
Section 6

Access to Facilities

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Overview

In addition to ensuring effective communication, post-secondary institutions must also take into account the needs of people who are deaf or hard of hearing by following accessibility standards for new construction and alterations, and ensuring access to programs as a whole.

Accessibility standards: New, altered, and existing facilities

The standards for new construction and alterations¹ include some specific requirements that affect people who are deaf or hard of hearing. For example:

Assembly areas

Assistive listening systems are required in certain assembly areas, such as classrooms, theaters, and stadiums if audio amplification is provided (in other words, if there is a built-in means of amplifying sound).²

Fire alarm systems

Where emergency warning systems are provided, they must include permanently installed audible *and* visible alarms.³

Residence halls and apartments

The requirements vary, depending on which sections of the 2010 DOJ regulations apply.⁴ Generally, a certain percentage of the total number of dwelling units must have communication features,⁵ including:

- visible alarms within the dwelling unit, activated on smoke detection or fire alarm in that portion of the building and
- a hard-wired electric doorbell with an audible tone and visible signal.

Hotels

There are similar provisions for hotels, such as university conference centers.⁶ A certain percentage of guest rooms must have communication features such as:

- permanently installed visible alarms, as well as visible notification devices to alert room occupants of incoming telephone calls and a door knock or bell and
- telephones with volume controls compatible with the telephone system.

Two-way communication systems

These must be provided in elevators, and where they are provided in other locations they must have visible signals.⁷ For example:

- Emergency two-way communication systems in elevators must have a visible indication acknowledging the establishment of a communications link to authorized personnel.
- Where a two-way communication system is provided to gain admittance to a building or facility or to restricted areas within a building or facility, or where one is provided for communication between a residential dwelling unit and an entrance (e.g., a closed-circuit system), the system must have visible signals, as well as the capability of supporting voice and TTY communication with the residential dwelling unit interface.

Section 504 and Title II of the ADA also require that programs as a whole be accessible to people with disabilities. This “program accessibility” requirement means that in some instances post-secondary institutions will have to make changes to existing facilities in order to ensure that people are not discriminated against because of inaccessible facilities. This is particularly true with respect to housing, where the program is so closely connected to a building’s features and location. For example, with respect to housing offered to students, the Department of Education has specified that Section 504 requires that a post-secondary institution provide comparable, convenient, and accessible housing to students with disabilities so that the scope of their choice of living accommodations is, as a whole, comparable to the choice of students without disabilities.⁸

In order to provide that choice, an institution may have to make alterations to existing housing, including the addition of the features listed above such as visible alarms.

Real-life example: Letter to Porterville College⁹

In 2009, OCR issued a detailed Letter of Finding (LOF) of a violation of Title II and Section 504, addressing the absence of visible fire alarms in parts of Porterville College’s campus buildings that had audible alarms. The letter is significant for several reasons:

- It highlights the need to plan carefully when carrying out new construction and alterations in order to avoid costly mistakes that require later correction.
- It points out the overlap of accessibility with important life safety issues.
- It sets out a clear and comprehensive explanation of new construction, alteration, and program accessibility requirements.¹⁰

A student had filed a complaint alleging that the college campus, which included newly constructed buildings, lacked visible fire alarms. OCR found that the college had undertaken a fire alarm system upgrade for the entire campus in 2008, but that areas of some of the buildings did not have visible fire alarms. Significantly, these included the Disability Resource Center, the President’s conference room, a dark room, the Wellness Center in the gym, and a restroom.

In the letter, OCR methodically explained the principles of accessibility in new construction, altered buildings, and existing buildings, detailing the applicability of accessibility standards according to the date of construction or alteration. OCR used the 1991 ADA Accessibility Guidelines to measure compliance in the new and altered buildings.¹¹ OCR summarized the relevant requirements as follows: Where an emergency warning system (either a self-contained or a building-wide system) is installed

in new construction or as an alteration, it must include both audible and visible alarms (i.e., those with flashing lights that activate as fire alarm signals), meeting certain specifications, in common rooms and spaces. This requirement is triggered by upgrading or replacing a fire alarm system.

OCR found the college to be in violation of the new construction and alterations provisions by failing to install visible alarms in some locations where there were audible fire alarms.¹²

Practitioner's pointers

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- Reach out to the facilities department to establish a relationship regarding accessibility features. From assistive listening systems to safety systems, it is important to ensure that deaf or hard of hearing individuals have equal access to information and alerts.
- Work with the facilities department to identify the accessibility features which are in place and identify those that are not. For buildings where accessibility features are missing, create a plan and prioritize what needs to be addressed to ensure the campus is accessible. If all items cannot be completed quickly, have an interim plan to accommodate individual requests.
- Most campuses have a system in place to alert students, faculty, and staff to emergency situations. Work with emergency managers, campus police, or campus safety officers to ensure the system used on your campus, includes a text-based alert. Most systems that are designed to send a voice message to a phone number also come with an option to sign up for a text message or email alert. If the system only sends a voice message, work with campus officials to establish a system to send a text-based alert at the same time the voice message is sent.

Endnotes

¹ The references here are to DOJ's 2010 ADA Standards for Accessible Design, part of DOJ's 2010 regulations for title II and title III of the ADA, effective March 15, 2011. <http://www.ada.gov/regs2010/ADAregs2010.htm>. For a thorough explanation of to what extent recipients of funds from the Department of Education and entities covered by the ADA should follow these or other standards, based on the date of construction or alteration, see ED's notice of interpretation as to standards, issued March 14, 2012, <http://www.gpo.gov/fdsys/pkg/FR-2012-03-14/pdf/2012-6122.pdf>. State and local standards may also apply, and the college or university must ensure compliance with all applicable standards.

² ADA Standards 219.2. See 216.10.

³ ADA Standards 702, 215.

- ⁴ It is important for those planning or constructing campus housing to understand the applicability of the Fair Housing Act and the implementing regulations of the Department of Housing and Urban Development, see <http://www.fairhousingfirst.org/>, as well as the approach of the DOJ 2010 regulations to “housing at a place of higher education.” DOJ has established two categories of housing with differing requirements, based on who occupies the facilities (e.g., faculty or students), whether they are leased on a year-round basis, and whether they contain public use or common use areas available for educational programming. 28 CFR 35.151(f) and 36.406(e).
- ⁵ See ADA Standard 233, 809.
- ⁶ See ADA Standards 806.3.
- ⁷ See ADA Standards 407.4.9, 708.
- ⁸ 34 C.F.R. 104.45.
- ⁹ Letter to Porterville College, finding of violation as to failure to provide visible fire alarms where there are audible fire alarms, No. 09-09-2004 (OCR 4/23/2009)
- ¹⁰ The letter also makes findings about the college’s failure to provide an interpreter to the complainant, applying the principles of effective communication and undue burdens and addressing substitution of note-taking, audio recording, and live captioning services for requested interpreter services.
- ¹¹ Applying the 2010 ADA Standards, issued after the Letter of Finding, most likely would have led to the same outcome. It does not appear that the college claimed that it had complied with the alterations requirements “to the maximum extent feasible,” which is an exception available under both standards in limited circumstances.
- ¹² The college agreed to inspect the parts of buildings that were not inspected by OCR, to correct the deficiencies by installing visible alarms, and to provide documentation of the changes to OCR.

