



# Section 504 and Education



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Discrimination against students on the basis of disability is prohibited in education programs or activities that receive Federal financial assistance.

**Section 504 of the Rehabilitation Act of 1973** requires that: *No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance ....*

The Office for Civil Rights of the Department of Education (OCR) enforces the law prohibiting specific discriminatory activities, including the discriminatory assignment of students with disabilities to segregated classes or facilities. The law applies to elementary and secondary as well as postsecondary schools. In elementary and secondary schools, students with disabilities may be assigned to separate facilities or courses of special education only when such placement is necessary to provide them equal educational opportunity and when the separate facilities and services are comparable to other facilities and services.

For more information on Section 504 and the U.S. Department of Education, Office for Civil Rights (OCR), read the following publications or contact the [OCR enforcement](#) office serving your area.

- [Office for Civil Rights: Ensuring Equal Access To Quality Education](#)
- [Impact of the Civil Rights Laws](#)
- [Section 504 Regulation of the Rehabilitation Act of 1973](#)
- [Auxiliary Aids and Services for Postsecondary Students with Disabilities: Higher Education's Obligations Under Section 504 and Title II of the ADA](#)
- [Placement of School Children with Acquired Immune Deficiency Syndrome](#)
- [Student Placement in Elementary and Secondary Schools and Section 504 and Title II of the Americans with Disabilities Act](#)
- [The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973](#)
- [Other OCR Products and Publications](#)



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# Enforcement Offices



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In addition to the U.S. Department of Education [OCR national headquarters](#), there are four divisions, consisting of 12 enforcement offices. Most of the OCR critical enforcement activities take place in these offices. The core organizational unit within OCR is the case resolution team. These groups of attorneys, investigators, and support staff work to resolve, promptly and appropriately, cases of illegal discrimination. The following list includes contact information for the twelve OCR enforcement offices.

**Locate the office serving your area by selecting the state or territory where you live.**

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## Eastern Division

Serving, **Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont**

Office for Civil Rights, Boston Office  
U.S. Department of Education  
J. W. McCormack Post Office and Courthouse  
Room 707, 01-0061  
Boston, MA 02109-4557  
(617) 223-9662; FAX (617) 223-9669; TDD (617) 223-9695  
Email: [OCR\\_Boston@ed.gov](mailto:OCR_Boston@ed.gov)

Serving, **New Jersey, New York, Puerto Rico, Virgin Islands**

Office for Civil Rights, New York Office  
U. S. Department of Education  
75 Park Place, 14th Floor  
New York, NY 10007-2146  
(212) 637-6466; FAX (212) 264-3803; TDD (212) 637-0478  
Email: [OCR\\_NewYork@ed.gov](mailto:OCR_NewYork@ed.gov)

Serving, **Delaware, Maryland, Kentucky, Pennsylvania, West Virginia**

Office for Civil Rights, Philadelphia Office  
U.S. Department of Education  
Wanamaker Building, Suite 515  
100 Penn Square East  
Philadelphia, PA 19107  
(215) 656-8541; FAX (215) 656-8605; TDD (215) 656-8604  
Email: [OCR\\_Philadelphia@ed.gov](mailto:OCR_Philadelphia@ed.gov)

## Southern Division

Serving, **Alabama, Florida, Georgia, South Carolina, Tennessee**

Office for Civil Rights, Atlanta Office  
U.S. Department of Education  
61 Forsyth St. S.W., Suite 19T70  
Atlanta, GA 30303-3104  
(404) 562-6350; FAX (404) 562-6455; TDD (404) 331-7236  
Email: [OCR\\_Atlanta@ed.gov](mailto:OCR_Atlanta@ed.gov)

Serving, **Arkansas, Louisiana, Mississippi, Oklahoma, Texas**

Office for Civil Rights, Dallas Office  
U.S. Department of Education  
1999 Bryan Street, Suite 2600  
Dallas, TX 75201  
(214) 880-2459; FAX (214) 880-3082; TDD (214) 880-2456  
Email: [OCR\\_Dallas@ed.gov](mailto:OCR_Dallas@ed.gov)

Serving, **North Carolina, Virginia, Washington, DC**

Office for Civil Rights, District of Columbia Office  
U.S. Department of Education  
1100 PA. Ave, N.W., Rm. 316  
P.O. Box 14620  
Washington, D.C. 20044-4620  
(202) 208-2545; FAX (202)-208-7797; TDD (202) 208-7741  
Email: [OCR\\_DC@ed.gov](mailto:OCR_DC@ed.gov)

## Midwestern Division

Serving, **Illinois, Indiana, Minnesota, Wisconsin**

Office for Civil Rights, Chicago Office  
U.S. Department of Education  
111 N. Canal Street, Suite 1053  
Chicago, IL 60606-7204  
(312) 886-8434; FAX (312) 353-4888; TDD (312) 353-2540  
Email: [OCR\\_Chicago@ed.gov](mailto:OCR_Chicago@ed.gov)

Serving, **Michigan and Ohio**

Office for Civil Rights, Cleveland Office  
U.S. Department of Education  
600 Superior Avenue East  
Bank One Center, Room 750  
Cleveland, OH 44114-2611  
(216) 522-4970; FAX (216) 522-2573; TDD (216) 522-4944  
[OCR\\_Cleveland@ed.gov](mailto:OCR_Cleveland@ed.gov)

Serving, **Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota**

Office for Civil Rights, Kansas City Office  
U.S. Department of Education  
10220 North Executive Hills Boulevard  
8th Floor, 07-6010  
Kansas City, MO 64153-1367  
(816) 880-4200; FAX (816) 891-0644; TDD (816) 891-0582  
Email: [OCR\\_KansasCity@ed.gov](mailto:OCR_KansasCity@ed.gov)

## Western Division

Serving, **Arizona, Colorado, Montana, New Mexico, Utah, Wyoming**

Office for Civil Rights, Denver Office  
U.S. Department of Education  
Federal Building, Suite 310, 08-7010  
1244 Speer Boulevard  
Denver, CO 80204-3582  
(303) 844-5695; FAX (303) 844-4303; TDD (303) 844-3417  
Email: [OCR\\_Denver@ed.gov](mailto:OCR_Denver@ed.gov)

Serving, **California**

Office for Civil Rights, San Francisco Office  
U.S. Department of Education  
Old Federal Building, 09-8010  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102-4102  
(415) 556-4275; FAX (415) 437-7786; TDD (415) 437-7783  
Email: [OCR\\_SanFrancisco@ed.gov](mailto:OCR_SanFrancisco@ed.gov)

Serving, **Alaska, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, Trust Territory of the Pacific Islands**

Office for Civil Rights, Seattle Office  
U.S. Department of Education  
915 Second Avenue  
Room 3310, 10-9010  
Seattle, WA 98174-1099  
(206) 220-7900; FAX (206) 220-7887; TDD (206) 220-7907  
Email: [OCR\\_Seattle@ed.gov](mailto:OCR_Seattle@ed.gov)

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Last modified 10/25/2000 ([pas](#))

# U.S. Department of Education

## Office for Civil Rights: Ensuring Equal Access To Quality Education

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### Responsibilities of the Office for Civil Rights

The Office for Civil Rights (OCR), in the U.S. Department of Education, is a law enforcement agency. It is charged with enforcing the federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance. These laws are as follows:

Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination)

Title IX of the Education Amendments of 1972 (prohibiting sex discrimination)

Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination)

Age Discrimination Act of 1975 (prohibiting age discrimination)

Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination by public entities, including public school districts, public colleges and universities, public vocational schools, and public libraries, whether or not they receive Federal financial assistance)

The civil rights laws represent a national commitment to end discrimination in educational programs. The laws also work toward promoting the Department's mission -- ensuring equal access to education and promoting educational excellence throughout the nation. Most of OCR's activities take place in OCR enforcement offices around the country. In Washington, D.C., the Office of the Assistant Secretary for Civil Rights provides overall leadership and coordination.

### The Laws Apply to Educational Institutions

The civil rights laws extend to most educational institutions in the nation. This is because most of them receive some type of federal financial assistance. This means that the civil rights laws cover:

almost 15,000 school districts

more than 3,600 colleges and universities

about 5,000 proprietary organizations, such as training schools for truck drivers and cosmetologists

thousands of libraries, museums, vocational rehabilitation agencies, and correctional facilities

### The Laws Apply to Students and Employees

The civil rights laws protect large numbers of students attending, or applying to attend, our educational institutions. The laws protect:

about 52.7 million students attending elementary and secondary schools

about 14.6 million students attending our colleges and universities

The laws also protect, in certain situations, persons who are employed, or seeking employment, at educational institutions.

### OCR Receives Discrimination Complaints from the Public

One important way OCR carries out its responsibilities is by resolving complaints filed by students, parents and others. The person or organization filing the complaint need not be a victim of the alleged discrimination but may complain on behalf of another person or group. Generally, OCR will take action only with respect to those complaints that have been filed within 180 calendar days of the last act of alleged discrimination, or where the complaint alleges a continuing discriminatory policy or practice.

OCR receives approximately 5,000 complaints each year. The complaints OCR receives involve some of the most important issues affecting equal access to quality education.

