Section 504/ADA Information and Training
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504/ADA Coordinator
What is Section 504/ADA?

- Section 504 of the Rehabilitation Act of 1973 is a Federal law that protects qualified individuals from discrimination based on their disability.
- The nondiscrimination requirements of the law apply to employers and organizations (including private colleges) that receive financial assistance from any Federal department or agency, i.e. Federal financial aid.
- The Americans with Disabilities Act (ADA) of 1990 and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 give civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion.
- These laws guarantee equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.
# Section 504/ADA Laws

<table>
<thead>
<tr>
<th>Section 504</th>
<th>ADA Title I</th>
<th>ADA Title III</th>
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<td>• Designed to eliminate discrimination on the basis of handicap in any</td>
<td>• Prohibits private employers, State and local governments, employment</td>
<td>• Covers public accommodations (i.e., private entities that own, operate,</td>
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<td>program or activity receiving Federal financial assistance.</td>
<td>agencies and labor unions from discriminating against qualified</td>
<td>lease, or lease to places of public accommodation),</td>
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<td>• Applies to each recipient of Federal financial assistance from the</td>
<td>individuals with disabilities in job application procedures, hiring,</td>
<td>• Places of public accommodation include over five million private</td>
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<td>Department of Education and to the program or activity that receives such</td>
<td>firing, advancement, compensation, job training, and other terms,</td>
<td>establishments, such as private schools and colleges.</td>
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<td>assistance.</td>
<td>conditions, and privileges of employment.</td>
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There are additional Sections (i.e. Section 508) and Titles (i.e. Title II) which are not applicable to private institutions.
Federal Enforcement Agencies

U.S. Department of Justice, Civil Rights Division
- enforces Section 504 and Title III of the ADA.

U.S. Equal Employment Opportunity Commission
- enforces Title I of the ADA.

Office of Civil Rights, U.S. Department of Education
- enforces Section 504.

There are additional Sections (i.e. Section 508) and Titles (i.e. Title II) which are not applicable to private institutions.
Who Is Protected from Discrimination/Harassment?

• Section 504 and the ADA/ADAAA protect qualified individuals with disabilities.
• Under these laws, individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities.
• People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered.
• Major life activities include:
  – caring for one’s self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning.
• Some examples of impairments which may substantially limit major life activities, even with the help of medication or aids/devices, are:
  – AIDS, alcoholism, blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, drug addiction, heart disease, and mental illness.
Disability Discrimination

• Section 504 and the ADA/ADAAA prohibitions against discrimination apply to service availability, accessibility, delivery, employment, and the administrative activities and responsibilities of organizations receiving federal financial assistance.

• Examples:
  – Lack of access to educational programs and facilities;
  – Denial of accommodations or reasonable modification of policies;
  – Offensive remarks, jokes, epithets, slurs, negative stereotyping or threatening, intimidating or hostile acts that relate to a person’s disability.
Disability Harassment

• Disability harassment is a form of discrimination, which is prohibited by Section 504 and the ADA.

• Disability harassment is defined as verbal or physical conduct that is directed at an individual because of his/her mental/physical disability or that of his/her spouse and that is sufficiently severe, pervasive, or persistent so as to have the purpose or effect of creating a hostile work or educational environment.

• Disability harassment may occur in a variety of relationships, including faculty and student, supervisor and employee, student and student, staff and student, employee and employee, and other relationships with other persons having business at or visiting the College.
Students with Disabilities

• Qualified individuals with disabilities attending post-secondary institutions have the right to request reasonable accommodations and/or academic adjustments in order to have equal access to all programs and services.
• Post-secondary institutions must grant reasonable accommodations unless they would fundamentally alter program content, outcomes, or cause the institution undue hardship.
• Reasonable accommodations could include:
  • Extended time on quizzes, tests, and exams.
  • Distraction-reduced or an alternative testing environment.
  • Permission to record lectures.
  • Use of assistive technologies.
  • Use of alternative instructional materials.
Employees with Disabilities

• For purposes of employment, qualified individuals with disabilities are persons who, with reasonable accommodation, can perform the essential functions of the job for which they have applied or have been hired to perform.

• Reasonable accommodation means an employer is required to take reasonable steps to accommodate the disability unless it would cause the employer undue hardship.

