



UNIVERSITY OF MISSISSIPPI
STUDENT DISABILITY SERVICES

General Information for Faculty

Disability and Civil Rights

Disability makes up the largest minority group in the world. The Americans with Disabilities Act and the Rehabilitation Act are not entitlement acts. They are *civil rights legislation* created to address historical and current disability-related discrimination in multiple settings, including education, employment, and housing.

Because the protection of civil rights is a central function of the University, it is the responsibility of all faculty and staff to ensure equitable physical, social, and curricular access for students with disabilities.

Admission of Students with Disabilities

There is a misconception that students with disabilities are admitted to the University using different, more lenient admission criteria. In reality, students with disabilities must meet the same admission criteria as all other students. Like all students, those with disabilities must be qualified for admittance. Also, like other students, students with disabilities must maintain their qualified status to remain at the University. Student Disability Services (SDS) is not involved in the admission of students with disabilities. SDS does not work with this student population until a student contacts SDS, self-discloses a disability, and officially requests accommodations.

Syllabus Statement

Faculty must include a statement on the course syllabus that addresses accommodations and access for students with disabilities. The following statement has been developed by SDS for use by anyone teaching classes.

Disability Access and Inclusion: The University of Mississippi is committed to the creation of inclusive learning environments for all students. If there are aspects of the instruction or design of this course that result in barriers to your full inclusion and participation or to accurate assessment of your achievement, please contact the course instructor as soon as possible. Barriers may include, but are not necessarily limited to, timed exams and in-class assignments, difficulty with the acquisition of lecture content, inaccessible web content or the use of non-captioned or non-transcribed video and audio files. You must also contact Student Disability Services at 662-915-7128 so that office can 1) provide you with an Instructor Notification form, 2) facilitate the removal of barriers and 3) ensure you have equal access to the same opportunities for success that are available to all students.

Confidentiality Guidelines

Guidelines for privacy and confidentiality of disability-related information have been adopted by the university and must be rigorously followed. These guidelines incorporate federal and university requirements as well as guidelines set by relevant professional associations. Information in a student's file will not be released except in accordance with these regulations and guidelines. Without the permission of the student, the university may release information only in the following circumstances:

- The student states that he or she intends to harm him or herself or another person(s);
- A court or subpoena has been received ordering the release;
- There is an administrative need to know on the part of a university employee who demonstrates a need for the information in order to conduct his or her job duties.

Because of these legal and University requirements, as well as the basic human right to privacy, it is essential that faculty understand the expectations of privacy guaranteed to students with disabilities. When communicating directly with a student who has a disability, faculty can ask how the student is impacted in the classroom by his or her disability; however, faculty cannot ask a student to disclose his or her diagnosis. In addition:

- Faculty must ensure that all Instructor Notification forms are kept in a secure location. It is essential that faculty not lose or misplace these forms.
- Faculty must not identify a student as having a disability. For instance, on a test day, do not announce to the class, "All students who get accommodations go to the conference room." Students with disabilities will be identified when they leave the classroom.
- If there is classroom discussion regarding an issue directly related to disability, faculty should not direct comments or questions specifically to a student in the class who has a disability.

Faculty should be conscientious of how communication and actions in the classroom may impact the privacy or comfort of a student with a disability.

Definition of Reasonable Accommodations

Accommodations and other access services are approved on a **case-by-case basis** depending on the impact of each student's diagnosed disorder(s) and the reasonableness of the request. Reasonable accommodations are determined using the following analysis:

1. The accommodation is directly related to the impact or functional limitations caused by the diagnosed disorder.
2. The accommodation is not of a personal nature (such as tutoring, eyeglasses or medication).
3. The accommodation is necessary to provide equal access to the student.
4. The accommodation does not lower academic or program standards.
5. The accommodation does not fundamentally alter the essential elements of the course, program or activity.

