



Briana

## *After Three Strikes, She Still Wasn't Out*

**by Mary Jacob**

On the outside, Briana Anderson looks like many other high school juniors looking forward to attending college in the near future. She is her mom's pride and the apple of her daddy's eye. By most standards, she is an all-American girl. She loves hanging out with her family; she is her brother's biggest cheerleader, and well-liked by her many friends. She attends a private school, is a member of her school's competitive cheer squad, and competes on the track team.

However, there is something else about Briana that is not easily noticed: she has significant test anxiety. Legitimate test anxiety prevents students from demonstrating their knowledge on a test. Even if the student is making passing grades -- even good grades -- having test anxiety is still limiting them from doing their best work. This is the case with Briana.

Briana was evaluated and diagnosed with test anxiety, a DSM-V diagnosis that falls under social phobias. Her high school has made accommodations for her by providing her with extended time to complete her tests. This has allowed her to maintain a 3.7 GPA. However, when it was time to register to take her ACT, she requested extended time and was denied. She appealed the decision, provided proof of her test anxiety, and had her school counselor write a letter on her behalf and she was denied again. Overall, she appealed 3 times and was denied all 3 times.

After a lot of frustration, Briana's mom Susan reached out to me about her need for accommodations. She wanted her daughter to have an opportunity to get her best score on her ACT and was not sure if anything else could be done. Improving her score could change the trajectory of her college career. If she qualified for extended time on the ACT, she would have a better chance of being able to get this same accommodation for all of her college exams and any graduate school exams. Therefore, this was more than just getting a higher ACT score; it could truly affect her career goals. After reviewing the information provided to me and researching test anxiety for standardized testing, I was 90% convinced that Briana met the criteria to receive the accommodation of extended time. My only reservation was the 3.7 GPA and her current ACT score of 21.

In Briana's situation, the U.S. Department of Justice's ADA Testing Accommodations provided the perfect guidance in determining her eligibility. She had all the required documentation she needed. However, on the bottom of page 3 of this guidance was the last piece of the puzzle under the section referred to as, "**A person with a history of academic success may still be a person with a disability who is entitled to testing accommodations under the ADA.**" The guidance states: "A history of academic success does not mean that a person does not have a disability that requires testing accommodations. For example, someone with a learning disability may achieve a high level of academic success, but may nevertheless be substantially limited in one or more of the major life activities of reading, writing, speaking, or learning, because of the additional time or effort he or she must spend to read, write, speak, or learn compared to most people in the general population."

At this point, I felt like she had everything she needed to appeal again, but this time I suggested she take another path of action. One of the solutions I suggested was to have an attorney write a letter to ACT, using the above documentation to claim they

were violating ADA and discriminating against her due to her disability. They did not need an attorney that specialized in civil rights, they just needed an attorney to write the letter using the information available in the above guidance.

Approximately one month later Briana received the news she was waiting to hear. Apparently, getting a letter from an attorney accusing you of discrimination and violating the ADA is what it took to get the attention they needed to approve her accommodation of extended time.

Susan was very appreciative of the support she received from FHF and is very excited about future ACT scores.

