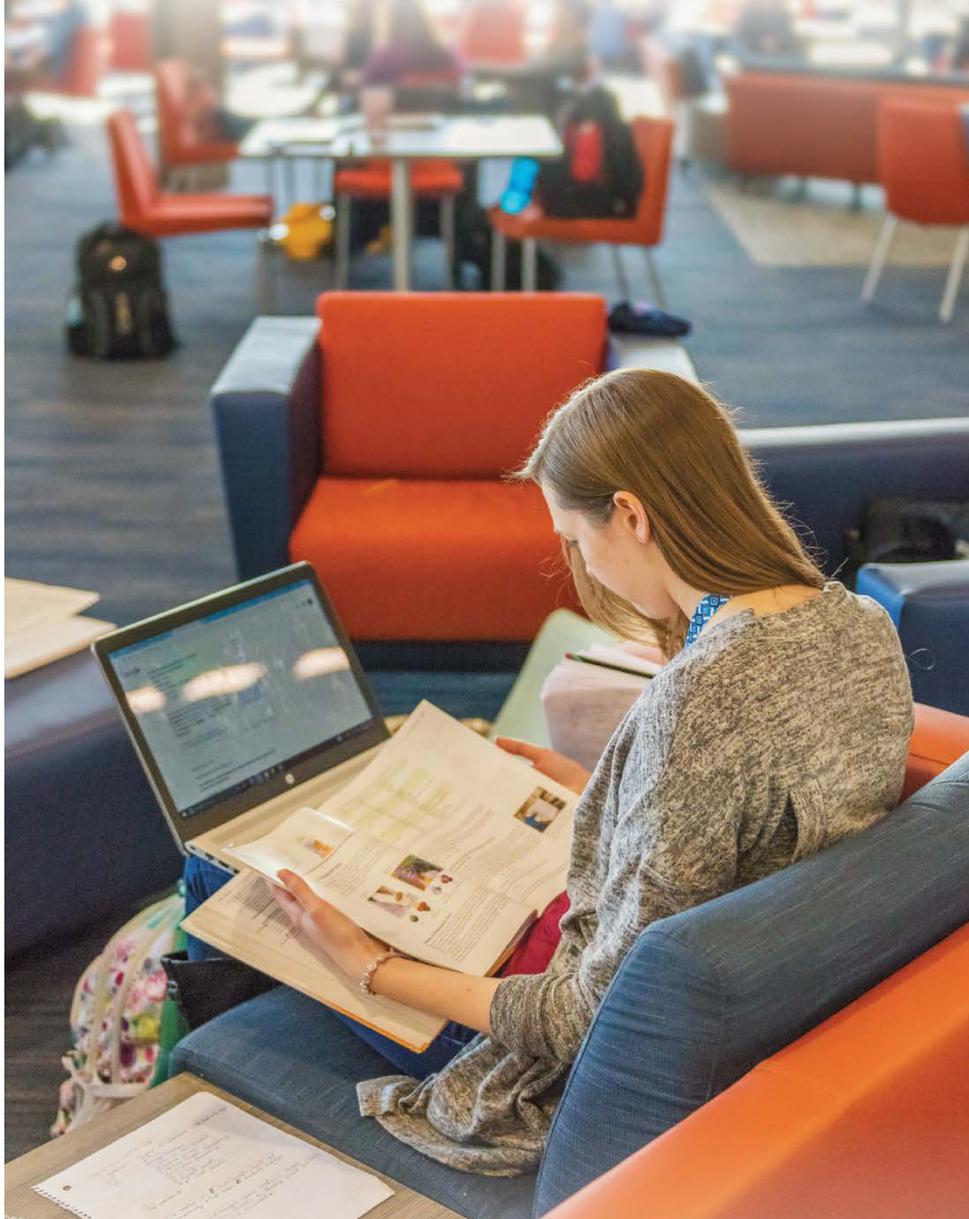


— From Entitlement to Eligibility —

Accessibility Services

AT THE UNIVERSITY OF MARY



This document, *Eligibility vs. Entitlement*, provides guidance for navigating the changes from **entitlement** to **eligibility** that occur when students with disabilities enter the adult world. The information in this document is not intended to serve as legal advice.

