

AAMC/Coalition for Disability Access in Health Science and Medical Education  
Webinar #2 Text Only Version

Slide 1:

Disability Law 101: What Faculty Need to Know About Student Accommodations

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The Coalition wishes to thank the AAMC and for their generous support in developing this webinar series.

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Please use the Q&A panel located on the right hand side of your screen to submit your questions. Send to All Panelists.

Slide 4:

Today's Topics:

Why are more students receiving disability accommodations?

What are the disability laws applicable to higher education?

How is "disability" determined, and what are a school's obligations?

Faculty's role regarding the determination and implementation of disability accommodations.

How disability accommodations intersect with patient safety and technical standards.

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Southeastern Community College v. Davis

Slide 6:

Evolution of Disability Law

Section 504 (1973)

ADA (1990)

ADA Amendments Act (2008)

State Law

Slide 7:

Why More Students Now?

More students with disabilities attending college.

Increased awareness and reduced stigma.

Changes in the law in 2008 mean more students are eligible for disability services.

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Benefits of Accommodations

Improved student retention and graduation.

Reduced disability-related complaints and litigation.

Increased diversity in medical programs.

Schools can meet new NIH requirements in grant applications for describing university efforts to recruit, retain, and graduate students with disabilities.

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Leveling the Playing field

Slide 10:  
What does the DS office do?  
Understand disability laws and school's obligations.  
Work on behalf of the school.  
Work on behalf of students.  
Knowledge of common accommodations.  
Problem solve for uncommon accommodations.

Slide 11:  
ADA definition of "disability"  
A physical impairment that substantially limits one or more major life activities.  
Major life activities include: performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.  
Major Bodily Functions include: functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Slide 12:  
Student Interview, Documentation, and Observation go into creating accommodations.

Slide 13:  
Casey Martin golfing case

Slide 14:  
Faculty's role in accommodations:  
Work with DS staff to determine accommodations.  
The interactive process is critical!  
*-Zucke (1999), Kaltenberger (1998), McGuinness (1998), Wynne (1991), Wong (1999).*  
Key players must be involved: disability experts AND faculty.  
*-OCR letter to U.C. Santa Cruz (1999)(Faculty alone cannot determine accommodations).*

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Faculty's role in accommodations:  
2. Implement the accommodations approved by DS staff.  
OCR case decision: Faculty can't refuse to implement approved accommodations.  
*-OCR letter to Kennesaw State University (2013)*  
If you have concerns about accommodations, contact DS.

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Faculty's role in accommodations:

3. Ensure students know about DS office.

Students must follow established procedures for requesting accommodations.

-OCR cases: A.T. Still (2009), Western Mich.(2000), Texas Women's U. (2000), Coll. of St. Rose (2001).

If students don't know about the process for requesting accommodations, they cannot be held responsible for failing to fulfill them.

-OCR Letter to Concord Career Institute (2005).

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Faculty's role in accommodations:

4. Refer students to DS office.

Student disclosing disability to faculty = student disclosing to the institution.

-North v. Widener University (2012).

The word "disability" is not necessary to constitute disclosure—disclosure could be as simple as mentioning undergoing treatment or having an ailment.

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Faculty's role in accommodations:

What faculty DON'T have to do:

Tolerate inappropriate behavior from students—professionalism standards are not waived, even for disability.

-Halpern v. Wake Forest University Health Sciences (2012).

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Technical Standards

Schools "shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities...unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered." 28 C.F.R. 35.130(b)(8); 28 C.F.R. 36.301(a).

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Technical Standards

Examples:

*Ability to hear a heartbeat*

would likely be impermissible because individuals who cannot hear may just as effectively rely on digital stethoscopes to "see" a heartbeat on a screen.

*Ability to detect a heartbeat*

more clearly describes the desired skill, without screening out the entire class of individuals with reduced hearing.

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Technical Standards

Schools must create the technical standards themselves—this task can't be punted to another entity, such as a clerkship site.

-OCR Letter to Milligan College (2011).

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Patient Safety

“In determining whether an individual poses a direct threat to the health or safety of others, a [school] must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.”

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Patient Safety

Featherstone v. Pacific Northwest University of Health Sciences (2014).

*Compare to case we started with:*

Southeastern Community College v. Davis (1979).

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Q&A

Slide 25:

Be sure to register for the next  
webinar on June 10, 2015:

Separating Fact From Fiction: Debunking Disability Myths and Addressing Legitimate  
Concerns

Details and Registration can be found  
at [www.aamc.org/gsa](http://www.aamc.org/gsa).

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UCSF