



Education and the ADA

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ADA Now

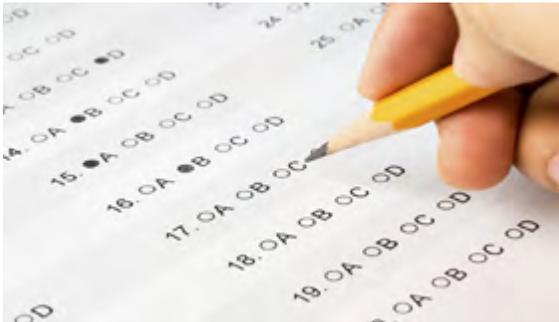
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Testing Accommodations and the ADA: Documentation and Reporting

In September 2015, the U.S. Department of Justice released a guidance covering ADA obligations for standardized tests and other high stakes exams such as the GED, SAT, GRE, LSAT or credentialing, licensing exams. The following covers the guidance on documentation and reporting for these exams. The full guidance is available at [Testing Accommodations](#).



Documentation required by a testing entity in support of a request for testing accommodations must be reasonable and limited to the need for the requested testing accommodations.

Requests for supporting documentation should be narrowly tailored to the information needed to determine the nature of the candidate's disability and the need for the requested testing accommodation. Appropriate documentation will vary depending on the nature of the disability and the specific testing accommodation requested.

Examples of types of documentation include:

- Recommendations of qualified professionals;
- Proof of past testing accommodations;
- Observations by educators;
- Results of psycho-educational or other professional evaluations;
- An applicant's history of diagnosis; and
- An applicant's statement of history regarding testing accommodations.

Depending on the particular testing accommodation request and the nature of the disability, a testing entity may only need one or two of the above documents to determine the nature of the candidate's disability and need for the requested testing accommodation. If so, **a testing entity should generally limit its request for documentation to those one or two items** and should generally evaluate the testing accommodation request based on those limited documents without requiring further documentation.

Past Testing Accommodations on Similar Standardized Exams or High-Stakes Tests.

If a candidate requests the same testing accommodations he or she previously received on a similar standardized exam or high-stakes test, provides proof of having received the previous testing accommodations, and certifies his or her current need for the testing accommodations

Proof of past testing accommodations in similar test settings is generally sufficient to support a request for the same testing accommodations for a current standardized exam or other high-stakes test.

due to disability, then a testing entity should generally grant the same testing accommodations for the current standardized exam or high-stakes test without requesting further documentation. For example, a person with a disability who receives a testing accommodation to sit for the SAT should generally get the same testing accommodation to take the GRE, LSAC, or MCAT.

Formal Public School Accommodations.

If a candidate previously received testing accommodations under an Individualized Education Program (IEP) or a Section 504 Plan, the candidate should generally receive the same testing accommodations for the current standardized exam or high-stakes test. If a candidate shows that he or she

used testing accommodations in the most recent IEP or Section 504 Plan, and certifies current need for the testing accommodations due to disability, then a testing entity should generally grant those same testing accommodations without requesting further documentation from the candidate. This includes students with disabilities who are publicly-placed and funded in private schools under the IDEA or Section 504 placement procedures whose IEPs or Section 504 Plans address the need for testing accommodations.

Example. A student with a Section 504 Plan in place since middle school that includes extended time and a quiet room as testing accommodations requests those same testing accommodations for a high-stakes test, and certifies that he or she still needs those testing accommodations. The testing entity should generally grant this type of request.

First Time Requests or Informal Classroom Testing Accommodations.

An absence of previous formal testing accommodations does not prohibit a candidate from receiving testing accommodations. Candidates who are individuals with disabilities and have never previously received testing accommodations may still be entitled to receive accommodations for a current standardized exam or high-stakes test. In the absence of documentation of prior testing accommodations, testing entities should consider the entirety of a candidate's history, including informal testing accommodations, to determine whether that history indicates a current need for testing accommodations.

