

ACADEMIC ADJUSTMENT * ACCOMMODATIONS
ASSESSMENT * AUXILIARY AIDS * CIVIL RIGHTS
CONFIDENTIALITY * DISABILITY * EQUAL ACCESS *
DISCRIMINATION * DOCUMENTATION * EQUAL
OPPORTUNITY * ENFORCEMENT



Access to the opportunities afforded by a postsecondary education makes an enormous difference in the employability of people with disabilities and in improving the lives of their families.

DISCRIMINATION PROHIBITED

The Rehabilitation Act of 1973 was the first “civil rights” legislation to prohibit discrimination against people with disabilities. Section 504 in particular requires that qualified individuals with disabilities shall not be excluded from, denied access to, or be subjected to discrimination under any program or activity that receives federal financial assistance. The passage of the Americans with Disabilities Act (ADA) in 1990 extended these rights, prohibiting discrimination on the basis of disability in employment, public services, public accommodations, transportation, and telecommunications. As educators, it is important to understand the educational and legal issues involved in providing academic adjustment for students with disabilities. Many educators and administrators have serious questions about serving students with disabilities on campus, as more and more of these students pursue their educational goals.

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Disabilities on campus: New Challenges for Colleges

(Adapted from Theresa Cusimano's "Differently Able Students in Postsecondary Education," Policy Insight, WICHE, October 1999, and Cathy Henderson's, College freshman with Disabilities: A Biennial Statistical Profile, American Council on Education, 1999 and 2001.)

Background

The Civil Rights Movement of the 1960s inspired the subsequent Disability Rights Movement that greatly influenced the legislation of the 1970s, 1980s and 1990s. These disability rights laws prohibited discrimination against people with disabilities and provided access to education, public accommodations, telecommunications, and transportation.

Historically, many doors to college campuses were close to students with disabilities. Today, with the assistance of federal legislation, close to half a million students with students with disabilities are enrolled in postsecondary institutions. Students with disabilities, however, are less likely than nondisabled high school graduates to progress to postsecondary institutions. Federal legislation passed nearly ten years ago was designed to ensure access to higher education for a larger group of students with disabilities, yet many continue to experience obstacles to access.

Increasing Numbers of Postsecondary Students with Disabilities

In a national survey intended to provide a profile of first-time, full-time freshman at the beginning of their college experiences, entitled College freshman with Disabilities: A Biennial Statistical Profile (Henderson, 1999), more than 9% of college freshman (more than 140,000 students) reported having disability. The percentage of full-time, first-time freshman reporting disabilities has increased significantly since the late 1970s. In 1994, 9.2% of all freshmen reported having some type of disability, compared with 2.6% in 1978.

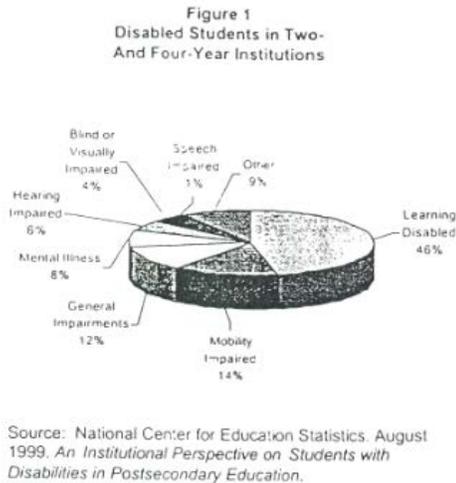
Among this group of students, the largest growth, both in numbers and proportion, has occurred among students with learning disabilities. By 1994, these students accounted for 3% of all college freshmen and approximately one-third of all students with disabilities. Between 1988 and 1994, the percentage of freshmen with disabilities that reported a learning disability more than doubled, increasing from 15.3% to 32.2%. By 2000, two in five freshman with disabilities (40% attending a four-year university) cited a learning disability (Henderson, 2001).

Access Opportunities

There are many opportunities and new responsibilities for institutions of higher education as increasing numbers of students with disabilities are able to access postsecondary campuses. Ninety-eight percent of public institutions enroll students with disabilities.¹ Yet there are no comprehensive postsecondary data about the enrollment of students with disabilities and the institutional accommodations provided.

¹National Center for Education Statistics, U.S. Dept. of Education, Office of Educational Research and Improvement, An Institutional Perspective on Students with Disabilities in Postsecondary Education, August 1999, p v.

The federal government estimates that 428,280 students enrolled in two –and four –year colleges are disabled, out of a total enrollment of over 12.4 million.^{2,3} Figure 1 provides a breakdown by disability. One of the difficulties in understanding the scope of students with disabilities enrolled in higher education is the lack of any uniform collection of state-level statistics.



Since the enactment of the Americans with disabilities Act (ADA) in 1990, the vast majority of disability service request in higher education are based on learning and psychiatric disabilities, not physical disabilities. The increase in mental disability service requests in higher education is the result of the broader definition of disability found in the ADA, which drew from language in section 504 of the Rehabilitation Act of 1973.

On average, an estimated 24 percent of the adult population between the ages of 18 and 44 in the Western Interstate Commission for Higher Education (WICHE) region have been diagnosed with a mental disability.⁴ Of the total adult population, an estimated 8 million adults in the WICHE region have been diagnosed with a mental disorder (see figure 2).⁵ Most mental disorders develop in college-ages adults, 18-24 years old. Yet at the national level, only an estimated one percent or 33,260 students with mental disabilities enrolled in two-or four-year colleges in 1998.⁶ This gap between the total number of adults with mental disabilities and the actual number enrolling in college and disclosing their disability may illustrate a reporting discrepancy oftentimes, students with mental impairments try to avoid the “disabled” stigma by not reporting, and postsecondary institutions are not required, not permitted to inquire.

