

What Faculty Should Know! Student Disability Services Transcript

1. Welcome to the Student Disability Services online workshop for MSCC faculty, and thanks for your participation! This workshop, entitled “What Faculty Should Know,” is designed to give you a brief introduction to disability law, provide you with some basic understandings of terminology and requirements mandated by federal law, and acquaint you with some protections for you, your students, and the institution.

2. At the end of this workshop, you will:
 - a. be familiar with terms and definitions associated with disability, particularly as they relate to students with disabilities in higher education institutions
 - b. understand the basics of disability law
 - c. understand your role as a faculty member working with students who have disabilities or who MAY have conditions that appear to be disabilities
 - d. know some of the “sensitivities” that you should employ with students who have disabilities
 - e. and, finally, you will have answers to some of the questions that are asked by instructors.

3. We make frequent references to law when we discuss disabilities. Although there are a number of federal and state laws that mandate certain requirements in providing services and programs to people with disabilities, there are two laws that have specific application to colleges and universities. The first is the Rehabilitation Act of 1973, especially Section 504. This law outlines the definition of disability, states requirements for providing physical access to programs and services for people with disabilities, and speaks to the accommodations that are legally required to provide programs and services to people with disabilities. The second law is the Americans with Disabilities Act, which is particularly applicable to higher education. This law basically repeats much of what is contained in the Rehabilitation Act but expands on requirements. Other federal laws govern the delivery of programs and services to public school children with disabilities and to those seeking training for employment through rehabilitation services agencies receiving federal and state funds. As you might expect, these laws have led to a huge number of court cases over the past couple of decades, particularly ones brought by college students.

4. So why are federal and state laws necessary? Why is legal protection provided? The answer is that the federal government wishes to protect those classes of people who have experienced unfair treatment, to give everyone equal access to programs and services, and to give everyone a fair chance to succeed. Just as there are laws to protect Americans from age, race, and gender discrimination and harassment, disability law is designed to provide equality to people with disabilities.

5. While many colleges provide decentralized disability services for students, MSCC has chosen to centralize those services to protect the student and the College, to provide consistent application of the law, to reduce pressure on staff where students might try to manipulate one staff member against another, and to eliminate any potential for unfair advantage. Student Disability Services (or SDS) are provided by a counselor and a coordinator through the Learning Success Center. The SDS staff take student requests for accommodations and their documentation, and issue approved accommodations to instructors.

6. What is the definition of a disability? The federal government definition of a disability is a physical, mental, or psychological condition which seriously affects a major life activity.

7. Major life activity is an important term in disability law, and a number of court cases about disability have focused on the interpretation of this phrase over the last few years. To qualify as a disability, a condition must have a significant impact on a major life activity. Major life activities include seeing, hearing, walking, and learning. Other major life activities are currently being decided in the courts through individual cases.

When a student requests accommodations for his disability, he must provide a written evaluation from a qualified professional that, among other things, provides evidence that the condition has a substantial impact on the student's learning or access to learning. In other words, although having to wear glasses indicates a problem with seeing, this condition would NOT be viewed as a disability UNLESS it was a severe condition and had a SUBSTANTIAL impact on the student's learning and participation in the learning environment.

