

IIT Office of General Counsel Education Program

Issues Involving Disabled Students



Introduction

Mary Anne Smith

Legal Background

José Padilla

Section 504 of the Rehabilitation Act applies to private universities that receive federal funding.

Section 504 provides that colleges and universities cannot discriminate against students on the basis of their disabilities. An educational institution must provide otherwise qualified disabled students with equal opportunity to participate in the institution's programs and activities.

What is a disability?

Three criteria.

- 1) Physical or mental impairment.
- 2) Impairment involves “major life activity.”
- 3) Impairment “substantially limits” major life activity.

Disability?

1) Physical or mental impairment.

Physiological or mental disorder that affects neurological, musculoskeletal or respiratory systems, e.g., blindness, deafness, documented attention deficit disorder.

Temporary impairments are not considered disabling.

Disability?

2) Major life activity.

Objective question and not subjective one:
is it a basic activity or function of life
important to the “average person” in the
general population, e.g., walking, talking,
bathing, seeing, hearing, learning?

Disability?

3) Substantial limitation.

Must be direct connection between the impairment and the major life activity.

Example: anorexia may not be cause of learning difficulty.

Disability?

3) Substantial limitation.

An ability to pursue one's chosen area of study does not substantially limit one's ability to learn.

Hypothetical

Joe, a freshman, complains that he has math anxiety. Does he have a disability?



Hypothetical

Gail requests an academic accommodation based on the fact that she suffers from anorexia and depression. Can she get it?

Student has disability.

Next issue.

Is the disabled student “otherwise qualified?”

Two questions.

Otherwise qualified.

- 1) Does student meet academic and technical requirements for admission and continuing eligibility?

Otherwise qualified.

Academic requirements must be necessary to achieve stated goals and purposes of the program, e.g., course requirements.

Otherwise qualified.

- 2) If student cannot meet institution's requirements because of the disability, would a reasonable accommodation enable the student to meet the requirements?

Hypothetical

Over the last two years, Chris has received numerous academic accommodations, such as extra time for tests and papers. He is still failing. He requests further accommodations. Can he get them?

Student has disability and is otherwise qualified.

Next issue.

What accommodation for the disability must be provided?

Reasonable accommodation.

Interactive process between student
and institution.

Reasonable accommodation.

The university is not required to provide the specific accommodation requested by student if there is another accommodation available that enables the student to participate in the university's programs.

Reasonable accommodation.

Balancing test: between the need to provide access to the student and to maintain the integrity of the institution's programs and services.

The university need not modify academic standards if the standards are essential to the program.

Reasonable accommodation.

Auxiliary aids:

- taped texts
- interpreters
- readers
- note takers

Reasonable accommodation.

Academic adjustments:

- extension of time to take tests
- extension of time to complete program
- substitution of courses

Reasonable accommodation.

The university is not required to provide services of a personal nature such as tutors or personal care attendants.

Hypothetical

Linda has ADD. She has requested the following accommodations:

- 1) extra time to take tests;
- 2) a note taker;
- 3) personal attendant to lead her to her classes and oversee her study skills; and
- 4) exemption from the minimum GPA.

Would you agree to all or any of her requests?

Process and Documentation.

Institution must provide adequate notice of its policies and procedures for its disability resources program, including documentation and accommodation standards. Procedures should be clear, objective and not unduly burdensome.

Process and Documentation.

University does not have affirmative duty to seek out or identify disabled student.

Student has duty of notifying institution of need for accommodation.

Process and Documentation.

Student seeking accommodation must use institution's procedures.

Process and Documentation.

University may require student to provide supporting medical, psychological or educational diagnostic tests and professional prescriptions before providing accommodation.

Process and Documentation.

The documentation should be specific:
to resolve factual issue of impairment,
major life activity and possible
accommodation.

Process and Documentation.

University can require the student to be evaluated by a professional of its choosing if it questions the diagnosis or recommendation of student's physician. However, institution must pay for the second opinion.

Process and Documentation.

University must document its decision-making, showing

- 1) individual assessment of student
- 2) deliberative process

Hypothetical

You receive a freshman's request for accommodation. It is accompanied with a note from the student's pediatrician back in North Dakota. The note says the following: "Patient has ADD and is hyperactive. Also gets tired easily."

What would you do with that note?

Other Considerations

- Cannot ask applicants to IIT if they have a disability.
- Cannot solicit information that would have applicants identify themselves as disabled.

Hypothetical

IIT's application invites disabled students to contact Disability Resources if they have any questions.

Is this permissible?

A large, light gray version of the IIT logo is positioned in the background on the left side of the slide.

IIT Disability Procedures

Disability Resources

IIT Center for Disability Resources

Handles all accommodation requests
except for requests from students at
Chicago-Kent College of Law.

- Student is responsible for meeting with CDR to discuss accommodation after he/she is accepted into IIT.
- To receive services, student must register with CDR.

Once student discloses the need for accommodation, CDR sends the following information to student:

- CDR student registration form
- medical documentation to be filled out by student's health care provider
- information containing CDR services and student responsibilities

- Student is registered with CDR when forms are returned.
- Once on campus, student meets with CDR staff to discuss accommodations and develop a written plan.

- CDR recommends that student meets and sets up accommodations with his/her professors and/or CDR staff prior to the start of classes each semester.
- CDR staff will participate in student-professor meetings if requested.

Disability Procedures for Chicago-Kent College of Law Students

Student is responsible for informing the Assistant Director of Student Services of his/her need for accommodations.

Student is required to submit documentation from student's health care provider that specifies recommended accommodations.

- After documentation is submitted, Assistant Director of Student Services meets with student to discuss accommodations.
- Student's professors may not be notified of the student's accommodated status if disclosure is not necessary for the accommodation.

Summary & Conclusion

Mary Anne Smith