

Differently Abled Students in Postsecondary Education

Historically, many doors to college campuses were closed to disabled students. Today, with the assistance of federal legislation, close to half a million disabled students are enrolled in postsecondary institutions. Disabled students, however, are less likely than nondisabled high school graduates to progress to four-year institutions. Federal legislation passed nearly ten years ago was designed to ensure access to higher education for a larger group of disabled students, yet many continue to experience obstacles to access.

Access Opportunities

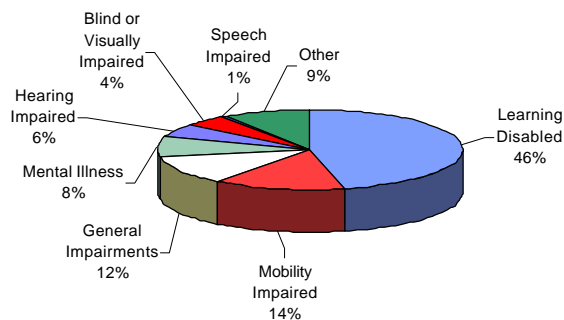
There are many opportunities and new responsibilities for institutions of higher education as increasing numbers of disabled students are able to access postsecondary campuses. Ninety-eight percent of public institutions enroll disabled students.¹ Yet there are no comprehensive postsecondary data about the enrollment of students with disabilities and the institutional accommodations provided.

found in the ADA, which drew from language in Section 504 of the Rehabilitation Act of 1973.

On average, an estimated 24 percent of the adult population between the ages of 18 and 44 in the WICHE region have been diagnosed with a mental disorder.⁴ Of the total adult population, an estimated 8 million adults in the WICHE region have been diagnosed with a mental disorder (see Figure 2).⁵ Most mental disorders develop in college-aged adults, 18-24 years old.

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Figure 1
Disabled Students in Two- And Four-Year Institutions



Source: National Center for Education Statistics. August 1999. *An Institutional Perspective on Students with Disabilities in Postsecondary Education*.

The federal government estimates that 428,280 students enrolled in two- and four-year colleges are disabled, out of a total enrollment of over 12.4 million.^{2,3} Figure 1 provides a breakdown by disability. One of the difficulties in understanding the regional scope of disabled students enrolled in higher education is the lack of any uniform collection of state-level statistics.

Since the enactment of the Americans with Disabilities Act (ADA) in 1990, the vast majority of disability service requests in higher education are based on learning and psychiatric disorders, not physical disabilities. The explosion of mental disability service requests in higher education is the result of the broader definition of disability

Figure 2
Adult High School Graduates Diagnosed with a Mental Disorder



Source: Dr. Charles Holzer, University of Texas, based on the 1990 Census and National Epidemiological Survey data.

Yet at the national level, only an estimated 8 percent or 33,260 mentally disabled students enrolled in two- or four-year colleges in 1998.⁶ This gap between the total number of adults with mental disorders and the actual number enrolling in college and disclosing their disability may illustrate a reporting discrepancy. Oftentimes, students with mental disorders try to avoid the “disabled” stigma by not reporting, and postsecondary institutions are not required, nor permitted to inquire.

Policy Insights is a companion publication for WICHE’s fact book, *Policy Indicators for Higher Education: WICHE States*. *Policy Insights* examines current issues in higher education from the perspective of policymakers at the state level and on the campus.

Equal Educational Opportunity

1954 The mandate for equal opportunity in education originates with the Supreme Court decision in *Brown v. Bd. of Education*.

1973 The **Rehabilitation Act** extended the notion of equal educational opportunity to the handicapped under Section 504. This civil rights law mandates equal opportunity for educational benefits. The act requires each postsecondary institution that receives federal money to "make ... modifications to its academic requirements as are necessary to ensure that such requirements do not ... have the effect of discriminating, on the basis of handicap, against an [otherwise] qualified handicapped applicant or student." *

1975 The **Education for All Handicapped Children Act** (EHA) enabled every child in K-12, regardless of the severity of disability, a free and appropriate public education.** The EHA was later reenacted in 1990 as the **Individuals with Disabilities in Education Act** (IDEA). Both the EHA and IDEA are special education entitlements. More specifically, IDEA is a federal financing statute that identifies 13 disabilities under which students in grades K-12 qualify for a free and appropriate public education. The Office of Special Education Programs enforces the EHA and IDEA.