Under Title VI -- race and national origin discrimination -- complaints include such issues as:

ability grouping

access to alternative-language services by English-language-learners

disciplinary practices

student assignment policies, including assignment to gifted and talented programs

interdistrict student transfers

school desegregation

racial harassment

student housing on college campuses

academic grading

Under Title IX -- sex discrimination -- complaints include such issues as:

sexual harassment

equal opportunity in interscholastic or intercollegiate athletics

treatment of students who are pregnant

admission to postsecondary institutions

Under Section 504 and Title II -- disability discrimination -- complaints include such issues as:

accessibility of school facilities and programs

appropriate special education services

evaluation and placement of students who may need special education services

teaching students in the least restrictive environment consistent with their educational needs

suspension and expulsion of students with disabilities

academic adjustments and modifications

auxiliary aids for students with impaired sensory, manual, or speaking skills

## **How OCR Resolves Complaints**

OCR's primary objective in complaint resolution is to resolve the complainant's allegations of discrimination promptly,

fairly, and appropriately. OCR has found that the best way to resolve problems is a collaborative approach among students, parents, community groups, state education agencies, and schools and colleges. A variety of tools are used for resolving complaints. These include resolution between parties, agreements for corrective action, and enforcement. Any approach, or combination of approaches, may be initiated at any time and multiple approaches may be used to resolve any complaint. This flexible approach allows OCR to:

provide timely and effective intervention at the beginning of the complaint process

focus on achieving positive change

make students, parents, and school officials central to the resolution of their own complaints

## **OCR Carries Out Compliance Reviews**

Not all illegal discrimination can be stopped or remedied by responding to complaints that arrive from the public. Agency-initiated cases, typically called "compliance reviews," permit OCR to target resources on compliance problems that appear particularly acute, or national in scope, or which are newly emerging.

Targeted compliance reviews maximize the impact of OCR's resources and balance the enforcement program. Compliance reviews assure that vulnerable groups, such as the very poor or non-English speaking individuals, who may be less aware of the laws, have their civil rights protected. OCR's experience also shows that careful targeting of compliance reviews nearly always results in recipients making policy or program changes that benefit large numbers of students -- unlike complaints where remedies may benefit only the complaining party.

Selection of reviews is based on various sources of information, including survey data and information provided by complainants, education groups, media, and the public. OCR conducts compliance reviews on such issues as:

minority students in special education and low track courses

access to programs for limited-English proficient students

fair student assessment practices

access to gifted and talented and other advanced placement courses

racial harassment

desegregation in higher education and in elementary and secondary school systems

OCR recognizes that federal, state, and local education agencies, as well as parents and other interested parties, share a common goal of providing equal opportunity and access to high-standards education. OCR combines its expertise with these partners and stakeholders to come up with effective solutions, including educationally sound remedies that increase educational opportunities for all students.

## **OCR's Technical Assistance Helps People and Institutions**

The aim of OCR's technical assistance efforts is to prevent violations of the civil rights laws. This is accomplished by helping recipients comply with the laws and helping beneficiaries understand their rights. In view of the millions of students protected by the civil rights laws, OCR recognizes that its efforts alone are

insufficient to stop illegal discrimination in education. Students, parents, and educators must have the knowledge and skills to prevent illegal discrimination from occurring in the first place.

OCR provides assistance to enable institutions to come into compliance during the complaint resolution process or during a compliance review. In addition, OCR also conducts a broad program of proactive technical assistance outreach through such activities as onsite consultations, conference participation, training classes, workshops and meetings, as well as through written information and tens of thousands

of telephone conversations annually. OCR continually compiles strategies and programs that hold promise in addressing civil rights concerns. Also, many OCR offices have developed customer service teams to be more responsive to our partners and stakeholders and members of the public. OCR has established a home page, which also is linked to the Department's world wide web site at <http://www.ed.gov/offices/OCR>.

### **Impact of the Civil Rights Laws**

Enforcement of the federal civil rights laws have helped bring about profound changes in American education and improved the educational opportunities of millions of students. Many barriers that once prevented individuals from freely choosing the educational opportunities and careers they would like to pursue have been brought down. For example, we are witnessing a growing participation of minority students in Advanced Placement (AP) classes. Many school systems are now making it possible for students who are not proficient in English to participate effectively in their educational programs. Many more students with disabilities are now able, with the provision of supplementary aids and services, to participate in regular education classes. Female and male students are taking algebra, geometry, calculus, biology, and chemistry in about the same proportion. There also has been a dramatic increase in the number of women entering traditionally male-dominated professional fields.

The civil rights laws have opened the doors to our schools and classrooms, our auditoriums, athletic fields, and arenas. In response, people from the many diverse backgrounds that represent today's America are coming through the doors, on the way to becoming our future leaders in business, government, science, arts, and education.

### **Challenges Ahead**

While we recognize the progress brought about by enforcement of the civil rights laws, there are still persons in the nation illegally denied full educational opportunity. There are still policies and practices that deny challenging courses and programs to persons with disabilities, to females, to older Americans, and to racial and language minorities. A commitment to the goals of the civil rights compliance program -- equal access, educational excellence, and high standards for **all** students -- is an investment that must be made if we are to secure America's future.

### **Contacting OCR**

If you would like more information about the laws enforced by the Office for Civil Rights, how to file a complaint, or how to obtain technical assistance, you may want to contact the [enforcement office](#) that serves your state or territory. For further information, please contact our [Customer Service Team](#) at the toll free number: 1-800-421-3481.

Revised May 1999



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# Impact of the Civil Rights Laws

## U.S. Department of Education Office for Civil Rights January 1999

### INTRODUCTION

In the last three decades, Congress has enacted a number of civil rights statutes prohibiting discrimination in educational programs and activities receiving federal financial assistance. These statutes are: Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination); Title IX of the Education Amendments of 1972 (prohibiting sex discrimination); Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination); Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination by public entities); and the Age Discrimination Act of 1975 (prohibiting age discrimination).

The civil rights laws represent a national commitment to end discrimination in education. The laws mandate bringing the formerly excluded into the mainstream of American education. And these laws also are designed to help deliver the promise that every individual has the right to develop his or her talents to the fullest.

The federal civil rights laws have helped bring about profound changes in American education and improved the educational opportunities of millions of students. Many barriers that once prevented minorities, women, individuals with disabilities, and older persons from freely choosing the educational opportunities and careers they would like to pursue have been eliminated. As we continue to work for the effective enforcement of the civil rights laws, it is important that we also look at the impact of the laws on students facing discrimination who attend our elementary and secondary schools and colleges and universities.

This fact sheet was undertaken to provide useful information about the impact of the civil rights laws, along with other efforts at the national, state, and local level, in bringing about equal access and opportunity for **all** students.

There is no single research or data base that provides comprehensive information on the impact of the civil rights laws. However, there is information from a variety of sources that indicates progress in removing barriers to equal educational opportunity.

### Removing Racial Barriers to Educational Opportunity

- Dropout rate of African American students (age 16 to 24) declined from 20.5 percent in 1976 to 13.0 percent in 1996. [*Dropout Rates in the United States: 1996*, table A23, page 58.]
- High school graduation rates among African Americans have increased substantially in the past 20 years and drawn much closer to the high school graduation rate of whites. [Bureau of the Census, *Educational Attainment in the United States: March 1997* (unpublished), table A-2, page A-9.]
- In 1990, 66.2 percent of African Americans age 25 and over had completed high school. In 1997, 74.9 percent of African Americans age 25 and over had completed high school. [*Ibid.*]
- Overall student participation in advanced placement (AP) classes has increased dramatically since 1982, rising from 140,000 to 400,000 in 1997 high school graduates. Especially impressive is the growth in participation of minority students. In 1997, the percent of AP candidates who were minority students was 29 percent, compared to 11 percent in 1982. [Secretary Richard Riley: *Second Annual State of American Education Address*, February 1, 1995; and *News from the College Board*, August 26, 1997, page 7.]
- Student performance on the National Assessment of Educational Progress (NAEP) has increased in science, math, and reading, recovering most of the ground lost in the 1970s. The gap in performance between white and African American students has narrowed substantially since the 1970s. [*NAEP 1996 Trends in Academic Progress*, pages V, XIV, and XV.]
- Minority participation on the Scholastic Assessment Test (formerly the Scholastic Aptitude Test, or SAT) has increased. In 1998, minority students were 33 percent of all graduating seniors who took the SAT, compared to 23 percent in 1988. [*News from the College Board*, September 20, 1988, and September 1, 1998.]
- Math and verbal SAT scores increased across almost all race/ethnic groups from 1987 to 1998. For example, the average SAT score of Asian American students increased 19 points on the verbal section and 21 points on the mathematics section. The average score for American Indian students increased 9 points on the verbal section and 20 points on the mathematics section. The average score for African American students increased 6 points on the verbal section and 15 points on the mathematics section. All of these increases exceeded those achieved by white students. [*News from The College Board*, August 26, 1997; and *1998 College-Bound Seniors, National Report*.]
- Total minority enrollment at colleges and universities increased 61 percent between fall 1986 and fall 1996. [*Enrollment in Higher Education: Fall 1986 Through Fall 1994*, table 2, page 5; and unpublished data.]
- Since 1990, the number of Latino students enrolled in higher education increased by 47 percent; the number of African American students increased by 20 percent; and the number of American Indian students increased by 30 percent. [*Ibid.*]
- 60 percent of African American high school graduates (class of 1997) enrolled in college (2-year and 4-year colleges) immediately after their high school graduation. A decade earlier, only 52 percent of African American high school graduates went on to college without a break in their education. [*Digest of Education Statistics*, 1997 edition, table 183, page 194; and news release from the Bureau of Labor Statistics, May 1, 1998, page 4.]
- 65 percent of Latino high school graduates (class of 1997) enrolled in college (2-year and 4-year colleges) immediately after their high school graduation. A decade earlier, about 45 percent of Latino high school graduates went on to college without a break in their education. [*Ibid.*]
- 10.5 percent of all college students (undergraduate, graduate, and professional education) were

African American in fall 1996. Four years earlier, only 9.6 percent of all college students were African American. [unpublished data from the survey of *Fall Enrollment in Postsecondary Education*, 1996.]

