communication.
- Keep your manner encouraging rather than correcting. Be patient--don't speak for the person.
- If necessary, ask short questions that require short answers of a nod or shake of the head.
- Never pretend to understand if you are having difficulty doing so. Repeat what you understand. The person's reaction will clue you in and guide you to understanding.
- Use hand gestures and notes.

Cognitive

- Be patient. Take the time necessary to assure clear understanding. Give the person time to put his/her thoughts into words, especially when responding to a question.
- Use precise language incorporating simpler words. When possible, use words that relate to things you both can see. Avoid using directional terms like right, left, east, or west.
- Be prepared to give the person the same information more than once in different ways.
- When asking questions, phrase them to elicit accurate information. People with cognitive disabilities may be eager to please and may tell you what they think you want to hear. Verify responses by repeating each question in a different way.
- Give exact instructions. For example, "Be back from lunch at 12:30," not "Be back in 30 minutes."

- Too many directions at one time may be confusing.
- Depending on the disability, the person may prefer information in written or verbal form. Ask the person how you can best relay the information.

Mobility/Wheelchair Users

- Any aid or equipment a person may use, such as a wheelchair, guide cane, walker, crutch or assistance animal, is part of that person's personal space. Don't touch, push, pull, or otherwise physically interact with an individual's body or equipment unless you're asked to.
- When speaking with someone in a wheelchair, talk directly to the person and try to be at his/her eye level, but do not kneel. If you must stand, step back slightly so the person doesn't have to strain his/her neck to see you.
- When giving directions to people with mobility limitations, consider distance, weather conditions and physical obstacles such as stairs, curbs and steep hills.
- Always ask before you move a person in a wheelchair--out of courtesy, but also to prevent disturbing the person's balance.
- If a person transfers from a wheelchair to a car, barstool, etc., leave the wheelchair within easy reach. Always make sure the chair is locked before helping a person transfer.

Service Animals

- Service animals should not be petted or otherwise distracted when in harness.
- If the animal is not in harness, permission from the animal's companion should be requested and received prior to any interaction with the animal.
- Guide dogs will need special consideration when you plan laboratory exercises and field trips.

RESOURCES

*North Carolina
National*

North Carolina Resources

- **Disability Rights North Carolina**
2626 Glenwood Ave., Suite 550
Raleigh, NC 27608
919-856-2195
877-235-4210 (toll Free)
<http://www.disabilityrightsncc.org/>

- **NC-AHEAD**
<http://www.ahead.org/affiliates/north-carolina>

- **North Carolina Assistive Technology Project**
<http://www.ncatp.org>
Center Locations
<http://www.ncatp.org/Centers.html>

STATE AGENCIES

- [NC Division of Vocational Rehabilitation Services](#)
- [Independent Living Rehabilitation Program](#)
- [NC Division of Services for the Blind](#)
- [NC Division of Services for the Deaf and the Hard of Hearing](#)
- [NC Division of Aging and Adult Services](#)
- [NC Division of Public Health](#)
- [NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services](#)
- [NC Council on Developmental Disabilities](#)
- [NC Library for the Blind and the Physically Handicapped](#)
- NC Department of Health and Human Services
<http://www.dhhs.state.nc.us>

National Resources

- **Accessibility of State and Local Government Websites to People with Disabilities**
<http://www.ada.gov/websites2.htm>
- **AHEAD (Association on Higher Education And Disabilities)**
107 Commerce Center Dr., Suite 204
Huntersville, NC 28078
704-947-7779
<http://www.ahead.org>
- **American Association on Intellectual & Developmental Disabilities**
<http://www.aamr.org>
- **American Council of the Blind**
800-424-8666
<http://www.acb.org>
- **American Foundation for the Blind**
800-232-5463 (9:00am-2:00pm, EST)
<http://www.afb.org>
- **American Printing House for the Blind**
800-233-1839
<http://www.aph.org>
- **American Speech-Language-Hearing Association**
888-498-6699
<http://www.asha.org>
- **Americans with Disabilities Act Library**
<http://askjan.org/links/adalinks.htm>
- **Attention Deficit Information Network, Inc. (AD-IN)**
475 Hillside Avenue
Needham, MA 02194
617-455-9895
- **Brain Injury Association, Inc.**
703-761-0750
<http://www.biausa.org>
- **CDC/National Prevention Information Network**
800-458-5231
<http://www.cdcnpin.org>
- **Children and Adults with Attention Deficit Disorders**

800-233-4050
<http://www.chadd.org>

- **Cystic Fibrosis Foundation**
800-344-4823
<http://www.cff.org>
- **DAIS**
<http://www.daisweb.com>
- **Deaf Connection**
<http://www.deafconnection.org>
- **Disability Rights Education and Defense Fund**
800-348-4232
<http://www.dredf.org>
- **EASI (Equal Access to Software and Information)**
<http://people.rit.edu/easi>
- **Epilepsy Foundation of America**
800-332-1000 (consumers)
<http://www.epilepsyfoundation.org>
- **Equal Employment Opportunity Commission**
<http://www.eeoc.gov>
- **HEATH Resource Center** (good resource site)
<http://www.heath.gwu.edu>
- **Immune Deficiency Foundation**
<http://www.primaryimmune.org>
- **Job Accommodation Network**
<http://askjan.org>
- **Learning Disabilities Association of America (LDA)**
<http://www.ldanatl.org>
- **DBTAC Mid-Atlantic ADA Information Center**
<http://www.adainfo.org>
- **Mental Health America**
703-684-7722
<http://www.nmha.org>
- **National Alliance of Blind Students**
800-424-8666
<http://acbstudents.org>
- **NCLD, National Center for Learning Disabilities**

212-545-7510
<http://www.nclcd.org>

- **National Clearinghouse of Rehabilitation Training Materials**
800-223-5219
<http://www.nchrtm.okstate.edu>
- **National Easter Seal Society**
312-726-6200
<http://www.easterseals.com>
- **National Brain Injury Foundation**
<http://nbif.org.au/>
- **National Institute on Deafness and Other Communicative Disorders Clearinghouse (NIDCD)**
800-241-1044
800-241-1055 (TT)
- **National Institute on Mental Health (NIMH)**
1-866-615-6464
<http://www.nimh.nih.gov>
- **National Multiple Sclerosis Society**
800-344-4867
<http://www.nationalmssociety.org>
- **National Rehabilitation Association**
703-836-0850
<http://www.nationalrehab.org/website/index.html>
- **National Rehabilitation Information Center**
703-836-0850
<http://www.naric.com/>
- **National Spinal Cord Injury Association**
800-962-9629
<http://www.spinalcord.org>
- **Office for Civil Rights, U.S. Department of Education**
1-800-421-3481
<http://www2.ed.gov/ocr>
- **Office of the Americans with Disabilities Act**
800-514-0301
<http://www.ada.gov>
- **PEPNet (The Postsecondary Education Programs Network)**
<http://www.pepnet.org>
- **Reasonable Accommodations for Adults with Psychiatric Disabilities:**

An On-line Resource for Employers and Educators

617-353-3549

<http://www.bu.edu/cpr/reasaccom/index.html>

- **Recording for the Blind and Dyslexic, Inc.**
800-221-4792 (book orders only)
606-452-0606
<http://www.rfbd.org/>
- **Resource Center on Substance Abuse Prevention and Disability**
800-628-8442
- **Spinal Bifida Association of America**
800-621-3141
<http://www.spinabifidaassociation.org>
- **Stuttering Foundation of America**
800-992-9392
<http://www.stuttersfa.org/>
- **Tourette Syndrome Association**
718-224-2999
<http://www.tsa-usa.org>
- **United Cerebral Palsy Associations, Inc.**
800-872-5827 (voice/TT)
<http://www.ucp.org/>
- **Web Accessibility Initiative**
<http://www.w3.org/WAI/Resources/>
- **World Wide Web Consortium**
<http://www.w3.org/>

DEFINITION OF TERMS

Definition of Terms

Accommodation

Adjustments made in course materials or instructional methodology which do not change the essential nature or academic and technical standards of the course.

