

UNIVERSITY AT BUFFALO LAW SCHOOL

**COMMITTEE ON LAW STUDENTS
WITH SPECIAL NEEDS**

**POLICY AND GUIDELINES
FOR
LAW STUDENTS WITH DISABILITIES**

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I. Statement of General Policy¹

It is the policy of the University at Buffalo Law School, in compliance with Section 504 of the Rehabilitation Act of 1973 and Titles I and II of the Americans with Disabilities Act of 1990 (ADA) regarding academic adjustments, to provide educational program accessibility to otherwise qualified individuals with disabilities.

Enrolled students with disabilities will be provided with reasonable and necessary modifications² that do not fundamentally alter the academic program of the Law School or place an undue financial or administrative burden on the Law School. Individual students will be provided with such reasonable and necessary modifications on the basis of specific information and assessment data documentation provided by qualified professionals.

Students with disabilities who require modifications in any other program or activity of the University at Buffalo may request reasonable modifications through the University at Buffalo's Office of Disability Services, 25 Capen Hall, (716) 645-2608, TDD/TTY (716) 645-2616, fax (716) 645-3116. We are unable to make modifications outside of the Law School and its curriculum.

¹ This Statement of General Policy is limited to students with disabilities and does not address obligations of the Law School or the University regarding employees with disabilities.

² The regulations implementing Section 504 of the Rehabilitation Act, at 34 C.F.R. §104.41 et. seq. and Title II of the Americans with Disabilities Act use the term "modification" instead of the term "accommodation."

II. Definitions

1. **A person with a disability** is an individual who has a physical or mental impairment that substantially limits one or more major life activities; (ii) has a record of such impairments; or (iii) is regarded as having such impairment.³

2. **Major life activities** are the activities in which people engage in daily. Some examples are: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, working, and learning. The individual in question is said to be substantially limited in one or more of such major life activities if the conditions, manner, or duration under which the major life activity can be performed is considerably restricted, compared to most people, that is, the average person the individual would encounter in daily life.⁴

3. **An otherwise qualified law student with a disability** is an individual with a disability who meets the academic and technical standards requisite to admission or participation in the Law School's educational program and activities.⁵ The qualifications for admission to the Law School are stated in the Law School Catalog. The qualifications for participation in the Law School's educational programs and activities are stated in the General Academic Requirements and Policies.

³ 34 C.F.R. §104.3(j). The term "person with a disability" is substituted for "handicapped persons" as defined under Section 504 of the Rehabilitation Act. Such terms, and terms such as "individual with a disability" and "disabled person", may be used interchangeably. See also 42 U.S.C. §12102(2).

⁴ <http://www.ub-disability.buffalo.edu/document.php>.

⁵ 34 C.F.R. §104.3(k) (3). See also 42 U.S.C. §12131(2).

III. Admissions

Applicants are not required to indicate on the Law School's application form that they have a disability. An indication on the LSDAS form that the applicant took an accommodated LSAT will not be the basis for discrimination. If the applicant wishes to have the disability considered as a factor in the admissions process, providing appropriate documentation of the disability may be necessary. Such documentation is provided on a voluntary basis. Information provided to the Admissions Committee or its designees does not become part of the law student's Admissions or Records and Records file and will be kept confidential, except to the extent necessary to provide modifications needed by the applicant in the Admissions process. The Law School Admissions Committee will use such information only to evaluate whether past performance difficulties reflected in the applicant's academic record should be considered in light of the applicant's disability.⁶

After the admission of any applicant, the Law School invites and encourages students with disabilities to voluntarily self-identify for the purpose of verifying the disability and documenting the need for reasonable and necessary modifications in the Law School program. In an effort to have modifications in place when the student commences study, the Law School will attempt to determine what modifications need to be provided.

⁶ 34 C.F.R. §104.42.

IV. Policies and Procedures for Enrolled Students

A. Identification and Verification of Disability

Law students with disabilities who require modifications must identify themselves to the Vice Dean for Student Affairs who can be reached at 314 O'Brian Hall, (716) 645-6223. Law students with disabilities seeking reasonable modifications should include a description of their disability with documentation from an appropriate professional. The description should include the student's current telephone number and address and when applicable, documentation provided should contain additional supporting information that would aid the student and the Vice Dean for Student Affairs in identifying effective services and academic adjustments. "Some examples are: treatment plans, medications and their impact on patient functioning, triggering mechanisms, activities or conditions to be avoided or modified, safety information, mitigating measures, etc."⁷ Information provided to Vice Dean does not become part of the law student's Records and Records file and will be kept confidential, except to the extent necessary to provide modifications needed by the law student.

