

Following are excerpts from the GAO report on Higher Education Disability. We are providing excerpts because the entire report is 51 pages, so only the relevant portion is attached. Plaintiff's counsel will provide the Court and Opposing Counsel with a paper copy of the entire report. The Court can also access at the website referenced in the brief.

GAO

Report to the Chairman, Committee on
Education and Labor, House of
Representatives

October 2009

HIGHER EDUCATION AND DISABILITY

Education Needs a
Coordinated Approach
to Improve Its
Assistance to Schools
in Supporting Students



GAO

Accountability * Integrity * Reliability



Highlights of GAO-10-33, a report to the Chairman, Committee on Education and Labor, House of Representatives

HIGHER EDUCATION AND DISABILITY

Education Needs a Coordinated Approach to Improve Its Assistance to Schools in Supporting Students

Why GAO Did This Study

Research suggests that more students with disabilities are pursuing higher education than in years past, and recent legislative changes, such as those in the Higher Education Opportunity Act and Post-9/11 Veterans Educational Assistance Act of 2008, have the potential to increase the number and diversity of this population.

GAO was asked to examine (1) what is known about the population of postsecondary students with disabilities; (2) how postsecondary schools are supporting students with disabilities; (3) what challenges, if any, schools face in supporting these students; and (4) how the Department of Education is assisting schools in supporting these students. To conduct this work, GAO analyzed federal survey and some state data; conducted site visits; interviewed agency officials, disability experts, school officials, and students; and reviewed laws, regulations, and literature.

What GAO Recommends

To improve access to quality higher education for students with disabilities, GAO recommends that the Secretary of Education develop and implement a coordinated approach to optimize agency resources and knowledge in providing technical assistance to postsecondary schools in supporting students with disabilities. Education agreed with our recommendation and plans to create a work group to develop and implement a coordinated approach to providing technical assistance.

View GAO-10-33 or key components. For more information, contact George Scott at (202) 512-7215 or scottg@gao.gov.

What GAO Found

Students with disabilities represented nearly 11 percent of all postsecondary students in 2008, according to a federal survey. Moreover, this population appears to have grown, based on selected federal and state data. Also, in 2008, students with disabilities were similar to their peers without disabilities with regard to age, race, and the schools they attended. Students reported having a range of disabilities in 2008, and the distribution of disability types had changed since 2000. For example, the proportion of students that reported having attention deficit disorder had increased from 7 to 19 percent.

Postsecondary schools use different approaches and accommodations to support students with disabilities. Schools are required to provide reasonable accommodations, such as note takers and extended time on tests, tailored to individual students' needs. Further, some schools offer enhanced or more comprehensive services than are required by law. For example, some schools GAO visited provided support on time management and study skills. Other schools offer specialized programs, such as one designed to help students with learning disabilities transition to meet college-level reading and writing requirements. Assistive technology has expanded the educational opportunities for students with disabilities. For example, voice recognition software can help students prepare papers by "talking" to the computer.

Schools face a broad range of challenges in supporting students with disabilities as they transition to higher education. For example, schools face challenges in supporting students who are unaware of their rights and responsibilities regarding accommodations and in providing services that involve specialized knowledge. Another challenge schools reported was a lack of awareness among some faculty members regarding legal requirements for supporting students with disabilities. Schools also anticipate facing challenges in supporting two growing populations of postsecondary students: veterans with newly acquired disabilities and students with intellectual disabilities.

Education has provided some assistance to postsecondary schools to support students with disabilities through three offices. However, the agency has no mechanism to systematically share information across offices and coordinate their technical assistance efforts. These offices—Office for Civil Rights (OCR), Office of Special Education and Rehabilitative Services, and Office of Postsecondary Education (OPE)—have different missions and priorities, focus on different clients, and provide different types of assistance to schools. Although OCR's primary role is enforcement, it has taken the lead in providing assistance to postsecondary schools regarding disability topics. OPE has focused its technical assistance primarily on those 47 schools that received grants in 2008 related to students with disabilities. According to OPE officials, the office does not provide broader technical assistance on disability issues because it lacks expertise in this area. School officials told GAO they need more guidance and information about serving students with disabilities.