Adjustments made in the physical attributes of a classroom such as provision of tables and/or chairs, which do not disrupt the essential activities of the class or program.

Assistive technology made available to persons with disabilities in college learning labs, the library, test center or classroom.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities. It mandates equal opportunities for persons with disabilities in areas such as employment, public accommodations, transportation, state and local government services, and telecommunications.

Assistive Technology

Any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities for individuals with disabilities.

Attention Deficit Disorder

Attention deficit disorder, commonly referred to as ADD, is a neurological disability characterized by inappropriate attention skills, impulsive behavior, and in some cases, hyperactivity. The behaviors may include: fidgeting, difficulty remaining seated, difficulty following instructions, leaving tasks uncompleted, and appearing not to listen when others are speaking.

Blind

Visual acuity (20/20 scale) and the range of peripheral vision evaluate a person's vision. Normal vision is defined as 20/20 visual acuity and an average range of 180 degrees in peripheral vision. An individual is legally

blind if after methods of correction, such as glasses or contact lenses, he/she has a visual acuity of 20/200 or higher denomination, or a range of peripheral vision under 20 degrees.

Closed Captioning

Closed captioning allows individuals who are deaf or have limited hearing to view television and understand what is being said. The words spoken on the television are written across the bottom of the screen so the person can follow the dialogue and action of the program.

Communication Disabilities

Communication disabilities include any visual, hearing, or speech impairments that limit a person's ability to communicate.

Deaf-Blindness

Deaf-blindness, or dual sensory impairment, is a combination of both visual and hearing impairments. An individual with deaf-blindness can experience severe communication, educational, and other developmental problems. A person with deaf-blindness cannot be accommodated by services focusing solely on visual impairments or solely on hearing impairments, so services must be specifically designed to assist individuals with deaf-blindness.

Deafness

Deafness can be defined as a total or partial inability to hear. An individual who is totally deaf is unable to hear with or without the use of a hearing aid, whereas a person who is partially deaf may be able to hear with the help of a hearing aid. Deafness can be genetic or also acquired through disease most commonly from meningitis in the child or rubella in the woman during pregnancy.

Descriptive Video

Descriptive videos are designed for people who are visually impaired. The videos provide additional narration which carefully describes the visual elements of the film, such as the action of the characters, location, and costumes, without interfering with the actual dialogue and sound effects.

Developmental Disability

A developmental disability is a severe and long lasting disability which is the result of a mental and/or physical impairment. It is likely to continue

indefinitely and results in substantial functional limitations in three or more areas. These areas include: self-care, self-direction, economic self-sufficiency, independent living, learning, receptive and expressive language, and mobility.

Disability

Section 504 of the Rehabilitation Act and the Americans with Disabilities Act protects and considers a person disabled if he or she:

- has a mental or physical impairment that substantially limits one or more of the major life activities (including walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, or performing manual tasks).
- has a record of such impairment; or
- is regarded as having such an impairment.

Documentation

Verifying documents which verify a person's mental or physical impairment and which describe the impairment adequately for the college to be able to determine the degree of resulting limitation on a major life activity to aid in the design of reasonable accommodations.

Essential Nature of a Course

This is language from applicable case law; ref. The Davis decision. Colleges need to identify the essential elements of each course requirement and curriculum program. Colleges are not required to waive or substitute alternate courses in place of courses which are essential elements of programs.

Health Impairments

The term, health impairments, refers to any type of chronic illness that affects how a person lives his or her life. Common examples of health impairments are AIDS, cancer, diabetes, arthritis, etc.

Hearing Impairment

This term is used to describe any level of hearing loss, such as hard of hearing or deafness.

Hyperactivity

Hyperactivity generally refers to a group of behavioral characteristics, such as aggressiveness, constant activity, impulsiveness, and distractibility. The actual behaviors displayed include: fidgeting, an inability to remain seated or still, and excessive talking. Hyperactivity is commonly associated with attention deficit disorder.

Intellectual Disability

Intellectual disability is a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18. Generally, an IQ test score of around 70 or as high as 75 indicates a limitation in intellectual functioning.

Intellectual functioning--also called intelligence--refers to general mental capacity, such as learning, reasoning, problem solving, and so on.

Learning Disability

Learning disability is a broad term used to refer to disorders that affect a person's ability to interpret what they see or hear and link information from different parts of the brain. These disorders usually manifest as problems with reading, writing, reasoning, or mathematics. Learning disabilities are neurological, lifelong disorders, but can often be overcome through appropriate intervention and support.

Mental Illness

The term mental illness refers to any illness or disorder that has significant psychological or behavioral manifestations, is associated with painful or distressing symptoms, and impairs an individual's level of functioning in certain areas of life. There are several different types of mental illness with differing levels of severity. Therapy and medication are the most common forms of treatment.

Preadmission Inquiry

Institutions may not make preadmission inquiry as to whether an applicant for admissions has a disability. Confidential inquiries may be made after the candidate is admitted to determine if accommodations are needed.

Reasonable Accommodation

Academic adjustments (accommodations) or physical adjustments necessary to make a facility or activity accessible to qualified individuals with disabilities. Once the individual is determined otherwise qualified, the known physical or mental limitation is to be accommodated unless it can be shown that the accommodation is unreasonable or would impose an undue hardship.

Speech Impairments

Speech impairments refer to disorders that impair an individual's ability to verbally communicate. This could include the ability to speak, the inability to maintain a flow or rhythm of speech (e.g., dysfluency or stuttering), or the inability to pronounce certain sounds. Hearing impairments, neurological disorders, mental retardation, or physical impairments such as cleft palate can cause speech impairments.

Telecommunications Relay System

These are services (usually maintained by telephone companies) that will relay information verbally for those individuals whose communication must rely on electronic transmission due to a functional limitation; i.e., speech or hearing limitation.

Visual Impairment

A visual impairment is an impairment of sight that cannot be corrected by glasses or contact lenses. This includes individuals with low vision as well as people who are legally blind.

APPENDIX I

*OCR Questions and Answers on Disability Discrimination under
Section 504 and Title II*

Questions and Answers on Disability Discrimination under Section 504 and Title II

How do Section 504 and Title II differ?

The main difference between the two laws is that one applies to the recipients of grants from the federal government (Section 504) and the other applies only to public entities (Title II). A school or college may be both a recipient of Federal funds from the US Department of Education and also a public entity. In such cases, the institution is covered by both laws.

Are all school districts, colleges, and universities covered by these laws?

Virtually all public school districts are covered by Section 504 because they receive some federal financial assistance. Public colleges and universities generally receive federal financial assistance, and most private colleges and universities receive such assistance. There are some private colleges that do not receive any federal assistance, and Section 504 does not apply to them. Title II applies only to public institutions.

