

Unit 4:

Rights & Responsibilities Under the Law

PURPOSE



The purpose of Unit 4 is twofold: first, to provide you with an overview of how systems and protective laws change when you leave high school and enter the “adult world;” and second, to provide you with a basic overview of the Americans with Disabilities Act and how this law pertains to your life as a person with a disability. Terminology provided in this unit will help you better understand these topics. We strongly suggest that you read the discussion on page 4-3

TERMINOLOGY



You may know some of these words already, or you may have just heard them in passing. First, define these words as you understand them. Then check your definitions against the glossary that is located in the back of this workbook. The following terms are used in Unit 4:

Accessible	Disability (under the ADA)	Free appropriate public education (FAPE)
Adult services	Discrimination	Hidden disabilities
Compensatory Strategies	Eligibility	Visible disabilities
	Entitlement	

Accessible _____

Adult services _____

Compensatory Strategies _____

Disability (under the ADA) _____

Discrimination _____

Eligibility _____

Entitlement _____

Free appropriate public education (FAPE) _____

Hidden disabilities _____

Visible disabilities _____

NOTES



DISCUSSION



Have you ever broken a bone, had a cast, or needed to use crutches, a brace, or a sling? What was it like for you? What kind of help did you receive from friends, family, and teachers? Maybe people opened doors for you, helped you copy down your homework, or provided extra time to complete assignments. Temporary conditions such as broken bones are short term and generally heal over time. A disability, on the other hand, is constant and life-long.

Some disabilities are **visible** which means they can be seen by others (for example, if you use a wheelchair or the service of a guide dog), while some disabilities are **hidden** (such as learning disabilities, ADD/ADHD, epilepsy, depression, or bipolar disorder). Some people are born with disabilities while others acquire their disabilities later in life.

Believe it or not, the term “disability” is not easily defined. **Disability is defined one way for students up through twelfth grade, and in a different way for individuals in postsecondary education and the work world.**

IDEA Definition of Disability:

The Individuals with Disabilities Education Act or IDEA defines “disability” for young people up through twelfth grade. Further, the IDEA identifies 13 categories of disability. These federal categories help states to determine who is eligible for special education supports and services in public schools.

The IDEA recognizes these 13 categories of disability:

Disability is defined one way for students up through twelfth grade, and in a different way for individuals in postsecondary education and the work world.

Autism, Deaf-blindness, Deafness, Emotional disturbance, Hearing impairment, Mental retardation, Multiple disabilities, Orthopedic impairment, Other health impairment*, Specific learning disability, Traumatic brain injury, Speech or language impairment, Visual impairment including blindness

** Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD) as a primary disability is often placed in this category of Other Health Impairment.*

For more detail on the definition of each category, see <http://ericec.org/digests/e560.html>.

In addition, the IDEA mandates that young people with disabilities are entitled to a **free appropriate public education (FAPE)**. This means that if you are receiving special education services the services, supports, and accommodations you need will be provided at no cost to you.

While you are in elementary or secondary school, a team of people works on your behalf to make sure that you receive the most

appropriate education. At least once a year, this team (including you and your parents) meets to make sure that you are showing progress and receiving the needed accommodations to be successful in your classes. An **Individualized Education Program (IEP)**, a set of personal goals and objectives, is developed for the next school year based on the meeting's conversation and your plans for the future. While you are in school, there is no need for you to ASK for accommodations because the IDEA says they must be arranged and provided for by the team of people working on your behalf. In other words, you are not required to self-disclose your disability in order to qualify for the supports and services available.

However, **after high school, the only way you will receive the accommodations you might need is to ask for them yourself.** This is why we're making such a big deal about being self-determined. Remember, if you received supports in high school, it is probably due to family members and professionals making decisions (with and for you) based on the laws surrounding IDEA (the law that created the special education system that exists today) and you didn't need to request the supports. The laws protecting you while you are in elementary and secondary school are laws around an **entitlement** system. The focus remains on your disability and what the best educational program should be based on your strengths and needs. The services provided to you may change over time depending on a lot of factors, including your progress and new federal policy initiatives. Essentially, the process remains the same from year to year and you meet every year with your family and professionals to establish a plan for the next year.

