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Supporting Accommodation Requests: Guidance on Documentation Practices

The Association on Higher Education and Disability (AHEAD) presents the following conceptual framework to support appropriate practices in providing seamless access through equal treatment and the provision of accommodationsⁱ. This revised guidance is necessitated by changes in society's understanding of disabilityⁱⁱ, the 2008 amendments to the Americans with Disabilities Actⁱⁱⁱ and the updated regulations and guidance to Titles II and III of the ADA. Although the amendments and regulatory revisions occurred through separate federal processes, together they reflect a more mature understanding of disability that is essential for fostering a positive campus perspective on disability. The concepts described in this document are interrelated components of a comprehensive, professional approach to using disability documentation to make informed decisions. This framework is consistent with the letter and spirit of the law^{iv}, reflective of legal and judicial thinking^v, and responsive to scholarly understandings of disability^{vi} and its role in higher education and society^{vii}. This document supersedes AHEAD's previous guidance on this topic^{viii}.

Background

With the ADA Amendments Act of 2008, Congress rejected the heightened standard for demonstrating disability that the Supreme Court articulated in a series of decisions and emphasized that it intended the protections of the ADA to be applied broadly. Revised Title I regulations state that "the primary purpose" of the ADA amendments "is to make it easier for people with disabilities to obtain protection under the ADA."^{ix} Taken as a whole, the changes to the statute and regulations for Titles I, II, and III clarify (a) who has a disability entitled to protection under the ADA and Section 504, (b) who is entitled to accommodations, and (c) how those determinations are made and by whom.

No legislation or regulations require that documentation be requested or obtained^x in order to demonstrate entitlement to legal protections because of disability and seek reasonable accommodations. The regulations acknowledge that postsecondary institutions may request a

reasonable level of documentation. However, requiring extensive medical and scientific evidence perpetuates a deviance model of disability, undervalues the individual's history and experience with disability and is inappropriate and burdensome under the revised statute and regulations.

Sources and Forms of Documentation

Acceptable sources of documentation for substantiating a student's disability and request for particular accommodations can take a variety of forms:

Primary Documentation: Student's Self-report

The student is a vital source of information regarding how he or she may be "limited by impairment."^{xi} A student's narrative of his or her experience of disability, barriers, and effective and ineffective accommodations is an important tool which, when structured by interview or questionnaire and interpreted, may be sufficient for establishing disability and a need for accommodation.

Secondary Documentation: Observation and Interaction

The impressions and conclusions formed by higher education disability professionals during interviews and conversations with students or in evaluating the effectiveness of previously implemented or provisional accommodations are important forms of documentation. Experienced disability professionals should feel comfortable using their observations of students' language, performance and strategies as an appropriate tool in validating student narrative and self-report.

Tertiary documentation: Information From External or Third Parties

Documentation from external sources may include educational or medical records, reports and assessments created by health care providers, school psychologists, teachers, or the educational system. This information is inclusive of documents that reflect education and accommodation history, such as Individual Education Program (IEP), Summary Of Performance (SOP), and teacher observations^{xii}. External documentation will vary in its relevance and value depending on the original context, credentials of the evaluator, the level of detail provided, and the comprehensiveness of the narrative. However, all forms of documentation are meaningful and should be mined for pertinent information.

Documentation Process

The rationale for seeking information about a student's condition is to support the higher education professional in establishing disability, understanding how disability may impact a student, and making informed decisions about accommodations. Professional judgment is an essential component of this process.

Ensuring that "accommodations" provide effective access requires a deliberative and collaborative process that is responsive to the unique experience of each individual, as advised

by the ADA. The disability resource professional should engage in a structured exchange with the student to explore previous educational experiences, past use of accommodations, and what has been effective and ineffective in providing access. The weight given to the individual's description will be influenced by its clarity, internal consistency, and congruency with the professional's observations and available external documentation. It is often possible to evaluate whether a requested accommodation is reasonable or not with minimal reliance on external documentation. This is true even if the student has never received formal accommodations or recently acquired a disability and is seeking guidance to determine accommodations that might be effective.^{xiii} However, if the student is unable to clearly describe how the disability is connected to a barrier and how the accommodation would provide access, the institution may need to request third party documentation focused on illustrating that connection.^{xiv} Finally, the documentation process must be accessible: if a student's disability impacts his or her ability to clearly describe the need for accommodation, the office must consider flexibility in its processes.

