



California's Protection & Advocacy System  
[www.disabilityrightsca.org](http://www.disabilityrightsca.org)

# **LEGAL RIGHTS OF STUDENTS WITH DISABILITIES UNDER FEDERAL LAW**

**A GUIDE FOR COLLEGE AND UNIVERSITY  
STUDENTS**

## Table of Contents

1) I think I have been discriminated against by my college or university, are there any laws that protect me? .....	4
2) Do the ADA and Section 504 cover professional, trade and technical schools?.....	5
3) Do the ADA and Section 504 cover religious universities and colleges? .....	5
4) Is anyone with a disability protected by these laws? .....	5
5) How do I know if my impairment “substantially limits” a major life activity? .....	6
6) What kinds of things are discriminatory under these laws? .....	6
7) Do colleges and universities have to provide students with disabilities reasonable accommodations for their disabilities? .....	7
8) What is an example of a modification of a policy, practice or procedure? .....	8
9) What are some examples of auxiliary aids and services? .....	9
10) How do I get an accommodation for my disability?.....	9
11) Do I have to provide proof of my disability to get an accommodation? .....	10
12) What kind of documentation do I need to substantiate my need for a reasonable accommodation? .....	10
13) I need to obtain current documentation of my disability and need for reasonable accommodations. How can I get the testing that I need?.....	11
14) What should my doctor’s letter say to support my request for accommodations? .....	12
15) Can I be asked about having a disability in the application or interview process? .....	13
16) If I am required to take a standardized test for admission to a college, university or trade school, can I take that test with reasonable accommodations?.....	14
17) Will it be reported that I took the standardized test with accommodations? If so, can the school give a different weight to my test scores than they give to the test scores of students who did not take the test with accommodations? .....	16
18) The school which I am attending does not provide housing options for its students. Can the school be required to provide me with housing close to campus as a reasonable accommodation? .....	17
19) The school which I am attending does provide housing options through the campus to its students. Can I request reasonable accommodations with regard to my housing? Is the school required to provide me with an accessible housing option?.....	17
20) My school requires that I take certain classes in order to graduate. Because of my disability, those classes will be particularly difficult for me to complete. Can I obtain a course substitution for the requirement?.....	18
22) My school denied the accommodation I requested. The reason I was given for the denial was that the accommodation would create a substantial modification of the school’s academic standards. Is this a legitimate reason for the denial of reasonable accommodation? .....	19
23) What do I do if my school refuses to give me the accommodations I need or otherwise discriminates against me because of my disability?.....	20
24) How do I file an internal grievance or appeal with my school? .....	20
25) Do I have to file a grievance with my school before I can file a complaint with the Department of Justice or with the Office for Civil Rights?.....	21

26) When and how would I file a complaint with the Department of Justice? .....21

27) When and how do I file a complaint with the Office for Civil Rights of the  
Department of Education? .....22

28) What if I file my complaint with the wrong department?.....23

29) What if I don't file my OCR complaint with OCR on time?.....23

30) What should my complaint to the DOJ or OCR say? .....24

31) What happens after I file my complaint?.....25

32) How can private mediation help me? .....26

33) When and where can I file a lawsuit? .....26

34) If the DOJ or OCR says I was not discriminated against does that mean I can't go to  
court? .....27

35) Are there any laws that will protect me from retaliation? .....27

36) How can I protect myself from discrimination by my school?.....27

APPENDIX A: SAMPLE REQUEST FOR ACCOMMODATION .....28

APPENDIX B: SAMPLE DOCTORS LETTER.....29

# LEGAL RIGHTS OF STUDENTS WITH DISABILITIES UNDER FEDERAL LAW

## A GUIDE FOR COLLEGE AND UNIVERSITY STUDENTS

- 1) **I think I have been discriminated against by my college or university, are there any laws that protect me?**

Yes. There are two main federal laws that protect people with disabilities from discrimination in higher educational settings like colleges and universities. They are: the Americans with Disabilities Act (ADA)<sup>1</sup>; and Section 504 of the Rehabilitation Act of 1973 (Section 504)<sup>2</sup>.

The ADA guarantees equal opportunity for individuals with disabilities in public and private sector services and employment. The ADA is split into sections called "Titles" - like chapters in a book. Generally, the ADA makes it illegal to discriminate against someone because they have a disability.

Specifically, Title II of the ADA prohibits all state and local governmental entities, including public colleges and universities, from discriminating against people with disabilities. Title II covers state universities like Chico State University, state and local community colleges like Pasadena Community College, and the University of California (e.g. UCLA and UC Davis).

Title III of the ADA prohibits private colleges and universities from discriminating against people with disabilities. Title III of the ADA covers private universities like USC and Stanford University.