² NCES, August 1999 report

³ The Chronicle of Higher Education 1999/2000 Almanac reports 12,410,000 students were enrolled in two-and four-year institutions, both part and full time in fall 1997.

⁴ Dr. Charles Holzer, University of Texas medical Branch, developed these estimates based on the 1990 census and National Epidemiological Survey data.

⁵ Michael Gordon and Shelby Keiser, *Accommodations in Higher Education Under the Americans with Disabilities Act (ADA)*, (DeWitt, NY, GSI Publications: NY and London, the Guilford Press, 1998), p.xvi.

⁶ Holzer.

Postsecondary Responsibilities

Section 504 and the ADA promote equal access to both employment and higher education to those who qualify as “disabled” the ADA mandates are financed by states rehabilitation agencies and postsecondary institutions serving individuals with disabilities.

In 1993, the first year of enforcement of the ADA, the office of Civil Rights (OCR) determined that 86 colleges had violated the rights of students and employees with disabilities. OCR’s response to student’s complaints found:

- 23 colleges maintained facilities without access.
- 18 colleges refused to make academic adjustments.
- 14 colleges’ applications asked improper questions.
- 5 colleges’ antidiscrimination policies did not extended to mental disabilities.

The Data Dilemma

State-level ADA postsecondary compliance statistics are not available from the Office of Civil rights. No uniform data concerning the numbers of disabled students in postsecondary education are nationally. The National Center for Education Statistics conducted its first survey regarding students with disabilities in postsecondary education in August of 1999.

Shifting the Burden

Finance. The state and individual college or universities are required to finance the accommodations that are deemed reasonable, unless such accommodation presents an undue financial or administrative burden. On certain occasions, a sponsoring state vocational rehabilitation agency may assist with the auxiliary cost.

Determining who should pay for aids for students with disabilities has become a growing concern among state and university officials that has been brewing since the inception of the ADA. The U.S. Department of Education oversees state vocational-rehabilitation agencies and believes the states agencies have the final responsibility to pay for their clients’ services when they attend a postsecondary institution. Institutions must pay for all other aids for students with disabilities who are not sponsored by the state rehabilitation agency. As recently as June of 1998, 30 states and their colleges were engages in a stand-off to determine who would pay the bill for disabled student auxiliary aids.⁸

⁷ Scott Jaschick, “New Focus on Civil Rights,” *The Chronicle of Higher Education*, June 22, 1994, A27.

⁸ Jeffrey Silingo, “States and Colleges Wrangle Over Paying for Services to Disabled students.” *The Chronicle of Higher Education*, June 19, 1998, A37

The ADA did not codify, however, that institutions may not charge individuals with disabilities for the provision of necessary auxiliary aids and services.⁹

Enforcement. The ADA allows individuals to sue the institution for noncompliance, rather than relying on the Office of Civil rights to file a complaint on their behalf, as had been the case under Section 504 of the rehabilitation Act. The increased threat of litigation that the ADA posed served to pressure institutions into complying much more quickly than they had in the past.¹⁰

Identification: Consumer vs. Institution. Prior to Section 504 and the ADA, institutions were permitted to ask whether prospective students suffered from any physical or mental disability. As of 1973, postsecondary institutions were prohibited from making inquiries to determine whether an individual had a disability. The decision to identify a student as disabled for the purpose of admission is made by the student applicant. This action is a judgement call that the consumer must make, after considering all the institution's requirements for admissions.¹¹

Institutions may inquire about a student's disability after admissions or student disclosure in order to ensure that proper accommodations are provided. It is important to distinguish, however, that institutions are only required to provide accommodations for *known* disabilities.

Documentation and Confidentiality. Under the ADA, documenting the disability at the college level becomes the student's burden. The institution must inform the student of available services, while the student must disclose a disability on a timely basis and provide documentation that is less than three years old. The documentation must be certified by a qualified evaluator and the student must make the request for special accommodations.

Because the student reserves the right to disclose the disability to the institution, faculty and staff are bound by students' requests for confidentiality. For example, if a student decides to disclose his or her disability to the science professor, that faculty member may not share the nature of that student's disability with others. This self-disclosure aspect of Section 504 and the ADA provides increased privacy to students with psychological disorders.

Defining Disability. Section 504 and the ADA provide broad definitions of "disability." Ultimately, applying the ADA definition leads to more individuals included in the "disabled" group. This broader definition is the primary reason higher education institutions are struggling to understand and meet the needs of increasing numbers of learning-disabled students. 75 percent are comprised of individuals who feel they suffer from what the ADA describes as "substantial limitation" in the ability to learn.¹²

⁹ 28 C.F.R. Section 35.130[f], 36.301[c]; upheld by *State University of New York* (1993).

¹⁰ Scott Jaschick, "regulations Proposed to Make College Building Accessible to Disabled," *The chronicle of Higher Education*, Jan. 30, 1991, p. A22.

¹¹ Jeanne M. Kincaid, "The ADA and Section 504: legal Mechanisms for Achieving Effective supported Education", Community Support Network News, Fall 1994, 10(2).

¹² Gordon and Keiser , p.xvi.

The Legal Parameters

Amidst rather ambiguous regulations, institutions have had to develop protocols for verifying disabled individuals' conditions and guidelines for what constitutes fair and reasonable accommodation. Furthermore, despite the courts' reassurances that only "otherwise academically qualified" disabled students may be afforded the equal access protections of the ADA, some college officials fear that loose standards will dilute the integrity of their academic programs. Additionally, some faculty question whether institutions should be relying so heavily on them to assess and serve the needs of students with disabilities.

