

X. OFFICE of ACADEMIC ACCESSIBILITY

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Disability Laws in Post-Secondary Education

The Rehabilitation Act

Title V of The Rehabilitation Act of 1973 is generally regarded as the first civil rights legislation on the national level for people with disabilities. Section 504 of The Rehabilitation Act is a program access statute. It prohibits discrimination on the basis of disability in any program or activity offered by an entity or institution receiving federal funds. Specifically, it states:

No otherwise qualified person with a disability in the United States... shall, solely on the basis of disability, be denied access to, or the benefits of, or be subjected to discrimination under any program or activity provided by any institution receiving federal financial assistance.

Under Section 504, institutions are required to appoint and maintain at least one person to coordinate its efforts to comply with the requirements of Section 504 (Section 504 Coordinator). This individual or office has the ongoing responsibility of assuring that the institution does not discriminate against individuals with disabilities. At Messiah University, the established officer for student issues is the Director of Academic Accessibility (OAA). For employees, the Director of Human Resources serves as the Section 504 Coordinator.

The Americans with Disability Amendments Act (ADAA)

The ADA is a federal civil rights statute that prohibits discrimination against people with disabilities. There are four sections of the law: employment, government, public accommodations, and telecommunications. The ADAA provides additional protection for persons with disabilities in conjunction with the Rehabilitation Act of 1973. The ADAA is designed to remove barriers which prevent qualified individuals with disabilities from enjoying the same opportunities that are available to persons without disabilities. Congress strengthened the ADA to ensure that individuals with disabilities are not inadvertently excluded from coverage under a variety of conditions.

Postsecondary institutions are covered in many ways under the ADA. Employment is addressed by Title I, accessibility in relation to public spaces is addressed in Title II. Title III addresses private entities (including Messiah University), and miscellaneous items are addressed under Title V and Title IV.

The ADA in Relation to Section 504 of the Rehabilitation Act

Institutions that receive federal funds (including Messiah University) are covered under Section 504. The ADAA does not supplant Section 504, but in those situations where the ADAA provides greater protection, the ADAA standards apply. Therefore, postsecondary institutions must adhere to both the Rehabilitation Act and the Americans with Disability Amendments Act.

What Advisors Need to Know

It is unlawful to discriminate against an individual with a disability. Regardless of your beliefs concerning a student's ability to perform within a given major or course of study, no student is to be excluded from registering for courses for which they are otherwise qualified to participate. With *reasonable* accommodations, support services from appropriate campus resources, and needed assistive technology, many students are able to perform successfully in their studies. The disability community often states that the biggest barrier they face is negative attitudes. Keep an open mind, offer advice and counsel, but do not assume inability or exclude from opportunity.

If a student is having difficulty and raises the question of having a learning problem of some type, it is always appropriate to ask if the student would like to discuss the possibility of accommodation with someone in the Office of Academic Accessibility (OAA). While most students come to college with a previous diagnosis, a surprising number of students have learned compensatory strategies that allowed them to be successful in high school but that will not be adequate for favorable outcomes in college. If

you believe the student is struggling, please do not hesitate to explore his/her strengths and weaknesses with him/her. If you feel you do not have the ability to help the student, please refer him/her to the Engle Center, the Office of Academic Accessibility, or the Director of Student Success to get the student help as soon as possible. Students who self-disclose a disability and exhibit need for accommodation(s), but who are not registered with OAA, should be encouraged to call, email, or stop in at the Office of Academic Accessibility to schedule an appointment to discuss eligibility. While instructors are required to implement approved accommodations based on a student's supported claim of disability, they are not obligated nor encouraged to provide accommodations which have not been formally approved by OAA. Instructors who accommodate without required evidence of a need (a formal accommodation letter from OAA) lead the student to falsely believe that others may do the same. Ultimately, students who are accommodated without going through proper channels run into conflict with other instructors who hold them to the standard procedures. These conflicts should be avoided. Accordingly, please follow policy and be certain the student has the required accommodation letter before allowing an accommodation, and then make sure you are only granting the accommodation provided for in the accommodation letter.

