

X. STUDENTS WITH DISABILITIES - Faculty

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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 College, the established officer for student issues is the Director of Disability Services. For employees, the Director of Human Resources serves as the Section 504 Coordinator.

The Americans with Disability Amendments Act (ADAA)

The ADAA 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 ADA 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 ADAA to assure that individuals with disabilities are not inadvertently excluded from coverage under a variety of conditions.

Postsecondary institutions are covered in many ways under the ADAA. Employment is addressed by Title I, accessibility in relation to public spaces is addressed in Title II. Title III addresses private entities (including Messiah College), 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 College) 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 Act.

What Advisors Need to Know

It is unlawful to discriminate against an individual with a disability. Regardless of your perceptions of how you think a student might or might not be able 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 sometimes assistive technology, many students are able to perform successfully in those studies. The disability community often states that the biggest barrier they face is attitudes. Keep an open mind, advise and counsel, but do not exclude, nor assume inability.

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 Disability Services. While most students come to college with a previous diagnosis, a surprising number of students have learned compensatory strategies that may have allowed them to be successful in high school, but do not work for them in college. If you feel the student is

struggling, please do not hesitate to explore with the student their strengths and weaknesses. If you feel you do not have the ability to help them, please do not hesitate to refer them to the Engle Center, the Office of Disability Services, or to the Director of Student Success to get them the help they need. Students who self-disclose as having a disability and are in need of accommodation(s), but who have not registered with ODS, should be encouraged to call or email our office for an appointment to have their papers reviewed for possible 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 ODS. Instructors who accommodate without required evidence of a need for an accommodation (accommodation letter from ODS) lead the student to falsely believe others may do the same. Ultimately, students who are accommodated without going through proper procedures, 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, 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 and whether they have registered with ODS. Advisors are then encouraged to contact ODS immediately so the claim can be properly investigated.

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 14 credits. They can then either add more credits their second semester if they are 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 will be spent 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 their course load, advisors should ensure their advice is fully understood by the student by sending follow up emails to their advisees noting their advice, the advisee's response, and what the final decision is 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, although it may be adjusted to a per credit basis. Please insist that the student 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 College can legally declare a lesser level as full-time for that student. The Office of Disability Services will notify the Registrar and Financial Aid of this decision and confirm with an advisor when requested by the student. Such contact allows the student to remain fully eligible for on-campus housing, meal plans, health and counseling services, and all other benefits available to full-time students.

Alternate Courses:

The Office of Disability Services has been authorized by the administration to make decisions about whether a student is eligible for alternate courses to meet general education requirements. The most common request is for courses that can be used to replace language requirements. Because the most common disabilities are learning disabilities, and most commonly those include reading and other

language-related limitations, students may 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 NW cultures course in addition to any coursework stipulated in this policy. Students may be authorized by The Office of Disability Services to complete a course on cultural anthropology, plus either 1 ADDITIONAL Non-Western Cultures course followed by a Cross-Cultural course, or 2 additional NW courses.

In many cases, ODS recommends that students with language disabilities consider a course in Latin, a language that often is easier for them to learn. 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 in 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, ODS will work with Melinda Smith to develop a series of appropriate courses and activities. Students will need to work with the Office of Disability Services to ensure registration can occur in the appropriate class(es). Few other alternative courses have been requested. For program-specific courses, any modifications must be made by the departments, usually in conjunction with the Office of Disability Services. In no case are departments expected to fundamentally change the nature of a given course, nor to lower performance standards.

Priority Registration

Some students are authorized to register earlier than their peers. Used judiciously, this accommodation is based on a student's need to avoid certain scheduling issues, such as needing to be able to rest between classes, slow ambulation requiring more time for campus travel, avoidance of certain blocks of time such as very early classes, etc. There is potential for abuse of this privilege but ODS attempts to verify the essential nature of the request before it is authorized.

When approved, ODS notifies the Registrar and provides a list of eligible students early each semester 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, generally the student should complete registration on the general schedule that semester. Having missed an opportunity, the student does not automatically lose that privilege for subsequent semesters.

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 do 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 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.

Length of Class Sessions

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

Frequent Absences Due to Illness and Chronic Health Problems

An increasing number of students with chronic health or psychological conditions are enrolling in college. The nature of chronic conditions is that they are cyclical, recurring after periods of stability. During those times, the student's health or mental state may prevent their attending class on a daily basis. 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 that are not. For example, missing a lecture where students can obtain notes from another 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 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 (ie: writing a reflection paper after listening to the audio of the class). When the accommodation can be implemented, ODS will work with the student and faculty member to arrange how class sessions will be recorded.

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 selections. It will be important to work with students to determine any patterns to avoid, such as scheduling classes back-to-back, scheduling evening classes versus day classes, or requiring too many credits based on the perceived need to make good progress through a program.

Career Planning Issues and Internships

Perhaps no other topic is so likely to raise conflict than questioning whether a student's choice of major is right for them. 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 pre-requisites, and any other admission requirements. When a student's disability is clearly in direct conflict with what you know to be the essential functions of a particular profession the student wants to enter, 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 their 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 their personal interests.

In some situations, such as students on the Autism Spectrum, you may want to consult with ODS for assistance, as well as with the Career Center.

Record Keeping and Written Communication

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

Final Thoughts

Remember that your advising is an essential part of the preparation of students. Informed advice can be essential in helping young people find a match between their strengths and the career to which God may be calling them. In spite of your superior knowledge of 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 short few years before. Advise but don't impede.