

Faculty's Role in Accommodating Disabilities

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Western Oregon
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TOUCHSTONES

- Accommodating students with disabilities and ensuring compliance with the Americans with Disabilities Act (ADA) and the Rehabilitation Act is a civil rights obligation
- Discharging all the regulatory requirements of accommodation is a highly technical and labor-intensive exercise that requires expertise, knowledge, and constant training
- Accommodation is not ad hoc—the University’s expertise to establish and monitor accommodations for students with disabilities is vested in the Office of Disability Services



LEGAL OBLIGATIONS

- **Americans with Disabilities Act (1990)(ADA):**

Title II of the ADA states: “...No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

- **Section 504 of the Rehabilitation Act (1973):**

“No otherwise qualified individual with a disability in the United States...shall, solely by reason of his or her disability, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”



PROCESS

(1) Disability Documentation

- **Disability**: Physical or mental condition that substantially limits one or more major life activities
- **Otherwise Qualified**: Student must be otherwise qualified
- **Medical Documentation**: Required with ODS in order to establish disability
- Students who may be disabled are not required to register with ODS or accept accommodations that might be available (regarded as)

(2) Individualized, Interactive Process

- Reflecting on medical documentation, university obligation to accommodate the disability in an individualized and interactive manner; blanket accommodations are unacceptable

(3) Reasonable Accommodations

- Accommodations (a) must be reasonable and (b) are within university's discretion



REASONABLE ACCOMMODATION = AUXILIARY AIDS AND SERVICES

- **Section 504 of the Rehabilitation Act Obligation:**

“A recipient...shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills...”

- **Title II of the Americans with Disabilities Act Obligation:**

“A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits or, a service, program, or activity conducted by a public entity.”



US DEPT OF EDUCATION OFFICE OF CIVIL RIGHTS (OCR)

● <https://www.2.ed.gov/about/offices/list/ocr/docs/auxaids.html>

Q: “What if an instructor objects to the use of an auxiliary aid or personal aid?”

A: “Sometimes postsecondary instructors may not be familiar with Section 504 or ADA requirements regarding the use of an auxiliary aid 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 infringement. The instructor may not forbid a student’s use of an aid if that prohibition limits the student’s participation in the school program...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...”



DOs and DON'Ts for FACULTY

DO: Treat students with disabilities with the same courtesies you would afford to other students and hold them to the same academic standards and expectations as any other students.

DON'T: Decide not to provide reasonable accommodations, auxiliary aids, or academic adjustments which have been approved by ODS. You may subject WOU and/or yourself individually to legal liability.



DOs and DON'Ts for FACULTY

DO: Respect the privacy of students with disabilities. While they must disclose a disability to ODS in order to access accommodations, this does not require disclosure to everyone. Treat disability information which has been disclosed to you as confidential.

DON'T: Engage in philosophical debates about “fairness” to other, non-disabled students, or whether providing accommodations somehow violates your academic freedom. Congress has determined how society should address equal access to education by passing civil rights statutes protecting the rights of students with disabilities.



DOs and DON'Ts for FACULTY

DO: Ask questions or express concern to ODS—and **never the student**—if a particular reasonable accommodation, auxiliary aid or academic adjustment fundamentally alters the core academic outcomes you are seeking in the course.

DON'T: Make assumptions about a student's ability to work in a particular field. Concerns that a student may not be able to succeed are often based on fears and assumptions, not facts. Remember too, that employers are also required to comply with the ADA.



DOs and DON'Ts for FACULTY

DO: Reach out to ODS if you have questions about how you might adapt your course or pedagogy to facilitate potential accommodation, how you might include language in your syllabus, or how you might make announcements in class that preserve the confidentiality of students with disabilities. In preparing classes and materials, faculty should **assume** there will be a student with a disability in the course.

DON'T: Refuse to permit students to tape record lectures as an accommodation. Policies which permit faculty to refuse the use of tape recorders, without providing for their use by students with disabilities, are legally insufficient.



Questions