Individual Review

Each situation must be considered individually to understand if and how the student is impacted by the described condition. Disability is defined by the ADA as “a physical or mental impairment that substantially limits one or more of the major life activities, a record of such an impairment or being regarded as having such an impairment.” There is no listing of covered impairments. Therefore, the salient question is not whether a given condition is a “disability,” but how the condition impacts the student. This determination is to be liberally construed to the maximum extent possible.^{xv}

There is no one-to-one correspondence of disability to accommodation. Institutions should consider the student's disability, history, experience, request, *and* the unique characteristics of the course, program, or requirement in order to determine whether or not a specific accommodation is reasonable. A clear understanding of how disability impacts the individual establishes the reasonableness of the accommodation for the individual. However, to determine whether the accommodation is reasonable in context requires an evaluation of the unique attributes and requirements of the course, program, or activity. Course modifications or auxiliary aids or services that are ineffective or constitute a fundamental alteration will not be reasonable^{xvi} and therefore will not meet the ADA and Section 504's minimal standards. The ADA establishes the “floor” not the “ceiling” of protection. The ceiling is established when a proposed accommodation would result in a fundamental alteration to a course or the program of study.^{xvii}

Commonsense Standard

Disability and accommodation requests should be evaluated using a commonsense standard, without the need for specific language or extensive diagnostic evidence.^{xviii} Using diagnostic information as a tool in reviewing requests for accommodation is different than using it for treatment. Determining accommodations requires a more limited range, level, and type of information. These two processes should not be conflated.

No third party information may be necessary to confirm disability or evaluate requests for accommodations when the condition and its impact are readily apparent or comprehensively described. No specific language, tests, or diagnostic labels are required. Clinicians' training or philosophical approach may result in the use of euphemistic phrases rather than specific diagnostic labels. Therefore, reports that do not include a specific diagnosis should not be interpreted to suggest that a disability does not exist. The question is 'Would an informed and reasonable person conclude from the available evidence that a disability is likely and the requested accommodation is warranted?'

Non-burdensome Process

Postsecondary institutions cannot create documentation processes that are burdensome or have the effect of discouraging students from seeking protections and accommodations to which they are entitled. This was clear even prior to the amendments to the ADA.^{xix} The non-burdensome standard is applicable to initially establishing a relationship with the disability resource office and to setting up individual accommodations from institutional personnel, including course instructors. Students should not be required to bear responsibility for achieving access through cumbersome, time consuming processes.

Current and Relevant Information

Disability documentation should be current and relevant but not necessarily "recent."^{xx} Disabilities are typically stable lifelong conditions. Therefore, historic information, supplemented by interview or self-report, is often sufficient to describe how the condition impacts the student at the current time and in the current circumstances. Institutions should not establish blanket statements that limit the age of acceptable external documentation. Determining accommodations in distinctly new contexts may require more focused information to illustrate a connection between the impact of the disability, the described barrier, and the requested accommodation.

Illustrative Points

- **Is 'X' a disability?**

While there are conditions for which the answer will always be yes, the question itself is at odds with good practice. The question should be "Does the impact of 'X' for this particular student constitute a disability?"

- **If we relax our documentation standards, every student will be qualified.**

One impact of the amendments to the ADA is to offer wide protection from discrimination on the basis of disability. Therefore, when students identify as having a disability, it is essential that they are protected against discrimination. However, this does not mean that accommodations will be available to every student. You can ensure that

accommodations are appropriate and equitable by focusing on the individual student's request for accommodation, the supporting information, and the essential elements of a course or program. A supported request that is neither a fundamental alteration nor an undue burden is reasonable.

- **How can we ensure that our process is fair and consistent if we're not requiring consistent documentation from all students?**

We ensure consistency by applying a consistent process rather than requiring the same information from each student. The process should consistently evaluate the student's self-report and available external documentation within the context of the barriers to be eliminated by the requested accommodation.

- **What if the student is not available at the time of the request?**

While telephone, email, and video conferencing over the Internet typically will provide ample opportunity to interview a student, occasionally the timing of placement tests or the start of a distance learning course, for example, minimizes opportunities for interaction. Under those circumstances you evaluate the available information, giving deference to the accommodation history. Are the disability and requested accommodations supported (rather than likely) by the available information?

- **If I accept less documentation, the student won't have necessary paperwork to get accommodations at other schools or on standardized tests.**

The amendments to the ADA and the new Title II and III regulations apply to all schools, testing agencies, and licensing bodies so this should not be true.^{xxi} However, you have a responsibility to inform students that your institution's process and criteria for determining accommodations may not be the same as practiced by others so that they can make informed choices about gathering additional supporting documentation.

