

Higher Education and Cancer

It is important that students with cancer-related disabilities understand their rights and responsibilities when they are preparing for college, college-level courses, and beyond. While there are many protections that exist for students of all ages, students have more responsibilities at the college or graduate level to request and assist in identifying the accommodations they need. Many of the protections that are available for younger students, such as a free appropriate public education (FAPE), and the Individuals with Disabilities Education Act (IDEA), do not apply to college-level education.¹ The following information can help students with disabilities prepare for and succeed in college classes and beyond.

Which laws provide protection for students?

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities (such as educational programs) that receive federal financial assistance from the U.S. Department of Education (ED).² Recipients of this federal financial assistance include public school districts, institutions of higher education (private or public), vocational schools, and other state and local education agencies.

The Americans with Disabilities Act (ADA) also prohibits discrimination against students with disabilities at the college level. Title II of the ADA covers state-funded schools such as universities, community colleges, and vocational schools. Title III of the ADA covers privately funded colleges, vocational schools, and private entities that offer certain educational exams and/or courses related to occupational certification. The ADA applies regardless of whether Section 504 also applies. Therefore, there may be some schools that are covered by Section 504 only, the ADA only, or both. The Office for Civil Rights (OCR) of the U.S. Department of Education enforces both laws.³ In addition to the ADA and Section 504 there may also be state laws that provide additional protections.

What are the differences between the ADA and Section 504?⁴

There are few differences between Section 504 and the ADA. Section 504 only applies to schools that receive federal financial assistance. Private schools that do not receive government funds are only covered by Title III of the ADA. As a result, these institutions may be more limited in the types of accommodations they may be able to provide, depending on their available resources.

¹ <http://www2.ed.gov/about/offices/list/ocr/transition.html#note>

² <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

³ <http://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html>

⁴ <http://www.pacer.org/publications/adaqa/504.asp>

Regardless of these limitations, however, they are still required to accommodate students with disabilities.

The ADA's provisions are virtually the same as those under Section 504. When only the ADA is applicable, it prohibits discrimination against all students with disabilities (during the application process, academic programs, or extracurricular activities) and it requires that reasonable accommodations be made for students with disabilities.

How am I protected as a student?

To be protected under Section 504 or the ADA, a student must: (1) have a physical or mental impairment that substantially limits one or more major life activities, (2) have a record of such an impairment, or (3) be regarded as having such an impairment.

Cancer and side effects from treatment may qualify as an impairment that might substantially limit major life activities. There is not a set list of conditions for physical or mental impairments, so most decisions are made on a case-by-case basis.

Note: Physical or mental impairments should generally last more than 6 months, but some schools may still accommodate temporary impairments.

Major life activities may include functions such as: caring for one's self, performing manual tasks, learning, concentrating, communicating, thinking, and bodily functions such as the immune system or normal cell growth.⁵ This list is not definitive and other activities may be considered as well.

For more information about preparing for postsecondary education, please visit the following sites:

Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities <http://www2.ed.gov/about/offices/list/ocr/transition.html>

Auxiliary Aids and Services for Postsecondary Students with Disabilities <http://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html>

How am I protected when I take college or graduate entrance exams?

Students with documented disabilities may apply for accommodations when they take College Board exams including the PSAT/NMSQT, SAT, SAT Subject Tests, or Advanced Placement® Exams. To be eligible for accommodations, a student must be able to document (1) the disability, (2) the degree to which the disability impacts activities, and (3) the need for the specific accommodations requested. All requests must be approved by the College Board's Services for Students with Disabilities (SSD) regardless of whether a student receives accommodations at school.

⁵ 34 C.F.R. § 104.3

Note: College Board approval for accommodations can take up to seven weeks, and deadlines for accommodations requests may be earlier than regular exam registration deadlines.⁶

Test accommodations may include, but are not limited to: extended time, extra breaks, private room, screens to block out distractions, specified time of day, or multiple day (with or without extra time).⁷

For more information about requesting College Board accommodations, you may contact:

College Board SSD Program
P.O. Box 8060
Mt. Vernon
IL 62864-0060
Phone: (212) 713-8333
TTY: (609) 882-4118
Fax: (866) 360-0114
<http://sat.collegeboard.org/register/for-students-with-disabilities>

Students applying to graduate programs may request accommodations when they take the GRE or other tests administered by Education Testing Service (“ETS”), including TOEFL (Test of English as a Foreign Language for non-native speakers), GACE (Georgia Assessments for the Certification of Educators), HiSET (High School Equivalency Test), and the Praxis Series® tests required by many states and professional licensing organizations as part of the teacher certification process.