Example: A high school senior is in a car accident that results in a severe concussion. The report from the treating specialist says that the student has post-concussion syndrome that may take up to a year to resolve, and that while his brain is healing he will need extended time and a quiet room when taking exams. Although the student has never previously received testing accommodations, he may nevertheless be entitled to the requested testing accommodations for standardized exams and high-stakes tests as long as the post-concussion syndrome persists.

Example: A student with a diagnosis of ADHD and an anxiety disorder received informal, undocumented testing accommodations throughout high school, including time to complete tests after school or at lunchtime. In support of a request for extended time on a standardized exam, the student provides documentation of her diagnoses and its effects on test-taking in the form of a doctor's letter; a statement explaining her history of informal classroom accommodations for the stated disabilities; and certifies that she still needs extended time due to her disabilities. Although the student has never previously received testing accommodations through an IEP, Section 504 Plan, or a formal private school policy, she may nevertheless be entitled to extended time for the standardized exam.

Private School Testing Accommodations.

If a candidate received testing accommodations in private school for similar tests under a formal policy, he or she should generally receive the same testing accommodations for a current standardized exam or high-stakes test. If a candidate shows a consistent history of having received testing accommodations for similar tests, and certifies his or her current need for testing accommodations due to disability, then the testing entity should generally grant those same testing accommodations without requesting further documentation from the candidate.

Example. A private school student received a large-print test and a scribe as testing accommodations on similar tests throughout high school pursuant to a formal, documented accommodation policy and plan. Where the student provides documentation of receiving these testing accommodations, and certifies that he or she still needs the testing accommodations due to disability, a testing entity should generally grant the candidate's request for the same testing accommodations without requesting further documentation.

Qualified Professionals.

Testing entities should defer to documentation from a qualified professional who has made an individualized assessment of the

Reports from qualified professionals who have evaluated the candidate should take precedence over reports from testing entity reviewers who have never conducted the requisite assessment of the candidate for diagnosis and

candidate that supports the need for the requested testing accommodations. Qualified professionals are licensed or otherwise properly credentialed and possess expertise in the disability for which modifications or accommodations are sought. **Candidates who submit documentation (such as reports, evaluations, or letters) that is based on careful consideration of the candidate by a qualified professional should not be**

required by testing entities to submit additional documentation.

A testing entity should generally accept such documentation and provide the recommended testing accommodation without further inquiry.

Reports from qualified professionals who have evaluated the candidate should take precedence over reports from testing entity reviewers who have never conducted the requisite assessment of the candidate for diagnosis and treatment. This is especially important for individuals with learning disabilities because face-to-face interaction is a critical component of an accurate evaluation, diagnosis, and determination of appropriate testing accommodations.

A qualified professional's decision to not provide results from a specific test or evaluation instrument should not prevent approval of a request for testing accommodations when the documentation

provided by the candidate otherwise demonstrates that the candidate has a disability and needs a requested testing accommodation.

For example, if a candidate submits documentation from a qualified professional that demonstrates a consistent history of a reading disorder diagnosis and recommends that the candidate receive double time on standardized exams based on a personal evaluation of the candidate, the testing entity should provide the candidate with double time. **This is true even if the qualified professional does not include every test or**

Flagging policies that impede individuals with disabilities from fairly competing for and pursuing educational and employment opportunities are prohibited by the ADA.

Reporting Test Scores for Test Takers Receiving Disability-Related Accommodations.

Testing entities should report scores from individuals with disabilities who use accommodations in the same way they report scores generally. Testing entities may also not decline to report scores for test-takers with disabilities receiving accommodations under the ADA.

“Flagging” is the policy of annotating test scores or otherwise reporting scores in a manner that indicates the exam was taken with a testing accommodation. Flagging policies that impede individuals with disabilities from fairly competing for and pursuing educational and employment opportunities are prohibited by the ADA. Flagging announces to anyone receiving the exam scores that the test-taker has a disability and suggests that the scores are not valid or deserved. Flagging also discourages test-takers with disabilities from exercising their right to testing accommodations under the ADA for fear of discrimination. Flagging must not be used to circumvent the requirement that testing entities provide testing accommodations for persons with disabilities and ensure that the test results for persons with disabilities reflect their abilities, not their disabilities.

