



Americans with Disabilities Act

Striving for Educational Access and Equity for Students with Disabilities

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3 primary laws affecting students with disabilities

- Individuals with Disabilities Act (IDEA)
- Section 504 of the Rehabilitation Act (Section 504)
- Americans with Disabilities Act (ADA)
 - ADA Amendment Act

IDEA

- Guarantees students with disabilities the right to a free appropriate education (FAPE)
- An educational program reasonably calculated to enable a child to make progress appropriate in light of the child's unique circumstances
- Specially designed instruction (SDI), supports, accommodations, and services to meet goals
- Tied to federal funding

Section 504

- For students with disabilities who don't need SDI
- Provides equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as others
- Provide FAPE by providing equal access to education
- Prohibits discrimination in any program receiving federal funding or run by federal government

ADA obligations in schools

Public and private non-religious schools, daycares, childcare facilities:

1. Provide equal opportunity for participation in an inclusive manner to the maximum extent appropriate.
2. Must ensure communication with students, parents, staff and visitors with disabilities is as effective as communications with others; and,
3. Must furnish “auxiliary aids and services”

ADA: eligibility

An individual must have:

1. A physical or mental impairment that substantially limits one or more major life activities;
2. A history or record of such an impairment; or
3. Be perceived by others as having such an impairment.

Temporary impairments: duration and extent major life activity limited controls outcome

