



UNIVERSITY STUDENTS WITH DISABILITIES

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“ . . . Disability is a natural part of the human experience . . . ”

—The 104th Congress of the United States

According to the 2000 United States Census, people with disabilities (PWDs) represent about 19.3% of individuals age five or older in the non-institutionalized population (Lengnick-Hall, 2007). In spite of various forms of anti-discrimination legislation, persons with disabilities continue to be underemployed. Research indicates that the gap in employment rates for working-age people with and without disabilities continues to be approximately 40% (Pelkowski, 2007). Even if a PWD attends college, employment gaps exist. While many work organizations coordinate workplace accommodation through Human Resources, faculty teaching university courses may not be as informed about issues related to classroom accommodation for PWDs. Recent campus events concerning disability inclusion suggest the time is right for a meaningful discussion. This article presents an overview of the legal context of disability inclusion. It also summarizes the published research in the field, and provides suggestions from the Office of Disability Support Students for faculty who have PWDs as their students.

Legal Background

Section 504 of the Vocational Rehabilitation Act of 1973 is a civil rights law, which prohibits discrimination based on a physical or mental disability in all institutions receiving federal funding. It states: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance . . .” (Section 504, 29 U.S.C. 794 a). The Americans with Disabilities Act of 1990 (ADA) was passed to protect individuals with disabilities from discrimination. The ADA expands the essential concepts of Section 504 to other areas such as private employers and the non-federal public sector, i.e. state and local governments. Title II regulation, which governs education, states: “A public entity shall furnish auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity” (Title II). Samples of Auxiliary Aids and services may include: taped texts, note takers, interpreters, readers, videotext displays, talking calculators, electronic readers, Braille calculators or printers, closed caption decoders, open and closed captioning, voice synthesizers, adapted gym equipment, raised line drawing kits, assistive listening devices, and electronic texts (OCR, 1998).

However, despite the passage of the ADA, PWDs continue to experience problems in gaining equal access to employment opportunities as well as reasonable treatment (or accommodation) once they are gainfully employed. Disability discrimination claims are increasing. In 2007, the Equal Employment Opportunity Commission received 17,734 charges of disability discrimination and recovered \$54.4 million in monetary benefits for charging parties and other aggrieved individuals. Unlike other equal employment opportunity legislation in the United States

(e.g. Equal Pay Act of 1963, Age Discrimination in Employment Act of 1967), the ADA is unique in that it doesn't mandate the same treatment for people with disabilities, but directs employers to alter workplace conditions to enable PWDs to participate on an equal basis with non-disabled individuals performing the job (i.e. reasonable accommodation). Therefore, this acknowledges that work environments are the result of choices about how work is accomplished and that employers can make different choices about how work is accomplished, the degree of flexibility in the work environment, and even tolerance in the workplace (Harlan and Robert, 1998).

According to Keaty, Srivastava and Stewart (2005), the ADA defines disability using a three pronged definition. There must be: "(1) A physical or **mental impairment** that **substantially limits** one or more of the **major life activities** of the individual; (2) a record of such impairment; or (3) being regarded as having such impairment." (pp. 43–44). It is important to keep this definition in mind. Faculty cannot unilaterally assess a student for a disability and any provided accommodation is a function of a formal assessment of the student by the Disability Support Services Office.

The ADA Amendments Act of 2008 (ADAAA, 2008) clarifies and reiterates who is covered by the law's civil rights protections. It took effect on January 1, 2009; it broadens the definition of disability and includes conditions that are episodic or in remission. The amended language also states that in determining who is covered, mitigating measures including assistive devices, accommodations, medical therapies and supplies (excluding eye glasses and contact lenses) cannot factor into the decision of who qualifies. Both the ADA and Section 504 have provided opportunities to access higher education to those students with disabilities who are otherwise qualified.

But what does "otherwise qualified" mean? Students applying to the University must demonstrate that they meet the admission standards for this institution. When students with disabilities have been admitted, it means that with or without accommodation, he or she is a qualified individual, despite

having a disability. The University expects the student to continue to demonstrate they are otherwise qualified by meeting or exceeding the academic standards. This is critical to understanding the distinction between a civil right and an entitlement. Adherence to the Individuals with Disabilities Education Act (IDEA) is mandatory within secondary and elementary educational settings. It entitles students to a free and appropriate public education and requires the school district to identify, fund, and supply any aids or special education services. According to Kearns (2008), the entitlement law necessitates that schools take responsibility for the progress of all students and are charged with enabling all students to succeed. An Individualized Education Plan (IEP) is developed and may modify or alter the curriculum for the student. Higher Education is not mandated by the IDEA. Every person is not entitled to attend college and receive a bachelor's degree. The ADA and Section 504 are not meant to guarantee success. They mandate **access** for qualified individuals to either fail or succeed alongside their non-disabled peers. Students with disabilities **can** accomplish their higher educational goals with reasonable and appropriate accommodation.