The comprehensive assessment must provide data to support the request for any academic modification and/or modification. In the event that a student requests an academic adjustment or modification that is not supported by the data in the assessment, or if the initial verification is incomplete or inadequate to determine the extent of the disability and appropriate modifications, the Law School has the discretion to require supplemental assessment of the physical disability. The student must bear the cost of this supplemental assessment. If the Law School requires additional

⁷ <http://www.ub-disability.buffalo.edu/document.php>.

assessment to obtain a second professional opinion then the Law School shall bear any cost not covered by any third party payer.

1. Verification of Physical Disability (including chronic health impairments)

A student with a physical disability must provide professional verification by a certified or licensed physician, psychologist, audiologist, speech pathologist, occupational therapist, physical therapist, rehabilitation counselor, or other professional health care provider who is qualified in the diagnosis of the disability. The verification must reflect how the disability will affect the student's ability to participate in the Law School program. Documentation should be current, preferably within the last six months for chronic health impairment, or the last three years for a permanent physical disability. The student must provide the verification documentation to the Vice Dean for Student Affairs. The student bears the cost of obtaining the professional verification.

2. Verification of Learning Disability

A student with a learning disability must provide professional verification, educational records, and evaluation results that reflect the individual's present level of processing information and present achievement level. The student will bear the cost of obtaining the professional verification. Documentation should be current, preferably within the last three years. If a student chooses to obtain a new evaluation and plans to take the New York State Bar Examination upon graduation, the student should refer to the New York State Board of Law Examiner Instructions for Requesting Test Modifications and Guidelines for the Documentation of Disabilities.⁸

⁸ http://www.nybarexam.org/ada_accom.htm

The four criteria necessary to establish a student's eligibility for modifications or modifications because of a learning disability are:

- (1) average or above-average intelligence as measured by a standardized intelligence test which includes assessment of verbal and nonverbal abilities;
- (2) a cognitive-achievement discrepancy or an intra-cognitive discrepancy indicated by a score on a standardized test of achievement which is 1.5 standard deviations or more below the level corresponding to a student's sub-scale or full-scale intelligence quotient (IQ);
- (3) disorders in cognitive or sensory processing such as those relating to memory, language, or attention; and
- (4) absence of other primary causal factors leading to achievement below expectations such as visual or auditory disabilities, emotional or behavioral disorders, a lack of opportunity to learn due to cultural or socioeconomic circumstances, or deficiencies in intellectual ability.

Documentation verifying the learning disability must:

- (A) be prepared by a professional qualified to diagnose a learning disability, including but not limited to a licensed physician, learning disability specialist, or psychologist;
- (B) include the testing procedures followed, the instruments used to assess the disability, the test results, and a written interpretation of the test results by the professional;
- (C) reflect the individual's present level of functioning in the achievement areas of: reading comprehension, decoding, reading rate, written expression, and writing mechanics, including vocabulary, grammar and spelling; and

- (D) reflect the individual's present level of functioning in the areas of intelligence and processing skills.

In addition to presentation and analysis of test scores, the provider may apply educational history, student experience as assessed in a clinical interview or professional observations of student behavior during the assessment procedure. Subjective information may corroborate or contradict objective data, so the provider should take care to report the findings and state whether a specific and substantial learning disability is present. Finally, though accommodation recommendations are welcome and will be considered as a part of the [disability] review, they are not required and may not be followed - depending on educational practicability and reasonableness.⁹

3. Verification of a Mental Disability (including emotional disabilities and attention deficit disorder)

A student with a mental disability must provide professional evaluation by a licensed clinical psychologist or physician, preferably a psychiatrist. The diagnostician must be an impartial individual who is not a family member of the student. The student must provide the verification documentation to the Vice Dean for Student Affairs. The student will bear the cost of obtaining the professional verification. Documentation should be current, preferably within the last three years (the age of acceptable documentation is dependent upon the disabling condition, the current status of the student and the student's request for modifications).