United States Government Accountability Office
Washington, DC 20548

October 28, 2009

The Honorable George Miller
Chairman
Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

Research suggests that more students with disabilities are pursuing higher education than in years past, and recent legislative changes have the potential to increase the diversity and numbers of these students. More specifically, the Higher Education Opportunity Act¹ (HEOA) added new provisions to the Higher Education Act of 1965 (HEA) to support postsecondary students with disabilities; the Americans with Disabilities Amendments Act of 2008² (ADA Amendments Act) amended the Americans with Disabilities Act of 1990³ (ADA) to provide broader coverage; and the Post-9/11 Veterans Educational Assistance Act of 2008⁴ (Post-9/11 GI Bill) expanded education benefits for members and veterans of the military who served on or after September 11, 2001, many of whom may have acquired disabilities. Under the laws that prohibit discrimination on the basis of disability, postsecondary schools are required to provide equal access to education to qualified students through academic adjustments and auxiliary aids and services, such as extending time allowed for taking tests and providing sign language interpreters. In addition, postsecondary schools must ensure physical access to buildings on campus. The Department of Education (Education) is responsible for enforcing postsecondary schools' compliance with disability laws.

Given your interest in this population and how these students are supported, we examined: (1) what is known about the population of postsecondary students with disabilities; (2) how postsecondary schools are supporting students with disabilities; (3) what challenges, if any,

¹The HEOA, Pub. L. No. 110-315, August 14, 2008, reauthorized and amended the Higher Education Act of 1965.

²Pub. L. No. 110-325, September 25, 2008.

³Pub. L. No. 101-336, July 26, 1990; 42 U.S.C. § 12101 et seq.

⁴Title V of Pub. L. No. 110-252, June 30, 2008.

*Def student
20 USC
1091(s)

Def Program
20 USC
1140*

postsecondary schools face in supporting students with disabilities; and (4) how the Department of Education is assisting postsecondary schools in supporting the needs of these students.

To answer question one, we reviewed federal data sources and identified 10 surveys or studies with relevant information on students with disabilities (see app. I). For each data source, we determined the purpose of the study or survey, its design parameters, and the focus of questions and variables related to students with disabilities. We conducted a more in-depth analysis of data from four of these sources to report descriptive statistics. We selected these four sources because they contain detailed information about students with disabilities participating in higher education and they represent a range of data collection methodologies and estimates. We relied heavily on one source, Education's National Postsecondary Student Aid Study (NPSAS), because it specifically focuses on the population of postsecondary students and affords the opportunity to look at changes in the population over time. All of the estimates from the national data bases are from samples and have sampling errors associated with them. The percentages from the states are for the populations within those states. To answer questions two and three, we conducted site visits to 14 postsecondary schools, where we interviewed school disability officials and students and conducted telephone interviews with officials from 11 more schools. During our school site visits, we obtained information on schools' efforts pertaining to students with disabilities and these students' experiences, collected documentation of schools' relevant policies and procedures, observed different types of accommodations, and toured the schools' assistive technology laboratories. We selected these 25 schools because they offered a wide range or high levels of services to students with disabilities, and they represented institutional variety in terms of geographic location, public and private institutions (including proprietary schools), 2-year and 4-year schools, and schools that have participated in Education's demonstration grant projects involving students with disabilities. We focused on schools that serve a broad range of students and therefore we did not include schools designed exclusively for students with disabilities. In addition, we did not focus on programs and services that are designed specifically for students with intellectual disabilities. We relied on suggestions from disability associations, experts, school officials, Education officials, and reference literature in identifying schools. To supplement the student interviews conducted during site visits, we interviewed representatives of national groups for students with disabilities. We also reviewed relevant federal statutory and regulatory requirements and legal articles and interviewed representatives of national disability and higher education

associations to collect information about how schools support students with disabilities. To answer question four, we interviewed Education officials and reviewed policies, procedures, and other documentation related to Education's grant programs, technical assistance, research, and enforcement of laws pertaining to postsecondary students with disabilities.

