PART THREE

Expert Perspectives on the ADA and Higher Education

A guide for students with disabilities in their transition from high school to post-secondary education.

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Purpose

The Next Steps is an easy-to-follow guide designed to assist students with disabilities in their transition from high school to postsecondary education.

While students progress through high school, their roles as "self-advocates" should continue to grow as they take on more responsibility for their own educational decisions.

Upon graduation, students have the option to further their education and to become even more confident, self-reliant adults. They also have the responsibility to understand their disabilities, their rights to equal access, and how to apply to enter postsecondary education. The Next Steps clarifies some of these rights and responsibilities and provides students with specific admission and other important information about the University of Northern Iowa (UNI).

A student’s self-advocacy responsibilities will increase in postsecondary education, and the role of parents and teachers as advocates will continue to decrease. Parents especially need to foster this change and encourage their children to empower themselves with the appropriate skills to be self-reliant. Students will always look to parents and trusted adults for support and advice. Responsibility for the postsecondary experience lies in the hands of the student.
Prepare Students for College Early, Experts Say

There are differences in how students with disabilities are treated at the K-12 and postsecondary level. It is important that professionals who work with these students in high school, the students themselves, and their parents understand these differences so that when students transition to college they will understand their rights and responsibilities and have a better chance at adapting to the college environment, said two speakers at a Thompson Publishers Groups audioconference.

While K-12 schools are subject to the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act, as well as the Americans with Disabilities Act (ADA), postsecondary institutions are not subject to the IDEA. The IDEA is an entitlement statute. It is about a free, appropriate public education, or the hope for success, said Jane Jarrow, the head of Disability Access Information and Support.

On the other hand, Section 504 and the ADA are about equal access, or the opportunity to compete. This is a critical distinction and one that often confuses both disability student services (DSS) personnel and K-12 special education personnel, said Kathy Hoffman, who provides services to students with disabilities at Erie Community College.

Section 504 and the ADA are civil rights laws to prevent discrimination. They apply in any setting (Section 504 only when an organization receives federal funding). Although Section 504 also applies in the K-12 setting, it has a slightly different meaning than it does in postsecondary education, where the emphasis is on equal opportunity to compete, not on succeeding or the provision of a free, appropriate public education.

In postsecondary education, the definition of disability is different than it is in K-12 education, the speakers said. The IDEA lists specific categories of disability, but under Section 504 and the ADA, disability is defined only as a significant limitation to a major life function. There may be times when a student eligible for special education services in a K-12 setting will not be eligible for disability services in a postsecondary setting and times when a student who needs services in a postsecondary setting would not receive special education in a K-12 setting.

For example, students with behavioral problems that cause learning
disabilities might be eligible for special education in K-12 but might not have disability services or accommodations in postsecondary education. Students in wheelchairs could be recognized as having a disability in a postsecondary institution and eligible for accommodations – even if they never received special education in their K-12 schooling because they did not need it.

Students must be eligible for disability services under Section 504 and the ADA. They must be otherwise qualified for the educational program and meet eligibility standards for disability assistance. The laws in the postsecondary setting are about access, not about success, the speakers said.

**Areas of Confusion**

Because the IDEA is an entitlement statute, K-12 school districts must identify children with disabilities and provide appropriate services to help them achieve a free appropriate public education. But at the postsecondary level, students must self-identify to receive services. Many parents and students do not realize this and expect the postsecondary institution to come to them, or to provide an individualized education program like the one the student had in high school. This is not going to happen, Jarrow said, and the expectation that it will often is a source of disappointment for students entering college, and for their parents.

Another area of confusion is documentation. At the K-12 level, the school may provide evaluations and documentation for the student. If it is obvious that a student has a disability, the documentation the school uses to qualify the student for services may not be current. For example, a dyslexic child who obviously cannot read without assistance might have an IEP throughout her K-12 schooling with only an evaluation and the accompanying documentation in the second grade. At the postsecondary level, documentation needs to be current because the student must prove that she has a significant limitation to a major life activity to qualify for disability student services.