Documentation serves as the foundation that legitimizes a student's request for appropriate modifications. Documentation verifying the mental disability must include:

- (1) a clear statement of the disability, including the DSM-IV diagnosis and a summary of present symptoms;

⁹ <http://www.ub-disability.buffalo.edu/document.php>

- (2) a summary of assessment procedures and evaluation instruments used to make the diagnosis and a summary of evaluation results, including standardized or percentile scores (where appropriate);
- (3) medical information relating to the student's needs, including the impact of medication on the student's ability to meet the demands of the Law School environment; and
- (4) a statement of the functional impact or limitations of the disability on learning or other major life activities, including the degree to which it impacts the individual in the Law School environment and the need for any modifications that are being requested.

Further assessment by an appropriate professional may be required if co-existing learning disabilities or other disabling conditions are indicated. To be considered disabled, students with attention deficit disorder must meet the DSM-IV criteria for diagnosis with a severity rating of moderate to severe, in order to meet the definition of a qualified individual with a disability. The assessment must provide data to support the requests for any academic accommodations. Accommodation recommendations must be specific (such as testing in a separate location), but the final determination for an accommodations rests with the Law School after consultation with the student.

A comprehensive a DSM-IV assessment should address the DSM-IV diagnostic criteria in detail. A summary statement that those criteria have been met is insufficient on its own to document a necessity for reasonable accommodation. To be authoritative, the documentation must be prepared by a licensed professional who has had specific training to make differential mental diagnoses. This include: psychiatrists, psychologists, neurologists, pediatricians, and some social workers, for example. Family practitioners and school psychologists are not ordinarily qualified to conduct comprehensive assessments of ADHD for purposes of documenting disability, even though family practitioners routinely diagnose ADHD and prescribe treatment medication. Most important, a brief letter indicating that the student has ADHD, takes medication to treat ADHD, and needs reasonable accommodation is

very unlikely to pass the Disability Service review, for its lack of comprehensiveness.¹⁰

4. Verification of a Temporary Disability

Students seeking modifications on the basis of a temporary disability must provide documentation verifying the nature of the condition and describing the requested modifications.¹¹ Such verification must be provided by a health care professional who is qualified in the diagnosis of such conditions. The assessment or verification of disability must reflect the student's current level of disability, and must not be more than sixty days old. The cost of obtaining the professional verification will be borne by the student.

If the initial verification is incomplete or inadequate to determine the extent of the disability and appropriate modifications, the Law School shall have the discretion to require supplemental assessment of a temporary disability. The cost of the supplemental assessment will be borne by the student. If the Law School requires an additional assessment for purposes of obtaining a second professional opinion, the Law School will bear any cost not covered by any third party payer.

B. Determination of Reasonable Modifications

Modifications for law students with disabilities are individualized to reasonably accommodate a student's disability. Modifications are provided pursuant to an Accessibility Plan developed individually in consultation with the student who voluntarily discloses and documents her or his disability.

¹⁰ <http://www.ub-disability.buffalo.edu/document.php>

¹¹ A temporary disability is not a disability or handicap as defined by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990; however, it is the policy of the Law School to provide reasonable and necessary modifications when feasible. In any event, such modifications will not be provided if they fundamentally alter the academic program of the Law School or place an undue financial or administrative burden on the Law School.

Each law student seeking modifications for a disability will be asked to submit to the Vice Dean for Student Affairs appropriate documentation of her or his disability, a history of academic adjustment or modifications received in post-secondary institutions or employment, and a statement of the requested modifications. Law students who indicated the existence of a disability in their application for admission should not assume that the Law School is on notice of their accommodation needs.

The Vice Dean for Student Affairs will review all documents submitted with the assistance of other appropriate Law School and University personnel, as necessary, to verify a disability and to determine, in consultation with the student, the reasonable and necessary modifications the Law School will provide.