1990 The **Americans with Disabilities Act** extended the mandates of Section 504 (1973) to private institutions with 15 or more employees, regardless of federal funding. The Office of Civil Rights enforces Section 504 and the ADA. The ADA is commonly known as the law that requires wheelchair ramps and handicapped parking spaces. But the ADA has had a more far-reaching impact. It has been the catalyst for equity in hiring and firing practices, building and transportation system design and educational access.**** Many refer to the ADA as "unlocking the door for handicapped persons to enter mainstream society." ****

1996 An amendment to the IDEA required states to allow disabled students to take the Standard Achievement Test (SAT), a college admission prerequisite, alongside their non-disabled peers.

*The Rehabilitation Act of 1973, Section 104.4(a).

** *Timothy W. v. Rochester New Hampshire School Dist.* (1989).

*** Michael Gordon and Shelby Keiser, *Accommodations in Higher Education Under the Americans with Disabilities Act (ADA)*, (DeWitt, NY, GSI Publications: New York and London, Guilford Press: 1998), p. xvi.

**** J. West. "The Social and Policy Context of the Act." in *The Americans with Disabilities Act: From Policy to Practice*, (New York: Milbank Memorial Fund, 1991), pp. 3-24.

"It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be available to all on equal terms."

– Chief Justice Warren Burger

The financial source is the primary difference between the Education for all Handicapped Act (EHA), later renamed the Individuals with Disabilities in Education Act (IDEA), and the Americans with Disabilities Act (ADA) and its predecessor, Section 504. The EHA and the IDEA created K-12 special education entitlement programs, financed by the federal government, paving the way for college access. Section 504 and the ADA promote equal access to both employment and higher education to those who qualify as "disabled." The ADA mandates are financed by state rehabilitation agencies and postsecondary institutions serving the disabled.

Postsecondary Responsibilities

In 1993, the first year of enforcement of the ADA, the Office of Civil Rights (OCR) determined that 86 colleges had violated the rights of disabled students and employees.⁷ OCR's response to student complaints found:

- 23 colleges maintained facilities without access.
- 18 colleges refused to make academic adjustments.
- 14 colleges' applications asked improper questions.
- 5 colleges' antidiscrimination policies did not extend to mental disabilities.

Has your state agency or postsecondary institution implemented ADA compliance for disabled student services pertaining to:

- assessment • admissions
- pre-admission inquiries • disclosing one's disability • diagnosing and documenting students as disabled
- confidentiality • fees for service
- facilities access • financing compliance efforts • determining appropriate academic adjustments
- course substitution • auxiliary aids
- testing accommodations
- alternative emergency procedures
- disability-related conduct
- dismissal/grievance procedures
- re-admission • licensure issues
- and the rights of students enrolled in internship programs?

The Data Dilemma

State-level ADA postsecondary compliance statistics are not available from the Office of Civil Rights. No uniform data concerning the numbers of disabled students in postsecondary education are available nationally. The National Center for Education Statistics just conducted its first survey regarding disabled students in postsecondary education in August of 1999.

Shifting the Burden

Finance. The state and individual college or university are required to finance the accommodations that are deemed reasonable, unless such accommodation presents an undue financial or administrative burden. On certain occasions, a sponsoring state vocational-rehabilitation agency may assist with the auxiliary costs.