ADA Definition of Disability:

When you graduate or exit from the public school system, the **way you are defined as a person with a disability changes** as do the laws that protect you and provide for the accommodations you may need to be successful in postsecondary institutions or in the workplace. While IDEA is the law that seemed to protect you while you were in school, other laws such as the Americans with Disabilities Act, the Workforce Investment Act, and the Health Insurance Portability and Accountability Act protect you when you exit school and enter college, adult education, and work world.

A person qualifies as having a disability under the Americans with Disabilities Act (ADA) if they meet at least one of the following three conditions:

1. A physical or mental impairment that substantially limits one or more major life activities (such as walking, talking, seeing, reading, learning, working, etc.);
2. A record of such impairment (for example, people with a history of cancer or mental illness); or
3. A perception by others as having an impairment (such as a person with a disfiguring facial scar, or a person rumored to be HIV positive).

When you exit school and enter college, adult education, or the world of work, the **only way you can receive the accommodations you need is to ask for them yourself.** That is why it's important to understand yourself, your disability, and your accommodation needs for both postsecondary settings and work. It is also important to understand the laws that protect you in case you decide to disclose

your disability. The purpose of the ADA is to extend to people with disabilities civil rights protections similar to those already available to people on the basis of race, color, national origin, and religion through the Civil Rights Act of 1964.

Basically, the ADA prohibits **discrimination** on the basis of disability in five general areas:

- Private sector employment
- Activities of states and local governments
- Places of public accommodation
- Transportation
- Telecommunication services

Prior to the passage of the ADA in 1990, it was legal for businesses to discriminate against people with disabilities in these situations. The ADA was enacted because people felt there needed to be a law that prohibits (or makes illegal) discrimination against people with disabilities.

Now fast forward to high school graduation or exit. The adult world is a very different place than high school. It is at this time that you will be entering a system of eligibility; this means that you must meet certain requirements to participate in this system. This system is quite different from a system of entitlement (one in which certain benefits, services, or programs are expected to be provided because it is written as law). It is at this time that you and your family are faced with an array of adult service providers, postsecondary institutions, and others who are all asking one question: Do you meet the eligibility requirements of this program? Of course, various programs may offer different services and have different eligibility

requirements. You are left to try to determine which will be the most beneficial to you, and whether you are eligible for those programs. **Once you graduate or exit high school, you are no longer ENTITLED to services and supports; rather, you become ELIGIBLE for adult services and supports based on your particular situation, your disability, and your ability to disclose necessary information.**

Remember that graduation or exit from high school doesn't mean that the services and accommodations you needed while in high school aren't needed anymore. Lots of young people think that once they leave school their disability is unimportant or disappears. They haven't figured out that the academic services and accommodations they received while in high school will be needed for life (although, of course, in different ways).

On the other hand, some of you may have developed **compensatory strategies** (things that you did to help you balance for certain troubles you were having) while you were in high school, and have a good handle on what you need to be successful in college or on the job. For example, perhaps you tend to forget information that is presented visually, but can remember information when it is presented orally. A compensatory strategy would be to use a tape recorder during classes and to rely on verbal instructions to relay information.

Keep in mind that although there are laws in place that entitle you to services and supports while you are in high school, once you leave school and are in the system of eligibility, you still can receive protections against discrimination due to your disability. You have certain rights that allow you to challenge decisions made concerning your eligibility.

One example is the non-discrimination clause of the **Workforce Investment Act (WIA)**. The non-discrimination clause, which is in place to protect individuals from discrimination, states that “no individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.”

Another example is the **Health Insurance Portability and Accountability Act (HIPAA)**. This act was made into law in 1996, and it protects you and your family by allowing your health insurance to continue despite changes in employment status or transition periods between jobs. In addition, HIPAA addresses the security and privacy of your health records. There are now rules and limits on who can look at and receive your health information. Some of the information that is protected includes the following:

- Information your doctors, nurses, or other health care professionals put in your medical record;
- Conversations your doctor has about your care or treatment with nurses and others;
- Information about you in your health insurer’s computer system; and
- Billing information about you at a health care facility.

