

HOUSE BILL REPORT

HB 2421

*As Reported By House Committee on:
Higher Education*

Title: An act relating to students with disabilities.

Brief Description: Accommodating students with disabilities at institutions of higher education.

Sponsor(s): Representatives Jacobsen, Ogden, May, Wood, Wineberry, R. Fisher, Ferguson, J. Kohl and Anderson.

Brief History:

Reported by House Committee on:
Higher Education, January 29, 1992, DPS.

**HOUSE COMMITTEE ON
HIGHER EDUCATION**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 10 members: Representatives Jacobsen, Chair; Ogden, Vice Chair; Wood, Ranking Minority Member; Basich; Dellwo; Ludwig; Miller; Sheldon; Spanel; and Van Luven.

Staff: Marilee Scarbrough (786-7196).

Background: Students with disabilities are protected against discrimination at institutions of higher education under state and federal laws. The primary source of institutional responsibility to these students is Section 504 of the Federal Rehabilitation Act of 1973. The key language provides:

"No otherwise qualified handicapped individual ...shall, solely by reason of his handicap be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

For any college or university that receives any federal aid, the provisions of Section 504 apply to academic programs, housing, financial aid, athletics, facility access, and other programs and activities.

The Americans with Disabilities Act of 1990, which became effective on January 26, 1992, reinforces and complements

Section 504. Titles II and III prohibit public and private institutions from discrimination on the basis of disability and require reasonable accommodations for the disabled.

There are two major state laws affecting students with disabilities. These include the law against discrimination in public accommodations, and the state building code. Under these laws, public colleges and universities must provide reasonable accommodation to students with disabilities.

Accommodation can take many forms. However, no standards are in place to define reasonable accommodations for students with disabilities. Therefore, the quality and scope of accommodations provided varies among institutions. According to a report from Central Washington University, this variance has resulted in students selecting institutions based on the level of disabled services provided, rather than on the quality of educational programs.

In 1990, legislation was enacted directing the Governor's Committee on Disability Issues and Employment to convene a task force on students with disabilities in higher education. The task force was charged with making recommendations on the roles of state agencies, colleges, universities, and students in ensuring that students with disabilities have an opportunity to obtain a higher education.

The task force reported back with 13 recommendations. The recommendations responded to two broad areas of need. First, the task force identified a need to establish a clear, broad-based understanding of the needs, rights and responsibilities of students with disabilities. Second, in order to facilitate access for students with disabilities, sufficient resources must be available to ensure that reasonable accommodation is available at a consistent level for these students. In order to help colleges and universities implement the recommendations, the task force suggested the passage of three pieces of legislation. The recommendations included legislation that describes core services that should be available at each institution of higher education. Also included was the creation of physical access committees on each campus. Finally, the task force recommended that the Higher Education Coordinating Board create an advisory committee to gather information, conduct training, and coordinate service for students with disabilities and for the institutions that educate those students.

Summary of Substitute Bill: Institutions are required to provide one or more core services for disabled students. The service must be reasonably needed to accommodate the student's disability. It is the responsibility of the disabled student to request a core service in a timely manner. Reasonable accommodations shall occur, as appropriate, in all phases of the institution including: recruitment; the application, enrollment, and registration processes; financial aid; course work; research; academic counseling and housing.

The suggested core services are as follows: (1) Flexible procedures in the admissions process; (2) Early registration; (3) Sign language and oral and tactile interpreter services; (4) Textbooks and other educational materials in alternative media; (5) Provision of readers, note takers, scribes, and proofreaders; (6) Ongoing review and coordination of efforts to improve campus accessibility; (7) Facilitation of physical access including, relocating of classes, and institution sponsored activities and services; (8) Orientation to the campus at the beginning of a quarter or semester; (9) Access to and training in the use of adaptive equipment (closed caption devices, amplified telephone receivers, braille devices); (10) Referral to appropriate on and off campus support resources; (11) Arrangement of educational materials in advance; (12) Tutoring, mentoring, peer counseling and academic advising accessible to students with disabilities; (13) Test taking arrangements; (14) Referral to an organization for diagnostic assessment and documentation of disability; (15) Flexibility in time lines for completion of course certification and degree; (16) Flexibility in load requirements and institutional eligibility periods for financial aid; and (17) Notification of the institution's policy of nondiscrimination on the basis of disability and the procedure a aggrieved student must follow.

Substitute Bill Compared to Original Bill: Technical changes were made to clarify the core services. An intent section stating the need for institutions to respond to the needs of disabled students was added to the substitute bill. The substitute contains definitions for the terms "disability" and "discrimination." Both of those definitions are consistent with the definitions used in federal legislation.

Fiscal Note: Requested January 27, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The core services listed have been upheld as reasonable accommodations. The list does not mandate new rights, but clarifies guidelines for institutions. The federal legislation, prohibiting discrimination against students with disabilities, has been around since 1976. Core services are vital to the success of students. No individual because of a handicap shall be subject to discrimination in any program receiving federal financial assistance. The University of Washington administration building is still not accessible to a person in a wheelchair. It seems ridiculous after all these years students are still asking for their rights. This legislation is not a monetary bill, it is only asking for a chance for students to succeed.

Testimony Against: The list of core services were the product of the Governor's Task Force. The list, however, was not subjected to rigorous debate. It was not intended that the list of core services to be written into law, they were merely guidelines. The legislation needs to define a disabled student. It is unclear who should pay for these additional services. Several technical corrections are needed to clarify the responsibility of the institutions.

Witnesses: Toby Olson, Governor's Committee on Disabilities (pro); Katherine Fridley, Department of Services for the Blind (information only); Jackie Norton, mother of disabled student (pro); Jana Norton, disabled student/graduate of the University of Washington (pro); Daniel Johnson, disabled student Green River Community College (pro); Michael Stewart, Council of Presidents (con original bill); George Durrie, Eastern Washington State University (con original bill); and Alberta May, State Board for Community and Technical Colleges (con original bill).