Note: ETS review of accommodations requests takes approximately six weeks from receipt of documentation, so early planning is advisable.⁸

Test accommodations may include but are not limited to: extended test time, extra breaks, ergonomic keyboard, and alternate test formats.

For more information about eligibility, documentation requirements, and requesting accommodations for the GRE and other ETS-administered tests, please contact:

ETS Disability Services
P.O. Box 6054
Princeton, NJ 08541–6054
Phone: (609) 771-7780
Toll-free: (866) 387-8602
Fax: (609) 771-7165
Monday–Friday, 8:30 am–5 pm EST
Email: stassd@ets.org
www.ets.org/disabilities

⁶ <http://sat.collegeboard.org/register/for-students-with-disabilities>

⁷ <https://www.collegeboard.org/students-with-disabilities/typical-accommodations/other>

⁸ https://www.ets.org/disabilities/test_takers/request_accommodations/

How do Section 504 and the ADA affect the admissions process?

Both ensure that students with disabilities may not be denied admission to any school on the basis of their disability.⁹ A college or university may not use discriminatory methods to screen out or limit the number of students with disabilities that may apply or be admitted. Furthermore, the actual application cannot ask applicants if they have a disability. Once a student has been admitted, a school may ask whether a student has a disability on a confidential basis, to determine if accommodations may be needed.

Students are not required to disclose their disability if they do not require any accommodations. However, they must self-disclose in order to receive accommodations. Students may choose to discuss their needs privately with the Disability Services Coordinator (or other similarly designated individual) rather than disclose their disability on a form they receive from the school.

Sometimes, a student's disability may affect his or her transcripts or qualifications when applying to college. If this situation applies to you, there may be a few options available. First, some schools allow for extra documents to be submitted with your application; these documents are sometimes referred to as "addenda." An addendum gives you the opportunity to explain why a particular transcript or entrance exam may not be entirely reflective of you as a student or your academic capability. Some examples of when an addendum might be appropriate are:

- An entrance exam score (i.e. GRE, LSAT, SAT) that does not accurately reflect your academic potential
- An exceptionally poor grade in a particular course
- A long gap in your previous school attendance (excluding summer)
- Taking extra time to complete a particular grade in high school

Second, you may consider talking about your disability and how it has affected your academic performance. For example, some students write their college personal statement about a life-changing experience such as having cancer, and how that has affected their career goals. However, some students may not feel comfortable discussing their personal experiences, especially if they do not wish to tell their school that they have a disability.

How am I protected once I start school?

Generally, colleges and universities are required to make reasonable accommodations for students with disabilities.¹⁰ These types of accommodations may also be called academic adjustments.¹¹ The accommodations may include modifications in the school's practices, policies, and procedures, or provision of auxiliary aids and services. An appropriate accommodation is determined through an interactive process based on a student's disability and individual needs. A school is not required to make any adjustments that would fundamentally alter the nature of a service, program, activity, or would cause an undue financial or administrative burden. A school is

⁹ 34 C.F.R. § 104.42(a)

¹⁰ 34 C.F.R. § 104.12

¹¹ <http://www2.ed.gov/about/offices/list/ocr/transition.html#note>

not required to waive or lower essential requirements, nor required to provide accommodations to students who do not disclose that they have a disability.

Examples of reasonable accommodations: Course load modifications, extra time on exams, low-distraction testing areas, priority registration, note-taker services, access to adaptive technology, transportation

All school programs, including extracurricular activities, must be accessible to students with disabilities.¹² Further, if a college offers housing, it must provide convenient and accessible housing to students with disabilities who need it. The housing must be provided at the same cost as it is for other students,¹³ and must be comparable to the housing provided to other students. A school may not charge a student for accommodations that he or she needs. A school may also not charge its students with disabilities more tuition or program costs than it does for other students.

