

ACCOMMODATING STUDENTS WITH DISABILITIES IN ALLIED HEALTH

BACKGROUND

When Congress passed the Rehabilitation Act of 1973, it included Section 504 which forbade discrimination against persons with disabilities by programs and activities receiving federal financial assistance. This was the first civil rights statute designed to prevent discrimination against persons with disabilities and was patterned after the Civil Rights Act of 1964. The Americans with Disabilities Act of 1990 (ADA) was the next step in disability rights. Patterned after Section 504, it requires that students with disabilities not be excluded from participation in, or be denied the benefits of, or be subjected to discrimination by any institution which is subject to the ADA.

Given these legal mandates, postsecondary institutions must make reasonable accommodations to ensure that students with disabilities have an equal opportunity to participate in the institution's courses, programs and activities. This includes extracurricular activities. Common academic adjustments include extended time for test taking, completion of course work or graduation; tape recording of classes; substitution of specific courses to meet degree requirements; modification of test taking or performance evaluations so as not to discriminate against a person's sensory, speaking or motor impairments, unless that is what is being tested.

Colleges do not have to provide accommodations that would "fundamentally alter" the educational program or academic requirements which are essential to a program of study or to fulfill licensing requirements. The determination of what is a fundamental alteration; however, is one which requires specific steps and a reasoned, determinative process on the part of the campus community. Because the ADA is a remedial statute, it requires that colleges and universities carefully establish what is truly fundamental and provide for alternate methods of achieving the results intended for students with disabilities who require these accommodations.

Not all students with disabilities will be able to participate in programs with clinical components. If an accommodation poses a risk or interferes with a program's essential components, it is not reasonable. However, all students deserve the opportunity to be evaluated for admittance and academic accommodations must be considered, as a student gains mastery of their discipline.

Professional programs with clinical components have some unique attributes as compared to typical academic programs. First, they are technical in nature and may have competencies that dictate performance within a certain timeframe. Second, they may have off-site training elements and thirdly, faculty may have ideas that could potentially create attitudinal barriers for students that they do not normally instruct in typical classroom settings.

There are three critical factors to be considered in your decision making:

1. Developing essential functions of the curriculum.
2. Discussing with student his or her limitations and potential accommodations.
3. Determining which accommodations are acceptable to both the student, the discipline, and the college.

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IDENTIFYING ESSENTIAL FUNCTIONS AND TECHNICAL STANDARDS

Professional programs are not obligated to ensure students' success. They are obligated only to ensure equal access.

The Supreme Court said that, "nothing in the language or the history of Section 504 of the Rehabilitation Act reflects an intention to limit the freedom of an educational program to require reasonable physical accommodations for admittance to a clinical program. When determining if a student or prospective student can perform the essential functions of a program, it is necessary to look at the program itself, not the functions expected in a professional setting where graduates might work." *Southeastern Community College V. Davis (1979); Alexander V. Choate (1985)*

A college should determine the appropriate or essential requirements for a course of study, not the licensing requirements. The student must be permitted time for a "learning curve," like all other students.

Competencies that include such aspects as motor skills, communication skills, behavioral skills and emotional stability can be problematic as a college cannot exclude a group of individuals based on disability. The determination of essential functions and reasonable accommodations to ensure equal access must be made on an individual basis with considerations of that person's strengths and limitations. The ADA states that an entity cannot discriminate by "utilizing standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability."

Not only do you need to identify which competencies are essential, but also, determine just how important each competency is. Essential functions should be documented and made available to students in both general information and application materials.

The following questions may help to identify essential functions:

- What tasks may reasonably be delegated to an assistant in clinical settings?
- What assessment techniques can be modified to measure learning without compromising the nature of the course?
- What is the evidence that the traditional way of teaching or assessing these skills is the most effective?

NOTE: In determining essential functions, try to be proactive, rather than reactive. The Office for Civil Rights (OCR) wants to see that the program requirements are well thought out, have been researched and are backed up by sound rationale. In an OCR letter to Appalachian State University, OCR stated that the process of determining essential requirements should have the following components:

- The decision is made by a group of people who are trained, knowledgeable and experienced in the area.
- The decision makers consider a series of alternatives as essential requirements.
- The decision follows a careful, thoughtful and rational review of the academic program and its requirements.