This document is adapted from a Pennsylvania Department of Education document *From Entitlement to Eligibility: Differences Between Public Education and Post-Secondary Education for Individuals With Disabilities*.

In keeping with its mission as a Christian, joyfully Catholic and Benedictine community, the University of Mary is committed to and responsible for providing an equal opportunity for all students to participate fully in its academic, social and cultural programs.

Accessibility Services

AT THE UNIVERSITY OF MARY

Federal laws guarantee that individuals with disabilities can request and receive reasonable accommodations in education, the work place, and training programs. The process for requesting and receiving accommodations changes after high school graduation.

Prior to high school graduation, individuals with disabilities have an **entitlement** to reasonable accommodations when they meet the qualifications that apply to elementary and secondary education under federal law. The entitlement to accommodation is a core principle of the education law, the Individuals with Disabilities Education Act (as amended IDEA, 2004). IDEA mandates that students with disabilities receive specially designed instruction and accommodations needed to access the general education curriculum. When students with disabilities graduate to postsecondary education, they lose their **entitlement** to accommodations under public elementary and secondary education procedures.

To receive reasonable accommodations in the postsecondary world, individuals with disabilities must be qualified and found eligible to receive them under qualification procedures and laws that apply to postsecondary education. The Americans with Disabilities Act (ADA, as amended in 2008) and Section 504 of the Rehabilitation Act of 1973 (as amended in 1978) are civil rights laws that protect qualified individuals with disabilities from discriminatory practices in the work place, training programs and postsecondary education. In addition to protections against discrimination, these laws protect the individual's right to request and receive reasonable accommodations to institutional and employment policies and practices. **Qualified individuals with disabilities** are individuals who meet the admission requirements for a training program, a post-secondary educational institution or can perform a job's essential functions.

Students with Disabilities in Elementary and Secondary School

In public and private high school settings, IDEA governs the provision of special education and related services to students with disabilities. Annually, local public school districts meet with private school representatives to develop an agreement for providing special education and related services to eligible students enrolled in the private school.

IDEA defines a student with a disability (3-21 years of age) as having at least one of the disability conditions listed in Table 1 that adversely affects educational performance **and** creates a need for special education and related services. Once a student is determined to have a disability under IDEA, the student is then **entitled** to receive specially designed instruction, accommodations, and transition services. Federal and state regulations guide the determination of a student's eligibility for an Individualized Education Program (IEP). The school and parents/guardians/student who has reached the age of majority (18) develop an IEP that outlines the specially designed instruction, accommodations, and transition services the student will receive. The services and instruction outlined in the student's IEP are intended to ensure that all students with disabilities have available to them a free appropriate education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. Once a student graduates from the elementary and secondary system, the student no longer retains his/her previous **entitlement** to accommodations under that system.

Not all students who have been found to have a disability require special education and related services; instead they require minimal accommodations in order to be successful. Under the Section 504 provisions of the Rehabilitation Act of 1973 (as amended in 1978), those accommodations can be described in a 504 plan. Accommodations described in 504 plans are provided in a manner similar to those in an IEP. Some examples of these minimal accommodations could be: dietary- no peanuts or gluten; medical- insulin checks and snacks; academic- extra time on tests.

TABLE 1. DISABILITY CATEGORIES

Autism	Emotional Disturbance
Deafblindness	Orthopedic Impairment
Deafness	Multiple Disabilities
Hearing Impairment	Traumatic Brain Injury
Intellectual Disabilities	Specific Learning Disability
Visual Impairment/Blind	Other Health Impairment
Speech/Language Impairment	Developmental Delay

Disabilities and Accommodations in the Adult World: Training Programs, Higher Education and the Work Place

Two events, high school graduation and turning 18, change the roles of parents and students with disabilities and the provision of accommodations to those students. Once students with or without a disability turn 18, they become legal decision makers in all educational, medical and legal matters. Parents and high school graduates should understand that the student's previous entitlement to accommodations through IDEA end at the student's graduation from high school. To receive future reasonable accommodations, the student must begin a new process with his or her future postsecondary institution and/or employer.