Comparison Chart: Federal Laws that Protect the Rights of Students with Disabilities

	IDEA	Section 504	ADA
Purpose of the Law.	A federal statute whose purpose is to ensure a free and appropriate education (FAPE) for children with disabilities who fall within one of the specific disability categories as defined by the law.	Protects the rights of individuals with disabilities in any agency, school or institution receiving federal funds to provide persons with disabilities to the greatest extent possible to participate with their peers.	A broad civil rights law that prohibits discrimination on the basis of disability in employment, public services, and private business. Title II and III of the ADA cover public and private education, respectively.
Who is Protected?	<p>Covers student with educational disabilities that require individualized education services ages 3-21 or until graduation</p> <ul style="list-style-type: none"> • Specific disability categories are defined in the law include autism, deafness, deaf-blindness, hearing impairments, developmental disabilities, multiple disabilities, orthopedic impairments, or health impairments, serious emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury and visual impairments; 	<p>K-12 and postsecondary students with disabilities.</p> <p>Disability is defined as:</p> <ul style="list-style-type: none"> • Having a physical or mental impairment that substantially limits one or more major life activities or functions. • Having a record of such an impairment • Is regarded as having such an impairment <ul style="list-style-type: none"> • Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. 	<p>K-12 and postsecondary students with disabilities. The civil rights of parents with disabilities to be involved in their children's education is also protected by the ADA.</p> <p>Disability is defined as:</p> <ul style="list-style-type: none"> • Having a physical or mental impairment that substantially limits one or more major life activities or functions. • Having a record of such an impairment • Is regarded as having such an impairment <ul style="list-style-type: none"> • Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.
Services Provided.	Offers educational services that are remedial in addition to services available to all mainstream students (i.e. PE, art, field trips)	Eliminates barriers that would prevent a student from full participation in programs/ services offered to the general school population through reasonable modifications, auxilliary aides and services and removal of facility barriers.	Eliminates barriers that would prevent a student from full participation in programs/ services offered to the general school population through reasonable modifications, auxilliary aides and services and removal of facility barriers.

Funding	Schools receive federal funding to provide educational support services.	Requires that schools not discriminate based on a student's disability and must provide appropriate accommodations, but schools receive no additional financial support to provide support services or auxiliary aids.	Requires that schools not discriminate based on a student's disability and must provide appropriate accommodations, but schools receive no additional financial support to provide support services or auxiliary aids.
Identification of Students Needing Services Documentation	School district is responsible for identifying and evaluating students with disabilities. (ChildFind) Evaluations are the responsibility of the school and are performed at no expense to the student/parent. Parents/Guardians must consent to evaluations and placement decisions.	Elementary and secondary schools: Evaluations are the responsibility of the school and are performed at no expense to the student/parent. College Students: Evaluations/ documentation of disability are student's responsibility and expense. Elementary and secondary schools: Parents/Guardians must consent to evaluations and placement decisions. College Students: Student has responsibility for advocacy and requesting needed accommodations/academic adjustments.	Documentation of disability are the student's responsibility and expense. Student has responsibility for requesting needed accommodations/academic adjustments.
IEP/ Accommodations	Individual Education Program (IEP) developed with parents, teachers and other specialists involved with the student; provides individually designed instruction and accommodations.	Section 504 plan is developed with parents, teachers and other specialists involved with the student; provides for accommodations.	Students must initiate requests for modifications, auxiliary aides or other services. If these modifications are "reasonable" (do not pose an undue hardship, administrative burden or change the nature of the academic program, service or activity) they should be implemented by the institution. Postsecondary schools generally have a Disability Services Office or ADA Coordinator to facilitate this process.