A student diagnosed as dyslexic in the second grade who never had another evaluation may have learned coping strategies that will make her ineligible for services at the postsecondary level. Documentation that she still has a significant limitation to a major life function needs to be current for her to receive consideration for disability services. Most schools do not provide the evaluation or testing that will result in that documentation. This is the responsibility of the student, Jarrow said.
Hoffman said that parents who expect classes or class requirements for their child to be waived at the college level because they are waived at the high school level are in for an unpleasant surprise.

This happens, for example, when the student or parents request that math class be waived. Often, Hoffman said, this is for a student who wants to major in architecture or business, where math classes are an essential element of the program.

DSS professionals sometimes will criticize the K-12 school system for being too easy on the student and not requiring courses or skills the student will need to succeed in college. But DSS professional have to remember that K-12 institutions have a different mission – to try to give the student tools for success. DSS professionals should not be focused on success, but rather on access to compete, Jarrow said.

Both K-12 and DSS have a responsibility to help the student who will transition to college. DSS can perform outreach to K-12 to show students, parents, and teachers just how different the educational environments are. One excellent way to do this, Hoffman said, is to have students who are in college go back to their school or school district to talk about how different the college environment is and help prepare students in high school for the transition to college.

Although the IDEA does not mandate that transition plans inform the student about the different environment in postsecondary settings, it is desirable that both parents and students start preparing fairly early in a student's high school years for what will happen in college.

Students who may not have had to advocate for themselves in a K-12 setting will have to in college. Students who had personal services such as aides in elementary and high school may have to use technological solutions instead in college. If they encounter these solutions for the first time when they are away at school on a college campus, they will have a harder time adapting.

A better strategy is to make sure students are familiar with the types of accommodations they might need before they begin living on a college campus.
Comparison of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA)

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<thead>
<tr>
<th>ISSUES</th>
<th>IDEA</th>
<th>SECTION 504</th>
<th>ADA</th>
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<tbody>
<tr>
<td>Requirements in the Law</td>
<td>• Provides a free, appropriate public education in the least restrictive environment.</td>
<td>• Requires any agency, school, or institution receiving federal financial assistance to provide persons with disabilities to the greatest extent possible, an opportunity to be fully integrated into the mainstream.</td>
<td>• Extends coverage of section 504 to employment, public and private educational institutions, transportation providers, and telecommunications, regardless of presence of any federal funding.</td>
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<td>Definitions in the Law</td>
<td>• Specific disability categories are defined in the law; covers students with educational disabilities that require special services from specially trained teachers. • Not all students with disabilities are eligible.</td>
<td>Defines persons with disabilities who: • Have a physical or mental impairment which limits one or more major life activities; • Have a record of such an impairment; or • Are regarded as having an impairment.</td>
<td>• Definition of a disability essentially same as section 504 and extends coverage to persons without disabilities who may be related to or associated with a person with a disability • Includes HIV status, contagious, and non-contagious diseases.</td>
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<td><strong>Who is Covered?</strong></td>
<td>• Covers students with educational disabilities that require special educational services ages 3-21 or until graduation.</td>
<td>• Protects all persons with a disability from discrimination in educational settings based solely on disability.</td>
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<td><strong>Services Provided</strong></td>
<td>• Offers educational services that are remedial in addition to services available to all mainstream students (i.e., PE, Art, field trips).</td>
<td>• Eliminates barriers that would prevent a student from full participation in programs/services offered to the general school population.</td>
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<td><strong>Funding</strong></td>
<td>• Schools receive federal funding to provide remedial services.</td>
<td>• Requires that schools not discriminate based on student’s disability and must provide appropriate accommodations, but schools receive no additional financial support to provide support services or auxiliary aids.</td>
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<td><strong>Evaluation/Documentation</strong></td>
<td>School district is responsible for identifying and evaluating students with disabilities.</td>
<td>Same for elementary and secondary schools; same for college students.</td>
<td>Students must self-identify as having a disability and must provide adequate documentation of a disability.</td>
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<td>Evaluations are the responsibility of the school and are performed at no expense to student/parent.</td>
<td>Same for elementary and secondary schools; same for college students.</td>
<td>Evaluations/documentation of disability are student’s responsibility and expense.</td>
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<td>Parents must consent to evaluations and placement decisions.</td>
<td>Same for elementary and secondary schools; same for college students.</td>
<td>Student has responsibility for advocacy, negotiating accommodations plan.</td>
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<td><strong>IEP/Accommodations</strong></td>
<td>Individual Education Plan (IEP) developed with parents, teachers, and other specialists involved.</td>
<td>504 Plan developed with parents, teachers, school personnel involved (for elementary/secondary students); same for college/postsecondary.</td>
<td>Accommodation plan developed with student and Student Disability Services staff on campus.</td>
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<td>Classroom Placement</td>
<td>Placement must be in the least restrictive environment; may be special classrooms, resource, or regular classroom. (Elementary and secondary students)</td>
<td>Placement is in regular classroom with support services to eliminate barriers to the educational experience. (Elementary, secondary, &amp; college students)</td>
<td>All courses are mainstream with accommodations provided to students who qualify under the ADA</td>
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The Law and its Impact on Postsecondary Education
The Americans with Disabilities Act

