

Disability Documentation Guidelines to Determine Eligibility for Accommodations at the Postsecondary Level

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Adopted by Albertus Magnus College, 2011

Preface

In response to the expressed need for guidance related to the documentation of specific disabilities in adolescents and adults at the postsecondary level, the Connecticut Association on Higher Education and Disability (CT AHEAD), a professional organization with representatives from Connecticut's two- and four-year public and private institutions and other state and local organizations, has developed the following guidelines. These guidelines provide consumers, including students, secondary school personnel, professional diagnosticians and postsecondary and adult service providers, with a common understanding and knowledge base of documentation components that are necessary to validate a claim of a specific disability for the purpose of requesting accommodations at the postsecondary level. The information and documentation provided to establish a disability and justify requests for accommodations should be comprehensive and oriented towards appropriately serving a student in a postsecondary setting.

At the time of this writing, Congress has adopted the Americans with Disabilities Act Amendments of 2008 (S. 3406). These Amendments are intended to expand the definition of “disability” under this Act as well as the Rehabilitation Act of 1973. Under the “Purposes” section of the Act, Congress states that “the question of whether an individual’s impairment is a disability under the ADA (and the Rehabilitation Act) should not demand extensive analysis.” We recognize that some of our guidelines, particularly for students diagnosed with a specific learning disability, may require more extensive documentation than other types of conditions, in part, due to the common misdiagnosis of the condition. To the reader, we urge caution as the import of these Amendments cannot be clearly understood at this time.

Individuals with Disabilities Education Act of 2004

The Individuals with Disabilities Education Act of 2004 (IDEA) provides special education and related services for those students in public schools who meet the criteria for eligibility in a number of distinct categories of disability, each of which has its own criteria. However, when students with disabilities graduate with a regular education diploma or reach the age of 21, they are no longer eligible for services under the IDEA. **Students who were eligible for services at the secondary level may not necessarily be eligible for services or accommodations at the postsecondary level as different laws with different definitions apply.** The IDEA regulations address transition to postsecondary education and adult/vocational services in transition planning services [34 C.F.R. §300.43(a)]. However, the comments accompanying the final IDEA 2004 regulations state:

While the requirements for secondary transition are intended to help parents and schools assist children with disabilities transition beyond high school, section 614(c) (5) in the Act does not require a public agency to assess a child with a disability to determine the child's eligibility to be considered a child with a disability in another agency, such as a vocational rehabilitation program, or a college or other postsecondary setting.

See also 34 C.F.R. §300.305(e) (2) (a school need not evaluate a student who is aging out or graduating with a regular education diploma).

IDEA 2004 does require that local school districts provide a student who is graduating with a regular education diploma or aging out with a summary of his or her academic achievement and functional performance as well as a set of recommendations regarding how to assist the student to meet his/her postsecondary goals [§300.305(e)(3)]. This document is commonly referred to as a Summary of Performance (SOP).

IDEA 2004 requires the development of "appropriate measurable transition goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills" [§300.320(b)(1)]. These assessments may provide supplemental documentation that could be used by postsecondary institutions in determining a student's eligibility.

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990

At the postsecondary level, determining eligibility for services follows a different process from the K-12 process. Students with disabilities at the K-12 level may be covered under the IDEA, but the IDEA does not apply to the postsecondary level. Instead, qualified students with disabilities may be eligible for protections under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). It is important to note that the IDEA is an educational entitlement act, while Section 504 and the ADA are civil rights laws that are designed to prohibit discrimination on the basis of disability. The postsecondary standard for eligibility requires that the disability is current **and** substantially limits a major life activity (e.g., walking, hearing, seeing, and learning).

Not every impairment qualifies as a disability that is protected under the ADA because not every impairment is substantially limiting to a major life activity. The court in *E.E.O.C. v. Harvey L. Walner & Associates*, 91 F.3d 963, 996 (7th Cir. 1996), described the proper disability determination as follows:

A disability determination, however, should not be based on abstract lists as categories of impairments, as there are varying degrees of impairments, as well as varied individuals who suffer from the impairments. In fact, the regulations note that a finding of disability is not necessarily based on the name or diagnosis of the impairment the person has, but rather, on the effect of that impairment on the life of the individual. Some impairments may be disabling for particular individuals but not for others, depending upon the stage of the disease or disorder, the presence of other impairments that combine to make the impairment disabling or any number of other factors. 29 C.F.R. App. Sec. 1630.2(j).

This is why a determination of disability must be made on an individualized, case-by-case basis. Whether a substantial limitation upon a major life activity exists, depends upon an analysis of (1) the nature and severity of the impairment, (2) the duration of the impairment, and (3) the permanent or long-term impact of impairment. 29 C.F.R. Sec. 1630.2(j) (Heyward, 1998, pgs. 3:5-3:6).

Thus, the key factor in answering the question of whether there is a substantial limitation is "the actual effect on the individual's life." *Sutton v. United Air Lines, Inc.*, 130 F.3d 893, 900 (10th Cir. 1997). A review of judicial decisions involving colleges and universities in which the meaning of "substantially limits" has been discussed reveals that the courts have been conservative in their assessments and have required individuals to present compelling objective evidence to support their claims of disability.

Dissatisfied with the court's analysis of the ADA, effective January 1, 2009, Congress has amended the ADA and the Rehabilitation Act to expand the list of major life activities, disallowing consideration of mitigating measures (such as medication and behavioral adaptations) and recognition that conditions that are cyclical in nature should be assessed when they are active. Accordingly, we predict that most conditions, if documented in accordance with professional standards, and projected to last more than six months, will likely qualify for protection under the ADA. However, as discussed more fully below, although a student may have a disability, that does not necessarily mean that he or she will require accommodations in order to access his or her education.