Section 504 prohibits any program receiving federal financial assistance from discriminating against an individual because of his or her disability. Section 504 covers any college or university that receives direct or indirect federal financial assistance. Section 504 covers almost all colleges and universities, because it covers any educational program that accepts students receiving federal financial aid.

---

<sup>1</sup>42 U.S.C. § 12101 et seq.

<sup>2</sup>29 U.S.C. § 794 et seq.

**2) Do the ADA and Section 504 cover professional, trade and technical schools?**

Yes. The specific law that will cover the professional, trade and technical program depends on whether it is a state, local or private program, and on whether it receives federal financial assistance.

**3) Do the ADA and Section 504 cover religious universities and colleges?**

The ADA does not cover private colleges and universities that are controlled by religious entities. However, if a college or university receives federal financial assistance they will be covered by Section 504.

**4) Is anyone with a disability protected by these laws?**

To be protected by Section 504 you must be a qualified individual with a disability.<sup>3</sup> Titles II and III of the ADA are based on similar ideas. When talking about educational programs, the term qualified means that you are capable of fulfilling the essential functions and requirements of the program, with or without the provision of reasonable accommodations.<sup>4</sup> You are a person with a disability under the ADA and Section 504 if you:

- Have a physical or mental impairment that substantially limits one or more major life activities, such as caring for yourself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. Major life activities have also been found to include more academic tasks such as reading, writing, learning, thinking and concentrating; or
- Have a record of a physical or mental impairment that substantially

---

<sup>3</sup>29 U.S.C. § 794(a); 34 C.F.R. § 104.43(c).

<sup>4</sup>Reasonable accommodations are discussed in questions 6, 7, and 8.

limits one or more major life activities. For example, having a history of, or having been misclassified as having a physical or mental impairment that substantially limits one or more major life activities; or

- Are regarded as having a physical or mental impairment that substantially limits one or more major life activities. For example, when a college or university treats or views you like you have a physical or mental impairment that substantially limits a major life activity *even when it does not*, because of the myths, fears and stereotypes associated with that disability.

**5) How do I know if my impairment “substantially limits” a major life activity?**

Whether or not an impairment “substantially limits” a major life activity is an individualized determination. When evaluating whether your impairment substantially limits your ability to engage in a major life activity, you will usually be compared to the ability of the general population to participate in that activity. The condition, manner and duration under which you can perform the major life activity will be considered, and compared to the abilities of most people.

When evaluating whether you are substantially limited in your ability to engage in a major life activity, institutions of higher learning can take into account “mitigating measures.” A “mitigating measure” is a device or practice that you use on your own to reduce or eliminate the effects of your impairment. Examples of mitigating measures include, but are not limited to: medications, glasses, and orthopedic devices. For example, if you take medication to control ADHD, the effect that the ADHD has on your major life activities will be evaluated *with the medication*.

Your school can also take into account your own ability to successfully cope with your impairment.

**6) What kinds of things are discriminatory under these laws?**

Under Section 504 it is discriminatory for a college or university to:

- Deny a qualified individual with a disability admission because of her/his disability.<sup>5</sup>
- Exclude a qualified student with a disability from any course, course of study, or other part of its education program or activity because of her/his disability.<sup>6</sup>
- Otherwise subject a qualified individual with a disability to discrimination.

Similarly, the ADA says that it is discriminatory for a college or university to:

- Deny a person with a disability the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of a public college or university.<sup>7</sup>

The ADA also says that it is discriminatory to provide a student with a disability with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from that provided to non-disabled students. This is because the ADA says that students with disabilities have the right to all of the goods, services, facilities, privileges, advantages and accommodations of their college or university in the most integrated setting appropriate.<sup>8</sup>

**7) Do colleges and universities have to provide students with disabilities reasonable accommodations for their disabilities?**

Yes. To make sure their programs and activities are fully accessible to students with disabilities, colleges and universities are required to provide reasonable

---

<sup>5</sup>34 C.F.R. ' 104.42(a).

<sup>6</sup>34 C.F.R. ' 104.43(c).

<sup>7</sup>42 USC ' 12182(b)(1)(A)(i).

<sup>8</sup>42 U.S.C. ' 12182(b)(1)(B).

accommodations. Specifically, colleges and universities are required to make reasonable modifications in their practices, policies and procedures, and to provide auxiliary aids and services for persons with disabilities, *unless* to do so would fundamentally alter<sup>9</sup> the nature of the goods, services, facilities, privileges, advantages and accommodations they offer or would result in an undue burden.<sup>10 11</sup>

**8) What is an example of a modification of a policy, practice or procedure?**

Examples of modifications colleges and universities may have to make to their policies, practices and procedures to accommodate students with disabilities are:

- Not assessing penalties for spelling errors on papers or exams.
- Allowing course substitutions for certain required or pre-requisite courses.
- Allowing extra time on exams.
- Allowing a reduced course load and extended time within which to complete degree requirements.
- Providing housing accommodations for a student's attendant.