• Reasonable accommodations could include:
  • Job restructuring/reassignment.
  • Use of accrued paid or unpaid leave.
  • Modified or part-time schedule.
  • Modified workplace policies.
Visitors with Disabilities

- Places of public accommodation, including private institutions, must give persons with disabilities an equal opportunity to participate in and to benefit from their services.
- They cannot provide unequal or separate benefits to persons with disabilities.
- They must modify their policies and practices when necessary to provide equal access to services and facilities.
- Reasonable accommodations could include:
  - Accessible seating options.
  - Closed-captioning for the hearing-impaired.
  - Providing ASL interpreters for events.
  - Accessible parking locations.
Discrimination/Harassment Policies

- Washington College does not discriminate on the basis of race, sex, color, national or ethnic origin, age, religion, marital status, disability, sexual orientation, genetic information, or any other legally protected classification in the administration of any of its educational programs and activities or with respect to admission and employment.

- Harassment in any form, whether based on race, sex, color, national or ethnic origin, age, religion, marital status, disability, sexual orientation, genetic information, or any other legally protected classification, is unacceptable on the Washington College campus.

- For purposes of this policy harassment means unwelcome verbal, written, or physical conduct based on a protected classification (race, color, sex, disability, etc.) that has the purpose or effect of unreasonably interfering with an individual’s work or education (including living conditions, extracurricular activities, and social life), creating an intimidating, hostile, or offensive environment, or constituting a threat to an individual’s personal safety.
Discrimination/Harassment Complaints

• Washington College encourages anyone who has experienced any form of discrimination or harassment to report the incident promptly, to seek all available assistance, and to pursue remedies available through campus judicial or grievance processes. Complainants are also encouraged to report incidents to local, state and/or federal authorities or offices charged with handling unlawful discrimination or harassment.
• Students, employees, or third parties who believe they have been subjected to discrimination or harassment, including sexual violence/assault, by a student or employee of the Washington College community or by another individual for whom the College is or may be responsible (e.g., applicants for admission or employment, alumni, independent contractors, vendors, recruiters) should contact following persons for assistance with resolving a complaint involving disability:
  – Andrea Vassar, Director of Disability Services and the Office of Academic Skills / 504/ADA Coordinator
  – Kate Laking, Benefits Administrator / Assistant 504/ADA Coordinator
Institutional Review of Complaints

- When a Washington College student is the subject of a discrimination or harassment complaint, the matter will be referred to the Honor Board or other appropriate hearing body (see the Washington College Honor Code and Student Judicial System found earlier in this Handbook).
- When a Washington College employee or third party is the subject of a formal written complaint, the matter will be reviewed by the Washington College Discrimination Complaint Review Committee.
Filing a Section 504 Complaint with a Federal Agency

• For information on how to file 504 complaints with the appropriate agency, contact:

  U.S. Department of Justice
  Civil Rights Division
  950 Pennsylvania Avenue, N.W.
  Disability Rights Section - NYAV
  Washington, D.C. 20530

  (800) 514-0301 (voice)
  (800) 514-0383 (TTY)

  www.ada.gov

• **OR** Call the Office for Civil Rights (OCR) at 1-800-421-3481 to report any educational discrimination on the basis of race, sex, disability, etc., request information on civil rights compliance programs, procedures for filing discrimination complaints, or access to civil rights regulatory and policy documents. The local number in Washington, D.C. is 202-453-6100. [Federal Relay Service](https://relay.gov). Email: ocr@ed.gov.
Charges of employment discrimination on the basis of disability may be filed at any U.S. Equal Employment Opportunity Commission field office. Field offices are located in 50 cities throughout the U.S. and are listed in most telephone directories under "U.S. Government." For the appropriate EEOC field office in your geographic area, contact:

(800) 669-4000 (voice)
(800) 669-6820 (TTY)

www.eeoc.gov
Complaints of title III violations may be filed with the Department of Justice. In certain situations, cases may be referred to a mediation program sponsored by the Department. The Department is authorized to bring a lawsuit where there is a pattern or practice of discrimination in violation of title III, or where an act of discrimination raises an issue of general public importance. Title III may also be enforced through private lawsuits. It is not necessary to file a complaint with the Department of Justice (or any Federal agency), or to receive a "right-to-sue" letter, before going to court. For more information, contact:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530

(800) 514-0301 (voice)
(800) 514-0383 (TTY)

[www.ada.gov]
Retaliation Policy

All members of the Washington College community are advised that retaliation against anyone for filing a complaint of discrimination or harassment or for participating in an investigation of discrimination or harassment is strictly prohibited by law and by College policy.
Case 1: Letter re: Professional Skills Institute, No. 15-13-2044 (OCR 08/21/2013)

Summary: As soon as a student was accepted for admission into the Professional Skills Institute’s Medical Insurance Specialist Program, his attorney requested American Sign Language interpreter services and provided documentation to support the student’s need for the services. The student filed a complaint with OCR after the institute failed to respond to the requests after five months of correspondence.
Case 1: Letter re: Professional Skills Institute, No. 15-13-2044 (OCR 08/21/2013), cont’d.