As an advisor, you may find that a student complains about an instructor's refusal to accommodate. Always inquire about the manner in which the student made the request for accommodation and whether he/she has registered with OAA. If something seems to be amiss, you are encouraged to contact OAA immediately so the claim can be properly investigated.

Advising for Accommodations

Alternate Courses

The Office of Academic Accessibility has been authorized by the administration to make decisions about a student's eligibility for alternate courses to meet general education requirements. A recurrent request is for courses to replace the 9-credit language/cultures requirement. Because the most common disabilities are learning disabilities, and they often include reading and other language-related limitations, students may indeed be found eligible to complete alternate coursework to meet the 9-credit language/cultures requirement.

Students will always have to complete the general education requirement for a Non-Western Cultures course in addition to any coursework stipulated in this policy. Students may be authorized by the Office of Academic Accessibility to complete a course on cultural anthropology in addition to either one other Non-Western Cultures course followed by a Cross-Cultural course or two other Non-Western Cultures courses.

In some cases, students are given transfer credits for completing college-level courses in American Sign Language. At this time, those courses must always be transferred into Messiah. Please make sure those courses are approved to be transferred prior to embracing the student's desire to attend specific classes.

Health and physical education requirements may affect some students with chronic health or orthopedic impairments. In those cases, OAA will work with the Department of Health, Nutrition and Exercise Science to develop a series of appropriate courses and activities. Students will need to work with the Office of Academic Accessibility to ensure registration can occur in the appropriate course/s.

Few other types of alternate courses have been requested. For program-specific courses, any modifications must be made by the departments, usually in conjunction with the Office of Academic Accessibility. In no case are departments expected to fundamentally change the nature of a given course or to lower performance standards.

Class Load

Some students have disabilities that significantly impede the learning process, making it important to

reduce their work load to a manageable level. Students may be encouraged to begin their college career with just 12 credits. They can then either add more credits their second semester if they have been successful, or they can reduce credits in order to be successful.

It is appropriate to question students about their credit loads and to let them know a smaller credit load may mean more time at the institution which can equate to bigger debt. Being realistic is appreciated and advised. However, *advisors should not apply pressure on a student to add more courses if the student has been approved for a reduced course load because of his/her disability.* After having an open and honest discussion with the student about his/her course load and to ensure the advice is fully understood, advisors should send follow up emails to their advisee noting their recommendations, the advisee's response, and the final decision regarding total credits for the semester.

Financial aid may be impacted by a student's decision to enroll in fewer courses, especially when the annual earned-credit total falls below 24 semester credits. While this is the bar for federal funding, state and local support is not eliminated by carrying a lighter load, though it may be adjusted to a per credit basis. Please strongly encourage the student to talk with Financial Aid about any implications a reduced course load could have on their financial aid package.

Students carrying fewer than 12 credits per semester are generally considered to be part-time students. In the case of a student whose disability requires a lighter load, the University can legally declare a lesser level as full-time for that student. The Office of Academic Accessibility will notify the Registrar and Financial Aid of this decision and confirm with an advisor when requested by the student. This arrangement allows the student to remain fully eligible for on-campus housing, meal plans, health and counseling services, and all other benefits afforded to full-time students.

Frequent Absences Due to Illness and Chronic Health Problems

The number of students with chronic health or psychological conditions who are enrolling in college is increasing. Often, the nature of chronic conditions is that they are cyclical, recurring after periods of relative stability. During those recurrences, the student's health or mental state may prevent him/her from attending class on a daily basis. In those cases, an accommodation granting flexibility in attendance may be authorized. This accommodation, however, will only be granted if it does not fundamentally alter the nature of the course.

It is wise to know which programs/classes are tolerant of absences and those which are not. For example, missing lectures where students can obtain notes from a classmate may be less significant to course success than missing a class in a high-participation, performance-based course. Please encourage students to talk to professors prior to course enrollment to ensure that this accommodation can be granted in a particular class and to allow the student and faculty member ample time to develop strategies for making up missed class time (i.e. writing a reflection paper after listening to the audio of the class). When the accommodation can be implemented, OAA will work with the student and faculty member to make arrangements for class recordings.