Are all programs in a school or college covered if it receives federal financial assistance?

Generally, all programs in a school or college are covered if the school or college receives federal financial assistance or is a public entity.

Do these laws cover just students?

No. The laws protect all participants in the program from discrimination, including parents, students, and employees.

Do these laws cover just education programs?

No. They cover all programs of a school or college, including academics, extracurricular, and athletics. Also, the laws apply to the activities of a school or college that occur off campus..

Do all buildings have to be made physically accessible?

No, not necessarily. While buildings constructed after the Section 504 regulation was issued (that is, those built since 1977) must be fully accessible, older buildings do not have to be made fully accessible. For older buildings, the law requires that the program or activity be made accessible. A common way this is done is to relocate the program to another building that is accessible.

What types of adjustments are required for students with disabilities in colleges and universities?

Colleges and universities are required to provide students with appropriate academic adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in the school's program. Examples of auxiliary aids that may be required are taped texts, note-takers, interpreters, readers, and specialized computer equipment.

Colleges and universities are not required to supply students with attendants, individually prescribed devices such as hearing aids and wheelchairs, readers for personal use or study, or other devices or services of a personal nature

What types of services are required for students with disabilities in elementary and secondary schools?

School districts are required to provide a free appropriate education to students with disabilities based on their individualized educational needs. The services may include special education and related aids and services such as physical therapy, as well as modifications to the regular education program including adjustments in test taking procedures and adjustments to rules regarding absences when a student's absences are due to a disability.

Does OCR enforce laws that prohibit harassment of students or others because of a disability?

Yes. Both Section 504 and Title II of the Americans with Disabilities Act make it unlawful to harass people in covered entities because of their disabilities. OCR and the Office of Special Education and Rehabilitation Services have jointly issued [guidance to school districts](#) regarding harassment based on disability.

APPENDIX II (Transition)

*Major Differences between High School and Postsecondary
Disability Services*

*Students with Disabilities Preparing for Postsecondary Education:
Know Your Rights and Responsibilities*

*Learning Disabilities in the College Setting: A Different Ball Game
than High School*

MAJOR DIFFERENCES BETWEEN HIGH SCHOOL AND POSTSECONDARY DISABILITY SERVICES

<i>High School</i>		<i>Post Secondary</i>
Applicable Laws		
I.D.E.A Section 504, Rehabilitation Act		A.D.A. Section 504, Rehabilitation Act
Required Documentation		
I.E.P.		Varies depending on the disability, and must include testing documentation.
School provides evaluation at no cost to student.		Student provides evaluation at own expense.
School retests over time.		Student provides retesting.
Student Role		
Student is identified by school.		Student self-identifies to Disability Services Office.
School sets up accommodations.		Student is responsible for securing accommodations.
Parental Role		
Access to student records.		No access to student records without the student's written consent.
Participation in accommodations		Student requests accommodations
Mandatory involvement.		Student is self advocates
Instructors		
Modification of curriculum.		Not required to modify
Use of multi-sensory approach.		Not required. Lecture is predominant
Weekly testing, mid-term, final, and graded assignments		May test once or twice with few assignments.
Attendance taken and reported.		Attendance often not taken but student can be dropped after missing 10% (1 class)

Grades

Grades modified based on curriculum

Grades reflect the quality of work submitted

Conduct

Disruptive conduct may be accepted.

Students who are disruptive and unable to abide by the Institution's code of conduct are deemed "not qualified" and can be dismissed

Most Important Differences in Summary

I.D.E.A. is about **Success**.

A.D.A. is about **Access**.

High School is mandatory and free.

Postsecondary is voluntary and costs

A Word about the A.D.A.

The ADA extends civil rights protection to persons with disabilities. A "person with a disability" is anyone with a physical or mental impairment that substantially limits one or more major life activities.

Under Section 504 of the Rehabilitation Act of 1973 (public institutions are covered under Title II), students with documented disabilities may request accommodations that will enable them to participate in postsecondary educational programs. A "qualified person with a disability" is defined as one who meets the requisite academic and technical standards required for admission or participation in the postsecondary institution's programs.

Institutions are expected to give "reasonable accommodations". Among the accommodations which postsecondary institutions can make are:

- Removal of architectural barriers
- Interpreters
- Notetakers
- Assistive Technology
- Extra time on tests and assignments (Time and a half in most cases).
- Tape recorders

The emphasis of the ADA is on accessibility for those who wish to pursue education at the postsecondary level. There is no obligation on the part of a college to make fundamental changes in its courses for students with disabilities.

**Students with disabilities who complete high school will enter either the work force or a postsecondary educational environment. Having attained the age of legal majority, they will be expected to exhibit self-advocacy and to communicate their own needs for reasonable accommodations in work or educational environments.*

(Blue Ridge Community College, revised 7/12/02)

*Students with Disabilities Preparing for Postsecondary Education:
Know Your Rights and Responsibilities*

U.S. Department of Education

Arne Duncan
Secretary

Office for Civil Rights

Russlynn Ali
Assistant Secretary

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**U.S. Department of Education
Office for Civil Rights
Washington, D.C. 20202**

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More and more high school students with disabilities are planning to continue their education in postsecondary schools, including vocational and career schools, two- and four- year colleges, and universities. As a student with a disability, you need to be well informed about your rights and responsibilities as well as the responsibilities postsecondary schools have toward you. Being well informed will help ensure you have a full opportunity to enjoy the benefits of the postsecondary education experience without confusion or delay.



The information in this pamphlet, provided by the Office for Civil Rights (OCR) in the U. S. Department of Education, explains the rights and responsibilities of students with disabilities who are preparing to attend postsecondary schools. This pamphlet also explains the obligations of a postsecondary school to provide academic adjustments, including auxiliary aids and services, to ensure the school does not discriminate on the basis of disability.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the *Americans with Disabilities Act* of 1990 (Title II), which prohibit discrimination on the basis of disability. Practically every school district and postsecondary school in the United States is subject to one or both of these laws, which have similar requirements.*/

Although both school districts and postsecondary schools must comply with these same laws, the responsibilities of postsecondary schools are different significantly from those of school districts.

Moreover, you will have responsibilities as a postsecondary student that you do not have as a high school student. OCR strongly encourages you to know your responsibilities and those of postsecondary schools under Section 504 and Title II. Doing so will improve your opportunity to succeed as you enter postsecondary education.

The following questions and answers provide more specific information to help you succeed.

As a student with a disability leaving high school and entering postsecondary education, will I see differences in my rights and how they are addressed?

Yes. Section 504 and Title II protect elementary, secondary and postsecondary students from discrimination. Nevertheless, several of the requirements that apply through high school are different from the requirements that apply beyond high school. For instance, Section 504 requires a school district to provide a free appropriate public education (FAPE) to each child with a disability in the district's jurisdiction. Whatever the disability, a school district must identify an individual's education needs and provide any regular or special education and related aids and services necessary to meet those needs as well as it is meeting the needs of students without disabilities.

Unlike your high school, your postsecondary school is not required to provide FAPE. Rather, your postsecondary school is required to provide appropriate academic adjustments as necessary to ensure that it does not discriminate on the basis of disability. In addition, if your postsecondary school provides housing to nondisabled students, it must provide comparable, convenient and accessible housing to students with disabilities at the same cost.

Other important differences you need to know, even before you arrive at your postsecondary school, are addressed in the remaining questions.