Trends in Higher Education

The number of students with disabilities enrolling in postsecondary institutions has increased dramatically in recent years. According to a 2003–2004 survey by the National Center for Education Statistics, 11.3% of all undergraduates reported having a disability (NECS, 2006). The data collected by the NCES in a 1995–1996 survey reveal approximately 6% of all undergraduates reported having a disability (NCES, 1999). Among the 1995–96 undergraduates who reported having a disability, the percentage indicating each disability type is as follows: Learning 29%, Orthopedic 23%, Other 21%, Hearing 16%, Visual 16%, and Speech 3%. However, the 2003–04 disability

type percentages indicate a significant difference in disability categories reported by students with ADD at 11%, Learning 7.5%, Orthopedic 25%, Hearing 5%, Visual 3.8%, Speech 0.4%, Mental Illness 22%, Health Impairment 17 %, and Other 7.8%. Based upon the disability categories students reporting sensory impairments—i.e. Deaf, Blind and Speech—have declined. It is notable that the category of Mental Illness was not included in the 1995–96 survey. In less than 10 years the number of students reporting a disability has **doubled**.

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It is the responsibility of the student to self-identify to the DSS office, provide current written documentation of the disability diagnosed by a qualified professional, and then to request accommodation of the functional limitation. It is the responsibility of the DSS office to verify the presence of a disability and to determine if a reasonable and appropriate accommodation can ameliorate the impact of the functional limitation on academic performance. The accommodation must be a logical match to the functional impact of the disability. For example, blindness causes the functional limitation of the inability to read printed text. A reasonable accommodation may be reading the text in an alternate format such as Braille, having the text read aloud by a reader or the use of electronic text and a screen reader, such as JAWS. Reasonable accommodations are changes that modify non-essential elements of university programs and do not alter academic requirements or “fundamentally alter the nature of a service, program or activity” (OCR, 2007). Faculty are notified of the need for accommodation by the student who presents a letter listing the requested accommodations. The expectation is that the instructor and student will engage in a conversation regarding the functional limita-

tions of the disability, make accommodation arrangements and discuss any useful learning strategies.

During the 2008–09 academic year, the DSS office provided services to 422 individually counted students. There were 368 enrolled during the Fall 2008 semester requesting assistance. Throughout the Winter 2009 semester DSS worked with 352 enrolled students seeking services. During summer semester the student population seeking services was smaller (Summer I had 125 students and Summer II had 154). Approximately half of the 422 students registered with DSS are eligible for accommodation because of a learning disability or Attention Deficit Hyperactivity Disorder (ADHD). While students with a specific learning disability have average to above average intelligence, they have difficulty acquiring, processing and demonstrating knowledge and understanding. This results in a severe discrepancy between achievement and intellectual abilities. For example, Dyslexia may cause the student to mix up letters within words or sentences, or may lead to difficulty spelling words correctly. Letter reversals are common (University of Washington [2001–2004] DO-IT).

The next largest group of students registering with the DSS reported psychological disabilities (67) followed by mobility impairments (34) and medical conditions (33). Deaf, Blind, Traumatic Brain Injury (TBI) and Other types make up the remainder of students, with blind students comprising the smallest disability type. A comparison of the psychological disability type from the DSS Annual Report of 2005 (N=32) with the 2008–09 data (N=67) demonstrates a 100% increase in this category. The growth in part can be attributed to the increased number of students with Autism Spectrum Disorder registering with DSS. **This also coincides with the Autism and Developmental Disabilities Monitoring Network (ADDMN) which tracks efforts by the CDC to measure the prevalence of Autism Spectrum Disorders in the United States.** The ADDMN reports that in 2006, on average, approximately one child in every 110 was classified as having an

ASD. In 2007, DSS piloted a mentoring program designed specifically for students in the spectrum to support a successful transition from high school to the University. Students with ASD exhibit characteristics of impairment affecting multiple areas of functioning—most notably socialization, communication and behavior.