**Ruling:** OCR explained that recipients of federal funds are prohibited from denying a qualified person with a disability the opportunity to participate in his educational programs. Federal fund recipients must engage in the interactive process regarding a student’s request, with appropriate deference to a postsecondary student’s unique knowledge of his or her disability and what has or has not worked in the past.
The institute voluntarily entered into a resolution agreement whereby it agreed to:

• Immediately provide qualified ASL interpreters to the student for all of his courses, programs and activities in which he participates;
• Create a written plan to provide the student ASL interpreter services for the next school year;
• Revise its policies and procedures for providing academic adjustments and auxiliary aids to students with disabilities;
• Publish the revised policies and procedures; and
• Train faculty and staff involved with determining academic adjustments.

OCR will monitor the institute’s compliance with the agreement.
What it means: A recipient postsecondary educational institution must take the necessary steps to ensure that no student with a disability is denied the benefits of — or excluded from — participation in a program because of the absence of auxiliary aids for students with impaired sensory, manual or speaking skills.

Taken from Disability Compliance for Higher Education, September 2014
Case 2: Davis v. The George Washington University, No. 12-cv-1431 (D. D.C. 03/20/14)

Summary: In March 2008, Anthony Davis was hired as a housekeeper by The George Washington University. In November, Davis disclosed that he had depression and said that he was being treated. Because of multiple absences from work, Davis signed a Last Chance Agreement in February 2010. It stated that if he was ever absent from work without permission within the next year, the university was entitled to immediately discharge him.
Case 2: Davis v. The George Washington University, No. 12-cv-1431 (D. D.C. 03/20/14)

Davis claimed he repeatedly asked his supervisor to provide a heavy winter coat with his name on it, because he was missing that component of his uniform. He also alleged the cold weather interfered with the effectiveness of his medications. A new winter coat was provided to Davis, but it did not have his name on it.

On Dec. 7, Davis told his supervisor that he was going to take a couple of days off because the cold weather affected his disabilities. He walked away without waiting for any response. When he did not show up for work on Dec. 8 and Dec. 9, officials fired him.
Case 2: Davis v. The George Washington University, No. 12-cv-1431 (D. D.C. 03/20/14)

Davis sued, claiming he was terminated because of his disabilities. The university filed a motion for summary judgment, arguing that the Last Chance Agreement gave it sufficient grounds for dismissal. Davis contended that even if he did not get permission to take two days off, he was absent due to his disability that ought to have been accommodated with a proper uniform consisting of a heavy coat.
Ruling: Because Davis received the coat, he never established that he was absent on those days because of any disability, the judge said. The U.S. District Court for the District of Columbia granted summary judgment in favor of The George Washington University.

Taken from *Disability Compliance for Higher Education*, October 2014
What it means: An employee who claims to be disabled must demonstrate specifically what effect his disability has on his job performance and what accommodation would best allow him to fulfill the duties of his position.
Summary: OCR investigated a student’s allegations that Lenoir-Rhyne University discriminated against individuals with disabilities because at least 21 of its buildings and facilities were not accessible to people with mobility impairments. The facilities ranged from the main administration building to sports parks and stadiums.
Ruling: OCR evaluated the facilities based on the accessibility standards set forth under the implementing regulations of Section 504 of the Rehabilitation Act. One standard covers existing facilities, and the other is for new construction or alterations. For existing facilities, Section 504 standards require that colleges and universities operate each program and activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The standard does not require that each existing facility or every part of an existing facility be accessible if alternative methods are effective in providing overall access to the program or activity.
Existing facilities are those for which construction began before June 4, 1977. Facilities constructed or altered after June 4, 1977, are considered newly constructed or altered facilities for purposes of Section 504 standards. They must be designed and constructed so that they are readily accessible to and usable by individuals with disabilities. Because with the exception of two buildings, all the facilities were built before June 4, 1977, OCR applied the “readily accessible” standard in evaluating those at Lenoir-Rhyne.

The university entered into a resolution agreement to ensure that even in existing facilities, students and individuals with mobility impairments had access to all the programs and activities provided. OCR agreed to close the investigation, and the university agreed to provide updates of the measures taken to bring its facilities into compliance with Section 504.
What it means: OCR applies different standards when evaluating the accessibility of facilities that are open to the public. One applies to existing facilities, those built before June 4, 1977; the other is for facilities built or altered after that date.