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ANALYZING LEARNING ACTIVITIES

Once essential functions and technical demands have been determined, teaching methods and learning activities can be established.

Learning activities are the bridge between students and their ability to achieve essential functions. Lecture, readings, discussion, lab demonstrations and practice, written assignments, reflection exercises, projects, and written, oral, and practical examinations are examples of learning activities. It is likely that only some of these learning activities will need to be reasonably accommodated for any individual student. It is also likely that there are many effective ways to teach or assess course material.

For example, a clinical course that utilizes case studies, may present difficulty for a student with a specific learning disability. Because of their educational limitation, the student does not participate in the group problem-solving case discussions with peers. Without acknowledgement of the disability, this behavior may appear as disinterest or lack of attention. However, with prior knowledge of the student's educational limitations, the faculty member may know that the student needs more time to process and may decide to give all the students the cases the day before the lab to prepare in advance. This type of course modification should not present a barrier to maintaining the academic integrity of the course and may, in fact, help everyone in the class.

IDENTIFYING STUDENTS' EDUCATIONAL LIMITATIONS AND POSSIBLE ACCOMMODATIONS.

Performance standards are eligible for academic accommodations and alternative methods must be considered to achieve the same instructional or performance goal.

As always in determining appropriate academic accommodations, there must be a clear nexus between the educational limitation and the essential tasks that the student is required to learn and master. There is no specific checklist or absolute procedure for determining academic accommodations. Rather, it is an individualized process and DSPPS professional staff should work closely with faculty and the student to determine what accommodations would be appropriate for that individual. Students with disabilities, of course, have individual strengths, and often have developed effective academic compensatory strategies. Additionally, students may use assistive technology that provides the accommodation needed to create equal access. There are many examples of accommodations that actually help everyone.

Example One: Consider the following example from an occupational therapy clinical skills course. Before graduation, the student must be able to evaluate a patient with neurologic dysfunction and plan an appropriate intervention in a timely manner. Would it be acceptable for the student to bring brief, written notes into the lab sessions or examination situations? This raises the question as to whether the essential function is the ability to remember all of the special tests or to understand the indications for each test, how to perform it, and how to interpret the results. Is it appropriate for the student with a disability to perform all the tasks listed above and then direct a classmate acting as an assistant to perform the intervention? Performing tasks in a limited time frame can be challenging for many students with disabilities. In making the

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decision to allow the student more time to accomplish tasks in school, the team should consider the future demands of the job in a professional clinic. If the clinic will expect interventions to occur in a restricted time frame, then extended time is not ultimately a reasonable accommodation because it alters the essential nature of the course expectations. However allowing more time early in a student's learning may be appropriate, such as permitting extended or extra practice sessions.

Example Two: Consider the example of a student who is very bright and able to successfully integrate course information and develop creative interventions. This student, however, needs extended time to process information, which can compromise his or her ability to demonstrate problem-solving skills in a practical examination. One student with dyslexia found that he could remember concepts most easily if he converted them into "pictures" in his head. He was able to recall information perfectly if he was granted extra time to translate the "pictures" back into words. He was talented at communicating with patients in language they could understand.

RESOURCES

28 CFR Part 35 – Nondiscrimination on the basis of disability in state and local government services.

Alexander v. Choate, 469 U.S. 287, 293 (1985)

Americans with Disabilities Act of 1990 amended 2010

Analytical decision-making model for addressing the needs of allied health students with disabilities. *Journal of Allied Health*, Spring 2009, vol. 38 no 1, pp. 54-62.

Beyond the Usual Accommodations: Supporting College Students with Disabilities in Clinical Settings. LRP Publications (2008)

Essential Performance Form. School of Nursing – San Diego State University

Guidelines for students with disabilities. Louisiana State University Health Sciences Center.

School of Allied Health Professions.

Nurse with Disabilities: Accommodation and Compliance Series. Job Accommodation Network. (JAN)

OCR letter to Appalachian State University. No, 11-05-2085. Office for Civil Rights, Region IV (2006)

Southeastern Community College v, Davis, 442 U.S. 397, 406 (1979)

Wynne v. Tufts 92-1437 (1992)

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