Postsecondary institutions, however, may expect all students to conform their behavior to student conduct codes. If a student's disability triggers behavior that falls outside of the institution's conduct code, an institution may dismiss that student, although OCR requires the institution to re-admit a student when the disability-related conduct stabilizes.¹³

¹³ Kincaid, "The ADA and Section 504: Legal Mechanism".

What Is Your Attitude?

A teaching assistant said...

“We have had a couple of instances where people have abused their accommodation privilege and actually had notes out, you know, cheating. There is a level of suspicion out there and a level of discontent in terms of who is to do what. Bad cases are remembered better and used by us to form our prejudices...”

Which of the following best express your attitude when it comes to issues of instructional accommodations?

- Special privileges
- Additional effort
- Just another kind of difference
- Undue burden
- An opportunity to learn new and more inclusive ways of teaching
- I just follow the policy and to the best I can



Special Privileges

Instructional accommodations are not special privileges. They are a means of leveling the playing field. Students with disabilities are the best judges of what they can or cannot do, and typically are not seeking special privileges or unfair advantage. In fact they met are generally very hesitant to ask for assistance from faculty members.

Additional Effort

Some accommodations may involve additional effort for the instructor. Or, some may be as simple as a seating change that enables a student who is hard-of-hearing to be closer to the front of the classroom. If an instructional accommodation is not made, the additional effort is placed on the student who needs the accommodation. It may, in fact, mean that the student cannot take the class or cannot pass it. Should a student with a disability have the burden of additional effort beyond that of any other student in the class?

Just Another Kind of Difference

This kind of attitude shows understanding for the diversity of postsecondary students as a whole. It's important to remember that for some students with disabilities, there may be accommodations needed to enable them to participate fully and achieve their potential. This is a kind of difference to which we have a responsibility.

Undue Burden

This actually comes from a legal term that is when an accommodation creates a hardship for those making the request. Sometimes, however, a requested accommodation may be financially or logistically impossible. If students are coming to you and want to learn from you, where do you draw the line that says, "You cannot learn from me because I cannot teach you"?

Opportunity to Learn Inclusive Ways of Teaching

This approach can only enhance the learning environment for all students. Exceptional instructors are sometimes those who recognize that they will always be students themselves.

Follow the Policy

Instructional faculties often have very full plates. Understanding the policies at the postsecondary institution helps provide the foundation for instructional accommodations. There is no "cookbook" with answers for working successfully with every student with a disability. Your students with disabilities can be the best resource for helping you to teach them.

What is your Viewpoint?

According to one postsecondary administrator...

“Particularly in the area of learning disabilities, I don’t know who is supposed to draw the line. I think at a certain point it’s not fair to the student to say, “Oh, yes you can when we really think they can’t do it even given all the accommodations that we can provide. You know, there’s a controversy about learning disabilities, what a learning disability is, and what isn’t a learning disability isn’t. You know that very fine dividing line...”

What is your viewpoint on instructional accommodations for students with disabilities?

- All students should accommodate to the academic standards already in place in this institution, as well as the existing instructional practices of individual faculty members.
- Postsecondary education is for anyone who desires it and it is our obligation to provide every accommodation that is needed by our students.
- It is unfair to offer special privileges to select students. If they can’t hack it the way it is, they should go elsewhere.
- Instructional faculty should develop instructional plans that are as inclusive of individual differences as possible.



Students Should Accommodate

This response may reflect some of your most basic ideas about education in general. Take time to think about your views of learning and formal education. What is the general goal of your institution? What is the purpose of instructions? Sometimes just thinking through your beliefs about experiences with teaching and learning can be a productive process. It may help you understand the foundations of your own attitudes, as well as prepare you to engage in an ongoing conversation about access and accommodation. While the system of academic training that most of us experienced provided valuable tools for intellectual development, it may not be one that offers adequate opportunity for the increasingly diverse student populations now seeking postsecondary education and training. Staying on the cutting edge of teaching may demand staying in touch with the needs of students.

One helpful way to thinking about inclusive instructional practices for constantly changing student populations is the concept of universal design. For example, consider the fact that no single form of representation of course material will provide equal access for all learners. Representing information in a way that facilitates learning for some students may present barriers for others. Providing a flexible means of representation can be important and inclusive practice. Perceptual barriers are reduced by presenting course material in a variety of ways, including text, audio, and graphic formats. While any one of these methods of presentation creates barriers for some students, the use of all three offers inclusive alternatives.

Provide Every Accommodation That Is Needed

Postsecondary education is for everyone who meets the admissions criteria at a particular institution and can maintain the academic standards that the institution sets, with or without reasonable accommodations. Instructors need not provide every accommodation a student uses, only the ones pertinent to the specific class. For example, a student who needs accommodations to use a microscope in a health science course wouldn't need this equipment in an English course. A student may have difficulty using the calculator provided in a class. The instructor might think that a talking calculator or other expensive solution is needed, when a calculator with larger buttons actually works best for the student.

It is Unfair to Offer Special Privileges

First, it is important to consider the definition of special privilege in this situation. Students usually are not seeking preferential treatment. Those students who meet the definition of having a disability are entitled to accommodations that will enable them to compete in the academic environment. If students are not meeting academic standards after accommodations are provided, they will need to reconsider their options the same as any student not making the grade.

Postsecondary Education Is Not For Everyone

Perhaps, but keep in mind that students with disabilities are usually aware of what they can and cannot do. Any student who meets the admissions criteria set by the postsecondary institution has earned the right to succeed or to fail in that environment.

Faculty Should Develop Instructional Plans That Are Inclusive of Individual Differences

If an instructor seeks excellence in teaching, inclusive practices benefit all students, whether they have a disability or not. Instruction that offers multiple forms of representation, communication, and presentation is most inclusive of a variety of differences. Consider ways you might include alternatives for presenting information, interacting with students, and evaluating learning in your courses.