---

<sup>9</sup>A "fundamental alteration" is a modification that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered. DOJ Title II Technical Assistance Manual, ' III-4.3600 (1993).

<sup>10</sup>The term "undue burden" is defined as "significant difficulty or expense." 28 C.F.R. ' 36.104 (1993).

<sup>11</sup>42 U.S.C. ' 12182(b)(2)(A)(ii) and (iii) (West Supp. 1991).



**9) What are some examples of auxiliary aids and services?**

Examples of auxiliary aids and services colleges and universities may have to provide for students with disabilities are:

- Qualified interpreters.
- Notetakers.
- Qualified readers.
- Class materials in alternative formats (for example: texts in braille or on audiotape).

**10) How do I get an accommodation for my disability?**

The process for getting accommodations will differ slightly from school to school. To find out what the process is at your school contact the Disabled Student Services Program. Many colleges and universities also have an ADA or Section 504 Coordinator. If neither resource exists at your school, you can ask the Dean of Student Affairs or your academic advisor to explain the process for requesting accommodations.

If you are not sure what specific type of accommodations you need, the Disabled Student Services Program and your doctors may be able to help you figure that out. If you are a client of the Department of Rehabilitation your rehabilitation counselor may also be able to help you.

It is always a good idea to make your accommodation request in writing. In your request you should identify yourself as a student with a disability, describe the way your disability affects your participation in school, and identify the specific accommodations you need. Your request should also specify a timeline within which you expect a response to your request. If you do not receive a response within that time you should assume your request has

been denied and start appeal and complaint procedures.<sup>12</sup>

A sample request for accommodation can be found at the end of this manual as Appendix A.

**11) Do I have to provide proof of my disability to get an accommodation?**

You might. Universities and colleges are only required to accommodate *known* disabilities. If your disability is not obvious and the school requests proof of your disability, you must provide it. To show that you are entitled to reasonable accommodations it is best to get a letter from a medical professional who is familiar with you and your disability.

**12) What kind of documentation do I need to substantiate my need for a reasonable accommodation?**

Each school may impose its own criteria on this documentation necessary to establish a disability and need for an accommodation. However, the criteria established by the school cannot be so burdensome that they prevent individuals with disabilities from getting accommodations to which they are entitled.

If you have a current treating doctor who treats your disability, you may be able to obtain the correct documentation from that doctor. Documentation of your disability needs to be *current*. It must reflect your abilities and limitations at the time you request the accommodation.

Documentation does not necessarily need to be *recent* when establishing disabilities that do not substantially change over time. For example, specific learning disabilities, such as dyslexia, do not show much change after an individual reaches age 18. Certain physical disabilities may also show limited change over time. For disabilities such as these, documentation does need to be *current*, it does not necessarily need to be *recent*. So long as the documentation reflects your current abilities and limitations, then the date of

---

<sup>12</sup>Appeal and complaint procedures are described in questions 22 through 34.

the documentation or testing should not matter. However, if your documentation is older than three years, you may want to obtain a letter from your doctor stating that the documentation is still a current reflection of your abilities and limitations.

If you have a disability that may change substantially over time, or in different environments, your school may require that you provide *recent* documentation to establish your disability. This means that the school may require that you obtain updated testing and documentation as often as every three years. An example of a disability that may change over time is ADD or ADHD.

Your school may require that the person diagnosing your disability have certain credentials, such as a PH.D. This requirement is acceptable when either the requirement is not burdensome on the individual obtaining the testing, or when a Ph.D. is necessary to insure the accuracy of the testing.

A requirement is burdensome when it requires that an individual spend significantly more time or money than they would have to otherwise to obtain testing that would yield the same results. But, still there may be some times when even though the requirement is burdensome, it is necessary. For example, ADD or ADHD is diagnosed through observation in a clinical evaluation, not through the results of standardized test. A Ph.D. may be required for testing that involves a clinical evaluation. A Ph.D. may not be required for the evaluation or administration of a standardized test.

Note that although your school may have specific criteria to show your need for a reasonable accommodation, the decision to have these criteria is made by each school. Your school may not require such recent documentation.

To find out if your school has any specific documentation requirements, please contact the Office for Students with Disabilities on your campus.

**13) I need to obtain current documentation of my disability and need for reasonable accommodations. How can I get the testing that I need?**

Before getting the testing, be sure to meet with the campus' Office for Students with Disabilities to find out exactly what kind of testing and/or documentation they require to establish a disability and need for accommodations.