- 8.1 percent of all college students (undergraduate, graduate, and professional education) were Latino in Fall 1996. Four years earlier, only 6.6 percent of all college students were Latino. [*Ibid.*]
- The percentage of African Americans age 25 and over who held bachelor's degrees increased from 11.3 percent in 1990 to 13.3 percent in 1997. [Bureau of the Census, *Educational Attainment in the United States: March 1997* (unpublished), table A-2, page A-9.]
- The number of bachelor's degrees in engineering awarded to African Americans increased 75 percent from 1981 to 1996, while total bachelor's degrees awarded in engineering only increased by 3.1 percent. [*Digest of Education Statistics*, 1985-86 edition, table 116, page 134; and *Degrees and Other Awards Conferred by Degree-Granting Institutions: 1995-96*, table 4b, page 15.]
- African American students were awarded 1,563 doctorates in 1996. This represents a 48 percent increase since 1987. [*Digest*, 1997 edition, table 271, page 301; and *Degrees and Other Awards*, table 4d, page 21.]

## Removing Gender Barriers to Educational Opportunity

- A similar percentage of high school females and males (class of 1994) had taken algebra (68 percent for females; 65 percent for males), geometry (72 percent for females; 68 percent for males) and calculus (9 percent). [*The Condition of Education*, 1996 edition, page 100.]
- Average score of females on the mathematics section of the Scholastic Assessment Test increased 23 points between 1982 and 1998. During the same period, the average score of male students increased 15 points. [*News from the College Board*, September 1, 1998.]
- The Third International Mathematics and Science Study (1996) reported no significant differences in scores of American eighth grade female and male students. [Third International Mathematics and Science Study, *Mathematics Achievement in the Middle School Years*, page 52; and *Science Achievement in the Middle School Years*, page 33.]
- The number of females participating in high school sports increased from 294,000 in 1971 to over 2.4 million in 1996-97. Today, 39 percent of all high school athletes are females. [Data obtained from National Federation of State High School Associations, published in *Federal Register*, December 11, 1979, vol. 44, page 71419; and *New York Times*, December 16, 1996.]
- Today, more than 125,000 women participate in intercollegiate athletics. This represents a fourfold increase since 1971, when 31,852 women participated in intercollegiate athletics. [*Intercollegiate Athletics: Status of Efforts to Promote Gender Equity* (U.S. General Accounting Office/HEHS-97-10, October 25, 1996), page 1; *Federal Register*, December 11, 1979, page 71419; and NCAA Study, April 15, 1998.]
- In 1972, women constituted 15 percent of college student athletes. By 1992, women constituted 34 percent of college student athletes. Since then, there has been an annual rate of increase of about 1 percent so that by 1995 women's participation rate had increased to 37 percent. [*Intercollegiate Athletics*, page 13]
- Average number of women's teams increased 6 percent from 1992-1996 in all three National Collegiate Athletic Association (NCAA) divisions. In NCAA Division I-A, 40 percent of colleges added a women's team in the last three years and 59 percent of colleges planned to add at least one women's team in the next three years. [*Op. cit.*, pages 13, 28, and 31.]
- By 1997, 26 percent of young men and 29 percent of young women had earned at least a bachelor's degree. In 1970, about 13 percent of young women, compared to 20 percent of young men, had earned at least a bachelor's degree. [Bureau of the Census, *op. cit.*, table 18, pages A-10 and A-11.]
- We are witnessing a dramatic increase in the number of women entering traditionally male dominated professional fields. [*Digest*, 1997 edition, table 260, page 290.]
- When Title IX was enacted in 1972, 9 percent of professional degrees awarded in medicine went to women; in 1996, 41 percent of M.D. degree recipients were women. [*Ibid.* and *Degrees and Other Awards Conferred by Degree-Granting Institutions: 1995-96*, table 1a, page 8.]
- In 1972, women earned only 1 percent of professional dental degrees - in 1996, women received 36 percent. [*Ibid.*]
- Women in 1996 accounted for 43 percent of professional law degrees, up from 7 percent in 1972. [*Ibid.*]
- Women today earn almost two-thirds of professional degrees awarded in pharmacy and veterinary science. [*Degrees and Other Awards*, table 1a, page 8.]
- In 1971, only 14 percent of doctoral degrees went to women - in 1996 that figure increased to 40 percent. Also, the number of women earning doctorates continues to increase. For example, in 1996, women received 17,811 doctorates compared to 17,540 doctorates in 1995. [*Digest*, table 244, page 261; and *Degrees and Other Awards*, table A-1, page V.]
- There has been a significant increase in women faculty at colleges and universities. In 1972, women constituted 24.5 percent of full-time/part-time faculty. By 1995, women constituted 39.6 percent of full-time/part-time faculty. [*Digest of Education Statistics*, 1975 edition, table 94, page 91; and *Fall Staff in Postsecondary Institutions, 1995*, table B-1a, page B-3.]

## Removing Disability Barriers to Educational Opportunity

- In 1975, over 1 million children with disabilities were excluded from public school. Another 4 million children with disabilities, while attending school, were not receiving educational services they needed - either because their disabilities were undetected or because schools did not offer the services they needed. Virtually no disabled preschoolers received services. [Files of the Office for Civil Rights.]
- Today, 5.6 million children are served under the Individuals with Disabilities Education Act (IDEA). This federal law, along with other federal disability laws, has meant the difference between exclusion and participation, between dependence and independence, between lost potential and learning. [*Nineteenth Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*, 1997, page A-1.]
- In 1984, only one-fourth of students with disabilities were served in regular classrooms for at least

80 percent of the school day. In the 1994-95 school year, 45 percent of students with disabilities, about 2.4 million students, were being served in regular education classes. [*Nineteenth Annual Report*, 1997, page A-46.]

- More than 87 percent of students with speech or language impairments were in regular classes during the 1994-95 school year. The information was collected by state education agencies and reported to the U.S. Department of Education, Office of Special Education Programs. [*Op. cit.*, page A-53.]
- More than 32 percent of students exiting special education graduated from high school with either a diploma or certificate during the 1994-95 school year. The information was collected by state education agencies and reported to the U.S. Department of Education, Office of Special Education Programs. [*Op. cit.*, page A-180.]
- Since the enactment of IDEA in 1975, 90 percent fewer developmentally disabled children are living in institutions. [President Clinton: signing ceremony for Individuals with Disabilities Education Act, June 4, 1997.]
- In 1978, 2.6 percent of full-time/first-time college freshmen reported a disability. In 1996, it increased to 9 percent (more than 140,000). This means the number of persons with disabilities going to college has more than tripled. "Profile of 1996 College Freshmen with Disabilities" Information from HEATH electronic newsletter, American Council on Education/HEATH Resource Center, 1998.]
- In 1996, of full-time/first-time college freshmen reporting a disability, 35 percent reported having a learning disability, compared to 15 percent who reported a learning disability in 1988. [*Ibid.*]
- More than 800,000 students with disabilities, including part-time students with disabilities, are enrolled in all levels of higher education. This represents approximately 6 percent of undergraduate enrollment and 4 percent of graduate and professional enrollment. [*Postsecondary Students with Disabilities: Where Are They Enrolled?* American Council on Education Research Brief Series, vol. 6, #6, 1995.]
- Degree aspirations of students with disabilities are similar to those of students without disabilities. For example, 26 percent of 1996 college freshmen with disabilities planned to obtain a doctorate or professional degree, compared with 28 percent of college freshmen without disabilities. [*College Freshmen with Disabilities: A Statistical Profile*, American Council on Education/HEATH Resource Center, 1995; and "Profile of 1996 College Freshmen with Disabilities: Working Paper" unpublished, American Council on Education/HEATH Resource Center, 1998.]
- Many young people with significant disabilities who were previously thought unemployable are working in competitive jobs as a result of the education they received through enforcement of the federal statutes. This contrasts with the situation in the mid-1970s. At that time, only 33 percent of people with disabilities were employed within 5 years of leaving school. Nearly 60 percent of young men and women with disabilities are now employed. [information obtained from public affairs files of the Office for Civil Rights.]
- The percent of individuals with severe disabilities who held jobs increased from 23.3 percent in 1991 to 26.1 percent in 1994. This represents an increase of about 800,000 jobs. [*Washington Post*, July 26, 1996.]

## Removing Age Barriers to Educational Opportunity

- There were more than three and one-half times as many college students age 35 and over in 1996 as in 1972. [Bureau of the Census, *School Enrollment-Social and Economic Characteristics of Students: October 1996* (unpublished), table A-6, page A-26.]
- The number of students in higher education age 35 and over increased from 783,000 in 1972 to 2,778,000 in 1996. [*Ibid.*]
- In 1972, students age 35 and over comprised 8.6 percent of total enrollment in higher education. In 1996, 18.2 percent of the students were 35 and above. The number of these older students has increased at a faster rate than the enrollment in most other age groups. [*Ibid.*]
- In 1995, students age 40 and above accounted for 10 percent of undergraduate students, 23 percent of graduate students, and 6 percent of professional students. [*Digest*, 1997 edition, table 175, page 185.]
- Older students tend to make better grades than younger students. In 1995-96, 30 percent of undergraduate students age 40 and above received mostly A's in their courses compared with only about 7 percent of students age 23 and below. [*Profile of Undergraduates in U.S. Postsecondary Education Institutions: 1995-96*, table 3.3, page 75.]



Last update March 22, 1999 ([eal](#))

## Title 34--Education

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### CHAPTER I--OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION

#### PART 104--NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

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# Auxiliary Aids and Services for Postsecondary Students with Disabilities

## Higher Education's Obligations Under Section 504 and Title II of the ADA

U.S. Department of Education  
Office for Civil Rights  
Washington, D.C.

Revised September 1998

### Section 504 of the Rehabilitation Act of 1973

In 1973, Congress passed Section 504 of the Rehabilitation Act of 1973 (Section 504), a law that prohibits discrimination on the basis of physical or mental disability (29 U.S.C. Section 794). It states:

No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance . . . .

The Office for Civil Rights in the U.S. Department of Education enforces regulations implementing Section 504 with respect to programs and activities that receive funding from the Department. The Section 504 regulation applies to all recipients of this funding, including colleges, universities, and postsecondary vocational education and adult education programs. Failure by these higher education schools to provide auxiliary aids to students with disabilities that results in a denial of a program benefit is discriminatory and prohibited by Section 504.

Title II of the Americans with Disabilities Act of 1990 (ADA) prohibits state and local governments from discriminating on the basis of disability. The Department enforces Title II in public colleges, universities, and graduate and professional schools. The requirements regarding the provision of auxiliary aids and services in higher education institutions described in the Section 504 regulation are generally included in the general nondiscrimination provisions of the Title II regulation.

### Postsecondary School Provision of Auxiliary Aids

The Section 504 regulation contains the following requirement relating to a postsecondary school's obligation to provide auxiliary aids to qualified students who have disabilities:

A recipient . . . shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

The Title II regulation states:

A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.

It is, therefore, the school's responsibility to provide these auxiliary aids and services in a timely manner to ensure effective participation by students with disabilities. If students are being evaluated to determine their eligibility under Section 504 or the ADA, the recipient must provide auxiliary aids in the interim.

### Postsecondary Student Responsibilities

A postsecondary student with a disability who is in need of auxiliary aids is obligated to provide notice of the nature of the disabling condition to the college and to assist it in identifying appropriate and effective auxiliary aids. In elementary and secondary schools, teachers and school specialists may have arranged support services for students with disabilities. However, in postsecondary schools, the students themselves must identify the need for an auxiliary aid and give adequate notice of the need. The student's notification should be provided to the appropriate representative of the college who, depending upon the nature and scope of the request, could be the school's Section 504 or ADA coordinator, an appropriate dean, a faculty advisor, or a professor. Unlike elementary or secondary schools, colleges may ask the student, in response to a request for auxiliary aids, to provide supporting diagnostic test results and professional prescriptions for auxiliary aids. A college also may obtain its own professional determination of whether specific requested auxiliary aids are necessary.

### Examples of Auxiliary Aids

Some of the various types of auxiliary aids and services may include:

- taped texts
- notetakers
- interpreters
- readers
- videotext displays
- television enlargers
- talking calculators
- electronic readers
- Braille calculators, printers, or typewriters
- closed caption decoders
- open and closed captioning
- voice synthesizers
- specialized gym equipment
- calculators or keyboards with large buttons
- reaching device for library use
- raised-line drawing kits
- assistive listening devices
- assistive listening systems

- telephone handset amplifiers
- telecommunications devices for deaf persons.

Technological advances in electronics have improved vastly participation by students with disabilities in educational activities. Colleges are not required to provide the most sophisticated auxiliary aids available; however, the aids provided must effectively meet the needs of a student with a disability. An institution has flexibility in choosing the specific aid or service it provides to the student, as long as the aid or service selected is effective. These aids should be selected after consultation with the student who will use them.

## Effectiveness of Auxiliary Aids

No aid or service will be useful unless it is successful in equalizing the opportunity for a particular student with a disability to participate in the education program or activity. Not all students with a similar disability benefit equally from an identical auxiliary aid or service. The regulation refers to this complex issue of effectiveness in several sections, including:

Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions.

There are other references to effectiveness in the general provisions of the Section 504 regulation which state, in part, that a recipient may not:

Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others; or

Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others.

The Title II regulation contains comparable provisions.

The Section 504 regulation also states:

[A]ids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

The institution must analyze the appropriateness of an aid or service in its specific context. For example, the type of assistance needed in a classroom by a student who is hearing-impaired may vary, depending upon whether the format is a large lecture hall or a seminar. With the one-way communication of a lecture, the service of a notetaker may be adequate, but in the two-way communication of a seminar, an interpreter may be needed. College officials also should be aware that in determining what types of auxiliary aids and services are necessary under Title II of the ADA, the institution must give primary consideration to the requests of individuals with disabilities.

## Cost of Auxiliary Aids

Postsecondary schools receiving federal financial assistance must provide effective auxiliary aids to students who are disabled. If an aid is necessary for classroom or other appropriate (nonpersonal) use, the institution must make it available, unless provision of the aid would cause undue burden. A student with a disability may not be required to pay part or all of the costs of that aid or service. An institution may not limit what it spends for auxiliary aids or services or refuse to provide auxiliary aids because it believes that other providers of these services exist, or condition its provision of auxiliary aids on availability of funds. In many cases, an institution may meet its obligation to provide auxiliary aids by assisting the student in obtaining the aid or obtaining reimbursement for the cost of an aid from an outside agency or organization, such as a state rehabilitation agency or a private charitable organization. However, the institution remains responsible for providing the aid.

## Personal Aids and Services

An issue that is often misunderstood by postsecondary officials and students is the provision of personal aids and services. Personal aids and services, including help in bathing, dressing, or other personal care, are not required to be provided by postsecondary institutions. The Section 504 regulation states:

Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

Title II of the ADA similarly states that personal services are not required.

In order to ensure that students with disabilities are given a free appropriate public education, local education agencies are required to provide many services and aids of a personal nature to students with disabilities when they are enrolled in elementary and secondary schools. However, once students with disabilities graduate from a high school program or its equivalent, education institutions are no longer required to provide aids, devices, or services of a personal nature.

Postsecondary schools do not have to provide personal services relating to certain individual academic activities. Personal attendants and individually prescribed devices are the responsibility of the student who has a disability and not of the institution. For example, readers may be provided for classroom use but institutions are not required to provide readers for personal use or for help during individual study time.

## Questions Commonly Asked by Postsecondary Schools and Their Students

**Q: What are a college's obligations to provide auxiliary aids for library study?**

**A:** Libraries and some of their significant and basic materials must be made accessible by the recipient to students with disabilities. Students with disabilities must have the appropriate auxiliary aids needed to locate and obtain library resources. The college library's basic index of holdings (whether formatted on-line or on index cards) must be accessible. For example, a screen and keyboard (or card file) must be placed within reach of a student using a wheelchair. If a Braille index of holdings is not available for blind students, readers must be provided for necessary assistance.

Articles and materials that are library holdings and are required for course work must be accessible to all students enrolled in that course. This means that if material is required for the class, then its text must be read for a blind student or provided in Braille or on tape. A student's actual study time and use of these articles are considered personal study time and the institution has no further obligation to provide additional auxiliary aids.

**Q: What if an instructor objects to the use of an auxiliary or personal aid?**

**A:** Sometimes postsecondary instructors may not be familiar with Section 504 or ADA requirements regarding the use of an auxiliary or personal aid in their classrooms. Most often, questions arise when a student uses a tape recorder. College teachers may believe recording lectures is an infringement upon their own or other students' academic freedom, or constitutes copyright violation.

The instructor may not forbid a student's use of an aid if that prohibition limits the student's participation in the school program. The Section 504 regulation states:

A recipient may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

In order to allow a student with a disability the use of an effective aid and, at the same time, protect the instructor, the institution may require the student to sign an agreement so as not to infringe on a potential copyright or to limit freedom of speech.

**Q: What if students with disabilities require auxiliary aids during an examination?**

**A:** A student may need an auxiliary aid or service in order to successfully complete a course exam. This may mean that a student be allowed to give oral rather than written answers. It also may be possible for a student to present a tape containing the oral examination response. A test should ultimately measure a student's achievements and not the extent of the disability.

**Q: Can postsecondary institutions treat a foreign student with disabilities who needs auxiliary aids differently than American students?**

**A:** No, an institution may not treat a foreign student who needs auxiliary aids differently than an American student. A postsecondary institution must provide to a foreign student with a disability the same type of auxiliary aids and services it would provide to an American student with a disability. Section 504 and the ADA require that the provision of services be based on a student's disability and not on such other criteria as nationality.

**Q: Are institutions responsible for providing auxiliary services to disabled students in filling out financial aid and student employment applications, or other forms of necessary paperwork?**

**A:** Yes, an institution must provide services to disabled students who may need assistance in filling out aid applications or other forms. If the student requesting assistance is still in the process of being evaluated to determine eligibility for an auxiliary aid or service, help with this paperwork by the institution is mandated in the interim.

**Q: Does a postsecondary institution have to provide auxiliary aids and services for a nondegree student?**

**A:** Yes, students with disabilities who are auditing classes or who otherwise are not working for a degree must be provided auxiliary aids and services to the same extent as students who are in a degree-granting program.

## For More Information

For more information on Section 504 and the ADA and their application to auxiliary aids and services for disabled students in postsecondary schools, or to obtain additional assistance, see the list of OCR's 12 enforcement offices containing the address and telephone number for the office that serves your area, or call 1-800-421-3481.



Page last updated March 29, 1999 ([mhm](#))

## PLACEMENT OF SCHOOL CHILDREN WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

U S. Department of Education  
Office for Civil Rights  
Washington, D.C. 20202-1101

July 1991

### INTRODUCTION

This pamphlet describes the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, with respect to elementary and secondary school policies involving the placement of children with Acquired Immune Deficiency Syndrome or AIDS.

On April 18, 1991, the President announced AMERICA 2000: An Education Strategy. It is a bold, complex, and long-range plan designed to move every community toward the six national education goals that the President and the Governors adopted in 1990. Consistent with AMERICA 2000, the Office for Civil Rights has instituted a National Enforcement Strategy designed to help protect equal educational opportunity for all students. Providing educational services to students with Acquired Immune Deficiency Syndrome (AIDS) is consistent with AMERICA 2000's goals of helping to fight the modern plagues that touch our youth. The goals enumerated in AMERICA 2000, and the National Enforcement Strategy, will help in our nationwide crusade -- community by community, school by school -- to make America all that it should be.