Providing evidence of the extent to which the disability causes a substantial limitation may be more critical than a statement of the disability. In the case of *Abdo v. University of Vermont*, 263 F.Supp.2d 772 (D.Vt. 2003), the court found that "while the university had the right to request specific documentation, its requirement that the documentation state a precise medical diagnosis was unreasonably burdensome." The court opined that the extent of the limitation caused by a disability is a more appropriate consideration than requiring documentation that contains a specific disability diagnosis. Citing *Scarborough v. Natsios*, 190 F.Supp.2d 5, 20 (D.D.C. 2002), the court emphatically noted, "It is the impairment itself - and not the medical diagnoses of the condition - that determines whether a particular ailment is an impairment under the (ADA) Act."

The Americans with Disabilities Act Amendments of 2008

Effective January 1, 2009, the ADA and the Rehabilitation Act will be amended in considerable ways. The following points summarize the significant changes relevant to understanding these guidelines:

- Postsecondary institutions may not consider the effects of mitigating measures such as medication, devices (except contact lenses and glasses) and “learned behavioral or adaptive neurological modifications” in determining whether a condition substantially limits a major life activity. Accordingly, even though these guidelines request this information, the provider should be cautious in deciding against disability status when the records contain such information. Yet, consideration of the effects of mitigating measures is not barred when assessing the need for and type of accommodation.
- Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, *eating, sleeping, walking, standing, lifting, bending*, speaking, breathing, learning, *reading, concentrating, thinking, communicating*, working and the *operation of a major bodily function*.
- The term “substantially limits” remains, but the phrase may not be interpreted to require a “severe” or “significant” restriction of a major life activity.
- Short term conditions that are expected to last six months or less do not qualify as disabilities.
- Conditions that are episodic in nature qualify as disabilities if they substantially limit a major life activity in their active state.
- Conditions that are in remission still qualify as disabilities, if the underlying condition in its active state would qualify as a disability.

Intent of and Caveats to These Guidelines

The following guidelines are provided in the interest of assuring that documentation of a specific disability is appropriate to verify eligibility and to support requests for accommodations, academic adjustments and/or auxiliary aids. IDEA 2004 does not **require** public agencies to provide updated disability documentation for the purpose of determining eligibility at the postsecondary level for students preparing to graduate or exit school. Therefore, best practice suggests that postsecondary institutions **consider** using less recent documentation (e.g., more than several years old or use of instruments normed on adolescents vs. adults) along with other sources of data, such as well described functional information in an SOP. These decisions may vary depending upon the specific disability. Flexibility and professional judgment are critical.

It should be clearly noted, however, that documents such as an Individualized Education Program (IEP), SOP, or a secondary level Section 504 plan may not contain sufficient information to determine eligibility for services at the postsecondary level. Thus, these documents, in and of themselves, may not constitute adequate documentation.

It is acknowledged that different educational settings with different student populations will need to modify and adapt these guidelines to meet the needs and backgrounds of their student populations. It is recommended that postsecondary institutions using these guidelines consult

with their legal counsel before establishing a policy on documentation relating to individuals with disabilities.

This document presents guidelines in five important areas: (a) qualifications of the evaluator, (b) recency of documentation, (c) comprehensiveness of documentation to substantiate the specific disability, (d) objective evidence to establish a rationale supporting the need for accommodations, and (e) confidentiality.

II. General Documentation Guidelines

A. Evaluator Qualifications

Professionals conducting assessments, rendering diagnoses of specific disabilities and making recommendations for appropriate accommodations must be qualified to do so. Comprehensive training with regard to the specific disability being addressed and direct experience with an adolescent and/or adult population are essential.

The name, title and professional credentials of the evaluator, including information about license or certification (e.g., licensed psychologist), the area of specialization, employment, and state/province in which the individual practices should be clearly stated in the documentation. It is of utmost importance that evaluators are sensitive and respectful of cultural and linguistic differences during the assessment process. It is not considered appropriate for professionals to evaluate members of their own families.

Students who received special education services at the secondary level may have been determined eligible for services under a multidisciplinary team process. Within this process, relevant testing and diagnostic information (e.g., observations, behavioral surveys, outside evaluations) are brought to an IEP Team Meeting and after sharing all of the information, the Team determines the student's eligibility for special education services and identifies one or more classifications, such as specific learning disability, other health impairment, etc. Therefore, it is less likely that such a student would have a single or integrated diagnostic report indicating a specific disability via this process unless it were specifically requested as part of the transition goals and objectives. Postsecondary institutions should therefore use flexibility in judgment in relation to accepting multiple reports on a student.

With regard to certain conditions that typically require a clinical diagnosis to be eligible for accommodations in a postsecondary setting (e.g., ADHD, Autism Spectrum Disorders, Acquired Brain Injury), states may have developed criteria that could be used by local school districts to determine a student's eligibility to receive special education services. Parents, students and district personnel must be aware that while such educational criteria may be sufficient for a student to obtain services at the secondary level, it may not provide sufficient documentation to determine eligibility for services or accommodations at a college or university or in an adult service agency.

The following guidelines related to evaluator qualifications for the evaluation of specific conditions is offered:

- *Acquired Brain Injury (ABI)* ~ Professionals conducting assessments and rendering diagnoses of Acquired Brain Injury must have post-doctoral training in identification and treatment of ABI. The following professionals would generally be considered qualified to evaluate and develop learning strategies for persons with ABI: neuropsychologists, educational psychologists with postgraduate concentration in cognitive strategy development and remediation, and relevantly trained clinical psychologists. Use of diagnostic terminology indicating an ABI by someone without training and experience in these fields is not acceptable.
- *Attention Deficit Hyperactivity Disorder (ADHD)* ~ Professionals conducting assessments and rendering diagnoses of ADHD must have training in differential diagnosis and pertinent psychiatric disorders. The following professionals would generally be considered qualified to evaluate and diagnose ADHD provided they have direct experience with an adolescent and/or adult ADHD population: psychologists, neuropsychologists, psychiatrists, and other relevantly trained medical doctors. A clinical team approach consisting of a variety of educational, medical, and counseling professionals with training in the evaluation of ADHD in adolescents and/or adults may be important. Use of diagnostic terminology indicating an ADHD by someone without training and experience in these fields is not acceptable.
- *Intellectual Disabilities/Mental Retardation* ~ Students requesting accommodation on the basis of an Intellectual Disability (ID; formerly known as mental retardation) must provide documentation from a professional who has undergone comprehensive training and has relevant experience in the assessment of intellectual disability in adolescents and/or adults (e.g., clinical or educational psychologists, school psychologists, neuropsychologists, and special education teachers. At the secondary level, eligibility for services under the category of ID may be determined by a multidisciplinary team and therefore include reports completed by special education teachers.).
- *Learning Disabilities* ~ The following professionals would generally be considered qualified to evaluate specific learning disabilities provided they have additional training and experience in differential diagnosis and the assessment of learning problems in adolescents and/or adults: clinical or educational psychologists, school psychologists, neuropsychologists, and learning disabilities specialists. At the secondary level, eligibility for services under the category of LD may be determined by a multidisciplinary team and therefore include reports completed by special education teachers. Use of diagnostic terminology indicating a learning disability by someone without training and experience in these fields is not acceptable.
- *Psychiatric Disorders* ~ Professionals conducting assessments and rendering diagnoses of psychiatric disorders must have training in differential diagnosis and the full range of psychiatric conditions. The following professionals would generally be considered qualified to evaluate and diagnose psychiatric disorders provided they have comprehensive training in differential diagnosis and direct experience with an adolescent and/or adult population: licensed clinical psychologists, licensed clinical social workers, psychiatrists, and other relevantly trained medical doctors. Use of diagnostic terminology

indicating a psychiatric disorder by someone without training and experience in these fields is not acceptable.

B. Current Documentation

Because the provision of accommodations and services is based upon assessment of the **current** impact of the condition(s) on academic performance and access to educational activities, it is in an individual's best interest to provide recent and appropriate documentation. In general, for students with learning disabilities, this should be no more than five years old, and for students with ADHD, this should be no more than three years old. In the case of psychiatric disabilities, Acquired Brain Injury, and other disabilities that are subject to frequent change or are impacted by medication or other treatments, documentation should be more recent (e.g., within the past year). However, flexibility in accepting documentation is important, particularly if a previous assessment is applicable to the current or anticipated setting, if the student was an adult at the time of testing, or if the student has a long-standing history of receiving accommodations or services in school or in another postsecondary institution, and if the original testing used measures that were normed on adult populations.

If documentation is inadequate in scope or content, or does not address the individual's current level of functioning and need for accommodation(s), reevaluation may be warranted. While the IDEA does not require that school districts update evaluation data to determine postsecondary eligibility, districts may be asked to update a student's evaluation data to address a student's current level of functioning and need for accommodation. Furthermore, observed changes may have occurred in an individual's performance, or new medication(s) may have been prescribed or discontinued since the previous assessment was conducted. In such cases, it may be necessary to update the evaluation report and reassess the student's functional abilities with greater frequency. The update(s), conducted by a qualified professional, should include: a detailed assessment of the current impact of the condition, an integrated summary of relevant information, a rationale for ongoing services and accommodations, and previous diagnostic information. Postsecondary institutions may find some relevant information related to a student's level of academic achievement and functional performance in a comprehensive SOP. Conversely, because of state-to-state, and district-to-district variation in the scope of an SOP, not all SOP documents should be considered comprehensive, and thus, an SOP in and of itself, does not constitute adequate documentation. Professional judgment of the postsecondary service provider is required to make this determination.

While many postsecondary institutions define "current" documentation as assessments conducted within the past three years, the court in *Guckenberger v. Trustees of Boston University*, 974 F.Supp. 106 (D. Mass. 1997) ruled that it is improper for a college to require a reevaluation of a learning disability every three years for a student who is at least 18 years old, at least insofar as determining whether he/she still has the condition (Kincaid, 1997). Expert testimony reported that for adults with LD, reevaluation every five years is sufficient (Heyward, 1997). Although this case did not address the issue of needing current documentation to determine appropriate accommodations, this rationale is supported by the Office for Civil Rights (Kincaid, 1997). In contrast, expert testimony convinced the court that the symptoms of ADHD change in different environments, are often treated with medication, and may remit from adolescence to adulthood. Thus, the court did not find fault with Boston University's requirement that students with ADHD

undergo reevaluations every three years unless a qualified examiner determines that retesting is unnecessary (Kincaid, 1997).

C. Comprehensive Documentation

Disability documentation must verify the nature and extent of the impairment in accordance with current professional standards and techniques, and it must clearly address the need for all of the student's specific accommodation requests. Documentation should support the need for services based on the individual's current level of functioning in the educational setting. Students requesting accommodations for the manifestations of multiple disabilities must provide evidence of all such conditions.

Specific accommodations are required when *necessary* to enable the student to access his or her education. *Cf. PGA Tour v. Martin*, 532 U.S. 661 (2001). It is not uncommon for evaluators to recommend a range of accommodations and services for a particular student. The postsecondary provider will need to sort through these recommendations with the student to determine what accommodations are indeed necessary, to avoid giving the student an unfair advantage over his or her classmates or promoting accommodations that could substantially modify a program's standards.

A comprehensive assessment battery and the resulting diagnostic report should include background information (e.g., interview, review of records), assessment of areas appropriate for the specific impairment and a diagnosis. School plans such as an IEP, an SOP or a Section 504 Plan are useful but may not, in and of themselves, be sufficient documentation to establish the rationale for accommodations. Such plans may be included as part of a more comprehensive assessment battery and should be on clearly distinguishable district forms. All reports should be on letterhead, typed, dated, signed and legible.

The diagnostic report should include more than test protocol sheets or a summation of individual report information. It should integrate the various views regarding a student's specific functioning abilities and the resulting impact of these abilities as they relate to postsecondary educational demands. In a public school system, the IEP Team recommends the type of evaluations necessary for the educational programming of a student and provides a statement of eligibility for special education services. Such a multidisciplinary approach to evaluation may result in multiple reports or documents. A comprehensive SOP *might* include such a synthesis of relevant test data and functional performance information; but as noted previously, an SOP might not provide adequate documentation in and of itself.