May a postsecondary school deny my admission because I have a disability?

No. If you meet the essential requirements for admission, a postsecondary school may not deny your admission simply because you have a disability.

Do I have to inform a postsecondary school that I have a disability?

No. But, if you want the school to provide an academic adjustment, you must identify yourself as having a disability. Likewise, you should let the school know about your disability if you want to ensure that you are assigned to accessible facilities. In any event, your disclosure of a disability is always voluntary.

What academic adjustments must a postsecondary school provide?

The appropriate academic adjustment must be determined based on your disability and individual needs. Academic adjustments may include auxiliary aids and services, as well as modifications to academic requirements as are necessary to ensure equal educational opportunity. Examples of such adjustments are: arranging for priority registration; reducing a course load; substituting one course for another; providing note takers, recording devices, sign language interpreters, extended time for testing and, if telephones are provided in dorm rooms, a TTY in your dorm room; and equipping school computers with screen-reading, voice recognition or other adaptive software or hardware.

In providing an academic adjustment, your postsecondary school is not required to lower or substantially modify essential requirements. For example, although your school may be required to provide extended testing time, it is not required to change the substantive content of the test. In addition, your postsecondary school does not have to make adjustments that would fundamentally alter the nature of a service, program or activity or that would result in undue financial or administrative burden. Finally, your postsecondary school does not have to provide personal attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature, such as tutoring and typing.

If I want an academic adjustment, what must I do?

You must inform the school that you have a disability and need an academic adjustment. Unlike your school district, your postsecondary school is not required to identify you as having a disability or assess your needs.

Your postsecondary school may require you to follow reasonable procedures to request an academic adjustment. You are responsible for knowing and following these procedures. In their publications providing general information, postsecondary schools usually include information on the procedures and contacts for requesting an academic adjustment. Such publications include recruitment materials, catalogs and student handbooks, and are often available on school websites. Many schools also have staff whose purpose is to assist students with disabilities. If you are unable to locate the procedures, ask a school official, such as an admissions officer or counselor.

When should I request an academic adjustment?

Although you may request an academic adjustment from your postsecondary school at any time, you should request it as early as possible. Some academic adjustments may take more time to provide than others. You should follow your school's procedures to ensure that your school has enough time to review your request and provide an appropriate academic adjustment.

Do I have to prove that I have a disability to obtain an academic adjustment?

Generally, yes. Your school will probably require you to provide documentation that shows you have a current disability and need an academic adjustment.

What documentation should I provide?

Schools may set reasonable standards for documentation. Some schools require more documentation than others. They may require you to provide documentation prepared by an appropriate professional, such as a medical doctor, psychologist or other qualified diagnostician. The required documentation may include one or more of the following: a diagnosis of your current disability; as well as supporting information, such as the date of the diagnosis; how the diagnosis was reached; and the credentials of the diagnosing professional; information on how your disability affects a major life activity; and information on how the disability affects your academic performance. The documentation should provide enough information for you and your school to decide what is an appropriate academic adjustment.

Although an individualized education program (IEP) or Section 504 plan, if you have one, may help identify services that have been effective for you. This is generally not sufficient documentation, however, because of the differences between postsecondary and high school education. What you need to meet the new demands of postsecondary education may be different for what worked for you in high school. Also, in some cases, the nature of a disability may change.

If the documentation that you have does not meet the postsecondary school's requirements, a school official should tell you in a timely manner what additional documentation you need to provide. You may need a new evaluation in order to provide the required documentation.

Who has to pay for a new evaluation?

Neither your high school nor your postsecondary school is required to conduct or pay for a new evaluation to document your disability and need for an academic adjustment. You may, therefore, have to pay or find funding to pay an appropriate professional for an evaluation. If you are eligible for services through your state vocational rehabilitation agency, you may qualify for an evaluation at no cost to you. You may locate your state vocational rehabilitation agency at <http://rsa.ed.gov> by clicking on "Info about RSA," then "People and Offices," and the "State Agencies/Contacts."

Once the school has received the necessary documentation from me, what should I expect?

To determine an appropriate academic adjustment, the school will review your request in light of the essential requirements for the relevant program. It is important to remember that the school is not required to lower or waive essential requirements. If you have requested a specific academic adjustment, the school may offer that academic adjustment or it may offer an effective alternative. The school may also conduct its own evaluation of your disability and needs at its own expense.

You should expect your school to work with you in an interactive process to identify an appropriate academic adjustment. Unlike the experience you may have had in high school, however, do not expect your postsecondary school to invite your parents to participate in the process or to develop an IEP for you.

What if the academic adjustment we identified is not working?

Let the school know as soon as you become aware that the results are not what you expected. It may be too late to correct the problem if you wait until the course or activity is completed. You and your school should work together to resolve the problem.

May a postsecondary school charge me for providing an academic adjustment?

No. Nor may it charge students with disabilities more for participating in its programs or activities than it charges students who do not have disabilities.

What can I do if I believe the school is discriminating against me?

Practically every postsecondary school must have a person—frequently called the Section 504 Coordinator, ADA Coordinator, or Disability Services Coordinator—who coordinates the school's compliance with Section 504 or Title II or both laws. You may contact this person for information about how to address your concerns.

The school must also have grievance procedures. These procedures are not the same as the due process procedures with which you may be familiar from high school. But the postsecondary school's grievance procedures must include steps to ensure that you may raise your concerns fully and fairly, and must provide for the prompt and equitable resolution of complaints.

School publications, such as student handbooks and catalogs, usually describe the steps you must take to start the grievance process. Often, schools have both formal and informal processes. If you decide to use a grievance process, you should be prepared to present all the reasons that support your request.

If you are dissatisfied with the outcome from using the school's grievance procedures or you wish to pursue an alternative to using the grievance procedures, you may [file a complaint](#) against the school with OCR or in a court. You may learn more about the OCR complaint process from the brochure *How to File a Discrimination Complaint with the Office for Civil Rights*, which you may obtain by contacting us at the addresses and phone numbers below, or at <http://www.ed.gov/ocr/docs/howto.html>.

If you would like more information about the responsibilities of postsecondary schools to students with disabilities, read the OCR brochure *Auxiliary Aids and Services for Postsecondary Students with Disabilities: Higher Education's Obligations Under Section 504 and Title II of the ADA*. You may obtain a copy by contacting us at the address and phone numbers below, or at <http://www.ed.gov/ocr/docs/auxaids.html>.

Students with disabilities who know their rights and responsibilities are much better equipped to succeed in postsecondary school. We encourage you to work with the staff at your school because they, too, want you to succeed. Seek the support of family, friends and fellow students, including those with disabilities. Know your talents and capitalize on them, and believe in yourself as you embrace new challenges in your education.

To receive more information about the civil rights of students with disabilities in education institutions, you may contact us at:

Customer Service Team
Office for Civil Rights
U.S. Department of Education
Washington, D.C. 20202-1100

Phone: 1-800-421-3481
TDD: 1- 877-521-2172
Email: ocr@ed.gov
Web site: www.ed.gov/ocr

/You may be familiar with another federal law that applies to the education of students with disabilities—the Individuals with Disabilities Education Act (IDEA). That law is administered by the Office of Special Education Programs in the Office of Special Education and Rehabilitative Services in the U.S. Department of Education. **The IDEA and its Individualized Education Program (IEP) provisions do not apply to postsecondary schools. This pamphlet does not discuss the IDEA or state and local laws that may apply.*

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LEARNING DISABILITIES IN THE COLLEGE SETTING: A DIFFERENT BALL GAME THAN HIGH SCHOOL

By Stephen Strichart

I am frequently surprised to find how many high school students with learning disabilities, and their parents, think that college is just a slightly more difficult version of high school. From this perspective, the major challenge is to get accepted into college. I don't agree with this perspective. I've found that given a little persistence, and in some cases a lot of money, most LD students can get into a college somewhere, albeit not always one of their first choices. The major challenge is not that of being accepted, but of being successful. Unfortunately, LD students are often poorly prepared for the increased demands of college.