The information in the pamphlet explains to school officials and parents how children with AIDS should be served, and their rights under the law. It reflects the policy of the Office for Civil Rights (OCR), U.S. Department of Education. OCR enforces Section 504 in programs and activities that receive federal financial assistance, such as public elementary and secondary school districts

### WHAT IS AIDS

AIDS is caused by infection of the individual with a human immunodeficiency virus (HIV) that alters a person's immune system and damages his/her ability to fight off other diseases. AIDS is primarily spread by sexual contact and the sharing of contaminated needles and syringes among users of illegal intravenous drugs. Children generally acquire the disease in one of two other ways:

- the virus can be passed on from infected mothers during pregnancy, at birth, or shortly after birth; and
- in a small number of cases, the virus has been spread through blood products (clotting factors) and blood transfusions.

However, in recent years, knowledge about the disease has increased. Many precautions are now taken in screening blood donations. As a result, the chance that anyone will get AIDS through blood products or blood transfusions is extremely small. Today, the most common way that children contract AIDS is in utero as the offspring of mothers infected with the AIDS virus. Health officials stress that the disease is not transmitted through casual contact. The Surgeon General of the United States has declared that "casual, social contact between children and persons infected with the AIDS virus is not dangerous." No cases of AIDS have been identified in which students were infected in a school setting.

### OCR POLICY ON THE SCHOOL PLACEMENT OF CHILDREN WITH AIDS

#### Children with AIDS are Handicapped Persons

Section 504 prohibits discrimination against persons with handicaps in federally assisted programs such as elementary and secondary schools. It provides that:

No otherwise qualified individual with handicaps in the United States ... shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

The law of which Section 504 is a part defines a handicapped person as one who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is perceived as having such an impairment. For example, while some individuals with AIDS are substantially impaired physically, virtually

all individuals with AIDS are regarded as having an impairment.

Section 504 protects individuals infected by AIDS on the basis of any actual, past or perceived effect of HIV infection that substantially limits any major life activity so long as the individual is otherwise qualified. Since AIDS damages many of the body's systems, such as the hemic (blood), lymphatic, reproductive, and other systems, persons with AIDS are often substantially limited in a major life activity due to physical impairment.

Persons with AIDS are also substantially limited in a major life activity due to the reaction of others to their **perceived** contagiousness. The fear of AIDS includes a perception that a person with the disease is substantially impaired in his/her ability to interact with others, for example, to attend school. Persons, such as those with AIDS, who are "regarded" as impaired, are just as "handicapped" under the law as those who possess the physical limitations that arise from actual impairment. Discrimination based solely on the fear of contagion is discrimination based on handicap when the impairment has that effect on others.

### **Children with AIDS are Qualified Handicapped Persons**

Section 504 defines a qualified handicapped person, with regard to elementary and secondary school programs, as:

- a handicapped person of an age during which nonhandicapped persons are provided education; or
- a handicapped person of any age during which it is mandatory under state law to provide services to handicapped persons or to whom a state is required to provide a free appropriate public education.

Thus, in the case of elementary and secondary school children, "qualified" is defined in terms of age. If a child handicapped by AIDS is of school age, he or she is considered a qualified handicapped person.

### **Where Should Children with AIDS be Educated**

Most children with AIDS can attend school in the regular classroom without restrictions. There has been no medical evidence disclosed to show that AIDS is contagious in the school setting. According to the latest medical information, there have been no reported cases of the transmission of the AIDS virus in schools. The Surgeon General and other health authorities, such as the Centers for Disease Control and the American Medical Association, have reinforced this position stating that there is no significant risk of contracting AIDS in the classroom.

If a parent or school official believes that a child with AIDS needs related services or placement outside the regular classroom, Section 504 requires an evaluation and placement process to determine the appropriate educational setting for a child with AIDS. However, a full educational evaluation is not required when neither the school officials nor parents believe that a child is in need of special education or related services.

If an evaluation is necessary, Section 504 requires the following procedures. Placement determinations are to be made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options available. The group may include the child's physician, public health personnel, the child's parent or guardian, and personnel familiar with all possible educational services. The group would draw upon information from a variety of sources, such as tests, teacher recommendations, and assessments of the child's physical condition.

In making placement decisions, the information needed by the placement team varies with the handicapping condition. In the case of children with AIDS, the placement group must have the benefit of the latest reliable public health information with regard to the risks that the disease entails. This information would be considered along with information on the child's medical condition, behavior, and so forth. In each case, risks and benefits to both the infected child and others in the setting should be weighed.

### **A Child with AIDS Has a Right to Section 504 Procedural Safeguards**

Section 504 requires elementary and secondary school districts to provide a free appropriate public education for handicapped students that includes evaluation and placement procedures, and a system of procedural safeguards that includes notice to parents or guardians of their rights under the law, an opportunity for the child's parents or guardians to examine relevant records, an impartial hearing with an opportunity for participation by the parents or guardians and representation by counsel, and a review procedure.

### **A Child with AIDS Has a Right to Confidentiality**

Although Section 504 does not contain a specific provision regarding

confidentiality, it does state that recipients may not "provide different or separate aid, benefits or services to handicapped persons or to any class of handicapped persons....'

Under Section 504, singling out children handicapped with AIDS for treatment that differs from that provided to nonhandicapped children or children with other handicaps with respect to confidentiality would constitute different treatment on the basis of handicap, and would be a violation of the regulation.

This provision would not affect state and local public health rules regarding the duty of school districts to report specified diseases to public health departments. However, when reporting any cases of AIDS to public health authorities, school districts should convey such information in a manner that respects the privacy of the individual and the confidential nature of the information, in the same way that information about other diseases is treated.

The Family Educational Rights and Privacy Act and other federal laws provide protection against unwarranted disclosure of school records. If school districts have concerns or need guidance on confidentiality requirements, they can contact the Office of Special Education and Rehabilitative Services (OSERS) and the Family Policy and Regulatory Staff in the Department of Education.

#### **HOW TO OBTAIN FURTHER ASSISTANCE/INFORMATION**

OCR enforces Section 504 and interprets the Section 504 regulations. OSERS administers the Individuals with Disabilities Education Act (IDEA) and interprets the act's regulations. Because Section 504 and IDEA are different federal statutes, they may have different compliance standards. For further information regarding the requirements of IDEA, contact:

Office of Special Education Programs  
Office of Special Education and Rehabilitative Services  
400 Maryland Avenue, S.W.  
WASHINGTON, D.C. 20202-2570

To obtain additional assistance, see OCR's list of its ten regional offices, which contains the address and telephone number for the OCR office that serves your area.

U.S. DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

#### **[REGIONAL CIVIL RIGHTS OFFICES](#)**

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# **Student Placement in Elementary and Secondary Schools and Section 504 and Title II of the Americans with Disabilities Act**

U.S. Department of Education

Office of Civil Rights

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## **Section 504 Prohibits Discrimination on the Basis of Disability in Programs or Activities That Receive Federal Financial Assistance**

### **TITLE II of the Americans with Disabilities Act Prohibits Discrimination on the Basis of Disability by State and Local Governments**

## **Student Placement**

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) enforces Section 504 of the Rehabilitation Act of 1973 in programs and activities that receive assistance from ED. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (ADA), which is applicable to state and local governments.

Section 504 of the Rehabilitation Act of 1973 requires that:

No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....

Section 504 and Title II of the ADA prohibit the discriminatory assignment of disabled students to segregated classes or facilities. These laws apply to elementary and secondary as well as postsecondary schools. In elementary and secondary schools, disabled students may be assigned to separate facilities or courses of special education only when this placement is necessary to provide equal educational opportunity to them. Any separate facilities, and the services provided in separate facilities must be comparable to other facilities and services.

To determine what the educational needs of a disabled student may be, schools must carry out preliminary evaluation and placement procedures. Specific elements that must be considered are discussed below.

## **Evaluation and Placement Procedures**

Before placing disabled students in any educational program, schools must evaluate carefully each student's skills and special needs. Federal requirements provide standards for proper evaluations and placement procedures.

The tests and evaluation materials that are used must be chosen to assess specific areas of the student's needs. For example, a student may not be assigned to special education classes only on the basis of intelligence tests. When a student with impaired sensory, manual, or speaking skills is evaluated, the test results must accurately reflect what the test is supposed to measure and not the student's impaired skills except where those skills are what is being measured. Only trained people may administer the tests or evaluation materials.

Placement decisions must be made by a team that includes people who know about the student and understand the meaning of the evaluation information. The placement team must consider a variety of documented information for each student. The information must come from several sources, including the results of aptitude and achievement tests, teacher recommendations, reports on the student's physical condition, social or cultural background, and adaptive behavior.

The placement team must also be aware of different options for placing the student so that the student is placed appropriately. See section on Educational Setting, below.

## **Educational Setting**

The law requires that disabled students be educated along with nondisabled students to the maximum extent appropriate to the needs of the disabled students. This means that disabled students must be assigned to regular courses or classes if the students' needs can be met there. Also, decisions on academic placement must be based on an individual student's needs.

Disabled students may be placed in a separate class or facility only if they cannot be educated satisfactorily in the regular educational setting with the use of supplementary aids and services. For example, students who are blind may be assisted by readers or may use Braille equipment or specially-equipped computer equipment and remain in the regular classrooms. However, students with severe learning disabilities may be assigned to special education classes for part of the day.

Schools that do not offer the special educational programs or facilities that may be required by a disabled student may refer that student to another school or educational institution. However, the student's home district remains responsible for providing the student a free and appropriate education. Transportation must be provided at no greater cost than would be incurred if the student were placed in the home district.

## **Reevaluations**

The performance and skill levels of disabled students frequently vary, and students, accordingly, must be allowed to change from assigned classes and programs. However, a school may not make a significant change in a disabled student's placement without a reevaluation. Schools must conduct periodic reevaluations of all disabled students.

