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# INTRODUCTION

## MANAGING STUDENT DISABILITY COMPLIANCE

This series of essays is designed to educate and inform institutional administrators, disabilities services staff, and faculty about the legal implications of decisions they make. Disabilities services personnel often make or participate in decisions that can lead to litigation. For example, they counsel and advise disabled students, review requests for accommodations, and the documentation provided by students claiming a disability and determine what accommodations, if any, the institution will provide to a student. College and university administrators, either by overseeing the operations of the disabilities services office or by acting as the hearing officer in a grievance hearing, are often deeply involved in the accommodations process. Faculty also make decisions regarding accommodation requirements and are key to the effective implementation of accommodations.

Therefore, it is essential that administration and faculty be aware of the current state of the law regarding disabled students and the impact these decisions can have on their institution. This impact will, of course, vary with the circumstances, and can range from modification of course requirements to lengthy and protracted litigation. Knowing the law and adopting preventive measures is the best way to cope with the law and prevent legal challenges and reduce exposure.

This manual on student disability compliance focuses on:

- **Identifying the Disabled**
- **Assessment of Disability Claims**
- **Admissions**
- **Retention and Dismissal Decisions**
- **Academic Accommodations**
- **Nonacademic Accommodations**
- **Athletics**
- **Housing**

Each of these essays is presented with a common format: Overview, Application, and Preventive Planning. A Selected Bibliography follows each topic.

It should be noted that in *Board of Trustees of the University of Alabama v. Garrett*, 121 S.Ct. 955 (2000), the U.S. Supreme Court ruled that employees of state governments cannot bring suit against their employer under the Americans with Disabilities Act (ADA). The impact of this decision, if any, on the rights of students to sue public colleges and universities under the ADA is evolving.

Specific comments on this manual are welcome. For further information or additional copies, please write to College Legal Information, Inc., P.O. Box 150541, Nashville, Tennessee 37215-0541.

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IS REQUIRED, THE SERVICES OF A COMPETENT  
PROFESSIONAL SHOULD BE SOUGHT.

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Kent M. Weeks, a practicing attorney with the law firm of Weeks, Anderson & Baker of Nashville, Tennessee has a distinguished professional career as a teacher, administrator, lawyer, and author. A Fulbright Scholar, Weeks earned degrees from The College of Wooster, University of New Zealand, Duke University, and a Ph.D. from Case Western Reserve University. He edited two volumes for the Center for Constitutional Studies that have had singular impact on the independent sector: *A Legal Inventory for Independent Colleges and Universities* and *A Legal Deskbook for Administrators of Independent Colleges and Universities (2nd Edition)*.

He is a Professor of the Practice of Education at Vanderbilt University and has been invited by many colleges and their associations to present seminars on higher education and the law. He has written several books and more than 43 articles and papers for scholarly journals, and he currently edits *Lex Collegii*, a legal newsletter for independent colleges and universities. In addition to this publication, Weeks has written or coauthored others, each addressing particular topics relevant to college personnel: *Student Affairs Decisions and the Law*; *Managing Admissions, Records, and the Law*; *Complying with Federal Law*; *Faculty Decision Making and the Law*; *Faculty Evaluation and the Law*; *Managing Departments: Chairpersons and the Law*; *Record Retention and Disposal*; *Student Handbook Policies*; *Staff Handbook Policies*; *Faculty Handbook Policies*; *Strategic Legal Planning: The College and University Legal Audit*; *Managing Liability and Overseas Programs*; *Managing Campus Conflict*; *Implementing Student Policies*; *Managing Campus Cyberspace and the Law*; and *Institutional Advancement and the Law*.

Weeks has consulted with colleges throughout the United States and serves as legal counsel to several colleges and national and international educational associations. He has participated in and directed more than 150 seminars and workshops for college administrators, faculty and trustees and has addressed many higher education organizations, associations, and legal groups. Weeks is a member of the National Association of Independent Colleges and Universities Legal Services Panel.

# ACKNOWLEDGMENTS

This manual is a product of many years of thought and reflection on issues and laws facing college and university administrators, staff and faculty who make significant institutional decisions. It reflects numerous contacts with administrators, staff of disability services offices, and faculty regarding the legal terrain in which decisions regarding disabled students and requests for accommodations are made.

As a teacher, I have learned much about the field and the legal challenges these professionals encounter, as well as the challenges faced on a daily basis by students with disabilities.

Acknowledgement must be given to my many clients and students who throughout the years have caused me to think about the issues and how to identify preventive ways to reduce or eliminate legal exposure.

Finally, special acknowledgment must be given to my colleague, Michael Willey, who worked with me on the development of this manual. I am deeply grateful to my legal assistant, Sandy Crain, who worked diligently and thoughtfully on the preparation and production of this manual.

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