Determining who should pay for aids for disabled students has become a growing concern among state and university officials that has been brewing since the inception of the ADA. The U.S. Department of Education oversees state vocational-rehabilitation agencies and believes the state agencies have the final responsibility to pay for their clients' services when they attend a postsecondary institution. Institutions must pay for all other aids for disabled students who are not sponsored by the state rehabilitation agency. As recently as June of 1998, 30 states and their colleges were engaged in a stand-off to determine who would pay the bill for disabled student auxiliary aids.⁸

The ADA did codify, however, that institutions may not charge individuals with disabilities for the provision of necessary auxiliary aids and services.⁹

Enforcement. The ADA allows individuals to sue the institution for noncompliance, rather than relying on the Office of Civil Rights to file a complaint on their behalf, as had been the case under Section 504 of the Rehabilitation Act. The increased threat of litigation that the ADA posed served to pressure institutions into complying much more quickly than they had in the past.¹⁰

Identification: Consumer vs. Institution. Prior to Section 504 and the ADA, institutions were permitted to ask whether prospective students suffered from any physical or mental disability. As of 1973, postsecondary institutions were

prohibited from making inquiries to determine whether an individual had a disability. The decision to identify a student as disabled for the purposes of admission is made by the student applicant. This action is a judgment call that the consumer must make, after considering all the institution's requirements for admission.¹¹

Institutions may inquire about a student's disability after admission or student disclosure in order to ensure that proper accommodations are provided. It is important to distinguish, however, that institutions are only required to provide accommodations for *known* disabilities. Furthermore, institutions are not required to provide services of a personal nature, such as a personal aide or tutor.

Documentation and Confidentiality. Under the ADA, documenting the disability at the college level becomes the student's burden. The institution must inform the student of available services, while the student must disclose a disability on a timely basis and provide documentation that is less than three years old. The documentation must be certified by a qualified evaluator and the student must make the request for special accommodations.

Because the student reserves the right to disclose the disability to the institution, faculty and staff are bound by students' requests for confidentiality. For example, if a student decides to disclose his or her disability to the science professor, that faculty member may not share the nature of that student's disability with others. This self-disclosure aspect of Section 504 and the ADA provides increased privacy to students with psychological disorders.

Defining Disability. Section 504 and the ADA provide broader definitions of "disability" beyond the 13 narrowly defined disabilities under the IDEA. Ultimately, applying the ADA definition leads to more individuals included in the "disabled" group.

This broader definition is the primary reason higher education institutions are struggling to understand and meet the needs of increasing numbers of learning-disabled students. Currently, physical disabilities represent only 25 percent of the service requests. The remaining 75 percent are comprised of individuals who feel they suffer from what the ADA describes as "substantial limitation" in the ability to learn.¹²

The Legal Parameters

Amidst rather ambiguous regulations, institutions have had to develop protocols for verifying disabled individuals' conditions and guidelines for what constitutes fair and reasonable accommodation. Furthermore, despite the courts' reassurances that only "otherwise academically qualified" disabled students may be afforded the equal access protections of the ADA, some college officials fear that loose standards will dilute the integrity of their academic programs.

Additionally, some faculty question whether institutions should be relying so heavily on them to assess and serve disabled students' needs. To respond to this concern, the Office of Postsecondary Education initiated a grant program for postsecondary institutions to develop training and professional development programs for both faculty and administrators.

Postsecondary institutions, however, may expect all students to conform their behavior to student conduct codes. If a student's disability triggers behavior that falls outside of the institution's conduct code, an institution may dismiss that student, although OCR requires the institution to re-admit a student when the disability-related conduct stabilizes.¹³

The issue of student qualification and its related nuances has been defined by the courts. Where a disability directly limits essential skills and abilities, the disabled student will not be considered qualified. However, the disabled student will be considered qualified when academic adjustments facilitate learning and do not relieve the student from developing essential skills.¹⁴

What is Reasonable?

The Office of Civil Rights developed a four-part test to assist postsecondary institutions as they attempt to identify service responsibilities and navigate federal legislation and court interpretations.

Similar to the minimal requirements of the IDEA, Section 504 and the ADA provide a federal floor to educational access.¹⁵ These laws do not require that a disabled student be accommodated so that he or she may achieve their fullest academic potential; they simply require the accommodations be reasonable.

The Reasonableness Test

- 1) Is the documentation of the student's disability adequate?
- 2) Are the accommodations necessary?
- 3) Were the appropriate accommodations and auxiliary aids provided?
- 4) Were the accommodations and auxiliary aids adequate and effective?

Western Models

The U.S. Department of Education provides a variety of resources and grant opportunities to improve the lives of students with disabilities. The Office of Postsecondary Education and the Office of Special Education and Rehabilitative Services host disability demonstration project competitions for postsecondary institutions.

