



# If Your College or University

# Violates Your

# What Can You Do?

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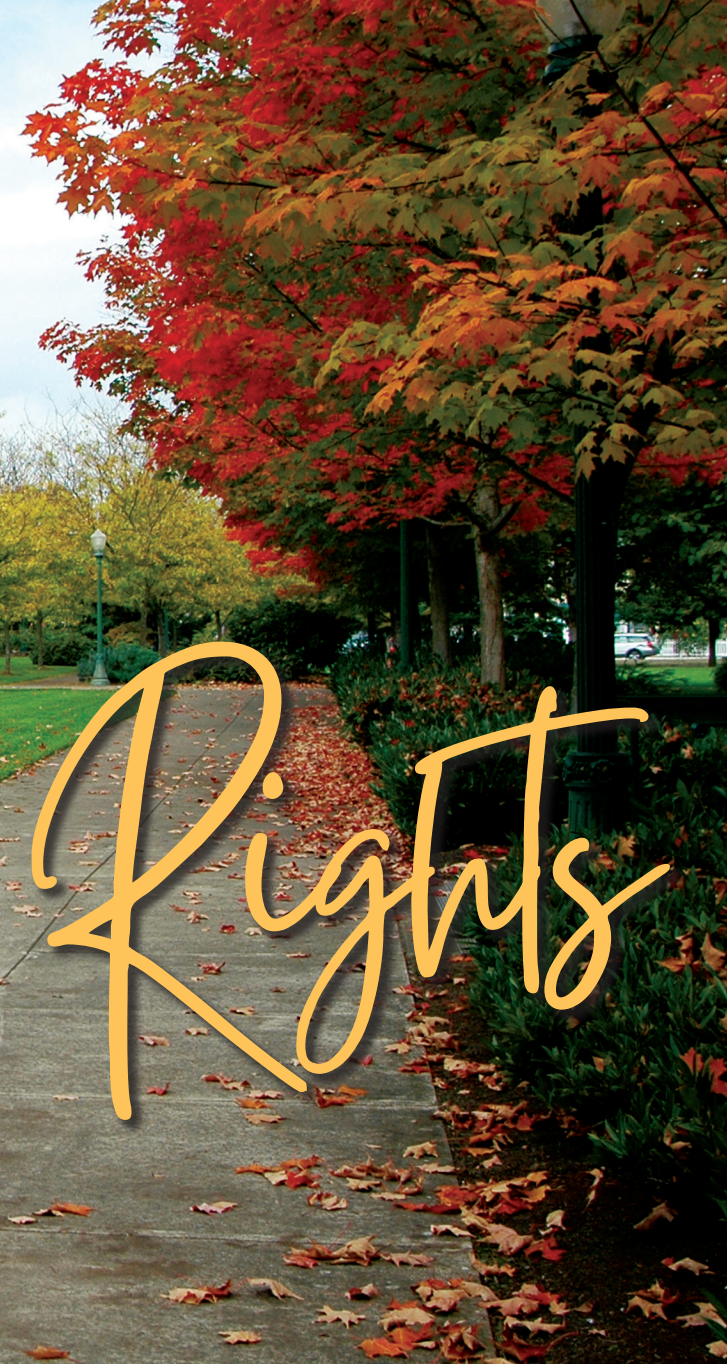
**A**ll colleges and universities, public and private, must provide equal access for students with disabilities under the Americans with Disabilities Act. Publicly funded universities, community colleges, and vocational schools are covered under Title II of the ADA. Privately funded schools are covered under Title III of the ADA. If the school receives federal funding, they are also required to make their programs accessible under Section 504 of the Rehabilitation Act.

The laws additionally require that colleges, universities, and vocational schools have a person that coordinates compliance with these laws. Often, they are called Section 504 Coordinator, ADA Coordinator, or Disabil-

ity Services Coordinator. As a student at one of these postsecondary schools, their office is where you start to request accommodations for your disability. You must provide documentation of your disability and make specific requests for accommodations or modifications. This is easier to do before you have an issue in a class and should be done at the beginning of each school year.

While accommodations or modifications are required under the laws, one caveat is that the requested accommodation or program modification is not required if it fundamentally alters the nature of the program or causes an undue financial or administrative burden. Schools know this, and are quick to use this as an excuse for not providing an accommodation.