8. So what are the disabilities which meet federal guidelines? We are all familiar with physical mobility problems, which may be the result of a birth defect, a serious illness, or an injury. These disabilities include not just people who must use wheelchairs or crutches to navigate but also people who may have problems with manual dexterity and may be severely limited in their ability to grasp objects, to type on a computer, or even to use pen on paper. Visual and auditory impairments, when they have an impact on the student's ability to function in the classroom without accommodations, are also acknowledged disabilities. Such psychological conditions as severe anxiety disorders, post-traumatic stress syndrome, bi-polarism, autism, and schizophrenia are recognized as disabilities. Learning disabilities, such as dyscalculia and dyslexia, are disabilities, and while there is some disagreement among experts, Attention Deficit/Hyperactivity Disorder is generally considered a disability. Finally, major illnesses can qualify as disabilities if they have a substantial impact on a major life activity.
9. However, SDS offices throughout the country frequently receive requests from students for accommodations for conditions that do not meet the definition of disability. Some of the most typical requests are for test anxiety, math and writing anxiety, learning style differences, and learning difficulties. While these problems certainly cause problems in students' learning, they do not currently meet the legal definition of disability. Of course, students with these issues should talk with their instructors and counselors to identify strategies that can help them develop coping skills.
10. The term "accommodation" is a common but sometimes misunderstood concept. And, actually, many of the students who come to the SDS office for help with their disabilities do not know this term at all. From the student point of view, an accommodation is an adjustment made to instructional delivery and to certain academic expectations to give a student a fair chance to succeed or to have access to facilities or resources. It is NOT a guarantee of success and it does NOT mean that standards fundamental to the program or course must be altered; court cases have verified these principles time and again. Rather, accommodations give the student the opportunity to succeed despite his disability. Accommodations are approved if the evaluation or documentation provided by a qualified professional is appropriate and reasonable for the disability.
11. Auxiliary aids are one kind of accommodation made for some students with disabilities. Auxiliary aids are resources used to improve a student's ability to do his academic work successfully. Depending on the documented disability and its severity, the student might qualify for an interpreter, real-time captioning, assistive listening devices, note-takers, readers or scribes, alternative test formats, adaptive access to computer labs, tape recorders, use of a word process on a test, or other electronic resources.

12. Again, it is important to understand that accommodations are NOT approved to give the student “a free ride,” so to speak—something that some instructors fear. The approved accommodations are contingent on adequate documentation that the disability exists and has a substantial impact on a major life activity, that the request is reasonable for the specific disability, and that there is strong justification for providing the requested accommodation.
13. Each student’s disability is addressed on an individual basis, although there are certainly some accommodations that are used more frequently than others. The approved accommodation forms that you receive, for example, will often list extended time on testing and testing in a distraction-reduced environment. There are a large number of potential accommodations, many of which are relevant only to specific disabilities.
14. However, there are times when an accommodation that you might associate with one type of disability is used for another disability. Various strategies for assisting students with disability may be used IF there is adequate justification and documentation to establish the strategy as reasonable and appropriate.
15. Let’s look at an example. Assistive listening devices and interpreters are generally used with students who have severe hearing impairments, not for students with learning disabilities. However, these accommodations MAY be approved students on a case-by-case basis for students who have certain types of learning disabilities. These variations, however, are rare.
16. The term “qualified professional” is also an important concept. The law requires that the person conducting the assessment of the disability must have the expertise to diagnose the disability, to give an evaluation of its symptoms and effects, and to make recommendations for accommodations. The assessment, of course, varies with the disability, and the person who is qualified to make these judgments will also vary with the disability. For example, a medical doctor is typically not an appropriate judge of a learning disability. A psychologist is not usually qualified to make an evaluation of a hearing impairment or physical mobility disability. Acceptable qualified professionals are listed by type of disability in the STUDENT GUIDE TO DISABILITY SERVICES located on the college’s website. Requests for accommodations may be denied if the evaluation has not been done by a qualified professional.
17. We are fortunate to have faculty at MSCC who are committed to providing strong learning situations for all students in their classes. Then what IS the role that classroom instructors play in ensuring that students with disabilities receive their rights under the law?

18. One of the first things that instructors can do is to notify students of the College's services and their own desire to help those who need support. Use the first day of class to speak about the support provided by Student Disability Services and where to go to get help and accommodations. That place, of course, is the Learning Success Center. Also assure your class that if students receive accommodations for their disability, they will NOT have an unfair advantage. It's really important to provide this assurance and an explanation, if necessary, because students who do NOT have disabilities often misunderstand. Also make sure to include the MSCC standard statement about disability services in your syllabus. All current syllabi have this statement.

19. Secondly, meet as quickly as possible with students who have an accommodations approval form. While we hope that students will initiate this conference, please initiate the conference if they don't. Our students often do not know how to self-advocate and sometimes they simply fear revealing their disability or just fear teachers in general. Make sure your meeting is private so that confidentiality can be maintained. In some cases, you will be expected to meet with the SDS counselor to discuss the student's disability, how to deal effectively with manifestations of the disability, or how to take care of the student if there is a physical reaction, such as a seizure.