What Would You Do?

A faculty member shared...

“We don’t know what it is we’re up against. If we want to try to help these students we need to know what it is. We have to look at the different disabilities and say, how is this going to be a problem when I go through my everyday teaching? I’m becoming more conscious of these types of things because I had five students just last semester in my agriculture class that needed some kind of accommodation. I eventually discovered that three of them were ADD, one was bipolar, and one had a severe visual impairment. It was overwhelming!”

Which of the following would you most likely do if faced with several requests for accommodations in one of your classes?

- Contact the disabilities services on campus to ask for assistance.
- Ask the student for documentation to validate the request.
- Tell the students that they might be better off dropping the class.
- Talk with the student individually about what accommodations they need.
- Ask the students to define and describe their disabilities.
- Search for information on each disability so I could understand what to do.
- Find out what my legal obligation to accommodate these students is.



Contact Disability Services

The disabilities services office can be a good place to start if you are stumped about the accommodations you are being asked to provide. They can help you with the process. If you are willing and able to provide the accommodations that have been requested by the student, you don't necessarily have to contact that office before making minor adjustments. However, it is very important to notify that office about any accommodations requested so the requirements for documentation can be met.

Ask the Student for Documentation

Keep in mind that you may ask students requesting accommodations for a letter of accommodation from the disability services office but you may not ask for any information on their disabilities. Such distinction is a matter of law. A letter of accommodation can be a good place to start.

They Might Be Better Off Dropping the class

The motivation behind this statement must be carefully examined. Who is really better off in the situation? It's probably not the student. If they want to take your class because it is component of their course of study, your decision may impact the quality of the education they receive. The student will be losing an opportunity to learn about your area of expertise and you will be losing that student's contribution to the class.

Talk With the Student Individuality

Determining accommodations on an individual basis is the best course of action. Students with disabilities are the best judges of what they can or cannot do. It is important to remember that even if you have students with the same type of disability; the accommodations they need may be completely different. Most students, with and without disabilities, want to be treated as individuals.

Ask the Student to Define and Describe their Disabilities

Some students are very comfortable and open when discussing their disability. However, it is not appropriate (and is, in fact, illegal) to ask students to define or describe their disabilities. This may seem to make the accommodations process impossible for an instructor, but it doesn't. You can talk to the student about what is required in your class and ask what accommodations they need to meet those requirements.

Search for Information

Being knowledgeable about different types of disabilities can be helpful in knowing what limitations may be associated with the specific disability, but it is not necessary. There are a myriad of disabilities and disability subtypes. A better approach is to look at what the individual needs to be able to do to succeed in your class, rather than what they cannot do. This is called the functional approach to determining accommodations.

Find Our My Legal Obligation

It is always helpful to know what the laws are in this regard, as well as the policies of your situation. Once you know what the minimum requirements are, you can decide whether you will choose to meet or extend them.

Frequently Asked Questions

What do postsecondary programs generally have to do for students with disabilities?

A college may not discriminate on the basis of disability. It must insure that the program it offers, including extracurricular activities, is accessible to students with disabilities.

Postsecondary schools can do this in a number of ways: by providing architectural access, providing aids and services necessary for effective communication, and by modifying policies, practices and procedures.

How would postsecondary programs modify their policies, practices or procedures to make programs accessible?

The most challenging aspect of modifying classroom policies or practices for students with disabilities is that it requires thought and some prior preparation. The difficulty lies in the need to anticipate need and be prepared in advance. The actual modifications themselves are rarely substantive or expensive. Some examples are rescheduling classes to an accessible location; early enrollment options for students with disabilities to allow time to arrange accommodations; substitution of specific courses required for completion of degree requirements; allowing service animals in the classroom; providing students with disabilities with a syllabus prior to the beginning of class; clearly communicating course requirements, assignments, due dates, grading criteria both orally and in written form; providing written outlines or summaries of class lectures, or integrating this information into comments at the beginning and end of the class; and allowing students to use note takers or tape record lectures. Modifications will always vary based on the individual student's needs. Modifications of policies and practices are not required when it would fundamentally alter the nature of the service, program, or activity.

What are reasonable accommodations?

Accommodations is a term coined from disability and employment legislation, and it refers to any modifications that need to be made for a person or within an environment to minimize the discriminatory effect of a person's physical, mental, emotional, or learning disability. In academia, reasonable accommodations are also called academic adjustments, and they might include classroom adjustments, exam modifications, or administrative accommodations.

Do students have to provide documentation of a disability to request accommodations?

Colleges may request current documentation of a disability. If a person obviously uses a wheelchair or is blind or deaf, no further documentation may be necessary. For those with hidden disabilities, however, such as, learning disabilities, psychiatric disabilities or chronic health impairment, it is reasonable and appropriate for a college to request documentation to establish the validity of the request for accommodations, and to help identify what accommodations are required.

What kind of documentation might be necessary?

Documentation should be completed and signed by a professional familiar with the applicant and the applicant's disability such as a physician, psychologist, or rehabilitation counselor. It should verify the disability and suggest appropriate accommodations. If previous documentation exist, it will likely be sufficient unless it is not currently (usually no more than three years old). If no current documentation is available, it is the responsibility of the students to have new documentation prepared. This can mean paying to have an appropriate professional conduct a new evaluation.

Aren't accommodations just special privileges?

Accommodations are intended to allow a student with disabilities to have equal access to academic programs. Think of it as "leveling the playing field." Students with disabilities, like other students, should pass or fail courses according whether or not they have mastered the learning objectives. Although you may modify your teaching and testing methods to accommodate students, you should not alter your grading standards.