A postsecondary institution has the discretion to require additional documentation if it is determined that the existing documentation is incomplete or inadequate to ascertain the existence of a disability or the need for accommodations. With a student's written permission, a telephone consultation with an evaluator to update or clarify information regarding the disability may be sufficient to complete the existing documentation. Any cost incurred in obtaining additional documentation when the original records are inadequate for postsecondary purposes is borne by the student. If the existing documentation is complete but the postsecondary institution desires a second professional opinion, the postsecondary institution bears the cost.

Comprehensive disability documentation should include the following six components. It is important to note that some reports may be comprehensive in some components and less so in others. Professional judgment is important in determining if a specific component is adequate. This may depend on the nature of the disability and the type(s) of services and accommodations being requested:

1. Evidence of existing impairment;
2. Background information (e.g., interview, review of records);
3. Relevant testing;
4. Specific diagnosis;
5. Rule-out of alternative diagnoses or explanations; and
6. Integrated summary.

1. Evidence of Existing Impairment

Statement of Presenting Problem(s): A statement of the individual's presenting problem(s) should be provided, including evidence of ongoing difficulties and behaviors that significantly impact functioning.

2. Background Information

Background information should be culled from a variety of sources (e.g., interview, review of records) and, whenever feasible, should consist of more than self-report. Information from third party sources is often invaluable.

The diagnostician, using professional judgment as to which areas are relevant, should review pertinent records and conduct an interview, which may include, but not necessarily be limited to, the following:

- History of presenting problem(s)/symptom(s);
- Any significant developmental, medical, psychosocial and employment histories;
- Family history (including primary language of the home and the student's current level of English fluency);
- Review of pertinent academic history of elementary, secondary and postsecondary education;
- Review of prior evaluation reports;
- Description of current functional limitations pertaining to an educational setting that are considered to be a direct result of the presenting problems; and
- Relevant history of prior treatment, therapy, interventions or accommodations with a discussion of how such interventions were effective in mitigating the functional limitations.

3. Relevant Testing

Assessment, and any resulting diagnosis, should consist of and be based on a comprehensive assessment battery that does not rely on any one test or subtest. Neuropsychological or psychoeducational assessment is important in determining the current impact of the impairment on the individual's ability to function in academically related settings. The evaluator should objectively review and include relevant background information to support the diagnosis in the evaluation report.

Standard scores should be provided for all normed measures, including all subtests administered. Grade equivalents and/or percentiles are not useful unless standard scores are also included. The tests used should be technically sound (e.g., statistically reliable, valid) and standardized for use with an adolescent/adult population. The test findings should document both the nature and severity of the disability. A profile of the particular student's strengths and weaknesses must relate to functional limitations that may warrant accommodations.

Interpretation of results is required. Test scores, subtest scores, or test protocol sheets alone are not sufficient and should not be used as a sole measure for the diagnostic decision. For example, in *Bartlett v. New York State Board of Law Examiners* (970 F. Supp. 1094 (S.D.N.Y.); 1997 U.S. Dist. Lexis 12227 (S.D.N.Y.)), the court made it clear that clinical judgment is critical to the diagnosis of learning disabilities; scores alone can form neither the basis of a diagnosis nor a denial of accommodation under the ADA or Section 504 (Simon, 1997). Selected subtest scores from measures of intellectual ability, memory functions tests, attention or tracking tests, or continuous performance tests do not, in and of themselves, establish the presence or absence of a specific disability. Informal inventories, surveys and direct observation by a qualified professional may be used in tandem with formal tests (i.e., standardized and norm- or criterion-referenced tests) to further develop a clinical hypothesis. All data must logically reflect a substantial limitation to learning or another major life activity for which the individual is requesting the accommodation.

Here, however, it is important to note that the ADA Amendments of 2008 expand the major life activities to include “thinking” “concentrating” “reading” and “communicating” as well as many other activities. Accordingly, it important for evaluators to consider addressing not just the impact of a condition on the student’s “learning” when making their analysis and drawing conclusions

The ADA Amendments direct federal agencies to revise their current regulations to be consistent with the Amendments. That effort could likely take a year or more. The reader should consult any revised regulations for further guidance, particularly on the question of what constitutes a substantial limitation of a major life activity.

Although the ADA Amendments of 2008 preclude consideration of mitigating measures in most instances (with the exception of the use of eyeglasses and contact lenses) for the purposes of determining whether an individual has a disability, this information is important for determining the nature and extent of accommodations.

4. Specific Diagnosis

The report must include a specific diagnosis of the condition by a qualified evaluator. It is important to rule out alternative explanations for problems such as emotional, attentional or motivational issues that may be interfering with a major life activity but do not constitute a specific disability. If the data indicate that a specific disorder is not present, the evaluator should state that conclusion in the report. The evaluator is encouraged to use direct language in the diagnosis and documentation of a specific disorder, avoiding the use of terms such as "suggests" or "is indicative of." It is important to note that the public school system is qualified to diagnose only educationally related disabilities in accordance with state guidelines (e.g., AD/HD;

intellectual disabilities/mental retardation, learning disabilities, speech and language impairment). The classification of Emotional Disturbance (ED) that is used in the K-12 system is not considered to be an acceptable diagnosis at the postsecondary level. “Test anxiety” alone is also not considered to qualify as a disability at the postsecondary level.

5. Rule-Out of Alternative Diagnoses or Explanations

The evaluator must investigate and discuss the possibility of dual or multiple diagnoses, where indicated, and alternative or co-existing conditions which may confound the specific diagnosis. This process should include exploration of possible alternative diagnoses as well as other factors impacting the individual, which may result in behaviors mimicking a specific disorder.

Because of the challenge of distinguishing normal behaviors and developmental patterns of adolescents and adults (e.g., procrastination, disorganization, distractibility, restlessness, boredom, academic underachievement or failure, low self-esteem, chronic tardiness, inattendance) from clinically significant impairment, a multifaceted evaluation should address the intensity and frequency of the symptoms and whether these behaviors are considered to constitute a substantial limitation to a major life activity.

