

AHEAD's Documentation Guidance: Advancing Access through Documentation Policy and Practice

Consistent with AHEAD's mission, this guidance establishes an approach to ensuring compliance and advancing equity, opportunity, and meaningful inclusion for disabled students in postsecondary education.

Equitable access is an institutional responsibility that is realized through:

- ❖ the development of accommodations for disabled individuals and
- ❖ proactive redesign of the campus environment to improve accessibility for disabled people, including students, staff and faculty, and visitors.

Both spheres of engagement require partnership and cooperation from campus administration, faculty, and staff as well as academic and administrative departments.

Legal Foundation

This guidance is issued pursuant to the institution's obligations under American civil rights legislation:

- ❖ [Section 504 of the Rehabilitation Act of 1973](#) as amended (34 C.F.R. Part 104)
- ❖ Title II of the [Americans with Disabilities Act](#) of 1990 (ADA) as amended and its implementing regulations (28 C.F.R. Part 35)
- ❖ Title III of the ADA, as applicable to institutional programs and activities (28 C.F.R. Part 36)
- ❖ The [ADA Amendments Act of 2008](#) clarifies the intent of Congress that determining whether an individual has a disability should not demand extensive analysis (see Pub. L. 110-325; 42 U.S.C. § 12101 note)
- ❖ The Fair Housing Act (42 U.S.C. § 3601 et seq.)
- ❖ Applicable state laws

These laws prohibit discrimination on the basis of disability and require colleges and universities to provide disabled people an equal opportunity to participate in and benefit from programs, services, and activities. In pursuit of this responsibility, the law permits colleges and universities to establish reasonable requirements and procedures

for disabled students to request accommodations and auxiliary aids, including requirements for documentation.

The Interactive Process

Per the courts and federal enforcement agencies, on behalf of their postsecondary institution, DRPs engage in an individual, interactive process to determine a student's eligibility for accommodations. This process typically involves three distinct stages:

- ❖ **Student Request:** The disabled student is responsible for requesting disability-related accommodations. Colleges/universities may create and enforce policies for how, and to whom, this request occurs.
- ❖ **Barriers Assessment:** A college/university's designated party (typically a DRP) reviews all information associated with a student's request, meets with the student, and through a collaborative exchange of information determines:
 - if the student is a person with a disability
 - if so, what functional limitations imposed by their disability present barriers in the campus environment
 - what accommodations or auxiliary aids can be provided to address these barriers
- ❖ **Reasonableness Assessment:** Professionals may assess whether the accommodations that the student is deemed eligible for are "reasonable" to provide – in other words, whether they:
 - represent a fundamental alteration of the activity to which it is applied;
 - pose a direct threat to the safety of others; or
 - create undue burden for the institution.

The interactive process remains available to a student throughout their time affiliated with a postsecondary institution, and they may return to it at any time to share additional information, request a new assessment of their eligibility, or appeal a prior decision.

Definition and Uses of Documentation

Definition

Documentation is any form of information that describes the student's disability, or the impact of that disability, in the campus environment. Not all documentation will offer the same degree of detail or relevance. Although a diagnosis is often helpful, it need not be included for documentation to provide useful information. Documentation is a broad category that may include a combination of the following:

- ❖ Information gathered during a meeting with the student
- ❖ Academic history, including past use of accommodations and overall performance
- ❖ Recorded observations of K-12 educators, campus staff, or faculty
- ❖ Information from federal or state disability agencies
- ❖ Medical records prepared by qualified professionals, such as a provider's letter, discharge records, psychoeducational evaluation or other professional assessment

Uses

Disability documentation can be used to:

- ❖ establish disability as defined under Section 504 and the ADA
- ❖ identify functional limitations and understand the impact of barriers in the campus environment
- ❖ inform determinations about accommodations, the provision of auxiliary aids and services, and campus resources to which the student can be referred

Documentation requirements should not be used to:

- ❖ prevent a student from connecting with a DRP to discuss access needs and campus resources. Documentation is not a prerequisite for affiliation with a Disability Resource Office (DRO)
- ❖ limit a student's participation in academic programs or campus life
- ❖ evaluate a student's academic merit or potential

Documentation is one factor in considering a student's eligibility for accommodations, but it may not be conclusive.

Framework for Implementation

DRPs should exercise flexibility and professional judgment in undertaking a holistic review of all information that becomes available to them through the interactive process. The following parameters are useful in considering available documentation:

- ❖ Consistent with the ADA Amendments Act and its implementing regulations, the definition of disability is to be construed broadly and should not demand extensive analysis (see, e.g., 28 C.F.R. § 35.101(b). Analysis should prioritize information that clarifies the functional impact of disability in the campus environment.
- ❖ Analysis should give considerable weight to documentation of “past modifications, accommodations, or auxiliary aids or services received...” 28 C.F.R. §36.309(b)(1)(v)
- ❖ Documentation from professionals with personal knowledge of the student’s condition and history may be given greater weight than documentation from sources lacking such familiarity. 28 C.F.R. §36.309(b)(1)(v)
- ❖ Documentation policies and practice should take into account barriers that a student faces in meeting documentation requirements. Difficulties may arise due to a lack of certainty regarding diagnosis or impacts, limited financial resources, limited availability of services, cultural and language barriers, lack of familial support, lack of transportation, or inadequate insurance coverage, etc. Provisional accommodations are appropriate when awaited documentation is likely to support regular approval.
- ❖ FERPA requires higher ed professionals to protect the privacy of student information, including the medical information that often constitutes disability documentation, except where there is clear need to know.

Institutional Responsibility

DRPs exercise professional judgment in accordance with federal law, [AHEAD Program and Professional Standards](#), and institutional policy. In addition to accommodations determinations for disabled students, DRPs are empowered to design and recommend improvements to physical, digital, and instructional environments; assessment systems; campus policies, procedures, and programs; campus climate, and other aspects of

campus that systematically impede the efforts of disabled students to pursue equitable postsecondary opportunity and experiences.

Information about barriers in the campus environment may be gathered, for instance, in the minutes from a campus committee or a student organization, in materials that DRPs use to educate campus about the experiences of disabled students, or in a university's or department's strategic plan, etc. As key partners in conversations about disability access and equity, DRPs can lead and contribute to these efforts, gathering information about reported barriers and collaborating across academic, administrative, and student-facing departments to redesign for access and embed disability as a valued dimension of diversity.

Inclusive and accessible redesign of the campus environment does not eliminate the need for individual accommodations. Because it shifts responsibility and procedural burden from the disabled student to the postsecondary institution and removes barriers for many, redesign is a particularly efficient and powerful approach to advancing access.

Regular Review

This guidance will undergo regular review to address changes in the field of postsecondary education and disability. Postsecondary professionals should also:

- ❖ regularly review policies, practices, and procedures in their areas
- ❖ use aggregate data to identify patterns indicating barriers as well as successful approaches to supporting disabled students.
- ❖ engage in continuous improvement with attention to the experiences of disabled people in the campus environment.

Aligned with Section 504 and the ADA as amended, this guidance articulates a postsecondary institution's responsibility to advance access and equitable opportunity for students with disabilities. This responsibility is integral to the realization of institutional goals related to degree completion, professional success, and enhanced lifelong opportunities for graduates.