



California's protection & advocacy system

Disability Discrimination Fact Sheet: Colleges and Universities

February 2018, Pub. #F111.01

Federal and State Disability Discrimination Laws

College and university students and applicants with disabilities are protected against disability-based discrimination by federal and state anti-discrimination laws.

Title III of the Americans with Disabilities Act (ADA) prohibits disability-based discrimination by private colleges and universities, and other businesses and nonprofit service providers. These entities are known as “public accommodations.” Title II of the ADA covers state and local governmental entities, including public colleges and universities. These protections include: 1) nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment of people with disabilities; 2) requirements that colleges and universities provide reasonable accommodations to people with disabilities in order to ensure that they have equal access to higher education services; and 3) architectural standards for new and altered buildings, requirements for reasonable modifications to policies, practices, and procedures, requirements to remove barriers in existing buildings when it is readily achievable to do so, and other access requirements. Section 504 of the Rehabilitation Act provides similar protections with regard to entities that receive federal funds.

California law provides similar protections. The Unruh Civil Rights Act and the Disabled Persons Act prohibit disability-based discrimination by any business establishment. Government Code Section 11135 prohibits discrimination by businesses and government entities that receive state funds. Any violation of Title III is also a violation of state law. However, in

some circumstances, state law may provide a higher level of protection than federal law.

You can request a reasonable accommodation from a college or university at any time, as an applicant or a student. The request can take any form, but it is best to make the request in writing if possible. The request should include a letter from a treating professional explaining your disability-related need for the accommodation. Sample letters to request and support a reasonable accommodation are below.

The websites for the state and federal agencies that enforce protections against discrimination in higher education provide useful resources for understanding your legal rights under federal and state law:

- California Department of Fair Employment and Housing
<http://www.defh.ca.gov>
- U.S. Department of Education's Office of Civil Rights (OCR)
<http://www2.ed.gov/policy/rights/guid/ocr/disability.html>

You can also learn more about the rights of students with disabilities in higher education in Disability Rights California's publication, *Rights of Students with Disabilities in Higher Education*, located at:
<http://www.disabilityrightsca.org/pubs/530901.pdf>.

Self-Advocacy

If your school refuses to provide you with the accommodations that you need or otherwise discriminates against you because of your disability, you have the option of filing an internal grievance, an administrative complaint at the state or federal level, or a lawsuit.

Internal Grievances

Most colleges and universities are required to have a grievance procedure for students who believe their rights have been violated. These procedures can differ from school to school. If you want to file an internal grievance with your school, ask your school's Disabled Students program, ADA or Section 504 coordinator, or Dean of Student Affairs for more information.

Federal Administrative Complaints

The U.S. Department of Education's Office of Civil Rights (OCR) investigates violations of schools that receive federal financial assistance. These schools fall under the ADA and Section 504 of the Rehabilitation

Act. Complaints with the OCR must be filed within 180 days of the discrimination unless you have already gone through your school's internal grievance process or the OCR has granted you a waiver. If you have completed your school's internal grievance process, you must file your complaint with the OCR within 60 days of your school's decision. You can find information about filing a complaint with the OCR at www.ed.gov/ocr.

The U.S. Department of Justice (DOJ) also investigates violations of private colleges and universities under the ADA. ADA Title II complaints must be filed within 180 days of the date of discrimination. Title III complaints can be filed with the DOJ at any time. However, it is best to file as soon as possible, because the passage of time can make discrimination more difficult to prove.

You can find information about filing a complaint with the U.S. Department of Justice online at http://www.ada.gov/filing_complaint.htm.

California Department of Fair Employment and Housing Complaints

California Government Code Section 11135 is enforced by the California Department of Fair Employment and Housing (FEHA). You can file an administrative complaint with DFEH complaint using the options below. You must file the complaint within one year of the discriminatory conduct.

You can file a DFEH complaint online at: <https://www.dfeh.ca.gov/filing-a-complaint-online/>

Litigation

Violations of the laws discussed above may also be enforced through private lawsuits. Please be aware that statutes of limitations restrict the timeframe for filing litigation, and that you could potentially lose claims if you do not act within the applicable statute of limitations. These deadlines can be as short as two years from the date of discrimination.

Additionally, the Government Tort Claims Act requires that a government tort claim be filed within six months of a discriminatory incident before bringing a lawsuit for money damages against a state or local governmental entity. More information about tort claims can be found at <http://www.disabilityrightsca.org/pubs/522901.htm> Please note that this website links to the form for claims against the state or a state agency or employee, which may not be applicable in your case. Other public entities may have their own tort claims form available on their website. If you are

interested in pursuing litigation, you should consult with an attorney as soon as possible.

If you are seeking less than \$10,000 in money damages, another option is to file a discrimination case in Small Claims Court. The statutes of limitations discussed above will apply. You cannot use a lawyer if you go to small claims court. Here is a link to a Disability Rights California publication that explains the process of using Small Claims for discrimination cases: <http://www.disabilityrightsca.org/pubs/520601.pdf>. These deadlines can be as short as two years from the date of discrimination. If you decide to pursue litigation, you should discuss these and other deadlines with a private attorney.

Sample Letter to Request a Reasonable Accommodation

[Date]

Dear [College or University]:

I am writing to request reasonable accommodations for my disability/disabilities.

I am [a student at/am applying to become a student at] [name of school]. Because of my disability, I need the following accommodations: [list accommodations].

My [physician/psychiatrist/psychologist/therapist/social worker/occupational therapist /other individual (describe)] has deemed these accommodations/modifications necessary in light of my disability. Please see the attached letter from [doctor or professional's name].

Federal and state law require that colleges and universities reasonably accommodate students and applicants who have disabilities. Please respond to this request by [date]. Feel free to contact me at [your phone number and/or e-mail address] if you have any questions. Thank you.

Sincerely,

[Your name]

[Your address]

Sample Support Letter

[Date]

Dear [College or University]:

I am the [physician/psychiatrist/psychologist/therapist/social worker/occupational therapist] for [Name], and am familiar with his/her condition. [S/he] has a disability that causes certain functional limitations. These limitations include [list functional limitations that require the requested accommodation].

[The requested accommodation] is necessary for [Name] to [apply for/have equal access to the services and benefits of] [name of school]. [Describe how the accommodation will assist or support the individual].

Thank you for providing this reasonable accommodation for [Name].

Sincerely,

[Name and Title]

We want to hear from you! Please complete the following survey about our publications and let us know how we are doing! [\[Take the Survey\]](#) For legal assistance call 800-776-5746 or complete a [request for assistance form](#). For all other purposes call 916-504-5800 (Northern CA); 213-213-8000 (Southern CA).

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>