If you have a doctor who currently treats you for your disability, you will likely be able to obtain the necessary testing and documentation through that doctor.

If you do not have a current doctor, there are other options available to you. If your school has a student health center, or offers student health services, you may be able to obtain the requisite testing through the student health service at your campus.

You may also wish to contact the Department of Rehabilitation, a state agency works with individuals with disabilities to provide services and advocacy that will result in employment.

To find the Department of Rehabilitation Office nearest you, visit their website at [www.rehab.cahwnet.gov](http://www.rehab.cahwnet.gov), or contact their central office at:

P.O. Box 944222  
2000 Evergreen Street  
Sacramento, CA 95815  
Phone: (916) 263-8981  
TTY: (916) 263-7477

The Disabled Student Services Program is not required to provide the necessary testing. The Disabled Student Services Program at your school may also have a list of referrals for agencies or individuals who provide testing and evaluation.

**14) What should my doctor's letter say to support my request for accommodations?**

To be effective, we suggest that your doctor's letter include at least the following information:

- A statement of who your doctor is and what her credentials are, including any special qualifications she has for helping people with your specific type of disability. This statement should also include a description of where your doctor works and what her area of specialty is.

- A discussion of any tests, assessments and evaluations that your doctor performed on your behalf. Your doctor should identify any records or other materials reviewed as part of the testing process. Remember, the more specific your doctor is in her letter, the more effective her letter will be.
- A discussion of your disability-related impairments, as they relate to your ability to learn and participate in your educational program. Again, the more specific your doctor is, the more effective her letter will be.
- A description of your disability and *identification of your specific diagnoses*. This should include a discussion of how you meet diagnostic criteria, and the facts and observations upon which your diagnosis is based.
- A list of school accommodations that your doctor would recommend to help you overcome your disability-related impairments and be able to participate fully and equally in your educational program. Here too, the more specific your doctor can be, the more effective her letter will be.
- A discussion of how your doctor decided what accommodations to recommend for you, including a discussion of any prior experience she has had working with students with disabilities.

A sample doctor's letter can be found at the end of this manual as Appendix B.

**15) Can I be asked about having a disability in the application or interview process?**

No. A school cannot ask a student if he or she has a disability or a history of a disability in the application process. For example, a school cannot ask an individual who uses a wheelchair if that individual would be limited to classes on the ground floor of a building. Nor could a school ask a student with a learning disability if that student would be able to handle the large amount of reading required for college courses.

Some schools may choose to ask students to self-identify as having a disability. This is allowed, so long as the school makes it clear that the information is being requested solely for affirmative action efforts, that the release of any information is completely voluntary, and that all information provided by the student will be kept confidential. Additionally, the request must clarify that the applicant will not be subject to any adverse treatment regardless of whether he or she chooses to disclose his or her disability.

**16) If I am required to take a standardized test for admission to a college, university or trade school, can I take that test with reasonable accommodations?**

Yes. The organization administering the standardized test must allow you reasonable accommodations necessitated by your disability. Examples of such standardized tests include the SAT I and II, ACT, MCAT, GRE, and the LSAT. Each organization administering the test may have different requirements or processes for requesting the accommodations.

For information about a specific test, you should contact that organization. Below is a list of organizations and the tests that they administer.

For information about the SAT, please contact the College Board:  
The College Board Headquarters  
45 Columbus Avenue  
New York, NY 10023  
Phone: (212) 713-8000  
[www.collegeboard.com](http://www.collegeboard.com)

For information about the ACT, please contact ACT:  
ACT National Office  
500 ACT Drive  
P.O. Box 168  
Iowa City, IA 52243-0168  
Phone: (319) 337-1000  
Fax: (319) 339-3020

West Regional Office  
2880 Sunrise Boulevard, Suite 214  
Rancho Cordova, CA 95742-6549  
Telephone: (916) 631-9200  
Fax: (916) 631-8263  
[www.act.org](http://www.act.org)

For information about the LSAT, please contact the Law School Admissions Council (LSAC):

LSAC  
Phone: (215) 968-1001  
TDD: (215) 968-1128  
Fax: (215) 968-1119  
LSACinfo@LSAC.org  
[www.lsac.org](http://www.lsac.org)

For information about the MCAT, please contact the Association of American Medical Colleges:

MCAT Program Office  
P.O. Box 4056  
Iowa City, IA 52243  
Phone: (319) 337-1357  
E-mail: [mcats\\_reg@act.org](mailto:mcats_reg@act.org)  
Website: [www.aamc.org](http://www.aamc.org)