IMPORTANT DIFFERENCES BETWEEN HIGH SCHOOL AND COLLEGE

1. **Public Law 94-142 no longer applies.**

In high school, PL 94-142 mandates a free and appropriate education delineated in an IEP that spells out specific services. LD students receive these; they don't have to seek them out. This law does not apply at the college level. Instead, there is Section 504 of the Rehabilitation Act of 1973, a far reaching, but rather nonspecific law. To gain access to accommodations and services through this law, LD students must document and make their disability known, and in many cases, identify the assistance they need to succeed in college, and then self-advocate to get this assistance.

2. **There is much less structure.**

Programs for LD students at the high school level are extremely structured and supportive. Students take a specific schedule of classes that is the same each day. The same group of peers are in most of their classes. Teachers consistently review their expectations and monitor student progress. This is not the case in college, where each day's schedule can vary widely, and each class consists of a different group of students. College professors rarely take attendance, check to see if reading assignments are being done, or concern themselves with the quality of the notes being taken by students. Students have to analyze each class and professor to determine what will be required for success. This varies from class to class.

3. **There is greater academic competition.**

Unlike going to high school, going to college is a voluntary matter. Poor achievers and unmotivated students rarely reach the college campus. Consequently, students moving on to college find themselves in a "bigger pond" where peers have higher abilities and drive, and teachers have higher expectations. Memorization may have carried the day in high school, but high levels of analysis and synthesis is what is needed now. In terms of both the quality and the quantity of their work, LD students must be more productive than they have ever been before.

4. **There is a need for greater independence.**

The nature of high school LD programs tends to foster dependence in students. This presents a major problem in the college setting, where students are required to function

in a relatively independent manner. High school students don't have to declare a major, and for the most part, their course of study is prescribed. This, of course, changes dramatically in college. College students must make important career choices, and must carefully plan their sequence of courses, to include selecting from an array of elective courses. They must make good use of the many hours they are not in class and learn to fully utilize the many learning resources available on campus. Further, students must learn to establish and maintain work and study schedules, while balancing their academic and social lives. Decision-making and problem-solving skills become paramount.

MAKING THE ADJUSTMENT TO COLLEGE

Many of the recommendations that I offer may seem obvious and almost trivial. This may be true in the case of typical college students, but not for LD students. One thing my experience working with LD students has taught me is to never assume anything. With this proviso, I offer the following recommendations for college LD students.

1. Make your needs known.

Colleges are not required to seek out and identify LD students. What they are required to do is to respond to the needs of those students once they are identified. Consequently, LD students should make their needs known right from the beginning. They can do this by registering with the appropriate academic unit, and by discussing their needs with their professors in an open and positive manner. Once they understand the nature of an LD student's problem, most professors will do everything reasonable to assist the student to succeed in their class.

No one knows the needs of LD students better than the students themselves. Experience is the best teacher, and LD students have had much experience coping with the problems posed by their disability. Consequently, it is the students who are in the best position to articulate their special needs. While various support personnel on campus are willing and able to advocate for students with their professors, this is best done by the students. Professors may be leery of official forms apprising them of accommodations to offer to a given student. They may feel put upon or even intimidated when apprised that they are required by law to provide various accommodations. This is generally not a problem where a student personally makes his or her needs known in a non-threatening manner, offering suggestions as to how they can easily be met by the professor. Where necessary, LD students should stand behind their rights in an insistent, but reasonable manner.

2. Provide your own structure.

LD students must realize the importance of shifting from a reactive to a proactive student style. They must quickly determine the expectations of each of their professors and how best to meet these expectations. Ideally, students will meet with their professors before the semester begins. At this time they can obtain reading lists and course requirements, enabling them to prepare for the beginning of classes and get a good head start on some of the work. Once they have determined what each course requires, students must establish priorities for the use of their study time, devoting more time to difficult subjects. They must gather and organize the materials and resources they need for each course.

Planning and consistency become crucial. Students must develop and stick to an individualized study plan for each of their courses. This plan must be responsive to the academic calendar and the due dates for all exams and assignments. Students must plan ahead to allow sufficient time to complete all work as and when required.

3. Increase your effort.

College requirements are both quantitatively and qualitatively greater than those experienced by students in high school. Consequently, LD students must apply themselves in a concerted and efficient manner if they are to succeed. Students used to an hour or so of homework each night must now be committed to spending two to three hours in preparation for each hour of class. While memorizing and repeating information in written or spoken form may have sufficed in high school, most college professors require students to demonstrate the ability to analyze, synthesize, and apply information to solve problems.

LD students should strive to improve their skills in a number of areas. They will need to develop an effective textbook reading strategy, devise effective study routines, and become more effective test takers. They will need to make full use of the library as a learning resource and become adept in the use of resources such as the dictionary, thesaurus, and encyclopedia. Certainly, they will benefit by developing word processing skills. Overall, LD students must become “active” students who rewrite their lecture notes, take written notes from their texts in their own words, and integrate information from a variety of sources. Further, LD students should seek help from their peers as appropriate. Teaming with a student who is doing well in a course can be very helpful when reviewing notes, writing and editing papers, and preparing for tests.

4. Become independent.

The college experience involves far more than just continued academic preparation. It is a time when LD young adults must make important personal decisions about their career and life goals. At first, LD students should not attempt to make decisions completely on their own.

Seeking the advice of a faculty advisor and utilizing career counseling services can help students to begin to identify the appropriate bases for the important decisions they must make. As they begin to make choices about a major and course of study, LD students initiate the process of becoming full independent adults. Each time they make decisions regarding which electives to take, how to manage time between classes, and with which groups and organizations to become involved, these students move further toward independence. LD students must become increasingly willing to make decisions on their own, ultimately claiming full ownership and responsibility for their decisions. LD students will undoubtedly find college to be more difficult than high school. But by being prepared for the differences between high school and college, and taking steps to accommodate to these differences, LD students can not only succeed in college—they can excel.

Stephen S. Strichart, PH.D., is Professor of Education in the Department of Educational Psychology and Special Education at Florida International University. He is co-author with Charles T. Mangum, Ed.D, of Peterson's Guide to Colleges with Programs for Students with Learning Disabilities, now in its third edition.

APPENDIX III (Technology)

Joint “Dear Colleague” Letter: Electronic Book Readers

*Frequently Asked Questions about the June 29, 2010, Dear
Colleague Letter*

Joint "Dear Colleague" Letter: Electronic Book Readers

June 29, 2010

Dear College or University President:

We write to express concern on the part of the Department of Justice and the Department of Education that colleges and universities are using electronic book readers that are not accessible to students who are blind or have low vision and to seek your help in ensuring that this emerging technology is used in classroom settings in a manner that is permissible under federal law. A serious problem with some of these devices is that they lack an accessible text-to-speech function. Requiring use of an emerging technology in a classroom environment when the technology is inaccessible to an entire population of individuals with disabilities – individuals with visual disabilities – is discrimination prohibited by the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) unless those individuals are provided accommodations or modifications that permit them to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner.