Further, students with chronic illness may experience periods of deep pain or fatigue. These students typically have periods during the day where they are better able to maintain focus and attention. Please be aware of fatigue issues (it's okay to ask!) and take that into consideration when planning course schedules. It will be important to work with students to determine any patterns to avoid, such as scheduling back-to-back classes, scheduling evening classes versus day classes, or requiring too many credits based on the perceived need to make good progress through a program.

Length of Class Sessions

Some students have great difficulty with longer class sessions. If a student has trouble remaining focused for over an hour, it is best to avoid night classes and those that meet just once per week for several hours. Try to be aware of student-expressed concerns and to work with them to avoid problems.

Priority Registration

Some students are authorized to register for classes earlier than their peers. This accommodation is used judiciously and is based on a student's need to accommodate a variety of scheduling issues, such as the need to rest between classes, slow ambulation requiring more time for campus travel, and certain start or end times for classes due to health conditions. There is potential for abuse of this privilege, but OAA attempts to verify the essential nature of the request before it is authorized.

When approved, OAA notifies the Registrar early each semester and provides a list of eligible students for advance notification purposes. The Registrar informs the advisor and student of the modified schedule and directs them to schedule an advising session early enough to work out a reasonable schedule based on program and personal needs, as appropriate.

If a student is authorized for early registration but does not complete the process prior to open enrollment, the student should generally complete registration on the standard schedule that semester. Having missed an opportunity, the student does not automatically lose that privilege for subsequent semesters.

Additional Recommendations

Career Planning Issues and Internships

Perhaps no other topic is more likely to raise conflict than that of questioning a student's choice of major. Some intensive encouragement may be appropriate as long as advisors understand that this is advising. Ultimately, the student has the right to choose courses, contingent upon having completed prerequisites and any other admission requirements. When the student's disability will clearly conflict with what you know to be the essential functions of his/her desired profession, it is wise to help the student move toward a personal assessment, available at the Career Center. Internships also offer students a practical look at what his/her intended profession might entail. However, finding suitable internship settings can, at times, be difficult. Be careful to strike a balance between advising toward a suitable career and discouraging a student from moving ahead with his/her personal interests. When working with certain students, such as those with a diagnosis on the autism spectrum, you may want to consult with OAA for assistance, in addition to speaking with someone in the Career Center.

Record Keeping and Written Communication

In order to avoid any confusion on advice given, it is important to follow up with the advisee about the details of your advising sessions. All too often, students misunderstand the contents of an advising meeting. Reasons for misunderstandings range from auditory processing deficits, to anxiety disorders or poor short term memory. To ensure the student fully understands and properly remembers information covered during the advising session, please send the student (not the parent) a written communication detailing the advice given, the measures proposed, and the action plan to be followed. This practice gives the student a chance to receive the information in both verbal and written form, while at the same time offering protection to you by demonstrating appropriately relayed guidance.

Sharing Disability Information

Information about a student's disability is confidential. Only those individuals who need to know the information are informed, unless the student chooses to share otherwise. Advisors/instructors must never reveal information about a student's disability, either directly or by thinly-veiled comments, in ways that allow other students to identify the student as disabled. Disability information is considered an educational record, and thus, information can only be released if it is to further an educational purpose.

Students are encouraged to provide a copy of their accommodation letter to their advisor as early as possible in their collegiate career to facilitate accurate and appropriate advising. However, the student is

under no obligation to provide this letter. At no time, however, will accommodations be applied in a retroactive manner.

Final Thoughts

Remember that your advising is an essential part of the preparation process for students. Informed advice can be essential to helping young people find a match between their strengths and the career to which God may be calling them. In spite of your broader knowledge in the field of study and your greater range of experience, remember that students often surpass their own perceived abilities. Also, as new and improved technological aids are developed and become available, there may be assistive technologies that allow students to function in ways that others could not just a few years before. Your wise and caring advice can encourage your students to strive for challenging, yet reasonable, goals while making the most of their time on campus. Your objective should be to advise them on their path without impeding their growth.