Another example is the **Client Assistance Program (CAP)**. This service can assist and advocate for you if you are having concerns or problems with Vocational Rehabilitation or the Commission for the Blind or Independent Living Centers. CAP can provide assistance in several ways:

- Informing and advising you of benefits available under the Rehabilitation Act;
- Helping you communicate your concerns to your counselor;
- Helping you resolve your concerns if you disagree with a decision;
- Helping you understand the rules, regulations, and procedures of an agency; and
- Protecting your rights under the Federal Rehabilitation Act.

Additional information summarizing some of the pieces of legislation that we talked about in Unit 4 as well as information summarizing pieces of legislation that may potentially affect you in the future, is available in Appendix B in the back of this unit beginning from page 4-16 to 4-18.

ACTIVITY:
DEFINING YOUR DISABILITY

The following activity is designed to help you define your disability in order to understand yourself better and begin to identify some of the accommodations you may need after leaving high school. Use these questions and prompts to begin thinking about these important issues.

1. In your own words, describe what the term “disability” means to you. _____

2. Describe your disability in clear, concise terms. _____

3. Describe how your disability may affect your postsecondary education efforts. _____

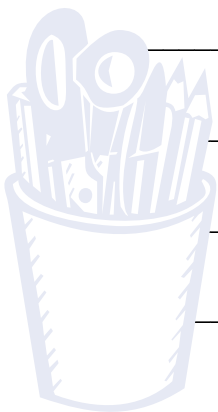
4. What accommodations, if any, will you need in college? (Think about what structures or services were put in place for you at school to help you perform on the same level as the rest of your classmates.)

5. Describe how your disability may affect your work performance. _____

6. What accommodations, if any, will you need at work? (Remember that many of the skills necessary in school are also necessary at work.)

NOTES





ACTIVITY: RECOGNIZING DISCRIMINATION



Recognizing discrimination when it occurs is an important first step in confronting and eliminating it. Read the following examples and identify who is being discriminated against and in what way. Reflect on how you would feel if you were the person with the disability in each example. How would you handle the situation?

Laura goes to a restaurant.

Laura goes with her friends to a pizza parlor. There are stairs to the entrance but no ramp. When Laura and her friends request assistance to get into the building, the manager refuses, citing liability risk.

Your reaction: _____

John applies for a job.

John wants a job after school to earn money to buy his first car. He goes to a local sub shop and asks for an application. He has trouble completing the job application because of his learning disability in reading. He asks if the application could be read to him. The personnel director says, "No, you must complete the application on your own."

Your reaction: _____

Tyrell enrolls in a class.

Tyrell has a learning disability. He is a freshman in college and is required to take a writing course. His disability makes it very difficult to complete his writing assignments on time. When he discloses his disability to the professor, the professor suggests he withdraw from the class.

Your reaction: _____

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ACTIVITY:

SMALL GROUP POSTER ACTIVITY



Using the basic facts about the ADA on pages 4-14 to 4-15 in Appendix A at the back of this unit, form a small group and develop a collage poster on one of the five Titles of the ADA using pictures and words from magazines, newspapers, the Internet, or other sources. Remember that the collage is meant to communicate information about the selected Title to its viewers. Here are some suggestions for getting started.

- **Employment Group (Title I):** Think about all of the different steps it takes to get a job (that is, everything from the application to the interview). Think about the employers who have responsibilities under the ADA and the individuals who are protected.
- **State and Local Government Group (Title II):** Think about all the activities in your community that are funded by the state or local government. Consider the rights and responsibilities of both individuals with disabilities and government entities (including schools and transportation).
- **Public Accommodations Group (Title III):** Read through the description of public accommodations and find pictures and words reflecting these supports and services.
- **Telecommunications Group (Title IV):** Think about the groups of people with disabilities that use telecommunication tools and assistive technology most often at school and in the workplace. Include information about a relay center.
- **Miscellaneous Provisions Group (Title V):** Think about requirements relating to the conditions surrounding insurance, construction, and design regulations by the U.S. Access Board.