- **A student requests accommodations but only submits a 504 plan, Individual Educational Plan (IEP), history of Response to Intervention (RtI), or Summary of Performance (SOP).**

Review the documents and interview the student for supporting evidence. IEPs, 504 plans, and SOPs provide information about the student's educational and accommodation history. While some of the information may be irrelevant in the postsecondary context

that should not prohibit the use of the relevant information they may contain. If you can understand the current impact of the condition and identify a connection between the disability and the accommodation using the presented information supplemented by individual interview, you should move ahead with the accommodation. If you are not, you should request that the student submit additional information that is focused on providing the clarification needed.

- **What if I can't find a connection between the condition and the accommodation based on the documentation the student submitted?**

Given the whole of the information from the interview and external documentation, would a reasonable person conclude that a connection would be established with additional information? If so, provide provisional accommodations and request additional external documentation within a reasonable time frame. However, if you and the student cannot describe a potential connection or identify the potential documentation that would support the request, the accommodation may not be reasonable. This might be an appropriate time to discuss the nature and extent of the student's disability with external experts, such as the clinician involved, especially if you are unfamiliar with the disability or the student has several impairments which interact in ways with which you are unfamiliar.

Footnotes

ⁱ As is common in practice, the term “accommodation” is used throughout this document as synonymous with the modification of policies, practices, and procedures; the provision of auxiliary aids and services; academic adjustments and modifications to the environment intended to remove barriers to equivalent access.

ⁱⁱ As a social construct, there are hundreds of definitions of disability that inform the process of providing equity for disabled individuals. The U.N. Nations Convention on the Rights of Persons with Disabilities provides a broad and appropriate context for higher education professionals as they work to ensure access: *“The loss or limitation of opportunities to take part in the life of the community on an equal level with others due to physical, social, attitudinal and cultural barriers encountered by persons having physical, sensory, psychological, developmental, learning, neurological or other impairments (including the presence in the body of an organism or agent causing malfunction or disease), which may be permanent, temporary, episodic or transitory in nature.”*

ⁱⁱⁱ [P.L. 110-325](#)

^{iv} [42 U.S.C 126 §12101](#)

^v Colloquy between Representatives George Miller and Fortney Stark on the floor of the House; Congressional Record 9/17/2008, Page: H8286

^{vi} Scholarship in the relatively new academic discipline of disability studies seeks to shed light on the experiences of disabled people and explore disability from social, political, cultural, and economic perspectives. The Society for Disability Studies (SDS) (<http://disstudies.org>) promotes this multidisciplinary scholarship through its professional network, journal (<http://dsq-sds.org>), and conferences. While disability studies research and writings are abundant, a foundational work for the higher education professional is Linton, S. (1998). *Claiming Disability: Knowledge and Identity*. New York, NY: New York University Press.

^{vii} “The emergence of disability studies in the academy has created a new analytic space to examine disability and normalcy from a critical lens. Disability studies scholars illustrate how the ‘border’ between ability/disability is constructed, artificial and arbitrary, yet made to appear natural and static across time and place through the interconnected and pathologizing diagnostic, medical, and legal discourses.” Ferri, B. (2008). Teaching to Trouble. In S. Danforth & S.L. Gabel (Eds.), *Vital questions facing disability studies in education* (pp. 289-290). New York, New York: Peter Lang Publishing, Inc.

^{viii} This document should not be considered legal advice; Institutions should consult with legal counsel before implementing policies. Disability resource offices should follow institutional practices and are encouraged to include the full range of stakeholders and experts when reviewing and developing policy. As with other policies, documentation policies and practices should be reviewed every 3-5 years to ensure that they stay consistent with accepted practices and changes in the legal landscape.

^{ix} [29 C.F.R. § 1630.1\(c\)\(4\)](#).

^x [28 CFR 36.309\(iv\)](#) states that “Any request for documentation, *if such documentation is required*, is reasonable and limited to the need for the modification, accommodation, or auxiliary aid or service requested” indicating that entities can require documentation though they are not obligated to do so.

^{xi} Disability is defined by the ADA as “a physical or mental impairment that substantially limits one or more of the major life activities, a record of such an impairment or being regarded as having such an impairment.” [42 U.S.C 126 §12102](#)

^{xii} Revisions to Title III regulations provide, “When considering requests for modifications, accommodations, or auxiliary aids or services, the entity gives considerable weight to documentation of past modifications, accommodations, or auxiliary aids or services received in similar testing situations, as well as such modifications, accommodations, or related aids and services provided in response to an Individualized Education Program (IEP) provided under IDEA or a plan describing services provided pursuant to section 504 of the Rehabilitation Act of 1973” [\(28 C.F.R. § 36.309\(b\)\(1\)\(v\)\)](#)