6. Integrated Summary

A well-written summary based on a comprehensive evaluation process is a necessary component of the report. Assessment instruments and the data they provide do not diagnose; rather, they provide important elements that must be interpreted and integrated by the evaluator with background information, observations of the student during the testing situation, and the current context. It is essential, therefore, that professional judgment be used in the development of a summary. The summary should include:

- Demonstration of the evaluator's having ruled out alternative explanations for the presenting problems;
- Indication of the substantial limitation to learning or other major life activity presented by the specific disorder and the degree to which it impacts the individual in the educational context for which accommodations are being requested;
- Indication of whether or not the student was evaluated while on medication and the nature of the response to the prescribed treatment; and
- Indication as to why specific accommodations are needed, how the effects of the specific disorder can be accommodated and any record of prior accommodation or auxiliary aids.

D. Rationale for Recommended Accommodations

Accommodation needs can change over time and are not always identified through the initial diagnostic process. The evaluator(s) should describe the impact, if any, of the diagnosed impairment on a specific major life activity. The diagnostic report should include specific recommendations for accommodations that are reasonable, with the understanding that the postsecondary institution is vested with the sole authority for determining what is reasonable. When possible, a detailed explanation should be provided as to why each accommodation is recommended and should be correlated with specific functional limitations determined through interview, observation, and/or testing. Although prior documentation may have been useful in determining appropriate services in the past, to further facilitate the process of requesting

accommodations at the postsecondary level, current documentation should validate the need for services based on the individual's present level of functioning in the educational setting. A comprehensive SOP may provide this required information.

The documentation should include any record of prior accommodations or auxiliary aids, including information about specific conditions under which the accommodations were used (e.g., standardized testing, final exams, licensing or certification examinations) and whether or not they improved access to the targeted activity. A school plan such as an IEP, SOP or a Section 504 Plan is insufficient documentation, in and of itself, but can be included as part of a more comprehensive evaluative report. Regardless of a prior history of accommodations, a current need must be demonstrated to warrant the provision of a similar accommodation. If no prior accommodations were provided, the qualified professional and/or the individual should include a detailed explanation as to why accommodations are necessary at the present time although none had been required in the past.

Reasonable accommodation(s) may help to ameliorate the disability. The determination for reasonable accommodation(s) rests with the disability services professional staff member designated at each postsecondary institution working in collaboration with the individual with the disability and, when appropriate, college faculty. Because accommodations may vary based on course content and/or academic programs, faculty may be included in the determination process as well. If accommodations are not clearly identified in the documentation, the disability service provider should seek clarification and, if necessary, additional information.

A description of accommodations and related support services typically available at the postsecondary level is provided in Appendix C. This list is intended only to provide examples and should not limit the recommendations made by an evaluator for reasonable accommodations, which should be designed individually for the specific student and situation under consideration.

E. Confidentiality

The Family Educational Rights and Privacy Act (FERPA) governs the use and dispersal of educational records containing personally identifiable information pertaining to students, including students with disabilities. The U.S. Department of Education has ruled that evaluative information pertaining to a student, including medical and psychological reports authored by third parties, constitute “educational records” governed by FERPA. *University of North Alabama*, 104 LRP 58746 (FPCO 2004). In general, information contained in such records may not be released absent consent of the student. However, there are a number of important exceptions that permit disclosure without such consent, including when a health and safety emergency exists or when disclosure to a “school official” is justified for educational reasons. *See* 34 C.F.R. §§99.31(a)(1) and (10).

In general, disability service providers are committed to ensuring that disability-related information is carefully safeguarded. Even when information contained in an educational record may be released, providers limit disclosure to information that is essential to meet the inquiry. For example, providers do not share actual copies of evaluations with faculty unless they may be serving on some committee where such documentation is necessary in carrying out the committee’s function (e.g., readmission committee).

III. Documentation Guidelines for Specific Disabilities

It is the responsibility of a student who wishes to receive academic adjustments at the postsecondary level to provide comprehensive and current documentation that meets the guidelines noted above. Additionally, information that is specific to the condition should be provided. Specific information is as follows:

A. Acquired Brain Injury

Students requesting accommodation on the basis of an Acquired Brain Injury (ABI; also sometimes called Traumatic Brain Injury (TBI), must provide documentation (in most cases within two years) from a professional who has undergone comprehensive training and has relevant experience in the assessment of ABI in adolescents and/or adults (e.g. neuropsychologists, clinical or educational psychologists). The ADA Amendments of 2008 which expand major life activities to include “thinking” and “concentrating” enhance the likelihood that students diagnosed with this disorder will be eligible for consideration of accommodations. In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of an ABI must include but not be limited to:

1. A neuropsychological evaluation containing assessments of intellectual, conceptual and cognitive competence; academic skills; personality status; motor facility of all extremities; sensory, perceptual and processing efficiency; visual, auditory and tactile facility; speech, language and communication ability; and evaluation of memory and attention.
2. Utilization of particular evaluation techniques must be at the discretion of the evaluator. Measures, such as the following, will be expected to appear in the selected battery: Bender-Gestalt, Halstead Reitan Battery (or selected parts); Detroit Tests of Learning Aptitude - 4 (DTLA-4) or Detroit Tests of Learning Aptitude - Adult (DTLA-A); Luria Nebraska Battery (or selected parts); Peabody Individual Achievement Test-R/NU (or other adult individual achievement tests); Woodcock Reading Mastery Tests-Revised/NU; Woodcock-Johnson III; and the Spache Written Language Assessment.
3. An interview including a description of the presenting problem(s); developmental, medical, psychosocial and employment histories; family history (including primary language of the home and the student's current level of English fluency); and a discussion of dual diagnosis where indicated.
4. An integrated summary that:
 - Indicates executive functioning deficits expected to impact postsecondary education performance and appropriate accommodations;
 - Describes the impact of the limitations specifically on learning (e.g., reading, math, and written expression);
 - Identifies concerns with negotiation of the college environment (e.g., residential life and social expectations) and suggests strategies; and
 - States how the effects of the brain injury are mediated by the recommended accommodations.