Office of Postsecondary Education

Washington state's DO-IT program is funded by the Fund for the Improvement of Postsecondary Education (FIPSE). The program received the National Information Infrastructure Award in 1996 for its innovative use of the information highway. The DO-IT program uses the Internet to provide distance learning and mentoring to high school students with disabilities. The goal of the program is to help students with disabilities successfully transition into four-year institutions from both community and technical colleges since the majority of disabled students enroll in two-year colleges.

The Office of Postsecondary Education recently awarded seven grants to universities in the West. These grants were designed to assist institutions in developing innovative teaching strategies to provide faculty and administrators with the skills and supports necessary to teach students with disabilities. Out of a total of \$6 million in awards for this new program, the West received nearly \$2 million or roughly one-third of the grant monies.

The program recipients are the University of Arizona, \$289,000; California State University-Northridge, \$251,788; San Diego State University, \$148,958; University of California at Berkeley, \$250,000; Oregon Health Science University, \$335,511; Utah State University, \$274,400; and the University of Washington, \$253,381.

The University of Arizona's project hopes to change university cultures that are dominated by discriminatory attitudes and traditional teaching methods. The project will examine ways to change the content focus of a research university to a more learning-centered, student focus.

The University of California at Berkeley will survey administrators, faculty, and staff about their knowledge of disabilities and attitudes toward students with disabilities. Students with disabilities will also be surveyed to obtain information about instructional models that they perceive work. Another California institution, California State University at Northridge, will improve the access of educational settings for students with disabilities in mainstreamed settings. San Diego State University will develop a prototype for faculty and administrator training in higher education.

Oregon Health Sciences University seeks to ensure quality medical and allied health for students with disabilities in higher education.

Utah State University is developing a three-tier training and support system for faculty, teaching assistants, and administrators to improve the quality of postsecondary education for students with disabilities.

The University of Washington will extend its existing FIPSE-funded DO-IT program to include a comprehensive professional development program for institutions of higher education from 20 states.

Office of Special Education and Rehabilitative Services (OSERS)

Additionally, the U.S. Department of Education's Office of Special Education and Rehabilitative Services funded a number of Western states under the IDEA Research and Innovation grant program. The awards break down into a number of different categories.

Field-Initiated Research. San Francisco State University received funding to initiate a three-year research project to evaluate the

effectiveness of a multicomponent intervention package with the goal of increasing the social and academic participation of students with severe disabilities who use augmentative and alternative communications systems.

Directed Research. The University of Oregon was funded to study the extent to which effective practices in serving the needs of children with disabilities in reformed educational systems are sustained over time. The university also received funding for the Center for Positive Behavioral Interventions and Support. The center is designed to create greater awareness of research-based approaches, including identifying state and local policies which support them and building the necessary knowledge base, momentum, and resource networks to encourage widespread application.

The University of Colorado was awarded a grant for its contributions to research and practice, which synthesize and communicate a professional knowledge base. The university also received funding for improving the delivery of special education and related services.

National Clearinghouses. Western Oregon State College in Monmouth received a grant as part of the Consortium Clearinghouse on Children with Deaf-Blindness. The central management and leadership for this clearinghouse are based in the college's Teaching Research Division.

Educational Reform. The Office of Special Education and Rehabilitative Services awarded the National Institute for Urban School Improvement, located at the University of Colorado – Denver, a grant to implement inclusive education for children with disabilities in urban districts. The university has three centers that will assist with this work: the Research and Synthesis Center, the Implementation Center, and the Marketing, Dissemination, and Utilization Center.

Outreach Services for Disabled Youth. The Bureau of Indian Affairs in Fort Defiance, AZ, also received a grant for fiscal year 1998. This project is intended to provide more efficient mental health support for Navajo children on the reservation. The project is expected to reduce the high rate of inappropriate special education placements and assure people of the Navajo reservation community that their children can receive mental health services at community schools rather than off-reservation.

Transition to Postsecondary Education.

A grant for the 1998 fiscal year allows the Washington Research Institute in Seattle to provide direct technology-enhanced collaborative linkages among 18 postsecondary disability coordinators, high school students with disabilities, and their transition-planning teams. This collaboration allows states to pool the expertise of a number of disability service offices.