We conducted this performance audit from July 2008 to October 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Legal Requirements Regarding Postsecondary Schools Supporting Students with Disabilities

Postsecondary schools are prohibited from discriminating against students on the basis of disability under two federal laws. Section 504 of the Rehabilitation Act of 1973 (Rehabilitation Act) prohibits entities that receive federal financial assistance, which includes institutions of higher education, from discriminating against otherwise qualified individuals with disabilities.⁵ The Americans with Disabilities Act of 1990⁶ (ADA) also protects individuals with disabilities from discrimination and covers a broader range of schools. Whereas the Rehabilitation Act applies to schools that receive federal funds, the ADA applies to state and locally funded and private-sector schools, with the exception of those that are controlled by religious entities. The Rehabilitation Act and ADA define individuals with disabilities as an individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.⁷ The ADA Amendments Act rejected several Supreme Court decisions which had narrowed the definition of an individual with disabilities. In addition, the ADA Amendments Act set out guidelines for determining who

⁵29 U.S.C. § 794.

⁶42 U.S.C. § 12101 et seq. Title II of the ADA applies to public entities and Title III applies to private entities.

⁷29 U.S.C. § 705(20)(B) and 42 U.S.C. § 12102.

qualifies as an individual with disabilities and provided a non-exhaustive list of "major life activities," which includes learning, reading, concentrating, and thinking.

Federal regulations implementing the Rehabilitation Act in the context of postsecondary education provide that qualified students may not be subjected to discrimination in recruitment or admissions to postsecondary institutions. Also, they may not be excluded from participation in, or denied the benefits, services, or aid related to academic programs, research opportunities, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular activities, or other postsecondary education programs.⁸ The regulations also further outline the categories of academic adjustments (e.g., extended time on tests and reduced course load) and auxiliary aids and services (e.g., notetakers and sign language interpreters), commonly referred to as accommodations, that schools must provide to ensure that qualified students with disabilities can participate in higher education. However, laws and regulations cannot address the specific accommodations a school must provide for each student with a disability. Instead, these depend on the limitations of each student's disability and take into account factors like where the student's classes will be held and the academic requirements of the chosen course of study on a case-by-case basis.

While schools are required to provide reasonable accommodations to qualified students and bear the costs, schools are not required to provide accommodations that would fundamentally alter the nature of a program, lower or waive essential academic requirements, or result in undue financial or administrative burdens.⁹ Also, schools are not required to provide personal devices and services, such as wheelchairs or attendants, individually prescribed devices (e.g., eyeglasses), tutoring, or readers for personal use or study.¹⁰

Students with disabilities beginning higher education face a different situation regarding their rights and responsibilities than they did during

⁸34 C.F.R. Part 104, Subpart E.


⁹42 U.S.C. § 12182(b)(2)(A)(ii); 34 C.F.R. § 104.44(a); *Southeastern Community College v. Davis*, 442 U.S. 397 (1979).

¹⁰34 C.F.R. § 104.44(d)(2).

their elementary and secondary education. Under the Individuals with Disabilities Education Act¹¹ (IDEA), states and school districts must identify, locate, and evaluate children who may have a disability and provide special education and related services to eligible children and youth with disabilities. The Rehabilitation Act regulations governing elementary and secondary education also require that children with disabilities be identified, located, and evaluated. However, unlike in elementary and secondary school, it is the responsibility of postsecondary students to identify themselves as having a disability, provide documentation of their disability, and request accommodations and services. Although the general procedure for obtaining accommodations is often similar across schools, the particular steps of the process may vary among postsecondary schools. (See fig. 1 for example.)

Figure 1: Example of Process for Student to Obtain Accommodations

A student may need to:



- Register with the Disability Services Office
- Work with the Disability Services Office to determine what accommodations are available and may be needed
- Provide recent and appropriate documentation of disability
 - may need to visit a qualified professional for documentation
 - may need additional disability testing
- Request accommodations at the Disability Services Office
- In some cases, take an accommodations letter to each professor and discuss needed accommodations

Sources: GAO, Art Explosion (images).

Postsecondary schools are required to have an individual who coordinates the school's compliance with the Rehabilitation Act and ADA. The school must also have grievance procedures that include steps to ensure a student can raise concerns fully and fairly and provide for the prompt and equitable resolution of complaints.

¹¹20 U.S.C. § 1400 et seq.

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