B. Autism Spectrum Disorder/Asperger Syndrome

Students requesting accommodation on the basis of Autism Spectrum Disorder (ASD) must provide documentation from an appropriately credentialed professional who has undergone comprehensive training and has at least 5 years of experience diagnosing ASDs in children, adolescents or young adults (depending on age of student). The ADA Amendments of 2008 which expand major life activities to include “communicating” will likely render more students diagnosed with this disorder eligible for consideration of accommodations. The preferred form of documentation is in the form of a comprehensive neuropsychological evaluation accompanied by a clinical statement reviewing history and current symptoms. Comprehensive diagnostic evaluations should include, but not be limited to, the following:

- Thorough medical, family, and developmental history gathered by appropriate professional (developmental pediatrician, neurologist, psychiatrist, psychologist, neuropsychologists, etc.).
- Comprehensive psychological or neuropsychological examination, within the past three years, including a detailed discussion of the individual’s current cognitive functioning as it impacts the educational environment.
- Academic testing – standardized achievement tests, including standard scores; and a review of the academic record
- Current level of social/emotional functioning by separate evaluator if not contained in neuropsychological evaluation.
- Integrated narrative summary, including impact of symptoms on learning and/or communicating, ability to function in a residential college community and executive functioning deficits as relevant to postsecondary education.
- Clear identification of symptoms as they pertain to Diagnostic and Statistical Manual IV TR (DSM-IV TR) criteria for all relevant diagnoses.
- A clinical interview including a description of the presenting problem(s) including any significant developmental, medical, psychosocial and employment; family history; and a discussion of co-morbid diagnoses (if relevant). A comprehensive interview with parents or knowledgeable informants and a self-report is needed to obtain a view of the individual’s present function and ability.
- Prescribed medications, dosages and schedules which may influence the learning environment, including any possible side effects.
- Supplemental documentation may include evaluations by allied health professionals such as speech/language assessments, occupational therapy records, statements from therapist or other treating professionals.

C. Attention Deficit Hyperactivity Disorder

Students requesting accommodations on the basis of Attention Deficit Hyperactivity Disorder (ADHD) must provide documentation by a professional who has undergone comprehensive training and has relevant experience in differential diagnosis and the full range of psychiatric disorders (e.g., psychologists, psychiatrists, neuropsychologists and other relevantly trained medical doctors). The ADA Amendments of 2008 which expand major life activities to include “concentrating” will likely render more students diagnosed with this disorder eligible for consideration of accommodations. In addition to the requirements specified in Sections I and II,

documentation for students requesting accommodations on the basis of ADHD must include but not be limited to:

1. Evidence of early impairment. The condition must have been exhibited in childhood in more than one setting.
2. Evidence of current impairment. A history of the individual's presenting attentional symptoms and evidence of current impulsive/hyperactive or inattentive behaviors that significantly impair functioning in two or more settings must be provided. History of full assessment with current symptoms for past six months.
3. An interview. The interview must contain self-report and third-party information pertaining to: any significant developmental history; family history of ADHD or other educational, learning, physical or psychological difficulties; relevant medical and medication history; a thorough academic history; and a review of prior psychoeducational test reports to determine whether a pattern of strengths or weaknesses is supportive of attention or learning problems.
4. Description of relevant employment history, or lack thereof.
5. Descriptions of current functional limitations pertaining to an educational setting that are presumably a direct result of problems with attention.
6. Evidence of alternative diagnoses or explanations that have been ruled out. The documentation must investigate and discuss the possibility of alternative or co-morbid mood, behavioral, neurological, learning and/or personality disorders that may confound the ADHD diagnosis. For a diagnosis of ADHD, the symptoms may not occur exclusively during the course of a Pervasive Developmental Disorder, Schizophrenia, or other Psychotic Disorder, and are not better accounted for by another mental disorder (e.g., Mood Disorder, Anxiety Disorder, Dissociative Disorder, or a Personality Disorder).
7. A discussion of the neuropsychological or psychoeducational assessments administered to determine the current impact of the disorder on the individual's ability to function in an academic setting. Such data should include standard scores, standard deviations and percentiles reported in table format for those subtests administered.
8. A specific psychiatric diagnosis as per the Diagnostic and Statistical Manual-IV TR (DSM-IVTR) of the American Psychiatric Association (2000). Symptoms of hyperactivity/impulsivity which were present in childhood and the current symptoms which have been present for at least the past six months and which impair functioning in two or more settings (e.g., school, work, and home) must also be identified.
9. An indication of whether or not the student was evaluated while on medication, and whether or not the prescribed treatment produced a positive response.
10. Prescribed medications, dosages and schedules that may influence the types of accommodations provided, including any possible side effects.
11. An integrated summary that:
 - indicates the substantial limitations to major life activities posed by the disability,
 - describes the extent to which these limitations would impact the academic context for which accommodations are being requested,
 - suggests how the specific effects of the disability may be accommodated, and
 - states how the effects of ADHD are mediated by the recommended accommodations.

D. Blindness or Low Vision

In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of low vision or blindness must include but not be limited to:

1. An ocular assessment or evaluation from an ophthalmologist.
2. A low-vision evaluation of residual visual function, when appropriate.
3. Suggestions as to how the functionally limiting manifestations of the disabling condition(s) may be accommodated.

E. Deaf/Hard of Hearing

In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of being Deaf or hard of hearing must include but not be limited to:

1. An audiological evaluation and/or audiogram administered by an otorhinolaryngologist, otologist, or licensed audiologist.
2. An interpretation of the functional implications of the diagnostic data and hearing aid evaluation, when appropriate.
3. Suggestions on how the functionally limiting manifestations of the disabling condition (s) may be accommodated. If the audiological report does not include recommendations for accommodations, an audiologist should be consulted – an educational audiologist is preferable.
4. The age of acceptable documentation is dependent upon whether the disabling condition is static or changing.