5. Documenting Other Mental Disabilities

To be authoritative, the documentation of other mental disabilities should be prepared by a psychiatrist, psychologist, psychiatric or clinical social worker, psychiatric nurse practitioner, etc. However, most of the more common mental impairments such as generalized anxiety, depression, etc.; do not necessarily rise to the level of causing disability. Thus, when documenting common mental impairments the documentation must clearly describe how such an impact is created by such conditions as to substantially limit major life activities or necessitate reasonable accommodation. A brief letter stating that the student has one of those common mental impairments and needs reasonable accommodation is very unlikely to pass the *Vice Dean for Student Affairs* review for clarity and comprehensiveness. Test anxiety, stage fright, and the like ordinarily are not seen as disabilities unless they are functional limitations of more encompassing impairments.¹² Documentation such as an Individualized Education Program (IEP) or Section 504 Plan is an

¹² <http://www.ub-disability.buffalo.edu/document.php>

educational record that rarely stands on its own as documentation of adult disability. Although such documentation may serve to supplement clinical information, a child's need of special education does not necessarily mean that the child will become an adult with a disability as indicated by more general regulations confirming disability-rights.¹³ Although most educational records such as an IEP contain comprehensive disability assessment prepared by an authoritative provider, records of that kind are routinely taken by the Vice Dean of Student Affairs as authoritative disability documentation, and will be reviewed as support of the student's reasonable accommodation request.

Law students who are taking courses outside the Law School and who require modifications due to their disability must obtain these modifications through the University at Buffalo's Office of Disability Services,¹⁴ or the disability services office of the other school they are attending. The Law School is unable to provide any modifications for courses taken outside the Law School.

C. Course Modifications

Academic modifications in Law School courses will be designed to meet the student's documented needs related to his or her disability as long as they do not fundamentally alter the nature of the Law School curriculum or create an undue financial or administrative burden. Modifications are not intended to remediate academic deficiencies or rehabilitate impairments. Students should refrain from requesting modifications for which they do not have a documented need.

Procedure: Law students needing course modifications should make a written request to the Vice Dean for Student Affairs well in advance of the start of classes. Requests for modifications

¹³ Id.

¹⁴ <http://www.ub-disability.buffalo.edu/>, 25 Capen Hall, (716) 645-2608.

must be made at least three weeks before classes start, although some modifications will require more time for implementation. Students should select their courses as early as possible, to ensure that modifications can be implemented by the beginning of classes. Accessibility Plans will be developed to make the reasonable course modifications required by the student's documented disability. Any questions regarding modifications or Accessibility Plans should be directed to the Vice Dean for Student Affairs.

Students receiving modifications will meet upon request with the Vice Dean for Student Affairs to evaluate the effectiveness of the modifications in place. Students should immediately report any dissatisfaction with a modification to the Vice Dean for Student Affairs. Additionally, modifications are subject to review and possible termination in the event of any change in the nature of the student's disability or the student's failure to utilize properly the services provided.

Two possible modifications are described below to illustrate the type of modifications that may be offered. Because each law student with a disability has unique needs, the modifications provided will reflect the terms of a student's individualized Accessibility Plan.

1. Modification of Written Class Materials

Procedure: For students whose disability requires modification of class materials (enlarged, Braille or in electronic format) the modification of materials is free. Students must purchase the materials to be modified. Books that must be purchased cannot be borrowed from the Law Library or from instructors for the purpose of photocopying or scanning. Materials available in the Law School bookstore will be provided in modified formats with appropriate prior notice and pursuant to an Accessibility Plan. Students can obtain recordings of textbooks from Recordings for the Visually Impaired and Dyslexic (formerly Recordings for the Blind). It is highly recommended that student

needing this modification register with this service so that it will continue to be an available resource during their careers.

Time Needed: Modifying class materials generally will require at least several weeks. Requests for modification of materials should be made as soon as the student receives a copy of her/his class schedule. Students should submit the materials to be modified as soon as possible, but at least one month before the start of the semester. Modification of materials is a labor-intensive process; if requests are received less than one month before the start of classes, the Law School may not be able to complete the necessary modifications prior to the start of classes.

2. Notetakers and electronic recording of classes

Procedure: The use of notetakers or electronic recording of classes will be provided only for students who have a documented, disability-related need to accommodate their disability. The Law School will not provide notes or other electronic recording of class session for classes that are missed due to matters unrelated to the student's disability, such as a short-term illness or conflicting obligation. Classes may be taped for students who will miss class due to a long-term illness or hospitalization related to their disability, if prior authorization is obtained from the Vice Dean for Student Affairs and the professor for that course.

Tapes provided to the student remain the property of the Law School and should be returned promptly after use. Notes and/or tapes of classes provided as a modification shall not be sold and/or shared with other students.

