



# Preparing Faculty & Staff to Work with Student Veterans from a Disability Perspective



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# ADA Compliance Training for Faculty

## Caveat:

The information set forth in this presentation and accompanying documents is presented for Informational purposes only and should not be construed as legal advice.

For any legal questions you may have, always consult with your general counsel.



# Definition of Terms

ADA – Americans with Disabilities Act

Section 504 – Section of the Rehabilitation Act of 1973 prohibiting discrimination based on disability.

DSS – Disabled Student Services office.

Title II of the ADA – Section of the ADA that applies specifically to government programs and services.

OCR – U.S. Department of Justice's Office of Civil Rights.

# Title II of the ADA



The Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 were designed to ensure that colleges and universities are free from discrimination in their recruitment, admission, and treatment of students.

Equal Access not Equal Success

# Part I: Requirements of Faculty under the ADA



What does the ADA require of Institutions, Faculty, and Staff when accommodating ALL students with disabilities, not just Veterans?



# Title II of the ADA

In the application of both laws, students with disabilities must be qualified to participate in University activities. A qualified student with a disability is one who meets the admission and essential eligibility requirements of a program or service, **with or without**:

1. Modifications of rules, policies, or procedures
2. Removal of architectural, communication, or transportation barriers
3. Provision of auxiliary aids and services



# Title II of the ADA Requirements

The institution must provide auxiliary aids to ensure the participation of students in college classes and activities and must accommodate the academic participation of qualified students with disabilities. The institution must NOT:

1. Limit the number of students with disabilities admitted.
2. Exclude students with disabilities from any course of study solely based on their disability.

# Title II of the ADA



3. Counsel students with disabilities towards a more restrictive career than non-disabled students, unless such counsel is based on **strict licensing or certification requirements in a profession.**

4. Measure student achievement using modes that adversely discriminate against students with disabilities.



# Title II of the ADA



5. Institute prohibitive rules (such as the barring of tape recorders or other auxiliary aids) that may adversely affect the performance of students with disabilities.
6. Select a site or a facility that would exclude participation of persons with disabilities. Field trips or field-testing lab work. Important in the Health Sciences field.

# Compliance with Title II



The law does not require special treatment of students with disabilities but does require that students be given the opportunity for equal participation in the University's programs.

This is done by providing to eligible and qualified students appropriate academic adjustments and auxiliary aids necessary to facilitate the students' fullest possible participation in the University's academic programs.

# Establishing Eligibility as a Qualified Student



Student must apply and be accepted to the University based on published criteria required for admission.

Published criteria should include all required academic and **technical standards** that must be met in order to successfully complete the program of interest.

Admission standards should not be altered or modified for people with disabilities.

# Establishing Eligibility as a Qualified Student



Once a student has been formally admitted, then they must follow the published process for registering for services.

Student must submit documentation from an appropriate professional to the DSS office that supports the disability the student is claiming.

VA paperwork is often denied. Doesn't state a clear diagnosis

The DSS office then approves the student for service and then based on the documentation begins determining what accommodations are reasonable and appropriate.

# Eligibility and Procedures for Establishing Reasonable Accommodation



No further proof of disability should be required of the student from faculty or any other university staff.

Faculty should NEVER ask a Veteran specifics about their disability or ask for additional information.

No requirement exists that accommodations be made prior to completion of the approved university process.



# Types of Disabilities Typically Served/Registered

- Attention Deficit/Hyperactivity Disorder
- Learning Disabilities
  - Dyslexia, Dysgraphia
- Chronic Illnesses
  - Cancer, CP, Diabetes, Parkinson Disease
- Hearing Impairments (Top one for Vets!)
- Mobility Impairments
- Psychological Disorders
  - PTSD, Bipolar, Depression, Anxiety
- Visual Impairments



# What is a Letter of Accommodation?

A Letter of Accommodation (LOA) is a legally binding document between the Faculty and the student.

The LOA will contain the list of accommodations to be provided to the Veteran in the classroom.

Faculty should always contact their DSS office should you have ANY question about how an accommodation should be provided. Important for faculty not try and “wing it”.



# Letter of Accommodation

Is effective the date that it is presented to the instructor.

Ideally, *Letters of Accommodation* should be presented to instructors at the beginning of the semester; however, federal regulations mandate that *Letters of Accommodation* may be submitted at any point during a semester.

**Veterans may not always want to establish services without trying to be successful without them first.**





# Letter of Accommodation

If a *Letter of Accommodation* is presented after a semester begins, the accommodation applies only from the date presented to and signed by the faculty member until the completion of the semester.

**It is NOT retroactive.**

One week is considered a reasonable amount of time to allow the faculty member to implement the accommodation.

# Approved Accommodations Should...



Provide students with disabilities equal access to the same information as non-disabled students.

Provide students with disabilities the time and opportunity to demonstrate equal mastery of the same material as non-disabled students.