## Individualized Education Program

The Individuals with Disabilities Education Act (IDEA) requires schools to develop, according to specific standards, an individualized education program (IEP) for each eligible student with disabilities. An IEP that meets the requirements of the IDEA also fulfills the requirements of Section 504 and Title II of the ADA for an appropriate education for a disabled student.

## Procedural Safeguards

Schools must establish procedures that allow the parents or guardians of students in elementary and secondary schools to challenge evaluations, placement procedures, and decisions. The law requires that parents or guardians be notified of any evaluation or placement action, and that they be allowed to examine their child's records.

If they disagree with the school's decisions, parents or guardians must be allowed to have an impartial hearing, with the opportunity to participate in the discussions. A review procedure must be made available to parents or guardians who disagree with the hearing decision.

## Nonacademic Services and Activities

Students may not be excluded on the basis of disability from participating in extracurricular activities and nonacademic services. These may include counseling services, physical education and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, referrals to agencies that provide assistance to disabled persons, and student employment.

Discrimination in counseling practices is prohibited. Counselors must not advise qualified disabled students to make educational choices that lead to more restrictive career objectives than would be suggested for nondisabled students with similar interests and abilities.

For more information on student placement under Section 504 and Title II of the ADA, and on discriminatory practices in student assignment on the basis of disability, see the list of offices that contains the address and telephone number for the OCR office that serves your area, or call 1-(800)-421-3481.

*Revised August 1998*

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Last updated 07/12/2000 ([ts](#))

**The Civil Rights of Students with Hidden Disabilities  
Under Section 504 of the Rehabilitation Act of 1973**

U.S. Department of Education  
Office for Civil Rights  
Washington, D.C. 20202-1328

**INTRODUCTION**

If you are a student with a hidden disability or would like to know more about how students with hidden disabilities are protected against discrimination by Federal law, this pamphlet is for you.

Section 504 of the Rehabilitation Act of 1973 protects the rights of persons with handicaps in programs and activities that receive Federal financial assistance. Section 504 protects the rights not only of individuals with visible disabilities but also those with disabilities that may not be apparent.

Section 504 provides that: **"No otherwise qualified individual with handicaps in the United States . . . shall, solely by reason of her or his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...."**

The U.S. Department of Education (ED) enforces Section 504 in programs and activities that receive financial assistance from ED. Recipients of this assistance include public school districts, institutions of higher education, and other state and local education agencies. ED maintains an Office for Civil Rights (OCR), with ten regional offices and a headquarters office in Washington, D.C., to enforce Section 504 and other civil rights laws that pertain to recipients of ED funds. (The addresses and telephone numbers of the OCR regional offices are included at the back of this pamphlet.)

This pamphlet answers the following questions about the civil rights of students with hidden disabilities and the responsibilities of ED recipients:

- What disabilities are covered under Section 504?
- What are hidden disabilities?
- What are the responsibilities of ED recipients in preschool, elementary, secondary, and adult education?
- What are the responsibilities of ED recipients in postsecondary education?
- How can the needs of students with hidden disabilities be addressed?

**DISABILITIES COVERED UNDER SECTION 504**

The ED Section 504 regulation defines an "individual with handicaps" as any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. The regulation further defines a physical or mental impairment as (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The definition does not set forth a list of specific diseases and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of any such list.

The key factor in determining whether a person is considered an "individual with handicaps" covered by Section 504 is whether the physical or mental impairment results in a substantial limitation of one or more major life activities. Major life activities, as defined in the regulation, include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The impairment must have a material effect on one's ability to perform a major life activity. For example, an individual who has a physical or mental impairment would not be considered a person with handicaps if the condition does not in any way limit the individual, or only results in some minor limitation. However, in some cases Section 504 also protects individuals who do not have a handicapping condition but are treated as though they do because they have a history of, or have been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. For example, if you have a history of a handicapping condition but no longer have the condition, or have been incorrectly classified as having such a

condition, you too are protected from discrimination under Section 504. Frequently occurring examples of the first group are persons with histories of mental or emotional illness, heart disease, or cancer; of the second group, persons who have been misclassified as mentally retarded. Persons who are not disabled may be covered by Section 504 also if they are treated as if they are handicapped, for example, if they are infected with the human immunodeficiency virus.

#### **WHAT ARE HIDDEN DISABILITIES?**

Hidden disabilities are physical or mental impairments that are not readily apparent to others. They include such conditions and diseases as specific learning disabilities, diabetes, epilepsy, and allergy. A disability such as a limp, paralysis, total blindness or deafness is usually obvious to others. But hidden disabilities such as low vision, poor hearing, heart disease, or chronic illness may not be obvious. A chronic illness involves a recurring and long-term disability such as diabetes, heart disease, kidney and liver disease, high blood pressure, or ulcers.

Approximately four million students with disabilities are enrolled in public elementary and secondary schools in the United States. Of these 43 percent are students classified as learning disabled, 8 percent as emotionally disturbed, and 1 percent as other health impaired. These hidden disabilities often cannot be readily known without the administration of appropriate diagnostic tests.

#### **THE RESPONSIBILITIES OF ED RECIPIENTS IN PRESCHOOL, ELEMENTARY, SECONDARY, AND ADULT EDUCATION**

For coverage under Section 504, an individual with handicaps must be "qualified" for service by the school or institution receiving ED funds. For example, the ED Section 504 regulation defines a "qualified handicapped person" with respect to public preschool, elementary, secondary, or adult education services, as a person with a handicap who is:

- of an age during which persons without handicaps are provided such services;
- of any age during which it is mandatory under state law to provide such services to persons with handicaps; or
- a person for whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act.

Under the Section 504 regulation, a recipient that operates a public elementary or secondary a education program has a number of responsibilities toward qualified handicapped persons in its jurisdiction. These recipients must:

- Undertake annually to identify and locate all unserved handicapped children;
- Provide a "free appropriate public education" to each student with handicaps, regardless of the nature or severity of the handicap. This means providing regular or special education and related aids and services designed to meet the individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met;
- Ensure that each student with handicaps is educated with nonhandicapped students to the maximum extent appropriate to the needs of the handicapped person;
- Establish nondiscriminatory evaluation and placement procedures to avoid the inappropriate education that may result from the misclassification or misplacement of students;
- Establish procedural safeguards to enable parents and guardians to participate meaningfully in decisions regarding the evaluation and placement of their children; and
- Afford handicapped children an equal opportunity to participate in nonacademic and extracurricular services and activities.

A recipient that operates a preschool education or day care program, or an adult education program may not exclude qualified handicapped persons and must take into account their needs of qualified handicapped persons in determining the aid, benefits, or services to be provided under those programs and activities.

Students with hidden disabilities frequently are not properly diagnosed. For example, a student with an undiagnosed hearing impairment may be unable to understand much of what a teacher says; a student with a learning disability may be unable to process oral or written information routinely; or a student with an emotional problem may be unable to concentrate in a regular classroom setting. As a result, these students, regardless of their intelligence, will be unable to fully demonstrate their ability or attain educational benefits equal to that of nonhandicapped students. They may be

perceived by teachers and fellow students as slow, lazy, or as discipline problems.

Whether a child is already in school or not, if his/her parents feel the child needs special education or related services, they should get in touch with the local superintendent of schools. For example, a parent who believes his or her child has a hearing impairment or is having difficulty understanding a teacher, may request to have the child evaluated so that the child may receive appropriate education. A child with behavior problems, or one who is doing poorly academically, may have an undiagnosed hidden disability. A parent has the right to request that the school determine whether the child is handicapped and whether special education or related services are needed to provide the child an appropriate education. Once it is determined that a child needs special education or related services, the recipient school system must arrange to provide appropriate services.

#### **THE RESPONSIBILITIES OF ED RECIPIENTS IN POSTSECONDARY EDUCATION**

The ED Section 504 regulation defines a qualified individual with handicaps for postsecondary education programs as a person with a handicap who meets the academic and technical standards requisite for admission to, or participation in, the college's education program or activity.

A college has no obligation to identify students with handicaps. In fact, Section 504 prohibits a postsecondary education recipient from making a preadmission inquiry as to whether an applicant for admission is a handicapped person. However, a postsecondary institution is required to inform applicants and other interested parties of the availability of auxiliary aids, services, and academic adjustments, and the name of the person designated to coordinate the college's efforts to carry out the requirements of Section 504. After admission (including the period between admission and enrollment), the college may make confidential inquiries as to whether a person has a handicap for the purpose of determining whether certain academic adjustments or auxiliary aids or services may be needed.

Many students with hidden disabilities, seeking college degrees, were provided with special education services during their elementary and secondary school years. It is especially important for these students to understand that postsecondary institutions also have responsibilities to protect the rights of students with disabilities. In elementary and secondary school, their school district was responsible for identifying, evaluating, and providing individualized special education and related services to meet their needs. At the postsecondary level, however, there are some important differences. The key provisions of Section 504 at the postsecondary level are highlighted below.

At the postsecondary level it is the student's responsibility to make his or her handicapping condition known and to request academic adjustments. This should be done in a timely manner. A student may choose to make his or her needs known to the Section 504 Coordinator, to an appropriate dean, to a faculty advisor, or to each professor on an individual basis.

A student who requests academic adjustments or auxiliary aids because of a handicapping condition may be requested by the institution to provide documentation of the handicap and the need for the services requested. This may be especially important to an institution attempting to understand the nature and extent of a hidden disability.

The requested documentation may include the results of medical, psychological, or emotional diagnostic tests, or other professional evaluations to verify the need for academic adjustments or auxiliary aids.

#### **HOW CAN THE NEEDS OF STUDENTS WITH HIDDEN DISABILITIES BE ADDRESSED?**

The following examples illustrate how schools can address the needs of their students with hidden disabilities.