For more information about the GMAT, please contact the Graduate Management Admission Council:

Graduate Management Admission Council  
1600 Tysons Blvd., Ste. 1400  
McLean, VA 22102  
Phone: (703) 749-0131  
Fax: (703) 749-0169  
E-mail: [webmaster@gmacc.com](mailto:webmaster@gmacc.com)  
Website: [www.gmac.com](http://www.gmac.com)

For more information about the GRE, please contact Educational Testing Services:

GRE-ETS

P.O. Box 6000

Princeton, NJ 08541-6000

Phone: (866) 473-4373 (toll free)

Fax: (609) 771-7906

Website: [www.gre.org](http://www.gre.org)

For more information about TOEFL, please contact Educational Testing Services:

TOEFL Services

P.O. Box 6151

Princeton, NJ 08541-6151

Phone: (877) 863-3546 (toll free)

Fax: (609) 771-7500

E-mail: [toefl@ets.org](mailto:toefl@ets.org)

Website: [www.ets.org/toefl](http://www.ets.org/toefl)

For both the GRE and TOEFL, you can directly contact Educational Testing Services' Disability Services Office:

ETS

Disability Services

PO Box 6054

Princeton, NJ 08541-6054

Phone: (866) 387-8602 (toll free)

TTY: (609) 771-7714

Fax: (609) 771-7165

Email: [stassd@ets.org](mailto:stassd@ets.org)

- 17) Will it be reported that I took the standardized test with accommodations? If so, can the school give a different weight to my test scores than they give to the test scores of students who did not take the test with accommodations?**

Certain organizations may report that you took the test under “non-standard conditions.” You will need to contact the specific organization to determine



how your test scores will be reported. See the contact information in Question 16. However, those organizations cannot report any specific information such as your disability, or the reasonable accommodations you received.

A college, university or trade school cannot give different weight to your standardized test scores because you received an accommodation. Your score should be given the same weight as any other student with the same school who took the test without reasonable accommodations.

Additionally, the school cannot inquire about the “non-standard” conditions under which you took the exam.

- 18) The school which I am attending does not provide housing options for its students. Can the school be required to provide me with housing close to campus as a reasonable accommodation?**

No. If the school you are attending does not provide housing options for any of its students, it is not required to provide you with housing close to campus, or any housing, as a reasonable accommodation.

- 19) The school which I am attending does provide housing options through the campus to its students. Can I request reasonable accommodations with regard to my housing? Is the school required to provide me with an accessible housing option?**

Yes. If the school provides housing, then it is required to provide both reasonable accommodations to its housing policy and accessible housing options. The school can charge no more for accessible housing or housing provided with a reasonable accommodation than it would for comparable housing. Some examples of reasonable accommodation in campus housing may include housing located close to campus or to a shuttle or bus stop, priority for single or larger units, or allowing a student to have a service or companion animal despite a “no pets” policy. Accessible housing should be available in a number of housing options so that students with disabilities have housing opportunities equal to those of students without disabilities. Furthermore, campus sponsored activities taking place in student housing

should be in accessible areas, and reasonable accommodations should be provided.

**20) My school requires that I take certain classes in order to graduate. Because of my disability, those classes will be particularly difficult for me to complete. Can I obtain a course substitution for the requirement?**

The school is *not required* to provide you with course substitution, offer a different class or allow you to skip that requirement all together if it would result in a substantial change to an essential element of the curriculum. Schools are allowed to set their academic standards, and are not required to lower their standards as a reasonable accommodation.

Before denying a course substitution, the school must undertake a diligent assessment of the available academic options. If it then determines that offering a course substitution would lower academic standards, or in some way fundamentally alter an essential part of the school's academic program, then the school may deny the request for a course substitution.

If the school does not grant your request for a course substitution, they must still provide you with any necessary reasonable accommodation in order for you to complete the required course.

There may be some times when a school does provide a course substitution. For example, a school may choose to waive its two years of foreign language requirement for graduation with a liberal arts degree for a student who has a hearing disability. However, the same waiver may not be available to a student whose major requires a foreign language.

**21) Can my college or university ever refuse to provide me with an accommodation I need?**

Yes, but only under limited circumstances. Your school can refuse to provide you with an accommodation when they can show:

- That providing the accommodation would be an undue financial or

administrative burden;

- That providing the accommodation would fundamentally alter their program;
- That the requested accommodation is of a personal nature. For example, a college will not be required to supply a student with an assistant to help with toileting.

In response to your request for a specific accommodation, your school may suggest an alternative accommodation or way to provide equal access. You do not have to accept the school's suggested accommodation, but you should keep in mind that you are not entitled to the best accommodation - just an effective accommodation.