Time needed: With prior authorization, students will be responsible for photocopying the class notes and returning the original to the note taker. If the student is physically unable to photocopy, the Law School will photocopy them. The notes should be brought to the office of the Vice Dean for Student Affairs, 314 O'Brian Hall. The Law School will make every effort to return

the notes to the student within two days after they are submitted to the office of the Vice Dean for Student Affairs.

D. Physical Accessibility within the Law School

Procedure: If a Law School class or sponsored activity is scheduled in a location that is inaccessible to a student with a disability; the student should identify the accessibility problem to the Vice Dean for Student Affairs. The Vice Dean will try to have the location made more accessible or, if this is not possible, to have the class or activities moved to an accessible location.

E. Examination and Paper/Project Modifications

Procedure: Approximately one month prior to exams, notices are sent to students with disabilities who have been identified to the Vice Dean for Student Affairs. **Students requiring examination modifications due to their disability should submit a written request for examination modifications to the Vice Dean for Student Affairs by the deadline stated in the Examination Policy and Schedule. It may not be possible to arrange accommodations if they are not requested at least three weeks prior to the start of the examination period. Students enrolled in summer school should submit their examination modification requests by the end of the third week of summer school classes.** Modifications requested must be consistent with the student's disability as documented by an appropriate professional. It is the student's responsibility to request modifications in a timely manner. Failure to request modifications in a timely manner may create a situation where a modification is an undue administrative or financial burden on the Law School or University.

The Vice Dean for Student Affairs may, in her discretion, reschedule an exam or extend a deadline on a course paper or project beyond the date originally agreed upon in the Accessibility

Plan. Such extensions or rescheduling will be done **only** when the student provides additional documentation from an appropriate professional that this particular modification is necessary due to the student's disability. Requests for changes in examination dates and times that are not related to student's disability must be made with a Request for a Change of Examination form available in Records and Registration, 304 O'Brian Hall. Extensions cannot be granted beyond one month from the due date for examinations.

V. Confidentiality

Students with disabilities who do not require modifications from the Law School need not disclose their disabilities to the Vice Dean for Student Affairs. For students who choose to disclose their disabilities and provide documentation to the Law School, all information regarding the student's disability and modifications is treated as confidential information under applicable federal, state, and university laws and policies.¹⁵ Information about a student's disability is only provided to those individuals who require such information to implement requested and needed modifications and to individuals with a legitimate educational interest. Faculty members who are informed of a disability are advised that this information is confidential.

VI. Grievance Procedure

Student with disabilities who are not satisfied with their modifications and/or Accessibility Plan should discuss the matter immediately with the Vice Dean for Student Affairs. Students dissatisfied with the response of the Vice Dean may submit a letter of appeal to the Chair of the

¹⁵ See FERPA 34 C.F.R. Part 99.

Committee on Law Students with Special Needs.¹⁶ The letter should specify the nature of the disagreement and the desired resolution. Using a substantial evidence standard, the chair will review the matter to determine whether the student's Accessibility Plan provides a reasonable modification of her or his disability.

¹⁶ The name of the Chair of the Law School's Committee on Law Students with Special Needs may be obtained from the Law School Dean's Office, 319 O'Brian Hall, (716) 645-2052.

Students dissatisfied with the decision of the Committee Chair may appeal in writing to the Dean of the Law School. Using a substantial evidence standard, the Dean or his designee will review the matter to determine whether the student with a disability was provided with reasonably modifications.

Please visit the websites listed below for more information on Disability Services:

<http://disabilityinfo.gov>

The United States government provides a Web portal to federal information and regulations pertaining to disability access.

<http://www.ncd.gov/>

The National Council on Disability is a federal agency reporting to the Congress and President on issues and developments pertaining to the rights of Americans with Disabilities.

<http://nod.org>

In addition to keeping you up to date on the National Organization on Disability's most recent developments, the N.O.D. web site provides you with the latest in disability-related news, information and resources.

<http://ahead.org>

Association on Higher Education And Disability (AHEAD) is a membership organization of professionals in various fields of practice to improve opportunities for individuals with disabilities in higher education.

<http://codi.buffalo.edu/>

Cornucopia Of Disability Information serves as a community resource for consumers and professionals by providing disability information in a wide variety of areas. It consists of both an Internet Directory of Disability Information and a repository of electronic disability documents, dating back to the early 1990s. Many of the documents on CODI are publicly available nowhere else on the Internet.

<http://www.student-affairs.buffalo.edu/idc/>

Learn about disability culture on campus.