What are my responsibilities to a student with a disability?

You are responsible for providing the accommodations listed in the Letter of Accommodation given to you by a student with a disability. This does not mean you are required to give passing grades to students who have failed to demonstrate the required level of understanding or performance competency. Once you have provided accommodations, you should grade the work of the student with a disability as you would grade the work of any other student.

You also are responsible for protecting the privacy of student with disabilities. You should file their Letters of Accommodation in a secure place and only discuss them with individuals who have legitimated educational needs (i.e., guest lecturers, teaching assistants). Finally, you should conduct class so that no more attention is focused on the student than is necessary to provide required accommodations.

How do I know a student has a disability?

You will know a student has a documented disability when he or she provides you with a Letter for Accommodation. Each semester students with disabilities must request Letters for Accommodation from the Disability Services coordinator for their instructors. Letters for Accommodation are given to students who then must deliver them to their instructors. This letter will provide you with specific information about academic accommodations required for their student to participate in your course.

Can I ask a student if he or she has disability?

No, this is confidential information. However, you can facilitate the use of campus disability services by students with disabilities through the inclusion of the following statement on your syllabus.

“If you have a documented disability which requires academic accommodations, please see me as soon as possible during scheduled office hours. In order to receive accommodations in this course, you must provide me with a Letter of Accommodation from the Disability Services Coordinator. If you have not already done so, please register with the Disability Services Coordinator”.

Can I ask what type of disability a student has?

No, this is confidential information. According to the U.S. Department of Justice, a faculty member generally does not need to know the disability of a student. The only information that you must receive about the student is required accommodations. However, some students will disclose information about their disabilities when discussing accommodations with you.

May I see a student’s documentation file?

Sorry, this is confidential information. According to the U.S. Department of Justice, a faculty member generally does not need to know the disability of a student. The only information that you must receive about the student is required accommodations. However, some students will disclose information about their disabilities when discussing accommodations with you.

May I see a student’s documentation file?

Sorry, this is confidential information. Faculty has no legal rights to see documentation. You may request information from the Disability Services Coordinator regarding provision of accommodations to a student with a disability, but you may not view the student’s file. The privacy of student records is protected through the Family Educational records Privacy Act, the ADA, and Section 504 of the Rehabilitation Act. Thus, you must have written permission from the student to see his or her documentation file maintained with Disabilities Services.

What if an instructor objects to the use of an auxiliary or personal aid?

Sometimes postsecondary instructors may not be familiar with Section 504 of ADA requirements regarding the use of an auxiliary or personal aid in their classrooms. Most often, questions arise when a student uses a tape recorder. College teachers may believe recording lectures is an infringement upon their own or other students’ academic freedom, or constitutes copyright violation.

The instructor may not forbid a student’s use of an aid if that prohibition limits the student’s participation in the college program. The Section 504 regulation states:

A recipient may not impose upon students with disabilities other rules, such as the prohibition of tape recorders in classrooms or of dog guide in campus buildings that have the effect of limiting the participation of students with disabilities in the recipient’s education program or activity.

In order to allow a student with a disability the use of an effective aid and, at the same time, protect the instructor, the institution may require the student to sign an agreement so as not to infringe on a potential copyright or to limit freedom of speech.

Are colleges required to make testing accommodations for student with disabilities?

Yes. Colleges must establish a process for making their test accessible to individuals with disabilities. Colleges can do this by providing appropriate accommodations to students with disabilities. Remember, each student's needs are individual, but examples of accommodations include allowing a student extended time to complete a test or providing a distraction-free space, sign language interpreters, readers, or alternative test formats. Note: Testing accommodations are also required of agencies which administer licensure and certification tests that establish one's professional credentials such as bar exams, etc., and the businesses that offer classes to help individuals prepare to take these exams.

What if students with disabilities require auxiliary aids during an examination?

A student may need an auxiliary aid or service in order to successfully complete a course exam. This may mean that a student be allowed to give oral rather than written answers. It also may be possible for a student to present a tape containing the oral examination response. A test should ultimately measure a student's achievements and not the extent of the disability.

Some students with disabilities are provided extended time on examinations. Is this fair to other students?

The Rehabilitation Act and the Americans with Disabilities Act (ADA) states: "The results of an examination should accurately reflect an individual's aptitude or achievement level or whatever the test purports to measure, rather than reflecting an individual's impaired sensory, manual, or speaking skills." The courts have held repeatedly that a lengthening of the standard examination period is an appropriate accommodation for some students with disabilities. For example, the Massachusetts Supreme Judicial Court ordered the State Board of Bar Examiners to allow double the standard time on the bar exam for an applicant with Dyslexia and Attention deficit Disorder. Similarly, the State District Court for the Western District of New York ruled that a State Bar applicant with a visual impairment must be allowed a four-day examination period rather than the standard two-day period.

May I fail a student with a disability?

Yes. It is possible to fail a student with a disability. The laws mandate access to education, not guaranteed academic success. When a faculty member has provided a reasonable academic accommodation, all that is required to comply with the law, and the student does not meet the course requirements, then failing student is proper and lawful. The following is a compliance checklist that may be helpful:

- Stand by academic standards and freedoms, which include full and equitable access to academic programs.
- Provide verbal and written notice to your students of your willingness to accommodate. For example: "I encourage students with disabilities to Discuss accommodations with me."