# Accommodations Cannot:

- Reduce Assignments
- Alter Course Material
- Alter testing/assessment methods (unless accessibility is an issue)
- Extend Deadlines
- Affect the integrity of the course in any way.
- **Excuse violations of the University Code of Conduct.**



# Types of Accommodations *Typically* Offered

- Extended time on times tests and quizzes.
- Distraction reduced testing environment.
- Note-taking services.
- Sign language interpreters. (Provided by DSS)
- Preferential seating.
  - Not always at the front, sometimes by a door or window.
- Priority Registration (Provided by DSS)
- Use of Assistive Technology (Provided by DSS)
- Materials provided in an accessible format.

# Accommodations that May Be Important for Veterans



## **Providing private space when possible for:**

- Reduced Distractions/Anxiety
- More Effective Study Time
- Better Test Taking Environment

## **For Interactions with Others:**

- Possible Remote Attendance (Online Courses)
- Allowed to “walk away” or take breaks.
- Flexible Schedule



# Attendance

No accommodation exists that allows for a student to miss class simply because of a disability. Flare ups of the disability should be considered as part of an interactive process.

**Course syllabus should ALWAYS have a clearly defined attendance policy!**

Policy should clearly define the number of absences permitted and the possibility of make up work.

# Attendance



Veterans should keep close contact with faculty when they think attendance may be an issue.

Explore the possibility of allowing a Veteran to attend class remotely via Skype to reduce possible attendance issues. Be Flexible. Think Outside the Box.

# Confidentiality



Information regarding the student's disability should not be **openly** shared with other faculty or staff without the student's written permission.

Same guidelines as FERPA.

Discussion with other faculty to ensure the provision of accommodations is acceptable.

Faculty should never mention a student by name in the classroom when establishing an accommodation, such as requesting a note taker.



# Syllabus Requirements For ADA Compliance



All test dates and assignment due dates need to be in the syllabus.

Assignments without due dates can be subject to requests for extensions.

The university approved mandatory syllabus statement is required in all course syllabi.

# ADA Compliance Tips:



Never ask a Veteran what their disability is. **The eligibility process has already been completed!** Only ask what assistance they need from the list of accommodations on the LOA.

Do not provide a requested accommodation **NOT** on the LOA unless you would be willing to provide that same assistance for any student in your classroom.

# Course Materials Compliance



Faculty need to ensure all course materials are in accessible formats:

- Any video used must be captioned (key for Vets!)
- All files, handout, and notes should be in an accessible format so they can be used by screen readers.
- Supplemental content used from the internet must also be accessible to screen readers and all video content captioned.



# Materials in General

All materials used for instruction and course work *must* meet the Web Content Accessibility Guidelines 2.1.

This document is cited in almost every single court case that involves issues of students not having full access to course materials.

# Online Learning & ADA Compliance



On July 23, 2013 the Department of Justice (DOJ) announced a settlement agreement with Louisiana Tech University resolving a complaint about inaccessible course materials.

The DOJ's summary of the obligation sent a clear message to other universities:

# Online Learning & ADA Compliance



“...the University must implement a policy that requires the deployment of accessible technology and course content in the University setting. To that end, the University shall conduct a review of the accessibility of its technology and instructional materials and shall ensure that..... all technology, including websites, instructional materials and online courses, and other electronic and information technology for use by students **or prospective students**, is accessible.”  
(Paragraph 13(a), [emphasis added]).

# Online Learning & ADA Compliance



A look at other recent collaborative enforcement efforts by the DOJ and The Department of Education's Office for Civil Rights clarifies the statutory standard for “accessible”.

The DOJ's agreement with the South Carolina Technical College System last March stated:



# Accessibility & ADA Compliance

“‘Accessible’ means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. *The person with a disability must be able to obtain the information as fully, equally and independently as a person without a disability.* Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology.”  
(Resolution Agreement South Carolina Technical College System OCR Compliance Review No. 11-11-6002, [emphasis added])





# Face to Face vs Online Courses

- Online courses are fully responsible for the same accommodations as face to face classes.
- Many accommodations are built into the online courses if they are designed properly.
- Materials must be fully accessible in BOTH face to face and online courses.
- **Online course options can be a good options for Veterans when possible.**

# Service Animals



- New federal guidelines allow for service animals in the academic classrooms.
- A service animal is defined as a **dog** that is trained to perform a task for a student with a disability that they cannot otherwise perform themselves.
- May be used for other disabilities besides visual impairments.
- Many Veterans use Service Animals for PTSD.

# Service Animals



Students/Veterans with service animals do NOT have to register with the DSS office in order to bring the animal into an academic building.

Students/Veterans are NOT required to submit documentation of a disability or to provide documentation of the service animals previous training.

# Service Animals



Faculty members may only ask two questions to the student prior to their bringing the service animal into the classroom:

1. Is the animal required because of a disability?
2. What service or task does the animal provide for you?

# Service Animals



Service animals are considered an extension of the student themselves and thus must follow the same code of conduct.

The animal may not be disruptive in the classroom, such as barking or walking around and must be under control at all times.

Faculty may ask the student to remove the disruptive animal from the classroom.



# Service Animals in Clinical Settings

The Center for Disease Control has determined that a Service Animal is **no more of a health risk in clinical settings than a human.**

- Should be permitted in any area where Veterans are permitted.
- Can be **excluded** from any clinical setting where the participants are required to be masked and use shoe/foot protection.