### **Reasonable accommodations or modifications**

What does this mean in plain language? While the school might provide you with extra time for assignments or tests, they do not have to shorten the assignment or test. The school might provide you with a note taker or teacher notes; but additional information that was not given in class is not required.

It is also important to know that the accommodations and program modifications offered by the school cannot be a one-size-fits-all plan. Instead, it must be individually designed to meet your needs. If you need a recording device because focus is a challenge, and you learn better auditorily, then the school should allow you to record classes even if school policy is to

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only provide written notes. Written notes do not meet your individual needs; therefore, it is not an appropriate accommodation.

What can you do if the school denies your request for reasonable accommodations or if a professor fails to provide an accommodation the school deemed necessary for your disability? If it is a professor failing to provide the accommodation, the first place to start is to go back to the person who granted you the accommodations and ask whether they can talk to the professor. Sometimes this can solve the issue quickly and easily.

If this does not work, or if the school completely denies your request, the next step is to file a grievance or complaint with the college or university. All schools are required to have a grievance policy. This could be found in your student handbook, or your faculty advisor or office for students with disabilities can provide you with a copy. Do not delay getting the policy and starting the process. There are usually strict timelines that must be followed.

Once you have the policy, read it carefully. I personally like to highlight each step and the deadlines in different colors. Follow each step as specified. There could be more than one level and it is important you make sure you adhere to deadlines for initial filing and filing any appeals.

### **When to file a formal complaint with OCR**

If this does not resolve the issue, you can file a complaint with the Office of Civil Rights at the Department of Education (OCR). This is a formal complaint, and there is an electronic form you can use.



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You are not required to use the form; but your letter must include all of the required information. I find it easier to use the form and supplement it with a detailed letter. This is also a good way to ensure all information is included. It is important to note that if the complaint is not filed within 180 days of the last incident of discrimination, you must have good cause to get a waiver of the deadline.

Once the complaint is received by OCR, the case will be assigned to someone for review. The investigator might reach out to clarify issues, or just acknowledge receipt. The complaint will then be reviewed to determine whether OCR will proceed further with your complaint. The review begins by ensuring OCR has subject matter jurisdiction and personal jurisdiction, as well as that the complaint has been filed timely if no waiver is granted. OCR will contact you via phone, email, or regular mail once the decision has been made.

It is important to note that OCR acts as a neutral factfinder, kind of like a judge. If OCR decides to proceed further with your complaint, there could be informal mediation, if requested. Or, if not requested, and deemed appropriate during the investigation, OCR might contact both parties to offer this option.

If mediation does occur, another OCR staff member will be assigned to be the mediator. Mediation is confidential, and the investigator will not know of anything that is said during the process unless an agreement is reached. This allows both sides to talk freely, in the hope that they will come to a resolution themselves. If the issues are not resolved in mediation, OCR will continue with the investigation. OCR and the recipient of the complaint might enter a resolution agreement at any time dur-

ing the investigation. If this occurs, OCR will inform you of the resolution.

If the school process or OCR process is not what you want, or you do not get the results you want, the final option is to file a claim in federal court. You are not required to file a complaint with OCR before filing a complaint in federal court; however, it is important to note that OCR will not represent you or provide you with any advice. Furthermore, OCR will not continue to proceed with your complaint once a complaint is filed in federal court. If you choose this option, hiring a lawyer is not required, but it is highly recommended.

It is important that you always know your rights when it comes to requesting accommodations for your disability. It is also important to know your options if your rights have been violated. Whether you choose to follow the school's grievance procedure, file an OCR complaint, or file a complaint in federal court, know that the laws are there to protect you and you deserve to be treated equally. **A**



**Frances Shefter, Esq.**, is an education attorney and advocate based in Maryland. Her firm, Shefter Law, PA, provides families with legal services in Washington, DC, Maryland, and Florida, and advocacy services nationwide, including US schools overseas. Shefter Law, PA, strives to help families have a Stress-Free IEP® experience. Learn more at [shefterlaw.com](https://shefterlaw.com).

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**FOR MORE INFORMATION**

<https://www2.ed.gov/about/offices/list/ocr/transition.html>

<https://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html>

<https://adata.org/factsheet/postsecondary>