



A WORLD OF DIFFERENCE

BEACON COLLEGE



HALEY MOSS, ESQ.

Q & A

THE AMERICANS WITH DISABILITIES ACT

Q: Do the legal rights of students with learning disabilities continue under the ADA after high school?

A: There are three major pieces of disability rights legislation: the ADA, the IDEA, and the Rehabilitation Act (this is where 504 is). Public school students in K-12 are covered with IEPs (Individualized Education Program) under the IDEA, which is separate from the ADA. Some of you may have had a 504 plan in a private school or in college because these institutions receive federal funding. IDEA governs students with disabilities' rights to a free and appropriate public education through high school. The ADA is a comprehensive civil rights law that protects people with disabilities from discrimination, ensures access, and entitles us to reasonable accommodations in employment, education, and public spaces, to name a few.

Q: Are attention deficit disorder and attention deficit hyperactivity disorder covered under the ADA?

A: Yes. ADD/ADHD is a disability that affects one or more major life activities, including thinking and learning, so it's covered.

Q: As K-12 504 plans and IEPs don't travel to college, am I entitled to accommodations in college under the ADA?

A: Yes. Universities have to be compliant with both Section 504 and/or the ADA. They might not be the same accommodations you had in high school, but professors and colleges are required to make reasonable accommodations.

Q: Under the ADA, can a student who struggles in certain areas because of his or her learning disability request that a college eliminate academic requirements essential to the instruction the student is pursuing?

A: Reasonable accommodations do not give unfair advantages or necessarily change the material or make it easier, but it can change the format of exams or information presented. In other words, you still have to meet the essential requirements.

Q: What are some pre-employment questions that are no-no's for employers under the ADA?

A: Employers with 15+ employees are covered under Title I of the ADA, which protects applicants and employees from discrimination in the workplace. The ADA precludes employers from asking applicants questions that are "likely to elicit information about a disability." You may ask if an employee can perform the essential functions of a job with or without accommodation. Quick tip: the essential functions are the most important things — usually what's in the job description. As a lawyer, for me reading and writing are essential functions. Some big no-no' questions are: information about specific disabilities; whether an applicant has ever had mental health treatment; what medication an applicant is taking (however, drug tests for illegal drugs are permissible. If the drug test shows lawfully prescribed medication, it is a confidential medical record).

Q: How and when do I disclose a disability in a job (and is it required)?

A: Disclosure is a highly personal decision! Legally, you only have to disclose if you are seeking accommodations under the ADA (this covers businesses with 15+ employees, though check if a similar state civil rights law covers smaller businesses). Otherwise, you might disclose because it makes you feel better, explain behaviors or aspects of your volunteering/resume. You might do this in a cover letter, interview, or after you start a new job! Either way, it's totally up to you.

Q: How do I get accommodations at work?

A: Accommodations are a two-way street and a conversation. I always like to have a conversation with whomever is supervising me, and sometimes accommodations don't have to be formal. I like to use self-advocacy skills and frame accommodations as a positive thing to make me a better employee. For instance, I've told a supervising attorney that "I work best when you give me clear instructions" and then we figured out how to clear the ambiguities from there.