6. The accommodation does not present an undue financial or administrative burden on the university.
7. The accommodation does not pose a threat to the health or safety of the student or others.

Defining Essential Course Elements

Faculty and academic departments determine the essential elements of courses and programs of study; however, federal regulations require that those essential elements be reasonable and practical within the context of the curriculum, evaluation standards and expected outcomes of the course or program of study. There must have been a “determinative effort” made when deciding what is essential and decisions cannot be arbitrary or capricious. The ADA is a remedial statute written to address centuries of discrimination toward people with disabilities. As such, it requires colleges and universities to question their notions of what is truly essential and to provide, if possible, for alternate methods for students to demonstrate their knowledge or lack of knowledge as regards the course content.

Appealing an Approved Accommodation

If faculty believe an approved accommodation fundamentally alters the essential elements of the curriculum, evaluation standards or expected outcomes of a course, the faculty member has the right to appeal the use of that accommodation. *However, faculty cannot simply refuse to provide an approved accommodation.* To appeal an accommodation, faculty must first contact SDS to discuss concerns regarding the reasonableness of the accommodation in a particular class. SDS will then schedule a meeting with the faculty member, SDS and the department chair to discuss the faculty members concerns. The dean of the school or college in question may be invited into the discussion as well.

Please be aware, as per university policy regarding students with disabilities (ACA.EO.200.001), faculty *must* continue to provide the accommodation in question while the appeal is in process.

If it is determined that the accommodation in question does not fundamentally alter the curriculum, evaluation standards or expected outcomes of a course, the accommodation *must* continue to be provided. If it is determined that the accommodation does fundamentally alter the curriculum, evaluation standards or expected outcomes, the accommodation in question will be discontinued. Before discontinuation of the accommodation, the faculty member, the student and SDS will attempt to identify an alternate accommodation that allows the student equal access to the course.

Timely Notice and Setting Deadlines for Requests

Students with disabilities are required to request accommodations from SDS and from faculty in a “timely manner.” The law does not define “timely manner” but the courts have provided guidelines on what this means. In general, timely manner means the student has provided the instructor enough time to arrange for the requested accommodation. Determinations of timely manner depend upon the nature of the accommodation and the course, and must be

reasonable. For instance, a student who requests testing accommodations on the morning of the test typically did not provide timely notice and as such the faculty member is not required to provide the accommodations. On the other hand, if the student requested testing accommodations 24 to 48 hours before the test, the student gave timely notice and accommodations must be provided on the test. It is encouraged that faculty make a good-faith effort to accommodate even when timely notice is not provided.

Faculty cannot set timelines during which a student must submit an Instructor Notification form. Legally, students can request an Instructor Notification form at any time during the semester. As stated, students must provide faculty with timely notice of their need for accommodations; however, it is a violation of federal law to refuse to accept an Instructor Notification form because an arbitrarily set deadline to submit forms has passed.

For example, faculty cannot say to a student, "I'm not going to provide accommodations because Instructor Notification forms were due to me by September 1st." However, faculty who do not have an arbitrarily set deadline are not required to provide retroactive accommodations when an Instructor Notification form is provided after an assignment or test has been completed.

Classroom Behavior

Students with disabilities are expected to follow University and classroom rules regarding behavior. Classroom and university rules regarding behavior, disruptions, and academic dishonesty should be applied consistently to students with and without disabilities. The University and faculty do not violate the rights of students with disabilities by holding those students to the same standards as all other students.

Access as a Fluid Process

Providing access to students with disabilities is a fluid process. Federal laws and guidelines written to protect the civil rights of people with disabilities are deliberately ambiguous. The ambiguity was determined to be necessary because every person is impacted differently by the disability, by the environment in which the person is engaging, and by the artificial barriers built into that environment.

For instance, someone who uses a wheelchair may not be "disabled" when he is at home because his home has been built in such a way as to allow him full access to all aspects of his living environment. However, that same person will be disabled if he tries to access the upper floor of a building with no elevator.