- A student with a long-term, debilitating medical problem such as cancer, kidney disease, or diabetes may be given special consideration to accommodate the student's needs. For example, a student with cancer may need a class schedule that allows for rest and recuperation following chemotherapy.
- A student with a learning disability that affects the ability to demonstrate knowledge on a standardized test or in certain testing situations may require modified test arrangements, such as oral testing or different testing formats.
- A student with a learning disability or impaired vision that affects the ability to take notes in class may need a notetaker or tape recorder.
- A student with a chronic medical problem such as kidney or liver disease may have difficulty in walking distances or climbing stairs. Under Section 504, this student may require special parking space,

sufficient time between classes, or other considerations, to conserve the student's energy for academic pursuits.

- A student with diabetes, which adversely affects the body's ability to manufacture insulin, may need a class schedule that will accommodate the student's special needs.

- An emotionally or mentally ill student may need an adjusted class schedule to allow time for regular counseling or therapy.

- A student with epilepsy who has no control over seizures, and whose seizures are stimulated by stress or tension, may need accommodation for such stressful activities as lengthy academic testing or competitive endeavors in physical education.

- A student with arthritis may have persistent pain, tenderness or swelling in one or more joints. A student experiencing arthritic pain may require a modified physical education program.

These are just a few examples of how the needs of students with hidden disabilities may be addressed. If you are a student (or a parent or guardian of a student) with a hidden disability, or represent an institution seeking to address the needs of such students, you may wish to seek further information from OCR.

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The following documents contain information that is related to civil rights. Links to these documents are provided as a public service. This list is not intended to be all inclusive, and inclusion of a document is not intended to reflect its importance relative to other OCR documents. OCR documents are posted on the Internet based on the availability of content and resources.



**ED Pubs**

Some documents are not currently available from this web page but may be requested where either of these icons appears. There is no charge for single copies. Please include your mail address in the request. Other OCR documents that are not currently posted on our web page may be requested using [Freedom Of Information Act \(FOIA\) request procedures](#).

## General

### Publications - General

- [OCR Annual Report To Congress \(1999\)](#) This report anecdotally describes the human and education impact of OCR's compliance, enforcement, and technical assistance activities in our cases of alleged discrimination. The annual report for years [1995](#), [1996](#), [1997](#), and [1998](#) are also available online. The annual report for years 1990, 1991, 1992, 1993, 1994 are available by mail order. 
- [Office for Civil Rights Case Resolution Manual](#). (1998). This manual contains the procedures used by OCR to investigate and resolve cases of alleged discrimination.
- [Office for Civil Rights: Ensuring Equal Access To Quality Education](#). (1999). This pamphlet provides an overview of the legal responsibilities of the Office for Civil Rights and how they are carried out by resolving discrimination complaints, conducting compliance reviews, and providing technical assistance. There is also information on the impact of the civil rights laws in improving educational opportunities for students.
- [How to File a Discrimination Complaint With the Office for Civil Rights](#). This brochure outlines the process for submitting complaints to the U.S. Department of Education, Office for Civil Rights.
- [Impact of the Civil Rights Laws](#). (1999) this pamphlet describes the impact of the civil rights laws, and other efforts at the national, state, and local level, in bringing about improved educational opportunities for millions of students attending our elementary and secondary schools and colleges and universities.
- [Non-Discrimination in Employment Practices in Education](#). (Code No. 12) This pamphlet summarizes the employment requirements under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973.
- [Notice of Non-Discrimination](#). (1999). This pamphlet describes the requirements for education agencies to issue notice of their commitment to operate programs in a manner free from discrimination, clarifies the information that recipients should include in non-discrimination notices, and provides a sample notice statement.
- [The Guidance Counselor's Role in Ensuring Equal Educational Opportunity](#). (Code No. 23) (1991). This pamphlet summarizes the requirements pertaining to counseling practices contained in the regulations implementing Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973.
- [Protecting Students from Harassment and Hate Crime: A Guide for Schools](#). (1999). Published by the OCR in conjunction with the National Association of Attorneys General, this document provides step-by-step, practical guidance to help schools respond to and prevent harassment and violence against students because of their race, color, national origin, sex, and disability. The Guide may also be of assistance in protecting students from harassment and violence based on sexual orientation, religion, or other grounds that may be covered by state or local laws or that schools recognize as particularly damaging to their students.
- [Applying Federal Civil Rights Laws to Public Charter Schools: Questions and Answers](#). (2000). As part of the U.S. Department of Education's and the U.S. Department of Justice's efforts to support innovation and choice within the public school system, this publication provides important information on how public charter schools may be developed and operated consistent with federal nondiscrimination laws. The purpose of this publication is to assist charter school developers and operators by making available a summary of civil rights issues applicable to public schools. Also available in [PDF format](#).

### Federal Register Notices and Regulations - General

- Federal Register, March 21, 1979, [Guidelines for Vocational Education Programs](#). These guidelines explain the civil rights responsibilities of recipients of Federal funds offering or administering vocational education programs.

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## Discrimination Based on Race, Color or National Origin Title VI of the Civil Rights Act of 1964 (Title VI)

### Publications - Title VI

- [Education and Title VI](#). (1991). This pamphlet discusses Title VI of the Civil Rights Act of 1964 which protects people from discrimination based on race, color, or national origin in programs or activities that

receive Federal financial assistance from the U.S. Department of Education. This pamphlet is also available in Spanish by request:



- [Historically Black Colleges and Universities and Higher Education Desegregation](#). (Code No. 08) (1991). This pamphlet provides an overview of the historic role, accomplishments, and challenges which face Historically Black Colleges and Universities (HBCUs). Also, this pamphlet describes the OCR involvement with HBCUs to help eliminate discrimination in higher education.
- [Student Assignment in Elementary and Secondary Schools & Title VI](#). (1996). This pamphlet assists elementary and secondary educators to comply voluntarily with the Title VI regulation with respect to the assignment of students to particular schools, academic programs, and classes.
- [The Provision of an Equal Education Opportunity to Limited-English Proficient Students](#). (1998. 10 pages). This pamphlet identifies procedures that school districts should use to ensure that their programs serve limited-English proficient students effectively. Also available in Spanish. 

## Documents - Title VI

- [Policy Memoranda on Schools' Obligations Toward National Origin Minority Students who are Limited-English Proficient](#) (LEP students) (2000). Office for Civil Rights policies regarding LEP children are reflected in these three OCR policy documents.
- [Programs for English Language Learners, Resource Materials for Planning and Self-Assessments](#). (1999). These materials were developed as a reference tool by the Office for Civil Rights to assist school districts through the process of developing a comprehensive English language learners (ELL) program. These materials discuss helpful steps to follow in designing or revising a program for ELL students.
- [Questions That May Be Raised By Proposition 227](#) (June 10, 1998). U.S. Department of Education, Office for Civil Rights. The document contains questions and answers relevant to Proposition 227.
- **Race, Admissions and Financial Aid:** U.S. Department of Education, Office of the General Counsel: [Letter to College and University Counsels](#) (6/30/1996). Subject: Consideration of race in making college and university admissions decisions and awarding financial aid, in light of the Hopwood v. Texas decision.
- **California Civil Rights Initiative, Proposition 209:** U.S. Department of Education, Office of the Secretary: [Dear Colleague Letter](#) (03/19/1997). Subject: Effect of Proposition 209, California's ban on affirmative action, on the responsibilities of California's school districts and colleges under educational programs and civil rights laws administered by the Department of Education.

## Federal Register Notices and Regulations - Title VI

- Federal Register, January 31, 1994, [Notice of application of Supreme Court Decision in United States v. Fordice](#). The notice describes the effect of the Supreme Court's decision on the U.S. Department of Education enforcement policies under Title VI.
- Federal Register, February 23, 1994, Vol. 59, No. 36, Department of Education. [Notice of final policy guidance. Nondiscrimination in Federally assisted programs](#); Title VI of the Civil Rights Act of 1964. The final policy guidance discusses the applicability of the statutes and regulations nondiscrimination requirement to student financial aid that is awarded, at least in part, on the basis of race or national origin.
- Federal Register, Vol. 59, No. 47, (03/10/94). U.S. Department of Education/Office for Civil Rights. [Racial Harassment / OCR Investigative Guidance](#): Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance. Investigative guidance on the procedures and analysis that OCR staff will follow when investigating issues of racial incidents and harassment against student at educational institutions.
- [Title VI Regulation of the Civil Rights Act of 1964](#). Revised as of July 1, 1997. Non-discrimination on the basis of race, color, or national origin in education programs and activities receiving or benefiting from Federal financial assistance.




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## Discrimination Based on Sex

### Title IX of the Education Amendments of 1972 (Title IX)

#### Publications - Title IX

- [Equal Opportunity in Intercollegiate Athletics](#). (1991). This pamphlet summarizes Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs receiving Federal financial assistance from the Department. Athletics is considered an integral part of an institution's education program and is therefore covered by this law.
- [Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test](#). The [memorandum](#) from the OCR Assistant Secretary and [clarification](#) of the "three-part test" described in the Education Department's 1979 Policy Interpretation. This test is used to determine whether students of both sexes are provided nondiscriminatory opportunities to participate in athletics.
- [Sexual Harassment: It's Not Academic](#). (Code No. 16) (1997). This pamphlet addresses issues of sexual harassment of students by school employees and other students. It is intended for use by school administrators and other employees in understanding a school's obligations under Title IX, and by students and their parents in understanding student rights in this area. The pamphlet answers questions about sexual harassment, including how to file a complaint with OCR. It also provides information to be use in developing or evaluating an institution's sexual harassment grievance procedure.
- [Title IX and Sex Discrimination](#) (Code No. 6). This pamphlet summarizes the requirements pertaining to Title IX of the Education Amendments of 1972, which protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance from the Department of Education. This pamphlet is also available in Spanish. 
- **Teenage Pregnancy and Parenthood Issues (under Title IX of the Education Amendments of 1972)**. (Code No.20) (1992. 14 pages). This pamphlet is for elementary and secondary school administrators, teachers, counselors, parents, and students. It describes school retention problems associated with teenage pregnancy and parenthood and requirements pertaining to these issues in the regulations implementing Title IX. Information is included on approaches and programs that schools have developed to address the educational needs of students who are pregnant or married, or have children. 
- **Title IX Grievance Procedures: An Introductory Manual**. This manual assists recipients of Federal education funds in formulating and implementing grievance procedures for individuals who allege discrimination on the basis of sex. It also provides suggestions which recipients may find useful in establishing grievance procedures. 