Examples of ADA Accommodations for Parents/Guardians with Disabilities in K-12 Education

Example:

Rita uses a service dog for balance and improved mobility. She recently volunteered to be the room parent for her second grade daughter's holiday parties. She has notified the school that she uses a service dog and that the dog will be wearing a vest so that is easily identifiable as a working service dog. Rita also suggested that she visit the classroom early in the school year to introduce her service dog and explain to the class what a service dog does as well as how to treat a working service dog.

Response:

Schools should follow the same guidelines for service dogs that are required of any other Title II entity, which is to allow the use of a service dog by a visiting parent/guardian unless doing so would pose an undue hardship or direct threat to health and safety. School officials may ask whether a dog is a service dog and what tasks the dog performs to assist Rita, but they cannot require proof of certification or training. The school could make certain that no child in the classroom has severe allergies to dogs in order to determine if there might be a direct threat. (Direct threat requires a high threshold of proof and must be based on actual evidence and fact, not assumptions of what might happen.)

Example:

Kyle experiences severe anxiety and agoraphobia. Usually these conditions are managed, but recently he has experienced difficulty in crowded situations. He wants to participate in "back to school night" and meet his child's teacher. He has requested meeting with the teacher and seeing the classroom before the event officially begins to avoid being a crowded room or hallway.

Response:

This parent has requested a reasonable modification in school procedures in order to participate fully in his child's education. Under the ADA, the school could ask for minimal documentation from Kyle's physician or therapist regarding his disability and need for accommodation. However, the school could choose to provide the accommodation without any documentation of disability. Also, if the parent has provided documentation of a need for an accommodation in the past, then documentation should not be required each time there is an accommodation request.

Example:

Trey is blind and uses screenreader software. He requests an electronic copy of his son's school schedule and class syllabus as well as electronic copies of any other materials and notices that are provided to parents.

Response:

Parents have the right under the ADA to effective communication when needed to participate fully in their children's education. This includes alternate formats and auxiliary aides and services such as interpreters. **Note:** Since it is readily apparent that the parent is blind, the school should not require any type of documentation or evaluation to "prove" that he has a disability covered by the ADA.

Example:

Monique's daughter is in a high school advanced art class. The school has a display of several art pieces including Monique's. Monique is a wheelchair user and the art display is on the second floor of the high school. There is no elevator or accessible route to the second floor of the building.

Response:

Even if it is not financially or technically feasible to install an elevator, public schools still have a **program access** responsibility to provide access to services and activities. The school could consider moving the art display to the first floor permanently or even temporarily for a parent viewing. If some pieces cannot be moved, then a video of the area may also be an alternative.

ADA Obligations of Public K-12 Education

Public schools are covered under Title II of the ADA . As Title II entities they have an obligation to ensure all programs, activities and services are accessible and usable to people with disabilities. This includes students, parents, staff, and volunteers. Public events such as football games or plays must also be accessible to attendees with disabilities.

In order to meet Title II obligations, public schools:

May not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability.

▶ Tanya is a high school student and has Down's Syndrome. She has been denied the opportunity to try out for several parts in the all-school play because she is a "special education" student. **Tanya has been denied the opportunity to participate equally with other students.**

Provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.

▶ Michelle is a good swimmer but needs a pool lift to get in and out of the pool. She wants to take an intermediate swim class for high school P.E. credits. **Michelle should be able to take the class with her peers as there is no reason for her to take an "adaptive PE" class.**

Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities.

▶ All students with seizure disorders or a history of seizures are denied access to Career Center equipment. **This decision should be made on a case by case basis** as some student's may have seizures well controlled with medication, are aware of seizures well before they happen or have seizures that would not affect the use of many types of equipment.

Eliminate requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification.

▶ The application for school volunteers requires a driver's license number even though volunteering involves no driving duties. **People with disabilities who cannot drive should be able to provide an alternative ID.**

Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

▶ Kyle is a middle school student with diabetes. His school has a "no food" in the classroom or hallways policy, but modifies the policy for Kyle if he needs to eat a quick snack due to low blood sugar.

Furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.

▶ Terrence is legally blind and his son is in elementary school. He requests that classroom reports, assignments, notes, etc. be sent to him electronically so he can use a screenreader to 'read' the information. **The school would be required to provide this auxilliary service to ensure Terrence has access to the same information as other parents.**

May not charge fees on individuals with disabilities to cover the costs of making services, programs and activities accessible.

▶ Rory uses school provided Voice Activated Software to write papers. His family recieves a bill from the school for use of the software. **The school district may not pass along the cost of providing the software as it is part of their obligation to provide a Free and Appropriate Education (FAPE).**

Program Access

A school district's services, programs, or activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. Access to programs must not be denied because facilities are inaccessible. This standard, is known as "program accessibility". Often, the most efficient way to meet the program access obligation is to remove structural barriers. Public entities, however, are not necessarily *required* to make each of their existing facilities accessible. They may also use other means of providing access to services and activities to meet the program access requirement.

Integrated Settings

A major provision of the ADA is equal participation of individuals with disabilities in mainstream society. In educational settings this means students with disabilities should be integrated into services and activities to the full extent possible. Separate programs, however are permitted when necessary to provide equal opportunity to education, but they must be appropriate for the individual with a disability.

Sometimes providing alternative means to program access and providing services in an integrated setting come into conflict. Schools should make every effort possible to ensure that alternative methods of providing program access do not result in unnecessary segregation of the individual with a disability.

Undue Burden, Direct Threat and Fundamental Nature of the Program

School districts are required to meet the Title II obligations outlined in this document. However, they are **not required** to take actions that are **undue burdens financially** (based on entire operating budget) or **administratively**. Districts are also not required to take actions or make modifications to policy that pose a **threat to the health and safety** of other students.

Finally, school districts do not have to take actions that would change the **fundamental nature of a program**. For example, the school newspaper would not have to make modifications for students that would result in changing the fundamental nature of the program which is to develop and produce a newspaper.

Examples of Providing Program Access When Facilities are Inaccessible.

Relocating a service to an accessible facility, e.g., moving a classroom from the third floor to the first floor of a building.

Providing an aide or personal assistant to enable an individual with a disability to obtain the service.

Providing benefits or services at an individual's home, or at an alternative accessible site.

Through the use of equipment or technology.

NOTE:

Program access by alternate means applies **only** to **existing** facilities. New facilities, renovations, and alterations must meet 2010 ADA Standards for Accessible Design.

Requests for Academic Adjustments

Post-secondary institutions are required to provide academic adjustments or modifications when needed for students to effectively participate in an educational program or service. Modifications should be provided if they are “reasonable”, that is, they do not cause an undue financial hardship, administrative burden or change the fundamental nature of the educational program. Institutions are also not required to provide modifications that would cause a direct threat to health and safety.

Students’ Responsibility

It is the **student’s responsibility to identify** himself or herself as a person with a disability and request accommodations.

This is generally done through the Disability Services Office or during the enrollment process.

Students are responsible for getting required documentation.

They are financially responsible for required assessments, evaluation, medical documentation, etc.

It is the student’s responsibility to request the type of accommodations needed. The student may work with the Disability Services office and instructors to determine the best and/or most effective way to meet accommodation needs.

If an accommodation is not working, let your school know as soon as possible. Do not wait until a course or activity is completed. An institution is not obligated to make exceptions to grades or academic policy if accommodations are not requested for known disabilities.

Postsecondary Institutions’ Responsibility

Students are not required to disclose disability prior to enrollment.

They may disclose disability and request accommodations at any time.

Colleges should have clear and timely procedures in place to consider and provide accommodations.

Institutions may set their own requirements as long as reasonable and comply with Section 504/ADA.

Less documentation should be necessary when disability is obvious (use of wheelchair, blindness, etc.)