In an educational environment, this fluidity requires that each student and each circumstance be evaluated on an individualized basis given the impact of a disability on a specific student in specific circumstances. For example, two students who have the same level of hearing loss may need completely different accommodations in the classroom. If student A was deafened at age 18 due to meningitis, he or she has fully developed language, reading and writing skills. As such, accommodation needs may include real-time captioning in large classrooms in order to access the lecture through reading what is being said and preferential seating in small classrooms so the student is close enough to read the instructor's lips. This student

may also benefit from notetaking assistance because he or she must focus exclusively on the instructor or on the captioning.

On the other hand, if student B was born deaf or was pre-lingually deafened, language, reading and writing skills typically will be significantly impacted. To access the lecture this student may require American Sign Language interpreting in all classes. The student may also require preferential seating to be near the interpreter; notetaking assistance, again, because of the need to focus exclusively on the instructor or the interpreter. In addition, student B may require extended time on all tests, quizzes and exams because language deficits may cause delays in reading, comprehending, and answering test questions. This student may also need an American Sign Language interpreter available during tests, quizzes and exams to translate any oral instructions that may be provided.

Though both students in this example have the same level of deafness, their accommodation needs are decidedly different because they experience their hearing loss differently. All people with disabilities are uniquely impacted by their diagnoses and by the environment in which they find themselves. It is because of this that the access needs for students with disabilities may differ based on how each student experiences their disability and the circumstances in which they are engaging.

It is essential that faculty and instructors be prepared for this fluidity and assist with the individual, disability-related needs of each student.

The Myth of the Unfair Advantage

SDS has been contacted by faculty concerned that accommodations provide an unfair academic advantage for students with disabilities. This concern originates from the false assumption that all students begin college on a level playing field, thereby making all accommodations advantages that are either fair or unfair.

In reality, students with disabilities begin college at a disadvantage due to inaccessible campus, curricula and classroom environments. For these students, accommodations simply advance them to the level playing field occupied by students without disabilities. When considered from this point of view, accommodations are neither fair nor unfair. SDS considers appropriate accommodations based only on need, reasonableness, and curricular impact. Accommodations are *not* provided to ensure success; they are provided to ensure *equal access* to success and the issue of advantage is not, and should not be, part of that conversation.

Evaluations and Grading

Faculty sometimes voice concerns about the ways in which students with disabilities should be evaluated in the classroom and on exams. Accommodations are designed to provide students with disabilities a level playing field and equal access to course materials and information. This level playing field allows students to demonstrate their understanding or lack of understanding of those materials and information.

While approved accommodations must be provided, students with disabilities should be held to the same academic and program standards as all other students. As long as the university, which in this case means faculty and instructors, accommodates this *process* for learning and

demonstrating knowledge, the university is not required to accommodate the *final product* (the grade).

Hostile Environment

Faculty must not contribute to a hostile environment that impacts students with disabilities. Types of behaviors that may create a hostile environment include, but are not limited to, disability-related derogatory terms; disability-related jokes; suggestions that a student with a disability will struggle or should not remain in your class; refusal to provide accommodations; expectations that a student with a disability should be more conscientious than the typical student; and comments to the student suggesting a lack of willingness to provide accommodations or consider the provision of accommodations to be a hardship.

Like other marginalized, minority students, those with disabilities deserve a classroom environment that is free from bias and distracting indignity.

Required Communication with SDS

Because the timely provision of approved accommodations is federally required, it is necessary that faculty communicate closely with SDS. Faculty must answer emails and return telephone calls from SDS in a timely manner. Faculty must also reach out to SDS, again in the timely manner, if there are any questions or concerns about the provision of accommodations.

Protecting the civil rights of students with disabilities and providing equal access to course curriculum, require the input and collaboration of faculty. Faculty are the experts in their classes and their participation in the process is vital to ensuring this population of students has an equal opportunity to succeed.