The Departments of Justice and Education share responsibility for protecting the rights of college and university students with disabilities. The Department of Justice is responsible for enforcement and implementation of title III of the ADA, which covers private colleges and universities, and the Departments of Justice and Education both have enforcement authority under title II of the ADA, which covers public universities. In addition, the Department of Education enforces Section 504 with respect to public and private colleges and universities that receive federal financial assistance from the Department of Education. As discussed below, the general requirements of Section 504 and the ADA reach equipment and technological devices when they are used by public entities or places of public accommodation as part of their programs, services, activities, goods, advantages, privileges, or accommodations.

Under title III, individuals with disabilities, including students with visual impairments, may not be discriminated against in the full and equal enjoyment of all of the goods and services of private colleges and universities; they must receive an equal opportunity to participate in and benefit from these goods and services; and they must not be provided different or separate goods or services unless doing so is necessary to ensure that access to the goods and services is equally as effective as that provided to others.¹⁻ Under title II, qualified individuals with disabilities may not be excluded from participation in or denied the benefits of the services, programs, or activities of, nor subjected to discrimination by, public universities and colleges.²⁻ Both title II and Section 504 prohibit colleges and universities from affording individuals with disabilities with an opportunity to participate in or benefit from college and university aids, benefits, and services that is unequal to the opportunity afforded others.³⁻ Similarly, individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as others.⁴⁻ A college or university may provide an individual with a disability, or a class of individuals with disabilities, with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others.⁵⁻

The Department of Justice recently entered into settlement agreements with colleges and universities that used the Kindle DX, an inaccessible, electronic book reader, in the classroom as part of a pilot study with Amazon.com, Inc. In summary, the universities agreed not to purchase, require, or recommend use of the Kindle DX, or any other dedicated electronic book reader, unless or until the device is fully accessible to individuals who are blind or have low vision, or the universities provide reasonable accommodation or modification so that a student can acquire the same information, engage in the same interactions, and enjoy the same services as sighted students with substantially equivalent ease of use. The texts of these agreements may be viewed on the Department of Justice's ADA Web site, www.ada.gov. (To find these settlements on www.ada.gov, search for "Kindle.") Consistent with the relief obtained by the Department of Justice in those matters, the Department of Education has also resolved similar complaints against colleges and universities.

As officials of the agencies charged with enforcement and interpretation of the ADA and Section 504, we ask that you take steps to ensure that your college or university refrains from requiring the use of any electronic book reader, or other similar technology, in a teaching or classroom environment as long as the device remains inaccessible to individuals who are blind or have low vision. It is unacceptable for universities to use emerging technology without insisting that this technology be accessible to all students.

Congress found when enacting the ADA that individuals with disabilities were uniquely disadvantaged in American society in critical areas such as education.⁶ Providing individuals with disabilities full and equal access to educational opportunities is as essential today as it was when the ADA was passed. In a Proclamation for National Disability Employment Awareness Month, President Obama underscored the need to "*strengthen and expand* the educational opportunities for individuals with disabilities," noting that, "[i]f we are to build a world free from unnecessary barriers . . . we must ensure that every American receives an education that prepares him or her for future success." <http://www.whitehouse.gov/the-press-office/presidential-proclamation-national-disability-employment-awareness-month> (September 30, 2009) (emphasis added).

Technology is the hallmark of the future, and technological competency is essential to preparing all students for future success. Emerging technologies are an educational resource that enhances learning for everyone, and perhaps especially for students with disabilities. Technological innovations have opened a virtual world of commerce, information, and education to many individuals with disabilities for whom access to the physical world remains challenging. Ensuring equal access to emerging technology in university and college classrooms is a means to the goal of full integration and equal educational opportunity for this nation's students with disabilities. With technological advances, procuring electronic book readers that are accessible should be neither costly nor difficult.

We would like to work with you to ensure that America's technological advances are used for the benefit of all students. The Department of Justice operates a toll-free, technical assistance line to answer questions with regard to the requirements of federal laws protecting the rights of individuals with disabilities. For technical assistance, please call (800) 514-0301 (voice) or (800) 514-0383 TTY). Specialists are available Monday through Friday from 9:30 AM until 5:30 PM (ET) except for Thursday, when the hours are 12:30 PM until 5:30 PM. These specialists have been trained specifically to address

questions regarding accessible electronic book readers. Colleges, universities, and other stakeholders can also contact the Department of Education's Office for Civil Rights for technical assistance by going to OCR's Web site at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>.

We appreciate your consideration of this essential educational issue and look forward to working with you to ensure that our nation's colleges and universities are fully accessible to individuals with disabilities.

Sincerely,

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Russlynn Ali
Assistant Secretary
for Civil Rights
U.S. Department of Education

¹ 28 C.F.R. § 36.201(a); 28 C.F.R. § 36.202(a); and 28 C.F.R. § 36.202(c) (2009).

² 28 C.F.R. § 35.130(a) (2009).

³ 28 C.F.R. § 35.130(b)(1)(ii) and 34 C.F.R. § 104.4(b)(1)(ii) (2009).

⁴ *Cf.* 28 C.F.R. § 35.130(b)(1)(iii) and 34 C.F.R. § 104.4(b)(1)(iii) (2009).

⁵ 28 C.F.R. § 35.130(b)(1)(iv) and 34 C.F.R. § 104.4(b)(1)(iv) (2009).

⁶ 42 U.S.C. § 12101(a) (1990).

*Frequently Asked Questions about the June 29, 2010, Dear
Colleague Letter*

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
THE ASSISTANT SECRETARY

May 26, 2011

General Issues

1. Does the June 29, 2010, Dear Colleague Letter (DCL) on access to electronic book readers impose new legal obligations?

No. The DCL discusses long-standing law. Specifically, it addresses key principles of Federal disability discrimination law: the obligation to provide an equal opportunity to individuals with disabilities to participate in, and receive the benefits of, the educational program, and the obligation to provide accommodations or modifications when necessary to ensure equal treatment. Under Section 504 of the Rehabilitation Act of 1973 (Section 504), these legal standards apply to entities that receive Federal financial assistance, including elementary, secondary, and postsecondary institutions. (In this FAQ, the term “schools” refers to all these types of institutions.) Under Title II of the Americans with Disabilities Act (ADA) of 1990 (Title II), these obligations apply to entities of state and local government, including public schools.

The DCL outlines concerns on the part of the Department of Justice (DOJ) and the Department of Education (Department), raised in the context of their resolution of several cases, regarding compliance with these long-standing requirements. Specifically, some postsecondary institutions were using electronic book readers that are inaccessible to students who are blind or have low vision. As explained by the DCL, application of our long-standing nondiscrimination requirements means that schools must provide an electronic book reader (*i.e.*, the technology that the school uses to provide educational benefits, services, or opportunities) that is fully accessible to students who are blind or have low vision; otherwise schools must provide accommodations or modifications to ensure that the benefits of their educational program are provided to these students in an equally effective and equally integrated manner.