20. Without question, you should also always hold to your course standards. Students with disabilities, although they may have certain accommodations, must be held to the same academic and behavioral standards as other students. The courts have repeatedly upheld this principle. If you consistently apply your standards, no student will have evidence that you have given unfair advantage.

21. As you review the accommodations approved for any of your students, you might have questions about the standards. At ANY time that you feel your established standards are being threatened or compromised by the approved accommodations, you should contact the Coordinator of Student Disability Services. The following questions will guide your thinking so that you can prepare for your discussion of any issues you have:
 - a. Have you defined what essential to your course or program of study? Is the format of the class presentation essential to the content of the course? Are there other essential requirements that don't seem to fit with the accommodations? In other words, what is essential and why?
 - b. What are accepted levels of performance on these measures?
 - c. Are the accommodations requested preserving or compromising these standards? If the answer is yes to compromising standards, be able to describe where that is happening.

22. You will receive an accommodations approval form via e-mail and campus mail if a student in your class has been approved. Your responsibility is to provide the approved accommodations as listed. If you have questions about them, you should raise them immediately with the SDS coordinator. And it's important that you CONTINUE providing those accommodations until a resolution of any question or issue has been resolved.

23. You have other responsibilities to ensure that the College is complying with its own procedures. First of all, do NOT provide accommodations to a student who APPEARS to have, or SAYS he has, a disability. It MAY be true that this person does have a disability, but it may not have been diagnosed or documented. The student must have an approval form before accommodations can be provided. Refer him to the Disabilities Counselor in the LSC, if he says he has a disability and you haven't seen an approval form. In addition, do NOT change or add to the approved accommodations. If you feel there are extra accommodations that should be made or if the student requests extra accommodations, you should consult first with the SDS Counselor or Coordinator and the student should do the same.. Unfortunately, if you do not follow these particular procedures, you may be unknowingly setting the College up for a grievance or even a law suit!! By the way, if you refer a student to SDS, you might want to e-mail a note to the counselor indicating what you have said and done. Sometimes we need this kind of documentation to indicate that the student was made aware of the procedure but did not follow it.

24. As an instructor, it's also important that you maintain confidentiality. Do not tell the class, for example, that the student has a disability and do not draw attention to that student's disability. The student has a legal right to disclose his disability and receive accommodations for which he qualifies, but he also has a legal right NOT to disclose. Many students with disabilities do not want others to know. In addition to disability law, the student is protected by FERPA, a privacy law.

25. So what do you do if a student approaches you in a public place and wants to discuss his disability or accommodations? Move immediately to a location where the issues or concerns or questions can be discussed privately and confidentially. We have had complaints from students in the past about discussions that were overheard by others....even though the student with the disability was the one who initiated the conversation with an instructor or staff member in public!

26. You can also help students understand more about the accommodation process at MSCC, as well as their rights, their responsibilities, and the terms associated with the law. Many students simply do not have this information, and it helps if you can explain or point them in the right direction. SDS has an excellent handout that explains common terms and the accommodation process that both you and your students will find helpful. And remember that the STUDENT GUIDE TO DISABILITY SERVICES is located on our web site; it is an extremely helpful guide. If a student has trouble reading it, he can request a recording of it from the SDS counselor.

27. I pointed out earlier that you should not give accommodations to students who APPEAR to have disabilities or SAY they have disabilities unless you have an approval form. This is very important because if you treat the student as having a disability or speak about him to others as having a disability, you MAY be setting a precedent...and we may then have to provide accommodations from that point on, even though the student does not have documentation of that disability---and actually may not even HAVE the disability. The law specifically protects those who are "regarded as having a disability." In fact, this situation has occurred in the past at MSCC and has created some sticky situations for us!

28. By the same token, be careful about making additional accommodations or adjustments for a student with a documented disability without consulting with SDS. Again, you may be setting precedents through the "regarded as" clause. Sometimes, it's hard to avoid this when a student is pressuring you or when it's something your heart tells you to do. You may be absolutely right, but it still needs to be approved first!