- [Title IX: 25 Years Of Progress](#). (1997). An overview of the impact of Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs receiving Federal financial assistance. The brochure describes the impact of Title IX in improving educational opportunities for students during its 25 years in existence.

## Documents - Title IX

- **Funding of Athletic Scholarships:** U.S. Department of Education, Office for Civil Rights (OCR): Dear Colleague Letter (July 23, 1998) from Norma Cantú, Assistant Secretary for Civil Rights. Subject: Investigation of complaints which allege discrimination in the awarding of athletic scholarships in intercollegiate athletics programs. [Bowling Green State University Letter](#) (July 23, 1998) from Dr. Mary Frances O'Shea, National Coordinator for Title IX Athletics to Bowling Green State University General Counsel. Subject: Clarification of the coverage of Title IX and its regulations as they apply to both academic and athletic programs; and the funding of athletic scholarships budgets for men's and women's intercollegiate athletics programs.
- [1975 Memorandum to Chief State School Officers](#), LEA Superintendents, and PSE Presidents on Title IX obligations in athletics, including athletic scholarships; intercollegiate, club, and intramural programs. This memorandum provides guidance with respect to the major first year responsibilities of an educational institution to ensure equal opportunity in the operation of both its athletic activities and its athletic scholarship programs.

## Federal Register Notices and Regulations - Title IX

- Federal Register, December 11, 1979, [Policy Interpretation - Title IX and Intercollegiate Athletics](#). Clarifies the obligations of recipients to provide equal opportunity in athletic programs, especially with respect to athletic financial assistance, equivalence in other athletic benefits and opportunities, and effective accommodation of students' interests and abilities.
- Federal Register, March 13, 1997, Department of Education, Office for Civil Rights: **Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties**. The Summary and Guidance provides educational institutions with information regarding the standards that are used by the OCR, and that institutions should use, to investigate and resolve allegations of sexual harassment of students engaged in by school employees, other students (peers), or third parties.
- [Title IX Regulation of the Education Amendments of 1972](#) (Part 106.1 - 106.71). Revised as of July 1, 1997. Non-discrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance. (Athletics - [Section 106.41](#))

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## Discrimination Based On Disability Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of The Americans with Disabilities Act of 1990 (Title II)

### Publications - Section 504 and ADA/Title II

- [Auxiliary Aids and Services for Postsecondary Students with Disabilities: Higher Education's Obligations Under Section 504 and Title II of the ADA](#). (1998). This pamphlet reviews the obligations of higher education institutions to serve students with disabilities. This pamphlet also includes answers to questions commonly asked by students and representatives of postsecondary institutions.
- [Placement of School Children with Acquired Immune Deficiency Syndrome](#). (Code No. 14) (1992). This pamphlet describes the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, with respect to elementary and secondary school policies involving the placement of children with Acquired Immune Deficiency Syndrome (AIDS).
- [Student Placement in Elementary and Secondary Schools and Section 504 and Title II of the Americans with Disabilities Act](#). (Code No. 19) (1998). This publication describes the Education of Handicapped Act (EHA), now the Individuals with Disabilities Education Act (IDEA), which provides Federal financial assistance to states to ensure that each child who has a disability receives a free and appropriate public education.
- [The Americans with Disabilities Act](#). (1991). This pamphlet, published by the Department of Justice (DOJ), contains a brief overview of the Americans with Disabilities Act and lists contact information.
- [The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973](#). (Code No. 22) (1995). This pamphlet answers questions about the civil rights of students with hidden disabilities and the responsibilities of ED recipients.

### Documents - Section 504 and ADA/Title II

- [Statewide Assessments and Students with Disabilities: Dear Colleague Letter](#) (September 29, 1999) signed by the Assistant Secretary for Civil Rights, Norma V. Cantú, and the Assistant Secretary for Special Education and Rehabilitative Services, Judith E. Heumann. Subject: Obligation to include elementary and secondary students with disabilities in statewide assessment systems.

### Federal Register Notices and Regulations - Section 504 and ADA/Title II

- Federal Register, October 30, 1992, Part VI, Department of Education, [Deaf Students Education Services; Policy Guidance; Notice](#). The Department provides additional guidance about part B of the Individuals with Disabilities Education Act (IDEA) and section 504 of the Rehabilitation Act of 1973 (section 504) as they relate to the provision of appropriate education service to students who are deaf.
- [Section 504 Regulation](#). Revised as of July 1, 1999. Non-discrimination on the basis of disability in education programs and activities receiving or benefiting from Federal financial assistance.
- [Title II Regulation](#). Revised as of July 1, 1999. Non-discrimination on the basis of disability in state and local government services.

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## OCR Policy Statements Printed In The Federal Register

- Federal Register, October 30, 1992, Part VI, Department of Education, [Deaf Students Education Services; Policy Guidance; Notice](#). The Department provides additional guidance about part B of the Individuals with Disabilities Education Act (IDEA) and section 504 of the Rehabilitation Act of 1973 (section 504) as they

relate to the provision of appropriate education service to students who are deaf.

- Federal Register, January 31, 1994, [Notice of application of Supreme Court Decision in United States v. Fordice](#). The notice describes the effect of the Supreme Court's decision on the U.S. Department of Education enforcement policies under Title VI.
- Federal Register, February 23, 1994, Vol. 59, No. 36, Department of Education. [Notice of final policy guidance](#). Nondiscrimination in Federally assisted programs; Title VI of the Civil Rights Act of 1964. The final policy guidance discusses the applicability of the statutes and regulations nondiscrimination requirement to student financial aid that is awarded, at least in part, on the basis of race or national origin.
- Federal Register, March 21, 1979, [Guidelines for Vocational Education Programs](#). These guidelines explain the civil rights responsibilities of recipients of Federal funds offering or administering vocational education programs.
- Federal Register, Vol. 59, No. 47, March 10, 1994. U.S. Department of Education/Office for Civil Rights. [Racial Harassment / OCR Investigative Guidance](#): Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance. Investigative guidance on the procedures and analysis that OCR staff will follow when investigating issues of racial incidents and harassment against student at educational institutions.
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- [Regulation for the Age Discrimination Act of 1975](#). Revised as of July 1, 1999. Department of Education. Non-discrimination on the basis of age in programs and activities receiving or benefiting from Federal financial assistance.
- [Regulation for Section 504 of the Rehabilitation Act of 1973](#). Revised as of July 1, 1999. Non-discrimination on the basis of disability in education programs and activities receiving or benefiting from Federal financial assistance.
- [Regulation for Title VI of the Civil Rights Act of 1964](#). Revised as of July 1, 1999. Non-discrimination on the basis of race, color, or national origin in education programs and activities receiving or benefiting from Federal financial assistance.
- [Regulation for Title IX of the Education Amendments of 1972](#). Revised as of July 1, 1999. Non-discrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance. Athletics - [Section 106.41](#).
- [Regulation for Title II of the Americans with Disabilities Act of 1990](#). Revised as of July 1, 1999. Non-discrimination on the basis of disability in state and local government services.

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## Public Statements and Testimony

Norma V. Cantú, Assistant Secretary, U.S. Department of Education, Office for Civil Rights. [Testimony before the Subcommittee on Oversight and Investigations](#) of the House Education and the Workforce Committee. (June 22, 1999)

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## Educational Research

[2000 United States Department Of Education U. S. Accredited Post Secondary Minority Institutions](#). The data in this report was obtained by the Office for Civil Rights from information provided by responding institutions in the Integrated Postsecondary Education Data System ([IPEDS](#)) Fall Enrollment Compliance Report to the [National Center for Education Statistics](#).



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## Education Headlines...

Priorities of the President and the Secretary include [national efforts to improve reading and math](#), reduce [class size](#), strengthen [school construction](#), and promote [major new 2000 initiatives](#) and the [Partnership for Family Involvement in Education](#).

- [Crimes in Schools Drop: Indicators of School Crime and Third Annual Report on School Safety](#) (October 26)
- [Secretary's Testimony Before House on Management, IDEA, and More](#) (October 25)
- [Secretary Asks Congress to Pass School Modernization Bill](#) (October 24)
- [Secretary's Statement on Professional Teaching Standards Board Report](#) (October 18)
- [Rural Schools Website](#) (October 18)
- [Afterschool Report: 21st Century Community Learning Centers](#) (October 17)
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- [Student Loan Default Rate Lowest Ever](#) (October 2)
- [Glenn Commission Report on Math and Science](#) (September 27)
- [Educational Progress 1992-2000](#) (September 13)
- [Teacher Recruitment Clearinghouse](#) (August 26)
- [Finding Lesson Ideas and Educational Materials on the Web](#)
- [Department of Education's Class Action Suit](#)
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## Most Requested Items...

Thousands of educators, policy makers, parents, students, researchers, and other citizens with a stake in education visit the U.S. Department of Education site each week. The following pages are among our most popular.

- [21st Century Community Learning Centers](#)
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Technical questions about the Web site: [webmaster@inet.ed.gov](mailto:webmaster@inet.ed.gov)

Other inquiries/comments: [Customer Service](#)

See also our list of [Toll-Free Information Phone Numbers](#)

To report technical problems with the Web site, use our [Problem Report Form](#)

To help us improve the site, fill out our [Customer Survey](#)

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