**22) My school denied the accommodation I requested. The reason I was given for the denial was that the accommodation would create a substantial modification of the school's academic standards. Is this a legitimate reason for the denial of reasonable accommodation?**

It depends. Courts generally defer to a school's decision with regard to academic decisions. The reason for this deference is that schools are generally better equipped than courts to determine whether a student meets that school's reasonable standards for academic achievement.

The courts act to ensure that schools are not hiding discriminatory intent behind academic standards. In order to demonstrate that its motives are not discriminatory, a school has an obligation to provide a reasonable consideration to the student with a disability requesting the accommodation.

After a student has informed the school that he or she has a disability and needs a reasonable accommodation, the school has a duty to:

- Make itself aware of the nature of the student's disability
- To explore alternatives of accommodating the student.
- To exercise professional judgment in deciding whether appropriate accommodations would give the student the opportunity to complete the

program without fundamentally or substantially modifying the school's standards.

The school must engage in the above activities with good faith. It is not enough to simply speculate that a suggested accommodation is not possible, or that it would not be an effective accommodation. When deciding not to provide an accommodation, the school must actually be able to prove that it actively considered whether the requested accommodation would substantially or fundamentally alter the school's standards. If the school can demonstrate that they have given the appropriate consideration to the request, then it is likely that a court will find that the denial of the request was legal and proper.

If the school cannot prove this consideration, then a court will be far less likely to defer to the school's judgment in deciding not to provide the accommodation.

**23) What do I do if my school refuses to give me the accommodations I need or otherwise discriminates against me because of my disability?**

If your school refused to provide you with the accommodations you need or otherwise discriminates against you because of your disability you can do any or all of the following:

- File an internal grievance/appeal with the school.
- File a complaint with the Department of Justice or the Office for Civil Rights of the Department of Education.
- Try to resolve things informally through private mediation.
- File a lawsuit.

**24) How do I file an internal grievance or appeal with my school?**

Grievance and appeal procedures will differ from school to school. If you are interested in filing an internal grievance with your school you should talk to the

Disabled Student Services Program, the ADA or Section 504 Coordinator, or the Dean of Student Affairs to find out what the grievance/appeal process is at your school. You should file your internal grievance as soon as possible, and no later than 180 days after the discrimination has occurred.

**25) Do I have to file a grievance with my school before I can file a complaint with the Department of Justice or with the Office for Civil Rights?**

No. You do not have to file an internal grievance with your school to be able to file a complaint with the Department of Justice (DOJ) or the Office for Civil Rights (OCR), but it may be helpful to do so. If you have not filed an internal grievance with your school, the investigator assigned to your case may ask you to do so before they review your complaint.

**26) When and how would I file a complaint with the Department of Justice?**

The DOJ is the federal agency that enforces Title III of the ADA. If your school is covered by Title III and you want to file a discrimination complaint you should write to this address:

U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Civil Rights Division  
Disability Rights - NYAVE  
Washington, D.C. 20530

Information about how to file a Title III complaint can also be accessed at the following web address: <http://www.ada.gov/t3compfm.htm>

Complaints with the DOJ can be filed at anytime, although we encourage people to file their complaint as soon as possible. Keep in mind that although there is no timeline on filing Title III complaints with the DOJ there are timelines on lawsuits filed under Title III.<sup>13</sup>

---

<sup>13</sup>See question 32.

**27) When and how do I file a complaint with the Office for Civil Rights of the Department of Education?**

The Office for Civil Rights (OCR) is part of the Federal Department of Education. OCR investigates violations of Title II and Section 504. To file a complaint with OCR,

Contact your local OCR office or use OCR's online complaint form (accessible at the following web address:

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.)

The OCR office for California is located at:

**San Francisco Office  
Office for Civil Rights  
U.S. Department of Education  
50 Beale Street, Suite 7200  
San Francisco, CA 94105**

**Telephone: 415-486-5555  
FAX: 415-486-5570; TDD: 877-521-2172  
Email: [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)**

OCR encourages complainants to use e-mail or fax to communicate with OCR when possible. For those without current e-mail accounts, Internet access may be freely available from your local public library, and free e-mail accounts are available from several large providers.

Complaints with OCR must be filed within 180 days of the date that you were discriminated against *unless* you have already gone through your school's internal grievance process. If you have gone through your school's grievance process you must file your OCR complaint within 60 days of the school's decision on your grievance.<sup>14</sup>

---

<sup>14</sup>Filing your OCR complaint within 60 days of your school's decision on your internal grievance is grounds for a "waiver" of the 180 day filing requirement. Other grounds for waiver are discussed in question 28.

**28) What if I file my complaint with the wrong department?**

If you don't know what law covers your school, or if you file with the wrong department don't worry. Your complaint will be forwarded to the proper department.