29. There are some other cautions that you need to take to protect yourself and the institution. Do NOT ask a student if he has a disability. You may ask if he needs help in getting to class or in adjusting to college work. More specific direction for instructors on how to approach a student who MIGHT or ACTUALLY DOES have a disability is provided in the INSTRUCTOR'S GUIDE TO DISABILITY SERVICES, which is available in the MSCC shared files.

30. If there are all these requirements set up by the federal government, it sounds as if an instructor, or staff member, or even MSCC can be sued by a student with a disability. Are we legally liable? Can the Office of Civil Rights conduct an investigation? If we are found to be non-compliant with federal law, can we lose federal funds? The answer is a resounding yes! More and more lawsuits, OCR complaints, and grievances are being filed by students with disabilities. One of the main sources of complaints in these cases is PROCEDURE. As long as we have procedures in place, the procedures are fair and in compliance with the law, and we consistently follow them, we should have little to worry about on this count.
31. What else can be a source of liability under disability law? Court cases and OCR complaints from college students typically revolve around issues of discrimination, harassment, unlawful inquiries before admission to an institution, failure to provide accommodations, failure to provide APPROVED accommodations, and, finally, breaches in confidentiality.
32. If you suspect that a student has a disability, can you tell him that? No, since you don't meet the definition of "qualified professional," it's really better not to do that. Rather, you should talk with him about the problems that you've observed and you can even ask him if he's had special support in high school to help him. Regardless, the best thing to do is to discuss with the student the resources in the Learning Success Center, escort him to the LSC, and connect him with a counselor. Do not discuss the specifics of your observations of his problem with the counselor at that time, but DO talk with the counselor later.
33. What are the most commonly claimed disabilities at MSCC? By far, the most frequently claimed disabilities at MSCC (and across the country) are learning disabilities and A.D.H.D. These are called "hidden disabilities" because they are not obvious to most observers, as blindness or physical mobility problems would be. Hidden disabilities are harder to diagnose and they require the assessment of skilled professionals in the field. In fact, one of our biggest challenges at MSCC is getting appropriate evaluations and documentation of learning disabilities from a qualified professional. Learning disabilities are also often more difficult to accommodate, particularly when the documentation is not well-done.
34. MSCC is facing a new challenge in providing accommodations with moderately or mildly mentally retarded students. Questions on how we can best serve these students have not been totally resolved, particularly because of our open door policy.

35. However, it's important to understand that while mental retardation is certainly a disability, it is NOT a learning disability as defined by law. We quite often have students who self-identify as having a learning disability, but their documentation shows clearly that the disability is retardation. We are obligated by law to provide accommodations based on a professional assessment which clearly documents a disability and its impact on a major life activity.
36. So how do we try to help students who may be mentally retarded? At present, we look at below-ability-to-benefit scores on the placement test. If at least two scores are below ATB, we check the high school transcript for "special ed" or "resource room." If the student is either below ATB or was in special ed classes in high school, we talk with the student about the challenges and expectations of college. We also encourage or require that they enroll in Adult Education to build their skills. If the student insists on taking college classes, we expect him or her to enroll in a reduced number of classes; these are typically the lower-level developmental classes and perhaps College Survival.
37. The fast-growing claimed disabilities at MSCC and across the country are learning disabilities and psychological disorders. As pointed out earlier, these are essentially "hidden" disabilities and are both difficult to diagnose and to accommodate. We have found that Learning Disabilities or LD is an overly claimed disability because it has become a kind of "socially accepted" disability, and psychological disabilities are under-claimed because many people do not want others to know. Determining accommodations for students with hidden disabilities often comes about through trial and error. That's why it's so important for instructors to stay in touch with SDS and the Learning Success Center.
38. What do you do if a student requests accommodations during an exam? Be aware that the student may NOT have a disability and that you may be setting precedents or giving unfair advantage. Don't make accommodations unless you have a signed approval form from the SDS Coordinator. And while we are on this issue, students may not have a signed approval form because they have chosen not to request accommodations but now realize they need them. Or they may not ever have been evaluated for a disability. Or they may simply not understand the accommodation process or realize that the process in college is different from high school. You can help by getting them to the SDS counselor.
39. Also remember that approved accommodations are NOT retroactive. Students must be approved for accommodations in advance of a test or assignment. They may not re-take a test to improve their scores AFTER they receive approved accommodations UNLESS you are giving everyone in the class the same opportunity. In that case, it's really not an accommodation.

