

No qualified student shall, on the basis of a disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, counseling, or any other extracurricular or other postsecondary education aid, benefits, or services to which the federal Rehabilitation Act and 34 C.F.R. Part 104, Subpart E applies. *34 C.F.R. 104.43(a)–(b)*

**Application of 34
C.F.R. Part 104,
Subpart E**

Title 34 C.F.R. Part 104, Subpart E applies to postsecondary education programs or activities, including postsecondary vocational education programs or activities, that receive federal financial assistance and to recipients that operate, or that receive federal financial assistance for the operation of, such programs or activities. *34 C.F.R. 104.41*

Related Programs

A recipient to which Subpart E applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified persons with disabilities. *34 C.F.R. 104.43(b)*

**Academic
Adjustments**

Generally

A recipient to which Subpart E applies shall make modifications to its academic requirements that are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with disabilities. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by the student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted. *34 C.F.R. 104.44(a)*

A recipient to which Subpart E applies may not impose upon students with disabilities other rules, such as the prohibition of tape recorders in classrooms, that have the effect of limiting the participation of students with disabilities in the institution's education program or activity. *34 C.F.R. 104.44(b)*

Course
Examinations

In its course examinations or other procedures for evaluating students' academic achievement, a postsecondary education program or activity to which Subpart E applies shall provide such methods for evaluating the achievement of students who have a disability that impairs sensory, manual, or speaking skills as will best ensure

that the results of the evaluation represents the students' achievement in the course, rather than reflecting the students' impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure). *34 C.F.R. 104.44(c)*

Auxiliary Aids

A recipient to which Subpart E applies shall take such steps as are necessary to ensure that no student with disabilities is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills. Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Institutions need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature. *34 C.F.R. 104.44(d)*

Accommodations to
Core Curriculum

An institution of higher education may, on a case-by-case basis, approve an accommodation of a specific core curriculum foundational area requirement for a student with a medically documented learning disability, including but not limited to dyslexia, dysgraphia, or Asperger's Syndrome.

Accommodation shall not include a waiver or exemption of any core curriculum requirement.

An institution may approve for core curriculum applicability a course the institution offers but that is not approved as part of the core curriculum, if the institution demonstrates that the course has been approved to fulfill the same specific foundational component area requirement at five or more other Texas public colleges or universities. The Texas Common Course Numbering System course number may be used as evidence of the suitability of the course under 19 Administrative Code 4.28(k).

19 TAC 4.28(k)

**Counseling,
Guidance, and
Placement Services**

A recipient to which Subpart E applies shall provide personal academic or vocational counseling, guidance, or placement services to its students without discrimination on the basis of disability. The institution shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are students without disabilities and with similar interests and ability. This requirement does not preclude an institution from providing factual information about licensing and certification requirements that may present obstacles to persons with disabilities in their pursuit of particular careers. *34 C.F.R. 104.47(b)*

**Students with
Dyslexia**

Unless otherwise provided by law, an institution of higher education, including a college district, may not reassess a student determined to have dyslexia for the purpose of assessing the student's need for accommodations until the institution of higher education reevaluates the information obtained from previous assessments of the student. *Education Code 51.9701*

**Students with
Intellectual and
Developmental
Disabilities**

"Intellectual and Developmental Disability" (IDD) is defined as a neurodevelopmental disorder that must meet the following criteria:

1. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgement, academic learning, and learning from experience.
2. Deficits in adaptive functioning that result in failure to meet developmental and sociocultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community.
3. Items 1 and 2 of this subsection may occur after the developmental period, such as in the case of a traumatic brain injury.
4. Students with IDD may include those diagnosed with an Autism Spectrum Disorder.

"Postsecondary transitional program or postsecondary program for students with IDD" is defined as a degree, certificate, or non-degree program for students with IDD that is offered by an institution of higher education. These programs are designed to support students with IDD who want to continue academic, career, and independent living instruction following completion of secondary education.

The Coordinating Board may collect, as part of its ongoing regular data collection process, information about students with IDD for the purpose of analyzing factors affecting the college participation and outcomes of persons with IDD at public institutions of higher education. Institutions may only report students who have been identified through self-identification and/or documented receipt of special services. Students who do not self-identify will not be reflected in the data.

Institutions may, but are not required to, collect consent forms regarding reporting of the data outlined below from students who have self-identified with an IDD. In the case where a student has an appointed legal guardian, the guardian will act on behalf of the student for the purposes of this rule.

All public institutions of higher education shall provide to the Coordinating Board data as specified in 19 Administrative Code 4.12(e) regarding the enrollment of individuals with IDD in their undergraduate, graduate, and technical continuing education programs. Data about these students' participation in postsecondary transitional programs or postsecondary programs for students with IDD will also be collected, but student-level data will not be collected for students enrolled in these programs unless they are also enrolled in credit-bearing college-level coursework or technical continuing education. Institutions of higher education and the Coordinating Board shall follow all federal privacy requirements under the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) when collecting and reporting the data.

Access to the identifiers in the Coordinating Board Management (CBM) Student Report, which indicate if an enrolled student has an IDD, will not be made available to the Education Research Centers as part of regular data requests unless this information is specified and approved by the advisory board established under Education Code 1.006 as relating to the research study proposed.

19 TAC 4.12

Note: For related provisions regarding students with disabilities, see FB(Admissions), FEA(Financial Aid and Scholarships), and FG(Student Housing).