Two federal civil laws, The Americans with Disabilities Act (as amended Americans with Disabilities Act Amendments, 2008) and Section 504 of the Rehabilitation Act of 1973 (as amended in 1978), protect these former students with disabilities from discrimination based upon their disability and their ability to request and receive reasonable accommodations in the adult world of training programs, higher education and the work place. These federal laws generally define a "disability" as a physical or mental impairment that substantially limits one or more of the major life activities of such individual. (42 U.S.C. § 12102 (1), (4) (D), (3) (B)).

Section 504 prohibits discrimination on the basis of disability in any program or activity receiving federal funds.

The ADA ensures that **qualified individuals with disabilities** have access to and benefit from programs and activities that receive federal funds. The ADA defines a **qualified individual with a disability** to be an individual who meets the requirements for admission to a post-secondary institution, training program, or can perform the essential functions of a job. Once admitted or hired, an individual with disability must identify him/herself as an individual with a disability to the designated human resource personnel or university disability office.

In the adult world, having a diagnosed disability is not sufficient to be found eligible to receive an accommodation. An individual's **eligibility** to receive accommodations is determined by an licensed health care provider. All approved accommodations to the policies and practices of post-secondary educational institutions, training programs and the workplace provide access and equal opportunity for the individual to be successful.

The University of Mary process for determining eligibility for reasonable accommodations can be found on the website at <https://www.umary.edu/academics/student-success-center/student-accessibility-services/index.php>.

Identification Process

SECONDARY SCHOOL	AT THE UNIVERSITY OF MARY
School staff identify students with learning difficulty	Student self-identifies to the Coordinator of Student Accessibility Services
School evaluation teams follow federal, state and local guidelines for determining disability status and reasonable accommodations	Student follows registration process for Accessibility Services and submits supporting documentation, and the University follows federal state and local guidelines for determining disability status and reasonable accommodations
School has fiscal responsibility for the evaluation process	Student has fiscal responsibility for obtaining the appropriate evaluations in order to engage in an interactive process with the University

Documentation to verify a student’s disability and the needed reasonable accommodations must be completed by a licensed health care professional on the Request for Documentation forms (found on the University of Mary Student Accessibility Services website) or in a letter on the professional’s letterhead.

The documentation must contain the following information:

- The disability
- The student’s present level of functioning (any formal assessment results should be reported using adult norms)
- A description of the disability’s impact on a major life activity and
- The accommodations needed to reduce the disability’s effect on the student’s:
 - learning
 - ability to demonstrate knowledge
 - residential life
 - dietary needs

Note: Requested accommodations must be **reasonable** – accommodations that fundamentally change the educational program or academic requirements essential to a program of study **may not** be approved.

Accommodations that create undue hardships or burdens **may not** be approved.

Plan Development

SECONDARY SCHOOL	AT THE UNIVERSITY OF MARY
School, parents and student (when appropriate) develop an IEP based on evaluation results that describes services and specially designed instruction the student will receive	Student and the Coordinator of Student Accessibility Services meet to engage in an interactive process and to develop an individualized Accommodation Plan

In the adult world, federal law requires post-secondary personnel (employers, university administrators, and training program administrators) and the individual with a disability to engage in an interactive process to develop an accommodation plan.

At the University of Mary, the meeting to develop the Accommodation Plan includes the following topics:

- Resources available on campus or online to assist the student;
- The student’s disability and its impact on classroom performance, life in the residence hall or dietary needs;
- The student’s needed accommodations; and
- The student’s rights and responsibilities in the university setting

Differences in Definitions between Secondary School and Post-Secondary Settings

This section will highlight the important differences between how secondary schools and post-secondary settings define terms related to disability.