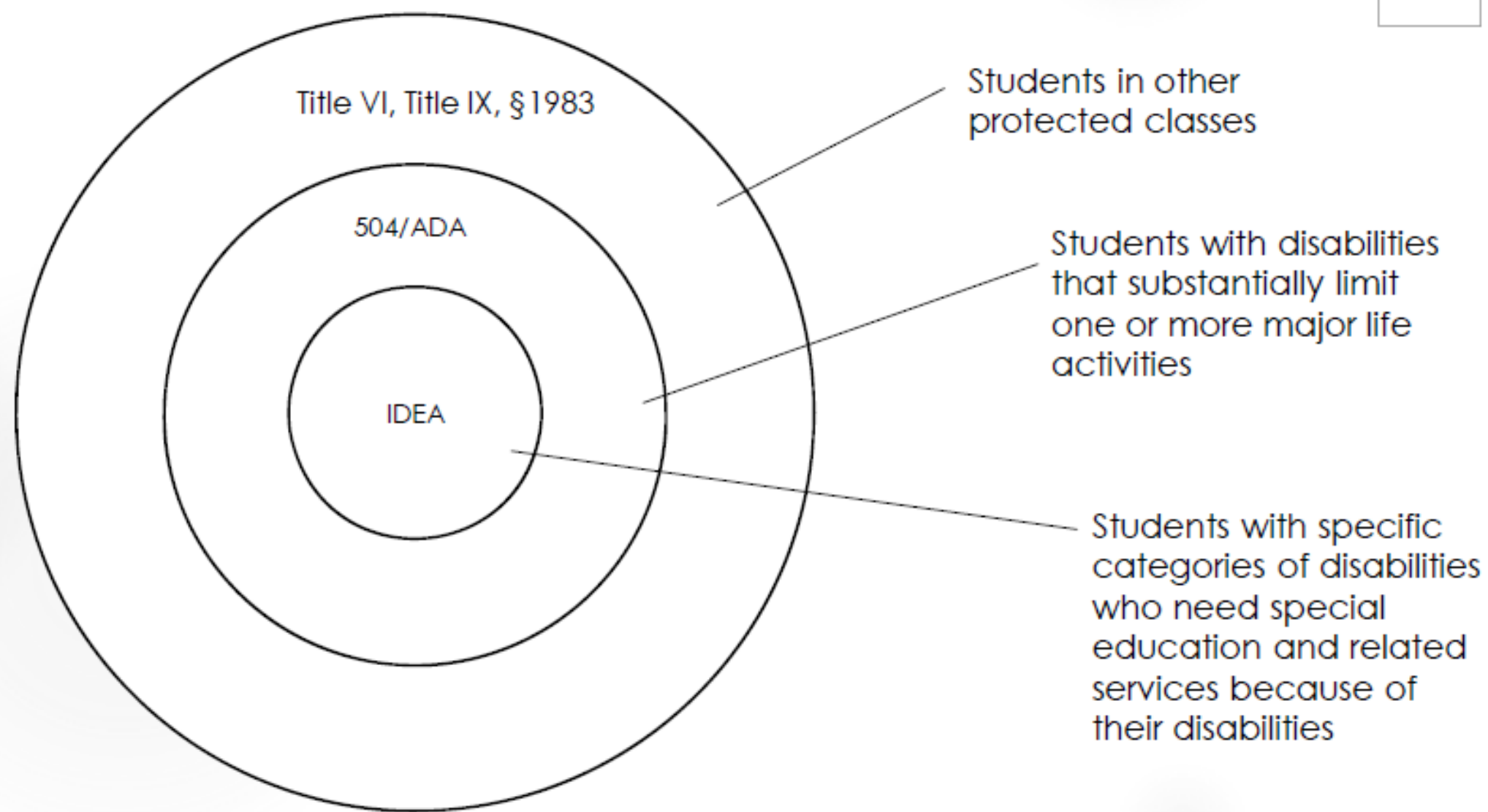
ADA amendment act

- Definition of disability “shall be construed in favor of broad coverage.”
- If impairment **not a substantial limitation**, the student does not qualify for ADA protections.
- Except for ordinary eyeglasses or contact lenses, ADAA specifically prohibits consideration of ameliorative effectiveness of mitigating measures.

Heightened importance of ADA today

No connection to federal funding to trigger rights and obligations

ADA, 504, IDEA and other civil rights protections



FAPE

- ADA does not include a provision for FAPE, but...
- OCR interprets Title II “to require school district to provide a FAPE to the same extent required under the 504 regulation.”
- This means school must provide regular or special education and related aids and services that are designed to meet individual education needs of students with disabilities as adequately as the needs of nondisabled students.

ADA violations in schools

- Consider students AND their parents
- Examples of failing to provide equal opportunity in schools:
 - Physical accessibility to school programs or activities, including transportation
 - Equal programming access
 - Requiring students to go through evaluation process of IDEA
 - Failing to ensure effective communication

Obstacles for students

- Applying too high standard (pre-ADAAA) for protection eligibility
- Evaluating whether there is impairment when mitigated
- Delays due to insistence on comprehensive IDEA evaluation
- Lack of written procedural safeguards
- No requirement for written plan

More obstacles

- School staff is unfamiliar with legal obligations
- Forcing student to participate in all tiers of response to intervention to be considered for accommodations.
- Students are told informal accommodations are “working”
- Requiring a student to fail a general education class to determine whether the impairment is a “substantial limitation”

Impact on twice exceptional

- Students can access enough curriculum to pass
- The student's "individual educational needs" will never be met "as adequately as the needs of non-disabled persons are met" because the student will never be hound to have a substantial limitation.
- Student will not access the appropriate level of instruction
- School's focus on grade fails to consider the "condition, manner, or duration" of how the student was able to achieve the grade.

First steps

- Document, document, document
 - Notify of need for accommodations
 - Notify of struggles your student is having
 - Send emails to create a paper trail
 - Journals or calendars can be helpful too
- Keep the tone as professional as possible. You never know who might be reading this documentation down the road.

What to do if a violation

Disputes under the ADA can be addressed in:

1. Complaint with school district
2. Complaint filed with the U.S. Department of Education, Office of Civil Rights
3. Complaint filed with the U.S. Department of Justice, Disability Rights Division
4. Civil case

Bright spots

U.S. Department of Education, Office of Civil Rights

- Dear Colleague Letter, January 19, 2012 [Series of Q and A]
 - Reiterates 'disability' is to be interpreted broadly and the determination of whether an individual has a disability should not demand extensive analysis.
- Dear Colleague Letter, July 26, 2016 [re: 504 v. ADHD]
 - OCR will presume , unless there is evidence to the contrary, that a student with a diagnosis of ADHD is substantially limited in one or more major life activities.
- Parent and Educator Resource Guide to 504, December 2016

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Department of Justice ADA Enforcement Actions

Title II DOJ Enforcement Actions: Program Access

Dunlap Community School District, (Illinois, 2021).

- Determined that Banner Elementary's outdoor programs, services and activities provided for students at the school were not readily accessible to or usable by individuals with disabilities.
- A child with a disability was routinely unable to access Banner's existing play area to play with peers and had to play alone, outside of the play area and separate from peers without disabilities.
- School agreed to address physical barriers, including removing all existing pea gravel and mulch, replacing it with engineered wood fiber, as well as to address other physical access barriers; also ensure sidewalks and curb cuts meet accessibility standards.
- The DOJ to review architectural plans implementing the modifications.
- A settlement amount of \$2,500 provided to the family who filed the complaint.

Title II DOJ Enforcement Actions: Program Access. 2

Iowa City Community School District, (Iowa, 2020).

- Several families filed a DOJ complaint alleging school playgrounds at multiple elementary schools were inaccessible.
- Twelve playgrounds were recently modified/alterd yet significant accessibility barriers remained.
- School district agreed to modify the playgrounds bringing them into compliance with the 2010 ADA Standards for Accessible Design.

Title II DOJ Enforcement Actions: Program Access and Effective Communication

Lincoln Public Schools, (Nebraska, 2024).