For the purposes of assessing whether accommodations or modifications in the context of emerging technology, and, more specifically, electronic book readers, meet the compliance requirements, the DCL provides a functional definition of accessibility for students who are blind or have low vision. Under this definition, these students must be afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as sighted students. In addition, although this might not result in identical ease of use compared to that of students without disabilities, it still must ensure equal access to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology. The DCL uses the

term “substantially equivalent ease of use” to describe this concept. For more information and for examples that meet this standard, see Questions 11, 12, and 14.

2. Does the DCL apply in the context of students with other disabilities that affect the ability to use printed materials?

Yes. Other disabilities, such as specific learning disabilities, may make it difficult for students to get information from printed sources (often called “print disabilities”). In its provision of benefits, services, and opportunities, a school must ensure that these students are not discriminated against as a result of inaccessible technology.

Example: A student has a learning disability in reading but does not have impaired vision. The student is currently receiving audiobooks on cassette tape for her history class because she cannot readily process printed information. The school is replacing the history textbooks with electronic book readers as the principal means of conveying curriculum content, including all homework assignments. In this example, the electronic book readers provide greater functionality than audiobooks provide, with the result that an audiobook would not afford the benefits of the educational program in an equally effective and equally integrated manner. For this reason the school may not continue to rely on audiobooks to provide equal access to the curriculum. For more information on the differences between traditional alternative media, such as audiobooks, and emerging technology, such as electronic book readers, see Question 12.

3. Does the DCL mean that schools cannot use emerging technology?

No. On the contrary, the Department encourages schools to employ innovative learning tools. Because technology is evolving, it has the capability to enhance the academic experience for everyone, especially students with disabilities. Innovation and equal access can go hand in hand. The purpose of the DCL is to remind everyone that equal access for students with disabilities is the law and must be considered as new technology is integrated into the educational environment.

4. Does the DCL apply to elementary and secondary schools?

Yes. The DCL grew out of complaints filed with the Department’s Office for Civil Rights (OCR) and DOJ that concerned postsecondary education. However, the principles underlying the DCL - equal opportunity, equal treatment, and the obligation to make accommodations or modifications to avoid disability-based discrimination - also apply to elementary and secondary schools under the general nondiscrimination provisions in Section 504 and the ADA. The application of these principles to elementary and secondary schools is also supported by the requirement to provide a free appropriate public education (FAPE) to students with disabilities. For more information, see Question 13.

5. Does the DCL apply to all school operations and all faculty and staff?

Yes. All school operations are subject to the nondiscrimination requirements of Section 504 and the ADA. Thus, all faculty and staff must comply with these requirements. Section 504 and the ADA require that covered entities designate at least one person to coordinate their compliance efforts, and that they adopt and publish grievance procedures to resolve complaints of noncompliance. In addition, postsecondary schools

often designate certain staff or offices (sometimes referred to as disability student-services offices) to assist students with disabilities.

The law applies to all faculty and staff, not just a Section 504 or ADA coordinator or staff members designated to assist students with disabilities. All faculty and staff must comply with the nondiscrimination requirements of Section 504 and the ADA in their professional interactions with students, because these interactions are part of the operations of the school. So, for example, if an adjunct faculty member denies a student who is blind an equal opportunity to participate in a course by assigning inaccessible course content, the school can be held legally responsible for the faculty member's actions. Therefore, schools should provide, and faculty and staff should participate in, professional development about accessibility and emerging technology, and about the role of faculty and staff in helping the school to comply with disability discrimination laws.

Applying the DCL in Different Contexts

6. Does the DCL apply beyond electronic book readers to other forms of emerging technology?

Yes. The core principles underlying the DCL - equal opportunity, equal treatment, and the obligation to make modifications to avoid disability-based discrimination - are part of the general nondiscrimination requirements of Section 504 and the ADA. Therefore, all school programs or activities - whether in a "brick and mortar," online, or other "virtual" context - must be operated in a manner that complies with Federal disability discrimination laws.

7. Does the DCL apply to online courses and other online content, such as online applications for admission, class assignments, and housing?

Yes. The principles in the DCL apply to online programs that are part of the operations of the school, *i.e.*, provided by the school directly or through contractual or other arrangements.

8. Does the DCL apply to pilot programs or other school programs that are of short duration?

Yes. The complaints discussed in the DCL were based on pilot programs that were part of the schools' operations. As noted in Question 5 above, all school programs and activities are subject to the nondiscrimination requirements of Section 504 and the ADA.

9. Does the DCL apply when planning to use an emerging technology in a class or school where no students with visual impairments are currently enrolled?

Yes. Schools that are covered under Section 504 and the ADA have a continuing obligation to comply with these laws. Therefore, the legal obligations described in the DCL always apply. Just as a school system would not design a new school without addressing physical accessibility, the implementation of an emerging technology should always include planning for accessibility. Given that tens of thousands of elementary, secondary, and postsecondary students have visual impairments and that the composition of the student body at a given school may change quickly and unexpectedly, the use of emerging technology at a school without currently enrolled

students with visual impairments should include planning to ensure equal access to the educational opportunities and benefits afforded by the technology and equal treatment in the use of such technology. The planning should include identification of a means to provide immediate delivery of accessible devices or other technology necessary to ensure accessibility from the outset.

Putting the DCL's Principles Into Practice

10. What questions should a school ask in determining whether emerging technology is accessible, or can be made accessible, to students with disabilities?

A: Schools should begin by considering accessibility issues up front, when they are deciding whether to create or acquire emerging technology and when they are planning how the technology will be used. To that end, schools should include accessibility requirements and analyses as part of their acquisition procedures. Schools should keep in mind their obligation to ensure that students with disabilities receive the benefits of the educational program in an equally effective and equally integrated manner. Among the questions a school should ask are:

- What educational opportunities and benefits does the school provide through the use of the technology?
- How will the technology provide these opportunities and benefits?
- Does the technology exist in a format that is accessible to individuals with disabilities?
- If the technology is not accessible, can it be modified (see Question 11 below about additional questions related to modifications), or is there a different technological device available, so that students with disabilities can obtain the educational opportunities and benefits in a timely, equally effective, and equally integrated manner?

Example: A school intends to establish a Web mail system so that students can: communicate with each other and with faculty and staff; receive important messages from the school (e.g., a message about a health or safety concern); and communicate with individuals outside the school. The school must ensure that the educational benefits, services, and opportunities provided to students through a Web mail system are provided in an equally effective and equally integrated manner. Before deciding what system to purchase, the school should make an initial inquiry into whether the system is accessible to students who are blind or have low vision, e.g., whether the system is compatible with screen readers and whether it gives users the option of using large fonts. If a system is not accessible as designed, the school must take further action to determine whether an accessible product is available, or whether the inaccessible product can be modified so that it is accessible to students who are blind or have low vision.

11. The DCL states that where accessible technology is not available, a school can comply with Section 504 and the ADA if it provides students with disabilities “accommodations or modifications that permit them to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner.” From a practical standpoint, what questions should schools ask to determine if this standard can be met?

A: In making this determination, the questions a school should ask include:

- What educational opportunities and benefits does the school provide through the use of this technology?
- What can the school do to provide students with disabilities equal access to the educational benefits or opportunities provided through the use of the technology?
- How will the educational opportunities and benefits provided to students with disabilities compare to the opportunities and benefits that the technology provides to students without disabilities? Three relevant questions are:
 - Are all the educational opportunities and benefits that are available through the use of the technology equally available to students with disabilities through the provision of accommodations or modifications (*i.e.*, do students with disabilities have the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as sighted students)?
 - Are the educational opportunities and benefits provided to students with disabilities in as timely a manner as those provided to students without disabilities (*i.e.*, do the time frames under which opportunities and benefits are received by students meet the requirement that students with disabilities be provided benefits and opportunities in an equally effective and equally integrated manner)?
 - Will it be more difficult for students with disabilities to obtain the educational opportunities and benefits than it is for students without disabilities (*i.e.*, does ease of use for students with disabilities meet the requirement that students with disabilities be provided benefits and opportunities in an equally effective and equally integrated manner)?