- Communicate clear and concise expectations for performance to your students. Distinguish between essential and non-essential componential components of the course.
- Respect requests for reasonable accommodations. (The disability student services office facilitates obtaining these alternative formats).
- Permit student to use auxiliary aides and technologies that ensure access (examples: note takers, sign language interpreters, readers, scribes, research assistants, tape recorders/players, assistive listening devices).
- Assure that your course materials, whether printed or electronic, are accessible and available in alternative formats (examples: Braille, computer electronic text, large print, internet, CD/cassettes).
- Consult with your disability student services office if you have questions when a student request accommodations.
- Keep student disability student information strictly confidential.

Is it acceptable to ask a student who is having obvious difficulties whether he or she has a disability or to refer the student to the office that provides disability support services?

No. It is not a good idea to ask directly about a possible disability for a couple of reasons. First, the Americans with Disabilities Act states that a public entity may not make unnecessary inquiries into the existence of a disability. These inquiries usually relate to hiring or preadmission screening, but when taking with students such inquiries should also be avoided. A direct inquiry such as this could also be considered intrusive. You may simply tell the student that you notice she or he having academic difficulty and encourage him or her to come talk with you about gaining assistance, just as you would with any student.

I have a disruptive student in my class who has history of mental health problems. How do I handle it?

Discuss the problem with the student. Inform him of behavioral and academic expectations and consequences. Students with disabilities are expected to meet the same standards as students without disabilities. It may be helpful to outline parameters of behavioral expectations during a private meeting with the student. Contact the student disability services office for guidance.

I don't know if one of my students has a mental illness, but he exhibits extreme anxiety and may "freeze up" during test, cry or faint while giving presentations, and occasionally react to a situation with an angry outburst. How can I be most supportive without lowering academic expectations?

It is best to set up a private meeting with the student and state that you have noticed he becomes very anxious in response to stressful academic situations. Ask the student what support measures he would find helpful and that will encourage his optional performance. Do not ask him if (or suggest that) he has a disability, but encourage him to make use of a list of campus resources (that may include the disabled student services office) that he might find appropriate.

What are hidden disabilities?

Hidden disabilities are physical or mental impairments that are not readily apparent to others. They include such conditions and diseases as specific learning disabilities, bipolar disorder, diabetes, epilepsy, and allergy. A disability such as a limp, paralysis, total blindness or deafness is usually obvious to others. But hidden disability such as low vision, poor hearing, heart disease, or chronic illness may not be obvious. A chronic illness involves a recurring and long term disability such as diabetes, heart disease, kidney and liver disease, high blood pressure, or ulcers.

How can the needs of students with hidden disabilities be addressed?

The following examples illustrate how colleges can address the needs of their students with hidden disabilities?

- A student with a long-term, debilitating medical problem such as cancer, kidney disease, or diabetes may be given special consideration to accommodate the student's needs. For example, a student with cancer may need a class schedule that allows for rest and recuperation following chemotherapy.
- A student with a learning disability that affects the ability to demonstrate knowledge on a standardized test or in certain testing situations may require modified test arrangements, such as oral testing or different testing formats.
- A student with a learning disability or impaired vision that affects the ability to take notes in class may need a note taker or tape recorder.
- A student with a chronic medical problem such as kidney liver may have difficulty in walking distance or climbing stairs. This student may require special parking space, sufficient time between classes, or other considerations, to conserve the student's energy for academic pursuits.
- A student with diabetes, which adversely affects the body's ability to manufacture insulin, may need a class schedule that will accommodate the student's special needs.
- Students with mental health or psychiatric impairments can be affected in several ways. They may be more susceptible to the common stressors of college life involving academic demands as well as interpersonal relationships and living alone or away from home for the first time. Students may have particular problems receiving, processing and recalling information during times of stress. Side effects from medication may also impact attention, memory, alertness, and activity level. The episodic and unpredictable onset recurrence of illness can also interrupt the educational process. Accommodations for students who have mental health impairments may include note takers, early notification of projects, exams, and assignments to reduce stress, flexible attendance requirements, and alternative testing arrangements in a quiet room.
- An emotionally or mentally ill student may need an adjustment class schedule to allow time for regular counseling or therapy.
- A student with epilepsy who has no control over seizures, and whose seizures are stimulated by stress or tension, may need accommodation for such stressful activities as lengthy academic testing.

These are just a few examples of how the needs of students with hidden disabilities may be addressed.

What is psychiatric disability and mental illness?

Mental illness is a term that describes a broad range of mental and emotional conditions. Mental illness also refers to one portion of the broader ADA term mental impairment, and is different from other covered mental impairments such as mental retardation, organic brain damage, and learning disabilities. The term 'psychiatric disability' is used when mental illness significantly interferes with the performance of major life activities, such as learning, thinking communicating, and sleeping, among others.

The most common forms of mental illness are anxiety disorders, depressive disorders, and schizophrenia.

Once a student discloses a psychiatric disability, what kind of information do I need and how can I get it?

In general, you need to know what the percent effect of the particular disability will be on the student's functioning as a student in your class. Specifics regarding psychiatric history, diagnosis, and medications are not as relevant as the specific barriers that they present as the student attempts to complete the requirements of the class. Most useful information about:

- What behaviors to expect as a result of the disability or psychotropic medication;
- How these behaviors interfere with the student's participation and performance in the class;
- What some useful strategies and/or academic adjustments are that address these barriers and help him/her to function more effectively in the role of student.

Someone can experience a mental illness over many years. The type, intensity and duration of symptoms vary from person to person. They come and go and do not always follow a regular pattern, making it difficult to predict when symptoms and functioning will worsen, even if treatment recommendations are followed. Although the symptoms of mental illness often can be controlled effectively through medication and/or psychotherapy, or may even go into remission, for some people the illness continues to cause periods that require treatment. Consequently, some people with mental illness will need no support, others may need only occasional support, and still others may require more substantial, ongoing support to maintain their productivity.