- School district created “cluster schools” as part of the school choice program, requiring all hearing impaired students to attend certain clusters which provided ASL interpreters regardless of whether it was their neighborhood school.
- Parents were required to carry transportation costs if their student attended a different high school to access location specific programs.
- School system agreed to end the clustering system and ensure program access and effective communication, ensuring interpreter availability and creation of formal “Interpreter Contingency Plan.”

Title II DOJ Enforcement Actions: Effective Communication

St. Vrain Valley School District, (Colorado, 2022).

- A deaf parent attended two meetings at their child's middle school to discuss allegedly disruptive behavior, which included the school principal and the school resource officer who was employed through the local city police department.
- The SRO and principal attempted to engage in detailed conversations concerning school discipline and criminal charges against his son.
- The parent requested a sign language interpreter on both occasions but was denied.

Title II DOJ Enforcement Actions: Effective Communication. 2

St. Vrain Valley School District, (Colorado, 2022).

- Agreement details school district to take steps to ensure effective communication that is appropriate depending upon the method of communication used by the individual taking into account the individual's primary consideration; and the nature, length, and complexity of the communication.
- School must maintain relationships with at least two qualified interpreter agencies and ensure that this information is available to all school staff and employees.
- School shall not rely on any student or minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter available.
- School district shall pay complainant \$3,000 in compensatory damages.

Title III DOJ Enforcement Actions: Reasonable Modifications to Policies and Practices

Spanish School House, LLC, (Texas, 2025).

- The private business offers full-time and part-time Spanish-language programs for preschool- and kindergarten-aged children, as well as after-school classes for elementary aged children.
- Parents sought to enroll their two-year old child with epilepsy in the school, provided a “Seizure Action Plan” at the school’s request. Physician provided instructions for medication administration if it became necessary.
 - The plan provided information regarding the student’s seizures and treatment protocols, including that the medication Diastat should be administered for a seizure lasting longer than three minutes. The plan indicated that the student should leave the classroom during a seizure and, after the student returned to baseline, the student could return to the classroom.
 - Diastat is an FDA-approved, emergency medication for the treatment of a prolonged or an acute repetitive seizure, otherwise known as a breakthrough seizure. Diastat was specifically designed to be administered by a layperson. A doctor fills a plastic syringe with a special plastic tip and then locks it, guaranteeing that the correct dosage will be administered. The medication is administered rectally, which allows the medication to act quickly and safely.

Title III DOJ Enforcement Actions: Reasonable Modifications to Policies and Practices. 2

Spanish School House, LLC, (Texas, 2025).

- The director of Spanish Schoolhouse rejected the plan and disenrolled the child, telling the parents staff members were uncomfortable with the prospect of monitoring the student for potential administration of Diastat and that the school lacked enough staff to be able to remove the child from the classroom in the event of a seizure. The parents suggested treating the child within the classroom rather than outside, but the director declined.
- In response to the DOJ investigation, the business asserted that the requested modification (emergency Diastat administration) would have resulted in a fundamental alteration to the nature of its programs by (1) requiring staff to closely monitor the student for early signs of a seizure, and (2) requiring it to hire additional staff in order to meet its child-to-caregiver ratios, because the student would need to be removed from the classroom if she had a seizure and because the business has a practice of requiring that two staff members be present when attending to a child's private areas.

Title III DOJ Enforcement Actions: Reasonable Modifications to Policies and Practices. 3

Spanish School House, LLC, (Texas, 2025).

- DOJ rejects argument that administering Diastat, a medication that is designed to be — and routinely is — administered by laypersons, would fundamentally alter the nature of Spanish Schoolhouse, Inc.’s services.
- School required to adopt, maintain, and enforce an Emergency Anti-Seizure Medication Administration Policy and Procedure and provide notice of the policy to any subsequent parents enrolling their children with the school.
- The business may require a child’s parents or guardians to provide a completed Seizure Emergency Action Plan and Physician’s Order signed by the child’s parents or guardians and the child’s primary-care physician or treating neurologist.
- Parents or guardians of any child with a seizure disorder are responsible for providing, at their own cost, all necessary equipment and supplies for the administration of Diastat. If the proper storage of Diastat requires anything other than ordinary refrigeration, the parents or guardians will provide, at their own cost, any equipment needed to properly store the Diastat.

Digital Accessibility: Title II Entities

Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government Entities.

U.S. Attorney General Order No. 5919-2024

Publication Date: April 24, 2024

From the Department of Justice

The rule mandates state and local governments make their web content and mobile applications accessible to people with disabilities, also covering any organizations that contract with state and local government agencies to provide public services.

It requires state and local governments to make their websites and mobile apps accessible to all, recognizing the critical role these platforms play in modern public life.

By adopting the WCAG 2.1, Level AA standards, the rule provides a clear benchmark for what accessible digital content should look like.

