

Complaint filed with US Department of Education Office for Civil Rights
May 10, 2020

On behalf of all blind and deaf-blind students who are registered to take the May 2020 Advanced Placement tests through College Board, the National Federation of the Blind and the blind students listed on the attached Exhibit A below hereby file the following complaint:

As a result of COVID-19, College Board is providing its May 2020 Advanced Placement (AP) exams in a digitized, online format. College Board, however, is refusing to provide blind and deaf-blind students with their required accommodations in violation of Title III of the Americans with Disabilities Act.

A testing entity must administer its exam so that it accurately reflects an individual's aptitude, achievement level, or the skill that the exam purports to measure, rather than the individual's impairment. Without the accommodations to which they are entitled, blind and deaf blind students will not be afforded an equal opportunity to take these high stakes tests. AP tests are a critical part of the college application process and assist students in gaining college credit. Some, or all of the accommodations listed below, were previously granted to the students who are registered to take the upcoming exams and on whose behalf this complaint is submitted. College Board is refusing to provide these necessary accommodations and thus discriminating against these students in violation of federal law.

1. **Hard-Copy Braille:** Many blind students use Braille as their primary means of reading. For many students hard copy Braille has been approved as an accommodation. There has been ample time for College Board to produce Braille copies of the newly revised AP exams and refusal to honor this accommodation is unacceptable and a violation of the rights of these students. The National Federation of the Blind and several blind students have made suggestions on ways to expedite the production and to ensure the security for proctoring, even during this COVID period. College Board has refused this approved accommodation request.
2. **Tactile Graphics:** Hard-copy Braille, and accompanying tactile graphics, is especially necessary for those exams which include coordinate planes, political cartoons, intricate maps, and other images which blind and deaf-blind students are accustomed to navigating tactually. Although College Board, in reducing the length of their exams, had asserted that they would

attempt to utilize as little visual content as possible, they have done the exact opposite; over 50% of this year's AP exams require the student to successfully interpret one or more images and/or quantitative datasets. Although Alt-text is being provided for these images, every time a student seeks to clarify a detail of the graph or revisit one specific point, they must listen to the lengthy description all over again, which wastes the limited time a student has to complete the exam. Moreover, the descriptions are an inadequate substitute for the actual images in that they are vague and do not provide the tactual feedback that students were approved as part of their accommodations. College Board has suggested that a family member describe and clarify the graphics if the Alt-text is unhelpful or is malfunctioning. Family members do not necessarily have the knowledge base to properly describe the content and thus this alternative is not an acceptable one.

3. **Breaks as Needed:** College Board routinely approves "Breaks as Needed" as an accommodation which permits the tester to stop the clock and rest their eyes and/or fingers for a small period of time. College Board revoked this accommodation without informing any of its recipients. Any breaks a student must take due to their disability will reduce the amount of valuable time the student needs to complete his or her exam.
4. **One-on-One Readers:** Students have previously been approved one-on-one readers during testing as an accommodation. Losing this valuable reasonable accommodation with no alternative remote option is a violation of the rights of these students. College Board directs students to have someone in their household read for them, but family members may be unfamiliar with content terminology or otherwise unqualified as readers.
5. **Accessible Technology Malfunctioning:** If the assistive technology developed for blind and deaf-blind users were to unexpectedly fail during the test, any amount of time the student utilizes to resolve the issue will be deducted from their test-taking time. This could be as much as a half an hour or forty-five minutes. College Board officials, including Christine Lowe, Director of Accessible Digital Testing, and Nancy Kim, Services for Students with Disabilities, suggested that students utilize devices with "less problems." This highly offensive response completely ignores the fact that

assistive technology presents challenges that cannot be anticipated in advance.

Providing the aforementioned accommodations to remote testers is neither burdensome nor an alteration. Students and the National Federation of the Blind have presented numerous solutions to College Board, which dismissed every proposal, including providing hard-copy Braille to testers via courier or sealed envelope, remotely stopping the test clock for student's breaks or technology barriers, and providing remote qualified readers/scribes and proctors via webconference services like Zoom.

REMEDIES REQUESTED:

Complainants make the following requests:

1. That OCR immediately inform College Board that this complaint has been filed;
2. That College Board shall immediately inform all blind and deaf-blind students who are registered for the May 2020 AP exams of their right not to take the May 2020 exams and instead be permitted to take their exams the week of June 2.
3. That College Board honor the accommodations that blind and deaf-blind students require and have previously been granted.
4. That College Board shall have a technology specialist available for contact by phone during testing to assist the student in resolving any unanticipated technology barriers.
5. That College Board designate dates for makeup tests for any blind and deaf-blind students who encounter barriers with their June tests.
6. That College Board provide all AP test scores/makeup test scores to blind and deaf-blind testers no later than July 15, 2020, so as not to negatively impact students' college applications.