Postsecondary institutions must consider each accommodation request on a case-by-case basis.

Failure to obtain agreement from a professor/instructor is not a basis for denying an accommodation if the accommodation meets the criteria for a “reasonable modification”.

If a student reports an accommodation is not effective, then the school and student should continue to work together to find an accommodation that is effective and “reasonable”.

For instance, if a student requests assistive software to complete coursework, but then finds the software does not work well with required documents, websites, etc.; the student has the right to request an alternative accommodation.

Common Examples of Modifications:

- Time and a half to double time on examinations.
- Moderately reduced course loads.
- Extra time to complete course loads to the extent curricular continuity is not impaired.
- Limited leaves of absence for medical treatment and recovery.
- Registration assistance.
- Assistance in applying for financial aid.
- Classroom modifications (preferential seating, taping, and note-taking assistance).
- Priority in housing for students who need a single or large room.
- Priority in parking for students with mobility impairments and certain psychological disabilities.
- Long-term leaves of absence.
- Reduced participation and classroom attendance.
- Course substitution or waiver.
- Auxiliary aides and services for effective communication such as interpreters, large print, and digital formats.

Accommodation denials should never be based on:

- ▶ Unsubstantiated or stereotypical assumptions about a disability. For example, people with seizure disorders always pose a safety risk.
- ▶ A faculty member or staff deciding a student doesn't have a disability regardless of documentation from a qualified professional.

Accommodations may be considered “unreasonable” when:

- ▶ They would fundamentally alter the nature of a course or program. Example: Student seeking a teaching certificate not completing classroom field experience.
- ▶ The request would lower essential academic or technical standards.
- ▶ The accommodation would pose a direct threat to the health and/or safety to the student or others.
- ▶ The accommodation would be too costly or cause an administrative hardship. **Note:** Decisions regarding cost must be based on the overall operating budget.

\$Financial Responsibility

- ▶ Institutions cannot charge students for costs associated with providing a reasonable modification.
- ▶ However, institutions can help students use third parties such as vocational rehabilitation to pay for modifications

Resources/ACTCP Updates

Education Resources

[AHEAD](#) (Association on Higher Education and Disability)

[CATEA Grade Project](#)

Georgia Tech Research on Accessible Distance Learning:
Provides numerous resources for accessible distance learning including online courses and fact sheets.

[Service Dogs in Post Secondary Education Settings](#)

(Archived Webinar from Great Lakes ADA Audio Series)

[Transition of Students with Disabilities to Postsecondary Education](#)

[Questions and Answers on Disability Discrimination under Section 504 and Title II](#)

[Frequently Asked Questions About Section 504 and the Education of Children with Disabilities](#)

[Meeting the Communication Needs of Students with Hearing, Vision or Speech Disabilities](#)

[Empowering Rural Students with Disabilities Through Assistive Technology](#) SEDL: Affiliate of American Institutes for Research

[PACER Center](#) (Parent Advocacy Coalition for Educational Rights) www.pacer.org

[Building the Legacy: IDEA 2004](#)
U.S. Dept. of Education

ACTCP Updates

Join us in San Diego!

ADA Coordinator Conference

January 21-22 San Diego, CA

Hyatt Regency Mission Bay Spa & Marina

[Conference Details & Registration](#)

Member Discussion Forums

Do you have an ADA question that you wish you could discuss with others in the same position? Forums are now available for ACTCP members to ask and discuss issues with other members. The forum link will appear on the main menu bar once you have logged into the ACTCP website.



ACTCP welcomes new staff member, Espoir Mabengo. Espoir assists Program Director, Mike Edwards in administrative duties of the program, answering members' questions and planning and implementing ADA Coordinator Conferences.

National ADA Symposium

June 19-22 Denver, Colorado



Save the date to attend the premier conference on the ADA.

Earn foundation and elective credits from 72 breakout sessions.

Get current information, best practices and solutions you can use in your work and community.

Registration opens January 4, 2016.
Details: www.adasymposium.org