

U.S. Department of Education

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Dear Parent Letter

OFFICE OF THE ASSISTANT SECRETARY

March 16, 2007

Dear Parent:

I am Stephanie Monroe, the assistant secretary for civil rights in the United States Department of Education in Washington, D.C., where I direct the work of the Office for Civil Rights (OCR). The Department's mission is to ensure equal access to education and to promote educational excellence throughout the nation. OCR contributes to the success of this mission through vigorous enforcement of civil rights laws.

I am reaching out to you to help raise awareness of issues and to share information about legal rights and responsibilities that will affect students with disabilities as they transition from high school to institutions of postsecondary education.

Increasingly, after completing high school, students with disabilities continue their education at institutions such as two- and four-year colleges and universities and at vocational and career schools. Institutions of postsecondary education are responsible for providing disability-related services to students with disabilities. OCR's experience as a law enforcement agency, however, and other data, indicate that some students have reported that they need disability-related services and accommodations but do not receive them.

OCR enforces Section 504 of the *Rehabilitation Act of 1973* (Section 504) and Title II of the *Americans with Disabilities Act* (Title II), which prohibit discrimination on the basis of disability. Every school district and nearly every institution of postsecondary education in the United States is subject to Section 504 or Title II. Entities covered by these civil rights laws have an obligation to comply with legal requirements and to carry out their programs and activities in a manner that does not discriminate on the basis of disability.

Through the Office of Special Education and Rehabilitative Services (OSERS), the Department of Education administers the *Individuals with Disabilities Education Act (IDEA)*, which provides funds to states to assist in making a free appropriate public education (FAPE) available to eligible children with disabilities. *IDEA* requirements apply to state education agencies, school districts and other public agencies that serve *IDEA*-eligible children. Institutions of postsecondary education have no legal obligations under *IDEA*. OSERS also administers the state Vocational Rehabilitation (VR) Services program, a formula grant program that provides funds to state VR agencies to assist eligible individuals with disabilities to obtain employment, including the provision of services designed to facilitate the transition of eligible students with disabilities from school to post-school activities.

OCR strongly encourages students with disabilities to know their rights and responsibilities and the responsibilities of institutions of postsecondary education under Section 504 and the *Americans with Disabilities Act*. This information will help to facilitate equal access to postsecondary education programs and activities for students with disabilities.

This information may also help students successfully make the transition from a secondary school system in which parents and school staff have typically advocated on their behalf to a postsecondary system in which they will be expected to advocate for themselves.

Institutions of postsecondary education have significantly different responsibilities from those of elementary and secondary school districts. The unique relationship between postsecondary institutions and students with disabilities is apparent in the application and pre- and post-admission processes. For example:

Prior to Admission

- Institutions of postsecondary education may not make inquiries about prospective students' disabilities prior to admitting them. Prospective students may choose to provide an institution with information about disabilities, but any disclosure of disability is voluntary.
- Institutions of postsecondary education may inquire about whether prospective students can meet the academic and technical standards that are required for admission, provided that such inquiries are not designed to reveal the existence of disabilities.
- Prospective postsecondary students may obtain changes in standardized testing conditions in the administration of entrance examinations if they can provide documentation from a qualified professional that supports the existence of a disability and the need for the specific change.

Following Admission

- Institutions of postsecondary education do not have a legal duty to identify students with disabilities. These institutions' obligations are different from those of school districts, which must identify elementary and secondary school students with disabilities.
- After admission, institutions of postsecondary education may make confidential inquiries of students about disabilities that may require accommodation. A postsecondary student does not have to disclose that he or she has a disability. To obtain academic adjustments, however, students must identify themselves to institutions of postsecondary education as having disabilities and must make a request for an academic adjustment. A student may request an academic adjustment at any time, but advising the institution as soon as possible of the need for an academic adjustment can help to ensure that the institution has adequate time to review the request and provide an appropriate academic adjustment.
- Section 504 and *IDEA* require school districts to conduct an evaluation of a student suspected of having a disability at no cost to the student or his or her parents to determine whether the student has a disability and, because of that disability, needs special education and-or related services. Institutions of postsecondary education, however, are not required to pay for such evaluations. Therefore, if funding from other sources, such as the state VR agency, is not available to a postsecondary student, the student may have to pay for the evaluation.
- To comply with the requirements of *IDEA*, a school district or other public agency must have in effect an individualized education program (IEP) for children with disabilities. School districts may also create a plan or another document describing the evaluation and placement decisions they make for elementary and secondary school students pursuant to Section 504. Institutions of postsecondary education have no obligation to create these documents.
- Institutions of postsecondary education must provide appropriate academic adjustments based on students' disabilities and individual needs when necessary to avoid discrimination. In providing an academic adjustment, a postsecondary institution does not have to eliminate or lower essential requirements, or make modifications that would result in a fundamental alteration of the programs or activities being offered or impose an undue burden on the institution.

- Institutions of postsecondary education may establish reasonable procedures for requesting academic adjustments and students are responsible for knowing these procedures and following them. Postsecondary institutions may require students who request academic adjustments to provide documentation of their current disabilities and the need for academic adjustments. The institutions must inform students of the documentation they require. Elementary and secondary school IEPs generally will not be sufficient documentation, due to the different contexts and requirements of postsecondary education. However, existing assessment reports and a summary of the student's academic achievement provided in compliance with *IDEA* may meet some documentation requirements.
- Institutions of postsecondary education may not require students with disabilities to pay part or all of the costs of academic adjustments. Postsecondary institutions may not condition their provision of academic adjustments on the availability of funds, refuse to spend more than a certain amount to provide academic adjustments, or refuse to provide academic adjustments because they believe other providers of such services exist.

These are just a few examples of the changes students with disabilities may encounter as they make the transition from high school to postsecondary education. To provide further information, OCR has prepared a pamphlet entitled *Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities* and a guide entitled *Transition of Students with Disabilities to Postsecondary Education: A Guide for High School Educators*. The pamphlet and guide explain the legal requirements of Section 504 and Title II in the postsecondary education context.

Please help us to continue to increase the participation of students with disabilities in postsecondary education by using these documents and by sharing them with other parents, students, educators and interested persons. You may obtain the pamphlet electronically at <http://www.ed.gov/ocr/transition.html> (</about/offices/list/ocr/transition.html>) and the guide electronically at <http://www.ed.gov/ocr/transitionguide.html>. (</about/offices/list/ocr/transitionguide.html>) Additional copies of the pamphlet are available by writing to ED Pubs, Education Publications Center, P.O. Box 1398, Jessup, MD 20794-1398; by faxing to 301-470-1244; by e-mailing to edpubs@inet.ed.gov (<mailto:edpubs@inet.ed.gov>); by calling 1-877-433-7827 or 1-800-872-5327; by TDD and TTY at 1-877-576-7734; or by ordering online at www.edpubs.org (<http://www.edpubs.org>). Both the pamphlet and the guide are available in alternative formats, such as Braille, large print or computer diskette by calling

202-260-0852 or 202-260-0818. The pamphlet is also available in Spanish. (See <http://www.ed.gov/about/offices/list/ocr/transition-sp.html> (</about/offices/list/ocr/transition-sp.html>)).

For more information and assistance, you may contact OCR's Enforcement Office for your state. Contact information for these offices is at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> (<http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>).

Thank you for helping OCR to increase awareness of this important issue.

Sincerely yours,

Stephanie Monroe
Assistant Secretary for Civil
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