Delivery and Outcomes Improvement.

A grant for fiscal year 1998 to the University of Alaska in Anchorage will improve the delivery of services to students with disabilities in postsecondary education. The university is developing an innovative model to use video exploration and self-modeling to address course success and transition issues.

Utah State University also received a grant in this area. Utah's project is to produce a consumer-driven job choice and career education program. The project will develop, evaluate, and disseminate a program that provides a realistic representation of various jobs using CD-ROM to target youth with severe disabilities.

Technology Development and Utilization.

The Washington Research Institute in Seattle also received a grant to develop a series of computer-based, independent instructional modules to teach mathematical operations and topics visually and conceptually to students with learning disabilities.

The Hawaii University Affiliated Program in Manoa received funding to explore the effects of individual video feedback on literacy outcomes for children being tutored in reading.

The University of Oregon in Eugene received funding for a project that engages in collaborative research as a means to reduce the gap between research and practice and to understand how educational settings integrate professional development, policies, and use of technology to achieve better outcomes for children and youth with disabilities.

The University of Oregon also received funding for a National Center to Improve the Tools of Educators. The center works with publishers, governmental agencies, professional organizations, and others to improve the quality of technology, educational media, and materials for use with students with disabilities.

In addition to the U.S. Department of Education's Office of Postsecondary Education

and the Office of Special Education Programs and Rehabilitative Services, some grant monies are available from the National Science Foundation (NSF) and the National Aeronautical and Space Association (NASA).

Disabled Student Resources

- Association on Higher Education and Disability (AHEAD): <http://www.ahead.org>
- Boston University: <http://www.bu.edu/sarpsych/>
- Heath Resource Center: <http://www.acenet.edu>
- National Center for the Study of Postsecondary Educational Supports: <http://www.rrtc.hawaii.edu/>
- National Transition Alliance for Youth with Disabilities: <http://www.dssc.org.nta>
- Rehabilitation Research and Training Center Programs at Berkeley: (415) 502-5210
- U.S. Department of Education, FIPSE, OPE and OSERS: <http://www.ed.gov>

Endnotes

- 1 National Center for Education Statistics, U.S. Dept. of Education, Office of Educational Research and Improvement, *An Institutional Perspective on Students with Disabilities in Postsecondary Education*, August 1999, p v.
- 2 NCES, August 1999 report.
- 3 *The Chronicle of Higher Education 1999/2000 Almanac* reports 12,410,000 students were enrolled in two- and four-year institutions, both part and full time in fall 1997.
- 4 Dr. Charles Holzer, University of Texas Medical Branch, developed these estimates based on the 1990 Census and National Epidemiological Survey data.
- 5 Michael Gordon and Shelby Keiser, *Accommodations in Higher Education Under the Americans with Disabilities Act (ADA)*, (DeWitt, NY, GSI Publications; NY and London, The Guilford Press, 1998), p. xvi.
- 5 Holzer.
- 7 Scott Jaschik, "New Focus on Civil Rights," *The Chronicle of Higher Education*, June 22, 1994, A27.
- 8 Jeffrey Selingo, "States and Colleges Wrangle Over Paying for Services to Disabled Students," *The Chronicle of Higher Education*, June 19, 1998, p. A37.
- 9 28 C.F.R. Section 35.130[f], 36.301[c]; upheld by *State University of New York* (1993).
- 10 Scott Jaschik, "Regulations Proposed to Make College Buildings Accessible to Disabled," *The Chronicle of Higher Education*, Jan. 30, 1991, p. A22.
- 11 Jeanne M. Kincaid, "The ADA and Section 504: Legal Mechanisms for Achieving Effective Supported Education", *Community Support Network News*, Fall 1994, 10(2).
- 12 Gordon and Keiser, p. xvi.
- 13 Kincaid, "The ADA and Section 504: Legal Mechanisms".
- 14 *Kling v. County of Los Angeles*.
- 15 *Bd. of Ed. of the Hendrick Hudson Central School District et al. v. Rowley et al.* (1982).

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