F. Intellectual Disabilities

Students requesting accommodation on the basis of an intellectual disability (formerly known as mental retardation) must provide documentation from a professional who has comprehensive training and relevant experience in the assessment of intellectual disability in adolescents and/or adults (e.g., clinical or educational psychologists, school psychologists, neuropsychologists, special education teachers). At the secondary level, eligibility for services under the category of ID may be determined by a multidisciplinary team and therefore include reports completed by special and general education teachers. It should be noted that students with intellectual disability who may have received modifications to essential course requirements in their secondary program may not be eligible for similar modifications in the postsecondary setting. Postsecondary institutions are not required to modify the essential course requirements and expectations as a reasonable accommodation for students with disabilities.

In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of intellectual disability must include, but is not limited to:

1. An interview including a description of the presenting problem(s); any significant developmental, medical, psychosocial and employment histories; family history

(including primary language of the home and the student's current level of English fluency); and a discussion of dual diagnosis where indicated.

2. A complete assessment of intellectual functioning/aptitude as measured by the Wechsler Adult Intelligence Scale-III (WAIS-III) with standard and scaled scores, including subtest scores. The Woodcock-Johnson Psychoeducational Battery-Revised: Tests of Cognitive Ability or the Stanford-Binet Intelligence Scale: Fourth Edition are also acceptable. Tests such as the Leiter International Performance Scale and the Kaufman Assessment Battery for Children may also be utilized. The Kaufman Brief Intelligence Test (KBIT) and the Slosson Intelligence Test - Revised are NOT comprehensive measures and therefore are not suitable for use in the initial diagnosis of a learning disability).
3. A comprehensive academic achievement battery that measures current levels of functioning in reading (decoding and comprehension), mathematics and oral and written language (e.g., Woodcock-Johnson Psychoeducational Battery - Revised: Tests of Achievement, Wechsler Individual Achievement Test (WIAT), Stanford Test of Academic Skills (TASK), Scholastic Abilities Test for Adults (SATA), or specific achievement tests - Test of Written Language-3 (TOWL-3), Woodcock Reading Mastery Tests-Revised, Stanford Diagnostic Mathematics Test). All standard scores, standard deviations and percentiles must be reported for those subtests administered. (The Wide Range Achievement Test-3 (WRAT-3) is NOT a comprehensive measure of achievement and is therefore not suitable).
4. Measures of functional performance across all domains, (e.g. English Language Arts, Mathematics, Behavioral/Social/Emotional, Communication, Vocational/Transition, Health and Development including Vision and Hearing, Fine and Gross Motor, and Activities of Daily Living) may be helpful in presenting a holistic view of the student. A comprehensive SOP (Summary of Performance) and a student portfolio may contain critical information pertaining to the student's:
 - Strengths, needs, preferences and interests
 - Need for accommodations and the use of assistive technology
 - History of employment, volunteer and community work experiences
 - Ability to function in the college environment, considering both the social expectations, and residential life (as appropriate)
 - Learning style, specifically in the areas of reading, mathematics and written and oral expression
5. A specific diagnosis of intellectual disability. There is currently considerable variability in the definition of intellectual disability between definitions advocated by the American Association on Intellectual Disability (AAID), other professional associations, and state departments supporting people with intellectual disability. According to the AAID 2002 definition, "Mental retardation is a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical adaptive skills. This disability originates before the age of 18. A complete and accurate understanding of mental retardation involves realizing that mental retardation refers to a particular state of functioning that begins in childhood, has many dimensions, and is affected positively by individualized supports. As a model of functioning, it includes the contexts and environment within which the person functions

and interacts and requires a multidimensional and ecological approach that reflects the interaction of the individual with the environment, and the outcomes of that interaction with regards to independence, relationships, societal contributions, participation in school and community, and personal well being.” Given the variability in definitional clarity on intellectual disability, disability support services personnel are encouraged to give considerable weight to the clinical judgment of the evaluating professional.

6. Terms such as Individual "learning styles," "learning differences," "academic problems," and “slow learner” and "test difficulty or anxiety," in and of themselves, do not constitute an adequate diagnosis of intellectual disability. It is important for the evaluator to demonstrate that alternative explanations for academic problems as a result of poor education, poor motivation and/or study skills, emotional problems, attention problems and cultural/language issues that may be interfering with learning, but that do not constitute intellectual disability, have been ruled out.)
7. An indication of how patterns in the student's cognitive ability, achievement and information processing reflect the presence of intellectual disability.
8. An integrated summary which:
 - indicates the substantial limitations to major life activities posed by the intellectual disability,
 - describes the extent to which these limitations impact the academic context for which accommodations are being requested,
 - suggests how the specific effects of the intellectual disability may be accommodated, and states how the effects of the intellectual disability are mediated by the recommended accommodations.)

G. Learning Disabilities

Students requesting accommodation on the basis of a specific learning disability must provide documentation from a professional who has undergone comprehensive training and has relevant experience with conducting psycho-educational assessments with adolescents or adults (e.g., clinical or educational psychologists, school psychologists, neuropsychologists, learning disabilities specialists). At the secondary level, eligibility for services under the category of LD may be determined by a multidisciplinary team and therefore include reports completed by special education teachers. The Americans with Disabilities Act Amendments of 2008 expand the definition of major life activities to include “reading.” Accordingly, an evaluator might wish to analyze a student’s assessment results not just in terms of “learning” but in “reading” as well. In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of a learning disability must include, but is not limited to:

1. Pertinent background information, including a description of the presenting problem(s); any significant developmental, medical, psychosocial and employment histories; family history (including primary language of the home and the student's current level of English fluency); and a discussion of co-morbidity where indicated.
2. A complete assessment of intellectual functioning/aptitude, preferably, but not limited to the Wechsler Adult Intelligence Scale-III (WAIS-III) with standard and scaled scores, including subtest scores. The Woodcock-Johnson III: Tests of Cognitive Ability or the Stanford-Binet Intelligence Scale: Fifth Edition is also acceptable. The Kaufman Brief