**29) What if I don't file my OCR complaint with OCR on time?**

If you file your OCR complaint late it won't be investigated unless you can get a waiver.

When you are late filing a complaint with OCR, they will notify you in writing of the opportunity to request a waiver. You can get a waiver of the 180-day filing requirement if:

- You could not reasonably be expected to know that what happened to you was discriminatory within the 180-day period, and your complaint was filed within 60 days after you became aware that what happened to you was discrimination;
- You couldn't file a complaint on time because you were ill or otherwise incapacitated during the 180-day period, and the complaint was filed within 60 days after the period of illness or incapacitation ended;
- You filed a complaint alleging the same discriminatory conduct within the 180-day period with another federal, state, or local civil rights enforcement agency, and filed a complaint with OCR within 60 days after the other agency completed its investigation or notified you that it would take no further action;
- You filed an internal grievance with your school within the 180-day period, alleging the same discriminatory conduct that is the subject of the OCR complaint, and the complaint is filed no later than 60 days after the internal grievance is concluded; OR
- Unique circumstances generated by agency action have adversely affected you.

### **30) What should my complaint to the DOJ or OCR say?**

If you are using the OCR complaint form all you need to do is answer all the questions on that form and mail it in. If you are filing a complaint with the DOJ, or want to write your own complaint letter to OCR your complaint should give at least the following information:

- Your name, address, and telephone number. If someone is helping you file the complaint include their name in your complaint as someone who helped you.
- The name of your school, its address, and the names of the departments or individuals who you think discriminated against you because of your disability.
- The reasons why you think you were discriminated against because of your disability. Be as specific as possible.
- The dates when the discrimination happened.
- Whether you have filed an internal grievance with your school, and if so, say when you filed your grievance and explain what happened.
- Whether you have already filed a complaint with any other Federal, State, or local civil rights agency about the same acts of discrimination. If you have, say when you filed your complaint and explain what happened.
- Whether you have already filed a lawsuit in any Federal or State court about the same acts of discrimination. If you have, say when you filed your complaint and explain what happened.

You should also send copies of any letters or documents that help show how you were discriminated against. Don't send originals, you may not get them back!

Finally, make sure you sign and date your complaint. Your complaint won't be accepted unless it is signed.



### 31) What happens after I file my complaint?

What happens with your complaint depends on where your complaint is filed:

#### A. OCR

When you file a complaint with OCR, you have the choice of asking for Early Complaint Resolution (ECR), or going ahead with an evaluation and/or investigation.

ECR lets you and your school try and resolve your complaint together. If both you and the school are willing to do ECR, OCR will work with you to resolve your complaint. OCR will help you reach an agreement but will not take sides.

OCR will not monitor your ECR agreement. If your school does not do what they said they would do during ECR, you should file another complaint with OCR.

If you and your school cannot resolve your concerns using ECR, OCR will do an initial evaluation of your complaint. They could call you for more information or documentation.

If the OCR investigator assigned to your case finds support for your complaint she will do an investigation. She may interview witnesses and ask for more information as part of the investigation. Investigation will continue until one of the following things happens:

- OCR finds that there is no discrimination and your complaint is dismissed.
- You withdraw your complaint.
- Your complaint is resolved.
- OCR gives your school an Agreement for corrective action. @ The

agreement for corrective action is a written agreement that says what your school has to do to resolve your concerns. OCR will monitor this agreement to make sure the school does what it is supposed to do to comply with the law.

## **B. DOJ**

When you file a complaint with the DOJ you have a choice of going to mediation. If you are interested in getting mediation through the DOJ you need to specifically ask for it in your complaint. For information on DOJ mediators in your area call the Key Bridge Foundation at (800) 528-1609 (voice); (800) 514-0383 (TDD). The Key Bridge Foundation is the agency that supplies mediators for the DOJ. Any agreement reached in mediation is binding, which means it can be enforced in court.

If you don't want to do mediation, or your school refuses to do mediation, the DOJ will hold on to your complaint to evaluate and investigate your discrimination claims. If the DOJ believes that you were the victim of discrimination they can file a court action on your behalf. Keep in mind however, that the DOJ will not act like a private attorney and will not be able to get you money damages.

### **32) How can private mediation help me?**

In a number of cities throughout California there are private mediation centers that can help you resolve disputes informally. Some of these centers may have experience with disability-related issues and discrimination. To find out if there is a mediation center near you that has experience with disability issues call your local Independent Living Center or check a local phone book. Private mediators should be able to help you regardless of the type of school you attend.