TERM	SECONDARY SCHOOL	POST SECONDARY
Accommodations level the playing field; provide equal access	Changes that do not alter the curriculum content; ensure equal access to information and let the student demonstrate their knowledge.	Changes that ensure equal access to course content or allow the student to demonstrate his/her knowledge or perform the essential functions of a job.
	Accommodations: may include extended time, electronic/audio texts, adaptive technology, computer software, word banks	Reasonable Accommodations: Academic Adjustments—extended time on exams, early registration, time off for medical appointments
Accommodations <u>DO NOT fundamentally change</u> the educational program, academic requirements or technical standards	Adaptations: reduced homework, number of problems or test items, modified teaching technique or strategy	Auxiliary Aids: Assistive Technology, CART, FM systems, sign language interpreters, electronic texts, computer software, flexible schedules
	Modifications: individualized expectations, reduced level of difficulty texts, instruction and learning objectives	Modifications: removal of architectural and technology barriers
	Services: PT, OT, classroom aids, transportation	Services: testing center, sign language interpreter, captioning
Instruction	Specially designed instructional strategies and methods Modifications—alter the curriculum content and expectations; Services— OT, PT, Speech/ Language provided at no cost	NO CHANGE in content, course expectations or instruction; Changes must provide equal access to course content and materials; Specially designed instruction or related services <u>are not mandatory</u>

Differences in Service Delivery between Secondary School and Post-Secondary Settings

As an adult, an individual with a disability must be a strong self-advocate. To be successful in the university setting, the student must understand the impact his/her disability or disabilities have on his/her learning, the accommodations s/he need and how and when to ask for them. The table below highlights the differences between how students receive services and needed accommodations in secondary school and post-secondary settings.

SECONDARY SCHOOL	POST SECONDARY SETTINGS
IEP dictates accommodations, modifications, services for student.	IEPs may be accepted as documentation of a disability and appropriate accommodations Evaluation assessments must use adult norms
Parents/guardians/student at age of majority meet annually to review academic progress, accommodations, services, etc. in the IEP.	Each semester , students must initiate a timely meeting with the Coordinator of Student Accessibility Services to review accommodations.
State and federal guidelines for requesting changes to the IEP must be followed.	Students advise the Coordinator of Student Accessibility Services in a timely manner when accommodations need to be adjusted during the semester.
School staff and parents/guardians/student at age of majority are part of the team that develops the IEP. All school staff are made aware of the student's accommodations.	Students must self-identify to their instructors. Students must meet with instructors to discuss their accommodation plan and complete their exam reservation forms if needed.

Differences in Rights and Responsibilities between Secondary School and Post-Secondary Settings

Parents' educational decision-making rights change once a student reaches the age of majority. In the university setting, the student has the responsibility for making all educational decisions.

The table below highlights the changes in the rights and responsibilities of parents and students in secondary school and post-secondary settings.

SECONDARY SCHOOL	POST SECONDARY SETTINGS
Until the student is 18, parents have authority over the student's education including all decisions related to the student's IEP.	Students 18 and older become educational decision makers.
Parents can discuss with school staff the services their student receives and their student's academic progress.	Privacy laws prohibit post-secondary staff from discussing with parents a student's disability, services and educational progress unless the student has provided written permission.
Eligibility evaluations and assessments are given with parental/guardian consent and prior written notice. The local public school has fiscal responsibility to conduct the evaluations.	Eligibility evaluations at the post secondary level are the responsibility of the student.
Parents/guardians receive progress reports and report cards documenting progress on the student's measurable goals.	Students must take responsibility for keeping track of their progress in their courses.
Parents can make requests for additional supports and services for their student.	Students now have the responsibility to make requests for additional services or accommodations.

For further information about Student Accessibility Services, please contact the Coordinator for Student Accessibility Services at 701-355-8264.

Or, visit the University of Mary Student Accessibility Services website:
<https://www.umary.edu/academics/student-success-center/student-accessibility-services/index.php>



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