How does mental illness interfere with functions at college?

Mental illness may interfere with functioning in different ways. Many of the illness affect a student's ability to do certain things, such as thinking or communicating with others. Often, the person themselves or the professionals working with them can describe the functional limitations that are specific to your student. Please remember that since there are not a lot of different types of mental illnesses, that this is not a complete list, nor do these limitations apply to everyone who has a mental illness.

The following is a list of some of the activities that people with psychiatric disabilities may have trouble doing:

- **Screening out environmental stimuli-** an inability to block out sounds, sights, or odors which interfere with focusing on tasks

Example: A student may not be able to attend to a lecture while sitting near a loud fan or be able to focus on studying in a high traffic area.

Possible solutions: Move student away from fan area, turn off fan during lecture, and identify quiet study area for student.

- **Sustaining concentrating-** restlessness, shortened attention span, easily distracted, remembering verbal directions.

Example: A student may have trouble focusing on one task extended periods, have difficulty reading and retaining course material, or have trouble remembering instructions during an exam or a classroom exercise.

Possible solution: Break large projects into smaller tasks, allow brief but more frequent breaks to stretch, walk around, get fresh air, refer student to a tutor to help with study skills and information retention, assign task one at a time, write out instructions on board.

- **Maintaining stamina-** having energy to spend a whole day of classes on camps, campus, combating drowsiness due to medications

Example: A student may not be able to carry a full-time course load, or take a lengthy exam at one sitting.

Possible solutions: Encourage part-time enrollment; segment an exam so that student can take one part in morning, another in the afternoon.

- **Handling time pressures and multiple task-** managing assignment and meeting deadlines, prioritizing tasks

Example: A student may not know how to decide which assignments should be done first, or complete assignments by the due date.

Possible solution: Break larger assignments and projects down into manageable task; distribute a course syllabus of the class topics, assignments, and due dates for the entire semester to help students to plan prioritize workload.

- **Interacting with others-** getting along, fitting in chatting with fellow students, reading social cues

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Example: A student may have difficulty talking to other students, getting notes or discussing assignments. Participating

Possible solution: Establish a mentor or “buddy system” relationship to introduce the student to others or to show the student “the ropes.”

- **Responding to negative feedback-** understanding and interpreting criticism or poor grades, difficulty knowing what to do to improve, or how to initiate changes because of low self-esteem.

Example: A student may not seem to understand the feedback given, becomes upset when criticism is given on an assignment, or wants to withdraw from class because of poor grade on an exam.

Possible solution: Use feedback loop (ask student’s perspective of performance, describe both strengths and weaknesses, suggest specific ways to improve); give student the chance to read written feedback privately, and then discuss; make alternative assignment or “extra credit” options available to all students, thus giving them the opportunity to make up for poor grade; if necessary, arrange a three-way meeting with the student and the disability service counselor to facilitate feedback.

Responding to change- coping with unexpected changes in coursework, such as changes in the assignments or exam due dates, or changes in instructors

Example: A student may need to learn new routines, or feel unduly stressed when requirements or instructors change, or new expectations are introduced mid semester.

Possible solution: Prepare students when possible for changes that will be happening explain any new course requirements, make a special effort to introduce any new instructors and orient the new instructor to student’s needs.

Please be aware that any special strategies that are considered should be discussed with the student in advance, identifying the particular areas of difficulty for that person and individualizing possible solutions that may work for him or her.

Frequently asked questions were compiled from the following sources:

- 1) <http://www.ed.gov/offices/OCR/docs/auxaids.html>
- 2) <http://www.ed.gov./Offices/OCR/docs/hq5269.html>
- 3) <http://www.washington.edu/doit/faculty/Rights/Faq/index.html>
- 4) <http://www.bu.edu/cpr>
- 5) <http://www.pacer.org/pride/504.htm>

Educational Scenarios: What Would You Do?

Jennifer was enrolled in a beginning computer class. Due to her schizophrenia she has difficulty focusing in class. Her thoughts would wander from the instructor and suddenly she would feel lost in class. Because of this she would continually interrupt the class to ask the teacher questions. She was beginning to feel as if instructors and classmates were angry at her for disruption.

RESPONSE: Jennifer's teacher allowed her to bring in a tape recorder to tape the class lectures. She was also assigned a "buddy", a classmate who would sit next to her during class to point out what they were focusing on if Jennifer became lost. The instructor also made herself available to Jennifer each week at a certain time for questions. Jennifer also increased her time in the computer lab at the school.

You are an instructor in a large lecture course. A student approached you mid-semester and tells you that he needs accommodations in order to take the midterm that is scheduled for next week. He claims that he is entitled to the accommodations because he has a disability. How do you respond?

RESPONSE: Any student seeking an accommodation needs to have a letter from the disability service office. Any medical documentation stays confidentially on file with the college disability support service office. The instructor is entitled to know that the student has a disability, but is not entitled to the details surrounding the disability. The first step then is to ask the student if he has met this requirement. The second step is to confirm this documentation with the disability services office. The third step is to discuss with the student exactly what type of accommodation would be needed (e.g., extended time, a separate room, a proctored exam, etc.). Additionally, if the last minute timing has created an inconvenience for you, tell the student that knowing about the accommodation earlier would have helped you both.

Lisa was in her second semester at a community college. She had been taking 3 classes and was near completion of the semester when her Multiple Personality Disorder began to affect her school work. Until this point Lisa had been exemplary student, a teacher's favorite with a point average of 4.0. It became impossible for Lisa to go to her classes. Lisa did not want to jeopardize her grade point average, nor did she have the money to pay to take the classes over.