3. A comprehensive academic achievement battery that measures current levels of functioning in reading (decoding and comprehension), mathematics and oral and written language (e.g., Woodcock-Johnson III: Tests of Achievement, Wechsler Individual Achievement Test II (WIAT II), Stanford Test of Academic Skills (TASK), Scholastic Abilities Test for Adults (SATA), or specific achievement tests - Test of Written Language-3 (TOWL-3), Woodcock Reading Mastery Tests-Revised/NU, Stanford Diagnostic Mathematics Test, Nelson-Denny). All standard scores, standard deviations and percentiles must be reported for those subtests administered. The Wide Range Achievement Test-3 (WRAT-3) and the Wide Range Achievement Test-4 are NOT comprehensive measures of achievement and are therefore not suitable unless combined with other measures as appropriate. Test selection must be guided by the age of the student and the test norms. Tests used should also be technically sound (e.g., statistically reliable, valid) and standardized for use with an adolescent/adult population.
4. An assessment of specific areas of information processing (e.g., short- and long-term memory, sequential memory, sequential and simultaneous processing, auditory and visual perception/processing, processing speed, working memory, motor ability). Information from subtests on the WAIS-III, the WJIII Tests of Cognitive Ability, or the Detroit Tests of Learning Aptitude - Adult (DTLA-A), as well as other instruments relevant to the presenting learning problem(s) may be used to address these areas.
5. Other assessment measures such as non-standard measures and informal assessment procedures or observations may be helpful in determining performance across a variety of domains. Formal assessment instruments may be integrated with these types of measures to help determine a learning disability and differentiate it from co-existing neurological and/or psychiatric disorders (i.e., to establish a differential diagnosis). In addition to standardized tests, it is also very useful to include informal observations of the student during the test administration.
6. A diagnosis of a specific learning disability. Individual "learning styles," "learning differences," "academic problems," and "test difficulty or anxiety," in and of themselves, do not constitute a learning disability. It is important for the evaluator to demonstrate that alternative explanations for academic problems as a result of poor education, poor motivation and/or study skills, emotional problems, attentional problems and cultural/language issues that may be interfering with learning but do not constitute a learning disability have been ruled out.
7. An indication of how patterns in the student's cognitive ability, achievement and information processing indicate the presence of a learning disability.
8. An integrated summary that:

- indicates the substantial limitations to major life activities (e.g., learning, reading, thinking) posed by the specified learning disability;
- describes the extent to which these limitations impact the academic context for which accommodations are being requested;
- suggests how the specific effects of the learning disability may be accommodated; and
- states how the effects of the learning disability are mediated by the recommended accommodations.

H. Physical Mobility, Dexterity, and Chronic Health-Related

The Americans with Disabilities Act Amendments of 2008 expand the definition of major life activities to include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Pertinent here are new additional major life activities such as thinking, eating, sleeping and concentrating which may be substantially limited by these conditions. In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of physical mobility, dexterity, or chronic health-related disabilities must include:

1. An identification of the disabling condition(s).
2. An assessment of the functionally limiting manifestations of the condition(s) for which accommodations are being requested.
3. Degree and range of functioning for a chronic or progressive condition.
4. Prescribed medications, dosages and schedules that may influence the types of accommodations provided, including any possible side effects.
5. Suggestions as to how the functionally limiting manifestations of the disabling condition(s) may be accommodated.

I. Psychiatric Disorders

Students requesting accommodations on the basis of a psychiatric disorder must provide documentation from a professional who has undergone comprehensive training and has relevant experience in differential diagnosis and the full range of psychiatric disorders (e.g., licensed clinical psychologists, psychiatrists, Psychiatric Advanced Practice Registered Nurse (APRN) licensed clinical social workers, and other relevantly trained medical doctors). The Americans with Disabilities Act Amendments of 2008 expand the definition of major life activities to include thinking, sleeping, concentrating, eating, stooping, bending, standing and communicating which will likely result in the identification of more students with these types of disorders. The Act does not cover conditions that are likely to resolve in six months or less. However, the Act includes conditions that are cyclical in nature and the disability determination should be made based on consideration of when the condition is active. In addition to the requirements specified in Sections I and II, documentation for students requesting accommodations on the basis of a psychiatric disability must include:

1. A recent evaluation or updated assessment, preferably within the past six months – due to the changing nature of psychiatric disorders.

2. An interview including a description of the presenting problem(s) including any significant developmental, medical, psychosocial and employment; family history; and a discussion of dual diagnosis where indicated.
3. A specific, current psychiatric diagnosis as per the Manual-IVTR (DSM-IVTR) of the American Psychiatric Association (2000), which indicates the nature, frequency and severity of the symptoms upon which the diagnosis was predicated. A diagnosis without an explicit listing of current symptoms is not sufficient. Emotional Disturbance (ED) is an educational label and does not alone constitute a disability at the postsecondary level.
4. Primary and secondary Axis I and Axis II diagnoses. A measure of functioning using the Global Assessment of Functioning (GAF) Scale in the DSM-IVTR is highly recommended. Using the GAF, indicate the student's general, highest and lowest GAF score and describe behaviorally the student's performance at each GAF level using as much detail as is known.
5. Prescribed medications, dosages and schedules that may influence the learning environment and types of accommodations, including any possible side effects.
6. An indication of whether or not the student was evaluated while on medication, and whether or not the prescribed treatment produced a positive response.
7. An integrated summary that:
 - indicates the substantial limitations to major life activities posed by the psychiatric disability,
 - describes the extent to which these limitations would impact the academic context for which accommodations are being requested,
 - suggests how the specific effects of the psychiatric disorder may be accommodated, and
 - states how the effects of the psychiatric disorder are mediated by the recommended accommodations.

J. Other Conditions/Impairments

In addition to the requirements specified in Sections I and II, consumers and professionals are advised to discuss the requirements of appropriate documentation for students requesting accommodations on the basis of other conditions/impairments with postsecondary disability service providers.

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