

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:

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.)