THE ADA AND ITS IMPACT: WHAT IS THE LAW?
• The Americans with Disabilities Act of 1990 (ADA) is the civil rights guarantee for persons with disabilities in the United States. It provides protection from discrimination for individuals on the basis of disability. The five Titles of the ADA extend civil rights protections for people with disabilities in the following manner:

  • Title I: Employment in the public and private sectors.
  • Title II: Publicly funded facilities, services, and programs including transportation and public education.
  • Title III: Any privately owned/operated places of accommodation.
  • Title IV: Telecommunication relay services.
  • Title V: Miscellaneous administrative and exclusionary clauses.

WHAT IS THE ADA'S DEFINITION OF A “PERSON WITH A DISABILITY”?
• A “person with a disability” is anyone with a physical or mental impairment that substantially limits one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (Documentation of a disability may be required). A person is considered to be a person with a disability if he/she has a disability, has a record of a disability, or is regarded as having a disability.

HOW DOES THE ADA AFFECT INSTITUTIONS OF HIGHER EDUCATION?
• Public Institutions: For all activities, policies, procedures, and practices, Title II covers public institutions. Title II of the ADA upholds and extends the standards for compliance set forth in Section 504 of the Rehabilitation Act of 1973, for schools receiving federal funding.

Private Institutions: Private institutions are covered under Title III. Because of the public attention given to the passage and implementation of the ADA, and the new provisions for focused on disability access to many private institutions places of public accommodation, renewed attention is being of higher education. This focus includes the whole scope of the institution’s activities, including facilities, programs, and employment.
AREAS OF REVIEW FOR ADA EVALUATION

Institutions of higher education are responsible for having clearly established procedures, including a grievance procedure for persons with disabilities who feel their rights have been violated under the ADA. Moreover, each institution is responsible for conducting a self-evaluation of its preparedness, as well as ongoing review of possible barriers in the following areas:

- There may be no exclusion on the basis of a disability.
- Participation should be in the most integrated setting possible.
- There may be no discrimination through eligibility criteria.
- Reasonable accommodations in policies, practices, and procedures must be made as necessary to avoid discrimination on the basis of disability.
- Modification must be made to allow the presence/use of services animals.
- Surcharges to cover the costs of accommodations may not be imposed solely on persons with disabilities.
- Examinations and courses must be accessible.
- There may be no discrimination because of insurance constraints.
- There may be no harassment or retaliation against individuals who are accessing their rights under the law or against those who assist people with disabilities in accessing their rights.