### **33) When and where can I file a lawsuit?**

From the moment you experience discrimination you have the right to file a lawsuit in court. You do not have to file a grievance with your school or file a

complaint with the DOJ or OCR to be able to file a lawsuit. For violations of the ADA and Section 504 you would file a lawsuit in federal court. It is a good idea to have an attorney to represent you in court, although you can represent yourself.

Court actions under the ADA and Section 504 for discrimination by a school on the basis of disability must be filed within 1 year of the date of discrimination.

**34) If the DOJ or OCR says I was not discriminated against does that mean I can't go to court?**

No. You can go to court no matter what the DOJ or OCR say.

**35) Are there any laws that will protect me from retaliation?**

Title V of the ADA prohibits private and public schools from retaliation against any person who exercises or tries to enforce their rights under the ADA. If you are retaliated against, you can file a new complaint with OCR or the DOJ.

**36) How can I protect myself from discrimination by my school?**

To protect yourself KNOW YOUR RIGHTS. Also, it is always a good idea to document and keep copies of everything that is related to your disability and education. For example, write down the names of people you speak to about accommodations for your disability. Write down dates, times and keep copies of all letters you send and receive. If you are the victim of discrimination having this information will make it easier for you to prove your case and resolve your concerns.

## **APPENDIX A: SAMPLE REQUEST FOR ACCOMMODATION**

*(Don't forget to date your letter here!)*

*(Find out who deals with accommodations requests at your school and address your letter to that person.)* Attention: Mr. Green, Director Disabled Students Services  
California University Los Angeles, California 90210

RE: Request for Reasonable Accommodations Under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

Dear Mr. Green:

*(First, explain why you are writing the letter.)* Please consider this letter a request for reasonable accommodations under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. According to California University procedures you are the person who handles these requests.

*(Next, explain your disability.)* I am a student with a learning disability. *(Next, explain how your disability affects you at school.)* My disability substantially impairs my ability to process written information. *(Next, state the accommodation you need.)* Because of my disability I require extra time on exams.

*(If your doctor or someone else who knows about your disability supports your need for that accommodation, state who they are here.)* My doctors have recommended that I get double time on all exams. *(If you have gotten the accommodation you are asking for in the past, say so here.)* This is the accommodation I have needed and received since I was in high school. *(Next, describe any letters or documents you have attached in support of your request.)* I have attached a letter of recommendation from my doctor. If more information is needed please let me know right away.

*(Finally, ask that your request be answered within a reasonable amount of time.)* I ask that you respond to this request in writing within the next two weeks.

Sincerely,

*(Don't forget to sign the letter and you're your address and phone number!)* Joe Boxer, Student Class of 2001 P.O. Box 10029 California University Los Angeles, CA 90210, (213) 000-0000

## **APPENDIX B: SAMPLE DOCTORS LETTER**

*(Don't forget to date your letter here!)*

*(Find out from your school who is responsible for taking students' requests for accommodations. Your doctor can address your support letter to him/her. If you don't know who to address the letter to, just have your doctor write "To whom it concerns".)*

Attention: Mr. Green, Director Disabled Students Services California University Los Angeles, CA 90210

RE: Joe Boxer's Request for Reasonable Accommodations in His Educational Program for his Disability.

Dear Mr. Green:

*(First, say why you are writing.)* The letter is submitted in support of Joe Boxer's request for reasonable accommodations for his learning disability.

*(Next, describe your specialty, where you work and how long the student has been in your care.)* I am a learning disability specialist. I have worked in that capacity at UCLA since 1984. Joe has been in my care since he was a high school student.

*(Next, describe the student's disability in detail. Attach assessments where appropriate.)* The extent and impact of Joe's learning disabilities are well documented. I tested Joe personally in 1994, and again in October of 1998. The level of Joe's impairment has remained consistent, and is significant. For a full discussion of Joe's testing results and diagnosis, please refer to my assessments, which I have attached for your convenience.

*(Next, describe the student's impairment in detail, including how it impacts him/her in the educational setting.)* In a nutshell, Joe is significantly impaired in his ability to process written information. It takes him twice as long as a non-learning disabled student to comprehend written materials.

*(Next, describe the accommodation or action necessary to compensate for the student's impairment.)* To compensate for this deficit, it is my recommendation that

Joe receive double time on all written exams, regardless of format (i.e. essay or multiple choice). This accommodation is commonly provided to students with learning disabilities like Joe. Without this accommodation it is my professional opinion that Joe will be denied equal access to his educational program.

Please feel free to contact me should you need further information in order to grant Joe's request.

Sincerely,

***(Finally, sign your name, and state your address and phone number.)*** Dr. Mary Burberry, Ph.D. Learning Disability Specialist UCLA Los Angeles, CA 90210 (213) 444-4444