40. Instructors have sometimes commented that they are uncomfortable about working with students who have disabilities. Mainly their concern is that they will offend that person. So how should you interact with students or others who have disabilities? Generally speaking, interact with them as you would with anyone else. Talk directly TO the person, rather than to someone else (this is a common error). Look that person in the eyes, not away from them. Don't be condescending or patronizing. Be encouraging and supportive, but also honest about challenges.

41. Out of respect for confidentiality and privacy, don't talk to others about the student and his disability, unless those people have a need to know. You can certainly talk with your colleagues about strategies for working with a student with a specific disability, but you should not use students' names. Also be careful about being manipulated by students who want accommodations which haven't been approved, and be alert to any potential actions on your part that could actually be an accommodation.

42. It's also important to use appropriate language in discussing disabilities. You may have noticed throughout this workshop that I have used the phrase "students with disabilities." This is most certainly the preferred term, rather than referring to someone as crippled, blind, handicapped, wheelchair-bound, etc. When you are naming the disability, please say something like, "student who has epilepsy" rather than "epileptic student." Avoid terms like incapacitated, deformed, spastic....these are demeaning terms that really create a hostile environment for a person. More information about appropriate language to use is located in the INSTRUCTOR'S GUIDE TO STUDENT DISABILITY SERVICES, located in the shared files.

43. Finally, if a student with a disability complains about an instructor's possible abuse of accommodations, harassment, discrimination, or other problems, refer that matter immediately to your supervisor or to the Coordinator of Students Disability Services.

44. So, bottom-line, what is the procedure that students must follow if they wish to receive accommodations for a disability? The student is responsible for contacting SDS to register his disability and to request accommodations. He must provide a written evaluation of his disability by a qualified professional, which must include a diagnosis, the assessments used to make that diagnosis, a statement as to the impact of this disability on a major life activity, and recommendations for accommodations. Accommodations that are reasonable and appropriate will be approved and sent to both the student and all his instructors. It is important to understand two additional things about this

process: 1) SDS does NOT provide a list of accommodations for the student to select from and 2) SDS does not necessarily approve all accommodations requested because they may not be appropriate for the particular disability or because the documentation does not support the request.

45. So, if you leave this workshop with nothing else, please leave with the following reminders: 1) When in doubt, call SDS. 2) Always refer student questions or issues and students requesting accommodations to SDS. 3) Don't promise anything to a student with a disability until it is approved. 4) Show compassion but be alert to the students' rights and responsibilities as well as to the procedures discussed during this workshop!

46. Student Disability Services staff are located in the Learning Success Center, and any LSC counselor can help get you to the SDS counselor or coordinator when you have a student who needs help. The SDS counselor does the intake interviews with students requesting accommodations; the SDS Coordinator approves the appropriate accommodations and issues to instructors. The Coordinator also tries to resolve any questions or concerns that either the student or the instructor may have. Finally, the Executive Vice President deals with grievances in cases where the student or instructor feels that classroom standards are being compromised or that there has been unfair treatment.

47. There are a number of resources available to you if you need more information:
 - The STUDENT GUIDE TO DISABILITY SERVICES located on the MSCC web site
 - The INSTRUCTOR'S GUIDE TO STUDENT DISABILITY SERVICES, located in the Learning Success Center shared files
 - Learning Success Center handouts on various disabilities
 - Learning Success Center brochures on disability registration & requests for accommodations
 - Internet, which can provide a wide array of information on symptoms and characteristics of various disabilities, as well as strategies for teaching or working with people with different disabilities
 - The Library also has a number of books and videos on various disabilities (especially learning disabilities), study skills, teaching strategies, and other subjects helpful in teaching students with disabilities and with students in general.
 - And, probably most important, if you have questions or need help, the Student Disability Services counselor and coordinator are there to help.