RESPONSE: Because of her exemplary record Lisa's instructors all agreed to give her an incomplete rather than having her withdraw or failing her. This enabled Lisa to complete the course work over the next semester. It would not affect her grade point average and she would not have to pay for the classes again.

As an administrator, two different students approach you with reports that one particular faculty member is refusing to allow any academic adjustments or accommodations in his classroom, citing his right to “freedom.” What is your response?

RESPONSE: The right to reasonable accommodations overrides faculty rights to academic freedom; the academic adjustments must be allowed, if they are reasonable, and if the student has a documented disability.

A student who has a documented psychiatric disability is one of thirty in class that meets for three hours, once a week. He says that because one of the side effects of his psychotropic medication is akathisia (extreme restlessness), he needs to pace around the classroom every twenty minutes, to relieve his agitation. What is your response?

RESPONSE: The student with akathisia must work with the instructor to find a way to participate that does not interfere with the learning of the other students. Perhaps he needs more frequent breaks, or needs to arrange to have some of the lecture taped if he cannot attend the entire lecture.

Source: © 1997, Center for Psychiatric Rehabilitation, Boston University

Case Study

Background

This case describes fifth-year education students in the Early Childhood Education Program who has a learning disability and is registered with the office for student disabilities services. Professors were aware that she had a learning disability, but were not fully informed of the behavioral characteristics which can result from this condition. Professors complained about her disruptive behaviors including overly-emotional, dependent, and inappropriate behaviors in class and alienation of her peers. The specific behaviors professors noted as problematic included crying, silliness, not opening books or participating in hands-on activities, talking out of turn, disrupting and distracting the class by interrupting, and asking instructors to complete work for her.

These behaviors are indicative of her nonverbal learning disability (NLD). NLD is often called “right-hemisphere learning disorder” and frequently goes unrecognized as a disability by instructors. Instead, students with this impairment are often labeled “behavior problem” due to their inappropriate or unexpected conduct. NLD is known to have a neurological rather than emotional origin. Individuals with NLD may have impaired abilities to organize visual-spatial fields, accurately read nonverbal signals and cues (more than 50% nonverbal cues go unrecognized) in social and novel situations, and coordinate motor functions. For people with NLD, verbal communication (a strength is important as it is difficult for them to process nonverbal information (e.g., facial expressions, reading between the lines).

Access

After much time academic success in her academic program, the ability of this student to complete the final stages of her program was questioned. How could this student access the field placement that precedes teaching and is necessary for her program completion? Additional stress and challenges during her fifth year exacerbated her NLD symptoms. How could alienation of professors, supervisors, and students be avoided?

Solution

Effective remedial approaches or intervention for NLD include “spelling things out” verbally and using a parts-to-whole teaching approach. Allowing the student to ask multiple questions (to satisfy the need to process) within an acceptable structure was important. Immediate non-threatening verbal feedback regarding acceptable and unacceptable behavior was provided, with clear explanations of how the acceptable behavior positively impacted the outcome and, controversially, how inappropriate behavior had a negative impact on the outcome.

A team involving professors, the disability student service coordinator and the student met periodically to and monitor an access plan. The student met with the professor after each class to discuss what went well and what did not. The student was asked for her perceptions, which were then compared with the professor’s and the situation was verbally analyzed step-by-step with the reasoning for the acceptable behavior clearly outlined. This process helped the student establish

an inner warning to catch inappropriate behavior before it occurred, thus building problem-solving skills for future use. For complicated messages and multi-stepped instructions, the student tape recorded the information.

Next, developing verbal compensatory strategies helped this student. For example, professors established with the student a verbal cue (word or short phrase) and non-verbal gesture to signify that inappropriate behavior was occurring in the moment and needed to stop. This signal was then used during lecture or group work to notify the student, and helped her only modify her behavior in the moment, but also developed an internal monitoring system. Along the same lines, a peer role model of appropriate behavior was assigned. The student then modeled the more appropriate behavior of the assigned student.

The team noticed improvement in the student's behavior in the class and in group work situations. The student also felt she was doing better. She earned a "B" grade for the semester.

Conclusion

This case illustrates:

1. Cooperative work between professors, disability service coordinators, and the student. Without all parties conferring and sharing information and ideas, the student may have been closed out of an opportunity to complete her teaching program.
2. Successful accommodations used for a student with an NLD including clear and immediate verbal feedback about specific behaviors, behavioral cues to modify behavior, use of a tape recorder for complicated verbal messages, peer role modeling, and regular monitoring and feedback system.

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Disabilities Covered Under Section 504

The section 504 regulation defines an “individual with disabilities” as any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such impairment, or (iii) is regarded as having such an impairment. The regulation further defines a physical or mental impairment as (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The definition does not set forth a list of specific disease and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of any such list.

The key factor in determining whether a person is considered an “individual with disabilities” covered by Section 504 is whether the physical or mental impairment results in a substantial limitation of one or more major life activities. Major life activities, as defined in the regulation, included functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The impairment must have a material effect on one’s ability to perform a major life activity. For example, an individual who has a physical or mental impairment would not be considered a person with disabilities if the condition does not in any way limit the individual, or only results in some minor limitation. However, in some cases Section 504 also protects individuals who do not have a disabling condition but are treated as though they do because they have a history of, or have been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. For example, if you have a history of a disabling condition but no longer have the condition, or have been incorrectly classified as having such a condition, you too are protected from discrimination under Section 504. Frequently occurring examples of the first group are persons with histories of mental or emotional illness, heart disease, or cancer; of the second group, persons who have been misclassified as mentally retarded. Persons who are not disabled may be covered by Section 504 also if they are treated as if they are disabled, for example, if they are infected with the human immunodeficiency virus.

Source: <http://www.ed.gov/offices/OCR/docs/hq5269.html>