How do I get a reasonable accommodation or modification from my school?

Most postsecondary educational institutions have an office, or a designated individual such as a Disability Services Coordinator or Access Coordinator, responsible for coordinating accommodations for students with disabilities. Students can obtain information about the school's procedures for requesting accommodations through this office or individual. If you are uncertain about who is responsible for coordinating accommodations, try searching the school's website for "disability services." The information may be listed under "health services," "learning accommodations," "student resources," or "student services." If the school's website does not contain information for students with disabilities, try contacting the Dean of Academic Services, Dean of Student Services, or Admissions Office to find out who is responsible for ADA accommodations.

While you will need to disclose your disability after you are admitted in order to receive accommodations, you can exercise control over when, and to whom, to disclose this information. The Disability Services Office or Coordinator must keep information about your disability confidential and may not discuss your disability, except on a need-to-know basis to provide appropriate accommodations or emergency planning and response. Information about your disability does not go into your school transcript or record.

It is important to request an accommodation as soon as you know you might need one. This will enable you and the school to plan accordingly. Some accommodations may require more time to arrange, and it is generally more costly and more difficult for a school to secure accommodations on short notice. Waiting too long to ask for an accommodation might also mean that your disability affects your performance on a test or project, and poor performance could ultimately result in your receiving a poor grade or having to repeat a class. If the need for an accommodation arises unexpectedly once you have started a program, or if your need for accommodations changes, contact your school's Disability Services Office or Coordinator as soon as possible.

¹² <http://adata.org/faq/what-are-public-or-private-college-universitys-responsibilities-students-disabilities>

¹³ 34 C.F.R. § 104.45

Accommodations are determined through an interactive process so it is helpful to think about what types of accommodations might suit you best and put your request in writing. Try to be as specific as possible so all of your concerns can be addressed properly with an accommodation or modification. In addition, the request should describe how your disability affects your participation in school and how your recommended accommodations can help you.¹⁴ Schools may also differ in the documentation they require to show the need for a reasonable accommodation. Check to see what type(s) of documentation your school requires, and have it ready to submit with your accommodation request.

Example: A signed letter from your treating physician that verifies your disability and functional limitations and suggests accommodations.

Note that your IEP/504 plan may be helpful in demonstrating the type of accommodations you have received in the past but is rarely sufficient documentation by itself.

If your school denies your request for accommodations or you are dissatisfied with the accommodation you receive, you may have access to an appeals process for reconsideration.

What should I do if I feel like my school is discriminating against me?

Sometimes instructors may not be familiar with ADA or Section 504 requirements or may feel that accommodations (such as extra test time) give students with disabilities an unfair advantage. It is the school's responsibility to educate faculty about their legal obligations and to assist them with providing reasonable accommodations.¹⁵

All government-funded schools must have a grievance procedure for addressing discrimination complaints. If your situation cannot be resolved informally or by discussing the matter with the Disability Services Coordinator or point person responsible for ensuring Section 504 and/or ADA compliance, you can follow your school's grievance procedures. One example of a school resource that would explain this information would be your school's student handbook, or you might find this information on your school's website.

If you are unhappy with the result of your schools' grievance procedures or want to pursue an alternative to those procedures, you may file a complaint against your school with the Department of Education by contacting the Office for Civil Rights. Note that you only have 180 days following the date of a discriminatory action to file your complaint.¹⁶

To receive more information about the civil rights of students with disabilities for school purposes, you may contact:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Ave, SW
Washington, D.C. 20202-1100

¹⁴ <http://www.disabilityrightsca.org/pubs/530901.pdf>

¹⁵ <http://www.pacer.org/publications/adaqa/504.asp>

¹⁶ <http://www.pacer.org/publications/adaqa/504.asp>

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

For more information about the ADA and section 504 of the Rehabilitation act, please contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
www.ada.gov
(800) 514-0301 (voice)
(800) 514-0383 (TTY)

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