



The Rights of College Students with Disabilities

Epilepsy does not need to be a barrier to a post-secondary education. Federal civil rights laws, and many state laws, prohibit colleges, universities and other post-secondary programs from discriminating against an individual because of his or her disability. This means covered schools cannot deny admission to a qualified student with a disability or limit his or her participation in academic and nonacademic programs, such as recreational activities and sports, solely because of his or her disability.

At the federal level, there are two major civil rights laws. These are Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA). Section 504 applies to all colleges and universities that receive federal funding, such as federally-funded financial aid granted to students. The ADA covers all colleges and universities regardless of whether they receive federal funding; Title II of the ADA applies to state-operated schools, such as a state university or local colleges, while Title III of the ADA applies to private colleges and universities. Though two separate laws, the general requirements are the same.

To be protected by these laws, the student must have a “disability” and also must be “qualified” to participate in the school’s programs. The student has a disability if he or she has a mental or physical impairment which substantially limits one or more major life activities (such as working or sleeping), has a record of such an impairment or is regarded by the school as having such an impairment. The individual is qualified if, with or without a reasonable accommodation, he or she meets the school’s or program’s eligibility requirements. As long as the student meets these standards, the school cannot refuse to allow a student to participate in a program because of his or her disability, even if it believes the disability makes him or her unqualified to perform the job for which he or she is training.

If a qualified student has a disability, he or she has the right to a reasonable accommodation. Reasonable accommodations are services or aids provided by the school to the student to help the student participate in the educational program, whether it is in the classroom or an internship sponsored by the school. Services or aids may include, for example, extended test periods, note-taking services, removing architectural barriers and providing materials in alternative formats, such as Braille or large print. Schools do not need to provide the student with the accommodation requested or the best accommodation; as long as the accommodation provided is effective, the school can choose which one to provide. Also, schools are not required to provide personal services or aids, such as a service animal or medication. Nor are schools



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generally required to provide an accommodation which would fundamentally alter the programs, such as waiving courses required to complete a degree in a particular field, though in some situations this may be an appropriate accommodation.

To receive an accommodation, the student must tell the school that he or she has a disability and request a reasonable accommodation. The student should make this request to the school's ADA/Section 504 coordinator, a professor, or dean. While this request does not need to be made in writing, the school does have the right to ask the student to provide documentation such as a doctor's note showing that there is a disability and also that the accommodation requested is appropriate.

Once the request has been made and requested documentation provided, the school must provide an accommodation unless it can show that providing the accommodation would create an undue hardship or that even with an accommodation, the student would pose a direct threat to the health and safety of others at the school. To claim an undue hardship, the school must show that providing the accommodation would be too expensive or fundamentally alter the program.

If you believe that you or someone you know has been discriminated against because of a disability, you may file a complaint with your regional Department of Education's Office of Civil Rights (OCR). You may file a complaint by writing a letter which includes your name, address and a daytime phone number; the name and location of the school; and a description of the alleged discriminatory act(s), including the type of disability at issue. You must file the complaint within 180 calendar days of the date of the act which you claim is discriminatory. For more information on how to file a complaint, including information on locating your regional OCR, call 1-800-421-3481 or visit the OCR's website at <http://www.ed.gov/about/offices/list/ocr/qa-complaints.html>.

While you do not need to retain an attorney to file a complaint, you may wish to do so. For information on obtaining a referral to an attorney in your area that may be able to provide specific advice or representation, please visit the website for the Jeanne A. Carpenter Epilepsy Legal Defense Fund, at www.epilepsylegal.org, or call our Information and Referral Service toll free at 1-800-EFA-1000 (1-800-332-1000).

For more general information about aids and services available to students with disabilities pursuing post-secondary education, you may wish to visit the U.S. Department of Education's website at



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<http://www.ed.gov/ocr/transition.html> to view a copy of "Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities." Also available on the website is an OCR brochure called "Auxiliary Aids and Services for Postsecondary Students with Disabilities: Higher Education's Obligations Under Section 504 and Title II of the ADA." See, <http://www.ed.gov/about/offices/list/ocr/docs/auxaids.html>.

While this material is designed to provide accurate and current information on the subject matter involved, the Epilepsy Foundation and the authors cannot guarantee the accuracy or completeness of the information contained in this publication. This fact sheet is not a legal document and does not provide legal advice or opinion. If legal advice or other expert assistance is required, the services of a competent professional should be sought.