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ACTIVITY:

IDENTIFYING ADULT SERVICE PROVIDERS & ELIGIBILITY CRITERIA



In the beginning of this unit, we presented the different legal definitions of disability. Believe it or not, there are even more ways to define disability in the adult-services world. The definitions reflect “eligibility criteria” such as your financial situation, the severity of your disability, and your age, among other characteristics. In order to be eligible for adult services, you need to meet the eligibility criteria established for **each** specific service you are requesting. In this activity, you will explore your own

eligibility and the services you might benefit from. **First**, create a list of adult service providers in your community (there are lines to identify 10 providers in your community – you might or might not fill in all 10 lines). **Second**, choose three services you are most likely to need as an adult and research their specific eligibility criteria. You should use the following resources (and any others you think of) to obtain this information: websites, telephone calls, letters, and email. Keep this information for future reference.

1. _____

6. _____

2. _____

7. _____

3. _____

8. _____

4. _____

9. _____

5. _____

10. _____

Agency #1: _____

Contact person: _____

Telephone and email: _____

Eligibility criteria: _____

How to apply for services: _____

Agency #2: _____

Contact person: _____

Telephone and email: _____

Eligibility criteria: _____

How to apply for services: _____

Agency #3: _____

Contact person: _____

Telephone and email: _____

Eligibility criteria: _____

How to apply for services: _____

NOTES



Unit 4:

Appendix A

Basic Facts about the Americans with Disabilities Act

Title I – Employment

- Employers may not discriminate against an individual with a disability in hiring or promotion if the person is otherwise qualified for the job.
- Employers can ask about one’s ability to perform a job, but prior to offering a job they cannot inquire if someone has a disability or requires medical examinations.
- Employers cannot use tests that tend to screen out people with disabilities unless the tests measure job-related skills.
- Employers need to provide “reasonable accommodation” to individuals with disabilities. This includes steps such as job restructuring and modification of equipment.
- Employers do not need to provide accommodations that impose an “undue hardship” on business operations.
- Who needs to comply:
 - Private employers with 15 or more employees.
 - State and local government employers, regardless of how many employees they have.

Title II – State and Local Governments

- State and local governments may not discriminate against qualified individuals with disabilities.
- State and local government agencies must make reasonable modifications to their policies and procedures to allow equal opportunities for individuals with disabilities to participate.
- All government facilities, services, and communications must be accessible consistent with the requirements of section 504 of the Rehabilitation Act of 1973.
- All new construction must be accessible.
- New public transit buses must be accessible to individuals with disabilities.
- Transit authorities must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result.
- Existing rail systems must have one accessible car per train.
- New rail cars must be accessible.
- New bus and train stations must be accessible.

- Key stations in rapid light and commuter rail systems must be made accessible by July 26, 1993, with extensions up to 20 years for commuter rail (30 years for rapid and light rail).
- All existing Amtrak stations must be accessible by July 26, 2010.

Title III – Public Accommodations

- Private businesses such as restaurants, hotels, banks, and retail stores may not discriminate against individuals with disabilities.
- Auxiliary aids and services must be provided to ensure effective communications with individuals with vision or hearing impairments, unless an undue burden would result.
- Physical barriers in existing facilities must be removed, if removal is readily achievable. If removal is not readily achievable, alternative methods of providing the services must be offered, if they are readily achievable.

- All new construction and alterations of facilities must be accessible.

Title IV – Telecommunications

- Companies offering telephone service to the general public must offer telephone relay services to individuals who use telecommunications devices for the deaf (TDDs) or similar devices.
- All television public service announcements produced or funded in whole or in part by the federal government include closed captioning.

Title V – Miscellaneous Provisions

- Title V includes information regarding the ADA’s relationship with other federal and state laws such as the Rehabilitation Act of 1973.
- Retaliation and coercion are prohibited.
- The U.S. Congress and the agencies of the federal legislative branch are covered; discrimination against individuals with disabilities is prohibited in employment and other programs.