Of particular importance is making appropriate accommodations for students with disabilities are the mandates for making modifications as needed in policies, practices, and procedures, and for assuring accessibility of examinations and courses.

This includes all aspects of academic and non-academic activities, (including admissions and recruitment), admission to programs, academic adjustments, housing, financial assistance, physical education and athletics, and counseling.
Terms to Know

**Accessibility:** Removal of obstacles (or barriers) when designing activities, services, and/or information.

**Accommodations:** Provisions made in how students access or demonstrate learning. These do not substantially alter the instructional level, the content, or the performance criteria. The changes are made in order to provide students equal access to learning and equal opportunity to demonstrate what is known.

**Americans with Disabilities Act (ADA):** A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication.

**Assessment:** The systematic process of gathering relevant information to make legal and instructional decisions about the provision of services. Assessment is an on-going process and not a one-time event. It involves the entire data collection process, and not just a single instrument for measuring skills.

**Assistive Technology:** Any item, piece of equipment, or product system, whether acquired commercially off of the shelf, modified, or customized that is used to increase, maintain, or improve functional capabilities of an individual with a disability.

**Evaluation:** Administration of formal tests or informal strategies (such as observation) to determine strengths and weaknesses, or to compare a student’s performance to a specified level of mastery or achievement.

**Individuals with Disabilities Education Act (IDEA):** Federal special education law and regulations. Amended the Education for All Handicapped Children Act (P.L. 94-142).

**Individualized Education Plan (IEP):** A document developed with the student, family, and school outlining a student’s present levels of educational performance, special education and related services needed, necessary transition services, and overall programming needs of the student to obtain free, appropriate public education in the most appropriate setting.

**Modifications:** Substantial changes in what the student is expected to learn and demonstrate (usually limited to K-12 education). Changes may be made at the instructional level, in the content or with the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based upon individual needs and abilities.

**Postsecondary Institution:** References any educational institution providing learning to students beyond high school.

**Private Institution:** Institutions that operate by private source contributions and tuition paid by students, and do not receive any state dollars.
**Public Institutions:** Institutions that receive state funding in addition to student tuition.

**Reasonable Accommodation:** Modifications or adjustments to allow for known physical or mental impairments of student, individuals, or employees with disabilities to benefit from their education, employment, or activity.

**Section 504:** Part of the Rehabilitation Act of 1973 that guarantees specific rights in federally funded programs and activities to people who qualify as having a disability. Section 504 states, "no otherwise qualified disabled individual in the United States... shall, solely by reason of a disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

**Self-Advocacy:** The development of specific skills and understandings that enable children and adults to explain their disabilities to others and to cope positively with the attitudes of peers, parents, teachers, and employers.

**Self-Determination:** A combination of skills, knowledge, and beliefs allowing a person to engage in goal setting and attainment, choice and decision making, problem-solving, self-advocacy, and autonomy. A person who understands one's strengths and limitations and sees oneself as capable and effective is one who employs self-determination skills.

**Student Portfolios:** A system for collecting and assessing progress made by students on a continuous basis. Examples might include samples of a student’s writing, math work, book reports, projects, copies of IEP’s, evaluations, and/or medical records—those pertinent to education or other accommodations the student will need.

**Syllabus/Syllabi (plural):** A course information document provided by the instructor for the students in a class. The syllabus typically includes the names of the course, instructor’s name, office location and office hours, required and optional readings, general statement or purpose of the course, course goals, policies, and course schedule.

**Transition Services:** A coordinated set of activities which prepares a student with a disability for the move from high school to post-school activities, such as employment, postsecondary education, adult services, independent living, or community participation and is based upon the individual student’s needs, taking into account the student’s preferences and interests.

**Universal Design:** Design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.
References


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To view a copy of Taking the Next Steps visit:
http://drc.arizona.edu/pdf/Transition-Guide.pdf


Postsecondary Education Consortium (n.d.). Comparison of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA). Retrieved April 2, 2007, from http://sunsite.utk.edu/cod/pec


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