Guidance and Section-by-Section Analysis provides these examples of types of information to consider: “recommendations of qualified professionals familiar with the individual, results of

psycho-educational or other professional evaluations, an applicant's history of diagnosis, participation in a special education program, observations by educators, or the applicant's past use of testing accommodations." [28 CFR Part 36](#) (2010)

[xiii](#) Department of Justice guidance advises "that the inclusion of this weight (referenced in note xii above) does not suggest that individuals without IEPs or Section 504 Plans are not also entitled to receive testing accommodations. Indeed, it is recommended that . . . entities must consider the entirety of an applicant's history to determine whether that history, even without the context of an IEP or Section 504 Plan, indicates a need for accommodations. In addition, many students with learning disabilities have made use of informal, but effective accommodations. For example, such students often receive undocumented accommodations such as time to complete tests after school or at lunchtime or being graded on content and not form or spelling in written work. Finally, [one should] consider that because private schools are not subject to the IDEA, students at private schools may have a history of receiving accommodations in similar settings that are not pursuant to an IEP or Section 504 Plan. [28 C.F.R. Part 36, Appendix A](#)."

[xiv](#) See note xiii above.

[xv](#) "Substantial limitation is not meant to be a demanding standard" [29 C.F.R. §1630.2\(j\)\(1\)\(i\)](#).

Congress rejected cases holding that "substantial limitation" required a "significant restriction" 42 USC 12101(A)(8) and mandated that the EEOC revise its regulations accordingly (42 USC 12101 (b)(6)) See, [29 CFR 1630.2 \(j\)\(10\(i\)](#) ("*Substantially limits shall be construed broadly in favor of expansive coverage, to the maximum extent permitted*").

[xvi](#) See *US Airways v. Barnett*, "An *ineffective* modification or adjustment will not *accommodate* a disabled individual's limitations." 535 U.S. 391, 400 (2002).

[xvii](#) [42 U.S.C. 12201\(f\)](#)

[xviii](#) "The threshold issue of whether an impairment 'substantially limits' a major life activity should not demand extensive analysis. The comparison of an individual's performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical analysis." "The ADA Amendments Act"; the Honorable Chair Feldblum and the Honorable Victoria A. Lipnic, Commissioners, U.S. Equal Opportunity Employment Commission. May 2011

[xix](#) "A university is prevented from employing unnecessarily burdensome proof-of-disability criteria that preclude or unnecessarily discourage individuals with disabilities from establishing that they are entitled to reasonable accommodation." *Guckenberger v. Boston University*, 974 F Supp 106, 135-136 (D. Mass. 1997)

[xx](#) Medical, sensory, cognitive, and other types of disabilities are persistent. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. While students may develop compensatory strategies that reduce their use of accommodation naturally, the underlying impairment is still present. Such coping strategies do

not typically translate 100% to a new context. The amended ADA clarifies that students with episodic conditions or disabilities that are in remission and those who have developed compensatory skills are protected by the law.

The concept of “recency” of documentation has, for some, taken on meaning that is not supported by science or law, but is more an outgrowth of assumptions within the special education field, which has required that students be reevaluated on a regular basis to establish the continued eligibility for *special education*. When the IDEA was first enacted, school systems wanted to be assured that if a child no longer required special education, she would not remain classified for no reason, increasing school district costs unnecessarily. The rule was not meant to reflect that declassifying a child for special education meant that the child no longer had a disability, only that such child might no longer need special education – which can be quite extensive and in-depth. The ADA and Section 504 are civil rights protections, generally providing a less intensive level of benefit or intervention than special education, but to a larger group of individuals. Recent informal guidance from the U.S. Department of Education indicates that children with disabilities who may not be in need of special education are still protected against discrimination by the ADA. See “Dear Colleague Letter”, dated January 19, 2012, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.html> and “Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools,” <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>.

^{xxi} “Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or post secondary education, professional, or trade purposes,” [42 U.S.C. § 12189. 2010 Guidance and Section-by-Section Analysis 28 C.F.R § 35](#)

This documentation guidance was developed by a committee of AHEAD member-experts at the request of the AHEAD Board of Directors.

Additional Resources

- [The Professional’s Guide to Exploring and Facilitating Access](#)
- [VIDEO: Documentation Requirements](#)
- [VIDEO: Documentation Guidance and Office Policy Implementation](#)

Q & A Regarding Documentation Guidance

When AHEAD released its “Supporting Accommodation Requests: Guidance on Documentation Practices” in 2012, the approach represented a significant change for many postsecondary service providers. While the field has evolved since then, we know that institutions continue to revisit and revise their practices and believe that the following questions, posed by members in 2012 and answered by AHEAD leaders, remain useful.