Content covered by the rule

- The final rule applies to web content and mobile apps that a state or local government provides or makes available, whether directly or through contractual, licensing, or other arrangements.
- Web content includes the information and experiences available on the web, like text, images, sound, videos, and documents.
- As the rule applies to Universities, professors and staff must take steps to ensure course materials are compliant.

Implementation

- City or County population size:
 - 1 to 49,999 persons must comply by April 2027
 - 50,000 and more must comply by April 2026
 - Special district governments by April 2027
- A school district is not a special district government. If it is a city school district, it would use the population of the city for compliance date. If it is a county school district, it would use the population of the county.
- A city police department looks to the city population number. A county library looks to the county population, and so on.

Compliance exceptions

- Archived web content: unchanged pre-rule compliance material kept for reference/research/recordkeeping in a special area for archived material not intended to be updated.
- Electronic documents: pre-rule compliance material such as Word or Excel files on public entity's website that are not being used to apply for, access, or participate in the Title II entity's services programs, or activities.
- Unaffiliated third-party content posting: material posted online not under the public entity's direction or control.

Additional compliance exceptions

- Individualized password-protected documents: document such as PDF or Word file meant for a specific person, property, or account that is password protected or secured for a specific recipient.
- Pre-rule social media posts: a public entity's posts prior to the rule compliance date. These are stale posts that are no longer relevant or referenced.

Exceptions considerations

- Even when an exception applies, public entities still must :
 - Make reasonable modifications,
 - Provide effective communication, and
 - Provide individuals with disabilities an equal opportunity to participate in or benefit from the services, programs, or activities offered through web content or mobile apps.

Helpful links for compliance

Accessibility tools for Microsoft 365

<https://support.microsoft.com/en-us/office/accessibility-tools-for-microsoft-365-b5087b20-1387-4686-a0a5-8e11c5f46cdf>

Archived webinars presented by UW-IT Accessible Technology services on a variety of topics to improve accessibility in the classroom and online.

<https://www.washington.edu/accesstech/training/webinars/>

A general list of free accessible technology tools and resources for web design.

<https://www.washington.edu/accesstech/websites/tools/>

A guide from UW on improving accessibility for online classes and meetings.

<https://www.washington.edu/accesstech/meetings/>

More helpful links for compliance

Helpful tips to improve accessibility with Canvas.

<https://www.washington.edu/accesstech/courses/canvas/>

Accessibility tips for using PowerPoint.

<https://www.washington.edu/accesstech/documents/powerpoint/>

Helpful tips on improving document accessibility.

<https://www.washington.edu/accesstech/documents/>

Accessibility tips for creating videos.

<https://www.washington.edu/accesstech/videos/>

Resources

Disability Rights Oregon's Special Education Guide

https://www.droregon.org/s/DRO-Special-Education-Guide_ENGLISH_2025.pdf

Spanish version almost done! Check back soon at <https://www.droregon.org/childrens-rights-and-special-education>.

FACT Oregon

Who FACT is: Oregon's federally designated **Parent Training and Information Center**, run by parent peers who have walked this path themselves. factoregon.org

Get one-on-one help: Call or text 503-786-6082 or 541-695-5416, or email support@factoregon.org (English) | apoyo@factoregon.org (Spanish). factoregon.org

Learn anytime: Access free, live, and on-demand online trainings on IEPs, behavior, transition, and more. factoregon.org

Grab practical tools: Download ready-to-use toolkits, templates, and disability-specific resources. factoregon.org

All services are free for families across Oregon.

Washington-PAVE

<https://wapave.org/parent-training-and-information-program/>



Americans with Disabilities Act
Credit: ADA National Network
(adata.org) 1-800-949-4232

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About the HECC

We deliver more than community college and university education programs. We offer a range of education and training options beyond high school. This includes, apprenticeships, career certification, conservation corps opportunities.

It is the mission of HECC to improve equitable access to and success in higher education and workforce training for Oregonians

Learn more at <https://oregon.gov/highered>



Disability accommodations in higher education settings

There are two federal laws in place for students with disabilities in higher education settings.

1. The Americans with Disabilities Act (ADA). This is about access.
2. The Family Educational Rights and Privacy (FERPA). This means that parents cannot engage with school staff unless the student signs a release. Even if the student is under 18.

When students enter college, self-advocacy is the name of the game.



Questions for our Student Panelists

1. Olivia - What was your transition like to community college from high school?
2. Andrew – can you expand on the transition for you to graduate school?
3. What are some of your biggest successes in your postsecondary journey, thus far?
4. What has been difficult for you?
5. What keeps you motivated to continue your education?
6. What advice would you give other students who have had a similar experience to your own?
7. What advice would you give faculty and staff who support or teach students with disabilities?