NOTES 

Unit 4: Appendix B

Summary of Legislation

Legislation	Summary	Resource
Americans with Disabilities Act (ADA)	The ADA prohibits discrimination on the basis of disability in employment, public entities, public accommodations, transportation, telecommunications, and recreation.	http://www.ada.gov
Assistive Technology (AT) Act	<p>The Assistive Technology Act requires states and territories to conduct activities related to public awareness, interagency coordination, technical assistance, and training and outreach to promote information about and access to assistive technology devices and services.</p> <p>The AT Act also authorizes the Assistive Technology Alternate Financing Program to assist people with disabilities in accessing the technology that they need.</p>	<p><i>AT Act:</i> http://www.section508.gov/docs/AT1998.html</p> <p><i>Assistive Technology Alternate Financing Program:</i> http://www.resna.org/AFTAP/state/index.html</p>
Developmental Disabilities Assistance and Bill of Rights Act	The Developmental Disabilities Assistance and Bill of Rights Act requires that people with developmental disabilities and their families receive the services and supports they need and participate in the planning and designing of those services.	http://www.acf.hhs.gov/programs/add/DDACT2.htm
Individuals with Disabilities Education Act (IDEA)	<p>The IDEA guarantees youth with disabilities FAPE. Individuals are entitled to an education and related services.</p> <p>Services detailed in IDEA include transition services and planning, individualized education programs, early intervention services, due process provisions, disciplinary services, and alternative education programs.</p>	http://www.ed.gov/offices/OSERS/Policy/IDEA/the_law.html

Legislation	Summary	Resource
<p>Social Security</p>	<p>Supplemental Security Income (SSI) is a federal income supplement program designed to help aged, blind, and disabled people with limited income.</p> <p>There are a number of work incentives designed to help people on SSI and SSDI transition to work, including the following:</p> <p>The <i>Student-Earned Income Exclusion</i> supports the ability of transition-aged youth to work and have earnings through work-based learning programs that are integrated into educational programs.</p> <p>A <i>Plan for Achieving Self Support (PASS)</i> allows a person with a disability to set aside income for a given period of time to achieve an employment goal.</p>	<p>http://www.ssa.gov</p> <p><i>Additional information on work incentives can be found at</i> http://www.ssa.gov/work</p>
<p>Ticket to Work and Workforce Investment Improvement Act (TWWIIA)</p>	<p>The TWWIIA program offers SSA disability beneficiaries greater choice in obtaining the services they need to help them go to work and attain their employment goals.</p>	<p>http://www.socialsecurity.gov/work/Ticket/ticket_info.html</p>
<p>Workforce Investment Act (WIA) and the Vocational Rehabilitation Act</p>	<p>The Workforce Investment Act provides coordinated, effective, and customer-focused workforce development and employment services to be delivered through One-Stop Career Centers.</p> <p>Title I of WIA provides for services to youth, adults, and dislocated workers. The youth provisions of Title I of WIA require states and localities to provide a comprehensive workforce preparation system that reflects the developmental needs of youth.</p> <p>Section 188 of Title I makes it illegal to discriminate against people with disabilities in employment and training programs, services, and activities receiving funds under WIA.</p>	<p>http://www.doleta.gov/usworkforce/</p> <p><i>One-Stops:</i> http://www.onestops.info</p> <p>http://www.dol.gov/oasam/programs/crc/section188.htm</p>

Legislation	Summary	Resource
<p>Workforce Investment Act (WIA) and the Vocational Rehabilitation Act (continued)</p>	<p>Title IV of WIA contains the entire Rehabilitation Act, comprised of the vocational rehabilitation program as well as the supported employment and independent living programs.</p> <p>Section 504 of the Rehabilitation Act prohibits discrimination based on disability in federally funded and federally conducted programs or activities in the United States.</p> <p>Section 508 of the Rehabilitation Act requires federal agencies to assure the accessibility and usability of their electronic and information technology</p> <p>Vocational Rehabilitation assists individuals with disabilities who are pursuing meaningful careers through local job searches and awareness of self-employment and telecommuting opportunities.</p> <p>Independent Living Centers are community-based organizations run by and for people with disabilities, which offer systems advocacy, individual advocacy, peer counseling, information and referral, and independent living skills training.</p>	<p><i>Section 508:</i> http://www.Section508.gov</p> <p><i>Rehabilitation Services Agency:</i> http://www.ed.gov/about/offices/list/osers/rsa/index.html</p> <p><i>Independent Living Centers:</i> http://www.ilusa.com/links/ilcenters.htm</p>
<p>Health Insurance Portability and Accountability Act (HIPAA)</p>	<p>HIPAA gives you information about your rights regarding your personal health information and sets limits as to who can access this information.</p>	<p>http://www.hhs.gov/ocr/hipaa/</p>