Barriers in both Education and Employment

Obstacles to success for persons with disabilities can be both physical and attitudinal. Physical or architectural barriers might be an inaccessible website or a doorway that is too narrow for a wheelchair to enter. Attitudes that come in the form of negative stereotypes, pity, fear or misinformation are insidious and often difficult for students to overcome. Junco stated, that negative attitudes of instructors, may prevent students with disabilities from using self-advocacy skills in disclosure as (as cited in Rao, 2004). Brak (2010) asserts that the academic accommodation process for SWDs “steps out of the realm of typical interpersonal discourse as the process requires disclosing what would normally be personal and privileged information to an essential stranger, a faculty member” (7).

We suggest that faculty encourage students to disclose and discuss accommodation needs by using an ADA statement on the course syllabus and to announce it verbally when reviewing the syllabus at the beginning of the semester. This informs and educates all students of your commitment to access. When students come forward with an accommodation letter prepared by DSS, it is appropriate to address any concerns about meeting course requirements and expectations privately with them. The student is the expert on the impact of her/his disability and can share potential issues and solutions. Legally, students are not required to reveal their diagnosis; however, DSS advises students to share the functional limitations of their disability to help faculty understand the specific needs of the

student. For example, medical conditions may cause absences due to doctor appointments and illness. When the accommodation requested concerns the attendance policy, faculty should establish the boundaries in an open dialogue with the student. Faculty also should consult the DSS office to assist with issues he/she may experience in working with a student. Students with disabilities want to demonstrate their abilities and competence; faculty should expect them to succeed.

In the employment context, barriers often occur both in securing meaningful employment as well as after gaining employment. For example, with the increased use of electronic application processes (i.e. applying for jobs using a computer/internet), many of these technologies are not supported by assistive technology. While individuals can request accommodation for the application process, many are not even aware of this right through the ADA. After hiring, PWDs may experience a hostile work environment that may in fact “foster” discriminatory practices. Crampton and Hodge (2003) indicate that 82 percent of ADA claims occur not at the point-of-hire, but after the implementation of a hiring decision. During the employment relationship, behaviors or actions on the part of employers precipitate feelings of exclusion or hostile treatment of employees with disabilities. Crampton and Hodge’s (2003) report that 23% of the employment problems faced by disabled workers are related to reasonable accommodation and 50% are related to discharge. Court interpretations of the ADA have led to confusion for employers regarding what is actually a disability, what is appropriate accommodation, and how mitigating circumstances might enter into any employment decision (Crampton & Hodge, 2003; LeVar, 2001; Massengill, 2004).

Universal Design: An Approach to Barrier Removal

Universal design is the process of designing inclusive speeches, presentations and lectures to minimize the need for individual accommodations. Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation. This inclusive approach has been adapted by McGuire, Scott, and Shaw as Universal Design for Instruction (UDI). “UDI is an approach to teaching that consists of the proactive design and use of inclusive instructional strategies that benefit a broad range of learners, including students with disabilities” (McGuire, Scott, & Shaw, 2003). The Association of Higher Education and Disability (AHEAD) is a professional association committed to the full participation of persons with disabilities in postsecondary education. Members of the association are actively involved in universal design research and promotion (contact AHEAD at www.ahead.org for more information and support). Sheryl Burgstahler, Ph.D. has created an easy-to-use checklist for faculty on UDI that can be accessed from the University of Washington DO-IT website.

Universal design can also be used to create a supportive workplace for PWDs. Universal design disguises any workplace accommodations and by making them an inherent part of any workspace, accommodation issues among coworkers, for example, becomes non-existent. Often the accommodation makes the workplace more comfortable for both the PWD and those without such disability (Markel & Barclay, 2009).

Concluding Thoughts

The Journal of Post Secondary Education dedicated a special issue to the impact on higher education of students who are returning veterans from Operation Iraqi Freedom and Operation

Enduring Freedom in Afghanistan. The passage of the Post 9/11 Veterans Educational Assistance Act of 2008 will allow veterans to pursue college. Many wounded warriors will be coming home with Post Traumatic Stress Disorder, Traumatic Brain Injury, Depression and Anxiety as well as physical and sensory disabilities acquired during their service (Madaus, 2009). This emerging population will require that universities be aware of the issues facing those who are making the transition back from war as a PWD.

During the upcoming years, faculty at Oakland University are more likely to interact with students with disabilities than in the past. It is the authors' hope that this overview provides faculty with important background information. If you have questions, the Office of Disability Support Services welcomes your inquiries.

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