Example: A high school teacher creates an online course that includes instruction, posting of assignments and other course content, and a forum where students can discuss their course work with the teacher and each other. The teacher would like to incorporate video clips into the course, but is unable to obtain the video clips with audio descriptions. As a modification, the teacher creates separate audio descriptions for each video clip that narrate what is taking place in the video, and places them in a separate section of the online course. The online course includes links that enable persons who use screen readers to bypass the video clips completely and instead listen to the audio descriptions. Here, the use of detailed audio descriptions that are a part of the online course would provide students with disabilities access to the same opportunities and benefits in an equally effective and equally integrated manner. Schools should also think about whether other accommodations may be needed to provide equal access. For example, a student who uses a screen reader may need extra time to take an online examination because it may take time for the screen reader to process information displayed on a screen and provide that information to the student.

12. Are there circumstances under which it would be appropriate for a school to provide traditional alternative media, such as books on tape, to a student who is blind or has low vision?

Yes. Traditional alternative media can still be used as an accommodation under appropriate circumstances. For example, if a school provides printed books to students in a class, books on tape may be an appropriate accommodation for a blind student. The DCL does not require schools to use emerging technology. If, however, a school chooses to provide emerging technology and proposes traditional alternative media as

an accommodation or modification to provide equal access to the educational opportunities and benefits provided to all students, the alternative media must provide access to the benefits of technology in an equally effective and equally integrated manner. Some forms of emerging technology may readily offer students educational opportunities and benefits that traditional alternative media cannot replicate.

13. If a student who is blind or has low vision makes a request for a particular emerging technology, and that technology currently is not used for all students, must the school provide it?

Not necessarily, because such decisions are individualized. The DCL does not change the requirements and processes by which elementary and secondary schools must provide a free appropriate public education, or FAPE, to students with disabilities; nor does the DCL change the processes by which postsecondary schools provide academic adjustments and auxiliary aids to students with disabilities. Rather, the DCL discusses the issue of how Section 504 and the ADA apply if schools choose to incorporate emerging technology into their instruction or other programs or activities for all students.

At the elementary and secondary school levels, if parents believe that their child with a disability requires a particular emerging technology as part of the child's right to FAPE, even though that technology currently is not used for all students, an individualized decision about providing a specific technology should be made through the processes used by the school district to make educational decisions consistent with Section 504 or the Individuals with Disabilities Education Act as applicable. At the postsecondary level, a decision about whether to provide a particular emerging technology as an auxiliary aid or service, even though such technology currently is not used for all students, is an individualized one that should be made through any procedure that the school may have established to consider students' requests for auxiliary aids or services. Postsecondary institutions' procedures must comply with Section 504 and the ADA.

14. Must a school always provide the same form of emerging technology to a student who is blind or has low vision as it provides to all other students?

No: The legal duty imposed by Section 504 and Title II is to provide equal opportunity — that is, to provide the student who has a disability with access to the educational benefit at issue in an equally effective and equally integrated manner. As described more fully in Question 1, a school must apply this standard in determining whether the use of a particular technological device for a student with a visual impairment is appropriate.

Example: A school library plans to make electronic books available to students by loaning electronic book readers. The school does not, prior to purchase, make necessary inquiries about whether the book readers are accessible to students who are blind or have low vision.

The school subsequently determines that the book readers are not accessible. In an effort to ensure that the educational benefits, *i.e.*, the same library books, are available in an equally effective and equally integrated manner to students with visual impairments, the school purchases a few small, light-weight tablet computers for the library. These tablet computers are designed to serve as a platform for electronic books, as well as other visual and audio media. If the tablet computers can access those

electronic books and have accessible text-to-speech functions that allow users to hear the on-screen content read aloud, navigate device controls, and select menu items with the same ease of use afforded by the electronic book readers to sighted students, the tablet computers will then provide the same content and functionality to students with visual impairments. In this example, the tablet computers have those features. As a result, the accommodation or modification would meet the standards articulated in the DCL because it provides the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as sighted students, as well as meet the standards in the DCL for ease of use.

In addition, the school purchases the tablet computers in sufficient numbers to loan them to students with visual impairments under the same terms and conditions as it provides the electronic book readers to sighted students. Here, the timely provision of electronic books on accessible tablet computers provides students with visual impairments access to the same educational opportunities and benefits in an equally effective and equally integrated manner.

An accommodation that would not be appropriate in this example would be simply providing a student with an aide to read an electronic book to the student. An aide who is available to read the electronic book to the student only at the school during designated times would not be equivalent to the access provided to sighted students using electronic book readers who would be able to read their library books any time and at any location.

Other Federal Guidance

15. Is there any other information available from the Federal government that offers additional guidance about accessibility and emerging technology?

Yes. Additional sources of guidance and information include:

U.S. Department of Education

- U.S. Department of Education Office of Educational Technology, National Education Technology Plan, <http://www.ed.gov/technology/netp-2010>.
- Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities, <http://www2.ed.gov/about/bdscomm/list/aim/index.html>.

U.S. Department of Education Grantees

Accessible Media Production and Dissemination

- National Instructional Materials Access Center (NIMAC), <http://www.nimac.us>.
- Bookshare for Education, <http://www.bookshare.org>.
- Described and Captioned Media Program, <http://www.dcmp.org>.
- Learning Ally (formerly Recording for the Blind & Dyslexic), <http://www.learningally.org>.
- National Instructional Materials Accessibility Standard Center (NIMAS Center), <http://aim.cast.org/collaborate/NIMASCtr>.
- The American Printing House for the Blind (APH), <http://www.aph.org>.
- The World Wide Web Consortium (W3C), <http://www.w3.org/standards/>.
- The Center for Implementing Technology in Education (CITED), <http://www.cited.org>.

- The Family Center on Technology and Disability (FCTD), <http://www.fctd.info>.

Technical Assistance and Training

- National Center on Accessible Instructional Materials (AIM Center), <http://aim.cast.org>.

U.S. Department of Justice

- Advance Notice of Proposed Rulemaking, Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations, 75 Fed. Reg. 43,460 (July 26, 2010), *available at* <http://www.regulations.gov/#!documentDetail;D=DOJ-CRT-2010-0005-0001>.
- ADA Best Practices Tool Kit for State and Local Governments, Chapter 5: Website Accessibility Under Title II of the ADA, <http://www.ada.gov/pcatoolkit/chap5toolkit.htm>.

Architectural and Transportation Barriers Compliance Board (U.S. Access Board)

- Advance Notice of Proposed Rulemaking, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards (regarding Section 508 of the Rehabilitation Act), 75 Fed. Reg. 13,457 (March 22, 2010), *available at* <http://www.access-board.gov/sec508/refresh/notice.htm>. (*Note: Section 508 of the Rehabilitation Act applies only to the Federal government.*)

U.S. General Services Administration

- Section 508.gov website, www.Section508.gov.