- **How do institutional legal offices and OCR respond to this more flexible approach to documentation?**

AHEAD benefited from legal counsel in drafting this Guidance. The concepts are well-anchored to the law. However, it is always a good idea to review external recommendations with institutional legal counsel. We believe that institutions that establish policies reflective of this overall direction will find their policies consonant with the law and the expectations of enforcement agencies. AHEAD's Guidance is not legal advice and should not be read as such.

- **Is there a minimum set of documentation that must be obtained for verification?**

No, the process is, and always should have been, individualized. Disability resource providers should request the information needed to understand the connection between the barrier described, the student's disability, and the requested accommodation. When there is not adequate information to make a decision, additional information that is specifically tailored to providing what is missing for that particular student in that particular situation should be requested.

- **Since AHEAD recommends that the process of determination accommodations be informed by an interview with the student, what guidance can you offer regarding how to structure that interview?**

The goal of the individual, interactive process is to understand each student's experience of disability, past use of accommodations, adaptive strategies and devices, etc. [The Professional's Guide to Exploring and Facilitating Access](#) offers a series of steps/questions to guide your conversation with students.

- **Using the concepts presented in the Guidance, what should professionals consider as they make accommodation determinations?**

Good professional practice should include the disability professional asking him or herself a number of questions. Among them:

- Do I have a sufficient understanding of how the situation described results in a barrier given the student's disability experience?
- How does that information line up with my professional experiences and knowledge, my observations, and the interactions I've had with the student?
- Do I need to educate myself further about the condition involved, perhaps learning from my colleagues who have specific expertise?
- Does the information I've gotten from other sources help identify barriers for which accommodations are needed?
- Do I need further information, such as from a doctor or third-party source, to fill in gaps?
- Do I understand the structure of the course or activity for which accommodations have been requested? This information helps to determine the reasonableness of an accommodation, i.e., are accommodations necessary due to the nature of the event, program or activity? Will the requested accommodation be either an undue burden or fundamentally alter the program or activity?

- **Do you have any samples of documentation policies from postsecondary institutions we might review that are based on AHEAD's Guidance?**

The new Guidance describes a professional approach not specific

guidelines. Development of practices, rather than rigid policies, is where the focus should be. Practices that affirm information about the impairment, barriers encountered in a higher education setting, and a student's experience and accommodation history will come from a variety of sources. The following describe processes that are consistent with the Guidance; there are many others. <http://drc.arizona.edu/students/connect>
<http://disability.tamu.edu/documentation>
<http://ualr.edu/disability/students/overview/>

- **What guidance can you provide to support us moving from a protocol that requires specific components of external documentation toward the approach described in AHEAD's Guidance?**
When each student is required to submit paperwork that is less than three years old, printed on letterhead, inclusive of a diagnosis, etc., it is easy to be consistent. Achieving a similar level of consistency under a more individualized process comes by applying a **consistent process** rather than requiring identical information.
- **When the disability professional is called on to certify student eligibility with Learning Ally, Bookshare, Access Text, etc., how can we respond when "documentation" is not of the traditional nature?**
There are many aspects to the role of disability resource professional; diagnostician is not typically one of them. When you are asked to certify a student's eligibility, what you are actually certifying is your professional judgment about the student's need for accommodation, i.e., what information you gathered and the conclusions you reached. If you have documentation that follows AHEAD's Guidance, you should feel fully able to certify the student as eligible to receive accessible text services.
- **What guidance do you have for updating documentation periodically for an active student, aside from information requested when a new accommodation is requested?**
There is no need to "update" documentation for the sake of updating documentation. If changing circumstances no longer warrant accommodations – for example, a student's temporary disability has completely resolved -- plan to meet with the student within a reasonable period of time to explore the changed situation.
- **What about credibility with faculty if we use student self-report to support a request for accommodation?**
Disability resource personnel are the professionals charged by their institutions to respond to requests for accommodations based on disability. AHEAD's Guidance does not necessitate a change in your relationship with faculty. Credibility comes with confidence in your judgement, decision-making process, and role.
- **Can testing entities still require copies of documentation for students to receive accommodations even when a school official has verified a history of similar accommodations based on institutional documentation polices following AHEAD's guidelines?**
AHEAD's guidance mirrors the amendments to the ADA and the current Title II and III

regulations that apply to all schools, testing companies and agencies, and credentialing bodies. Hopefully policies and procedures used by various entities will become increasingly congruent and straight forward; but there is room for variation.

Good practice includes informing students that other institutions and/or test agencies may have different criteria for receiving accommodations than required by yours. In this way, students can gather information based on their goals and make informed choices about gathering additional supporting documentation.

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