

The Challenges and Legal Rights of Students with Mental Disabilities in College

Presented by:
Disability Rights California
and
Mental Health Advocacy
Service, Inc.

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Disparity, Stigma and Discrimination

-**Disparity**: the condition of being unequal.

-**Stigma**: attitudes and beliefs that lead people to reject, avoid, or fear those they perceive as being different.

-**Discrimination**: when people act on stigma in ways that deprive other people of rights and opportunities; treating people differently.

So What's the Problem?

The office of disability services at one community college referred the student with a diagnosed mental illness to psychological services when she requested accommodation from them for her disability.

A professor refused to reschedule an exam the student missed because he had been hospitalized.

Another student was evicted from her student housing when she had an episode as a result of her mental illness.

Some Numbers on Why This Is Important

- More than 25% of college students have seen a professional for a mental health condition in the past year.
- Almost 73% of students living with a mental disability experienced a mental health crisis on campus
- 34.2% reported that their college did not know about their crisis

More Numbers

- 64% of students no longer attending college
- 40% did not seek help
- 57% did not request accommodations

QUIZ: What was the number one reason given for not seeking help?

The Nature of a Psychological Impairment: Examples of Impairment

- Difficulty with medication side effects
- Screening out environmental stimuli
- Difficulty with interacting with others
- Fear of authority figures
- Difficulty handling change

Applicable Laws

1. Individuals with Disabilities Education Act (20 U.S.C. §§ 1400 et seq.; 34 CFR Parts 300 and 301; Cal. Ed. Code § 56000 et seq.; 5 C.C.R. §§ 300 et seq.).
2. Title II and Title III of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 (42 U.S.C. §§ 12101 – 12300 and 29 U.S.C. §§ 701 – 796).
3. Family Education Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 C.F.R. Part 99).

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

What's the difference?

- Title II of the ADA prohibits all state and local governmental entities, including public colleges and universities from discriminating against people with disabilities (42 U.S.C. §§ 12131 – 32).
- Title III of the ADA prohibits private colleges and universities from discriminating against people with disabilities (42 U.S.C. § 12182).
- Section 504 prohibits “any program receiving federal financial assistance from discriminating against an individual because of his or her disability (29 U.S.C. § 794).

Definition of Disability under the ADA and Section 504

A person has a mental or physical impairment or is thought to have a physical or mental impairment that substantially limits a major life activity -- seeing, hearing, walking, learning, reading, concentrating, thinking, and communicating and is expected to last or has lasted at least 6 months (42 U.S.C. § 12102).

Quiz: what was left out of the definition until just prior to the final adoption of the ADA?

What Is Required Under the ADA and Section 504?

Reasonable accommodation – schools must make reasonable modifications in their practices, policies and procedures and to provide auxiliary aids and services for persons with disabilities

Unless providing an accommodation would “fundamentally alter” the nature of the facility or if doing so would result in an “undue burden.” (28 C.F.R. § 36.104).

Interactive process

What Documentation is Required to Qualify

School has the right to require proof of disability

Documentation of disability must be current and reflect current abilities and limitations

Who has a right to know about the disability?

Findings from a Survey of California Community Colleges

1. Requirements for documentation vary significantly from school to school.
2. While California regulations provides an inclusive list of the kinds of services and accommodations that can be provided, the process of obtaining these services may be difficult for a student with mental disabilities to navigate.
3. Outreach and follow up is hit and miss among the community colleges.

Findings of Survey (continued)

4. There are significant challenges for a student with mental disabilities who is transitioning from high school to community college and few schools provide assistance.
5. There is little consistency in terms of the grievance policies except that each community college must have one.

Conclusion

There is a wide variance in how different colleges respond to students with psychological disabilities.

Some students with psychological disabilities are not provided with adequate assistance given their impairments to navigate the DSPS bureaucracy.

Conclusion (continued)

Because the law places the burden on students to request assistance from DSPS and engage in the interactive process, some students with psychological disabilities need support to be empowered to become their own advocate.

Some colleges have internal rules – such as penalizing a student for missing an appointment – that become a barrier for the student with psychological disabilities to continue to receive the support needed to stay in school.

Recommendations for Changes

Train DSPS staff on the nature of psychological disabilities.

Provide accommodations for seeking accommodations or simplify the process.

Develop peer counseling and mentoring programs to empower students with mental disabilities.

Recommendations (cont.)

Fully implement the transition planning process that is mandated by Individuals with Disabilities Act (IDEA).

Increase research on strategies that lead to positive academic, social and employment outcomes.

Make the information about campus services more accessible and user-friendly.

Accommodations

Many students with psychiatric disabilities may not know they have a right to accommodations unless they had them in the past.

Mental health disabilities often surface for the first time and are diagnosed during late teens and early twenties.

Accommodations- General Domains

- Time Management
- Memory
- Maintaining concentration
- Organization and prioritization
- Social skills
- Completing course requirements
- Test taking

Accommodations- from Job Accommodation Network (JAN)

Time Management

- Divide large assignments into several small tasks
- Give ample time to complete in-class and out-of-class assignments
- Provide checklist with assignments
- Assist students with their own techniques for time management
- Emphasize due dates
- Develop color-coded system\help students add entries on calendar or PDA

Accommodations- from JAN

Memory

- Provide written instructions
- Allow additional time for new tasks
- Offer use of note taker
- Allow audio or video recording of the class lecture
- Provide copy of instructor's notes or slides
- Provide outline of list of key words for each class session

Accommodations- from JAN

Maintaining concentration

- Reduce auditory and visual distractions
- Headsets
- Sound absorption panes
- White noise machine
- Relocate workspace
- Install cubicle walls

Accommodations- from JAN

Organization and Prioritization

- Develop color-coded system for files, projects and activities
- Use college advisor to help schedule classes each semester
- Use a tutor, upperclass students, or volunteer to reinforce organization skills
- Assign prioritization of assignments for students

Accommodations- from JAN

Social Skills

- Develop simple, but appropriate code of conduct for classroom
- If possible, make class attendance optional
- Promote sensitivity training (disability awareness) in the classroom
- Adjust teaching techniques to better fit student needs
- Allow student to complete work online
- Adjust method of communication to best suit student needs

Accommodations- from JAN

Completing Course Requirements

- Course substitution
- Reduced course-load
- Spread out course-load and include summers or additional academic year
- Independent study
- Online courses

Accommodations- from JAN

Taking Tests

Lack of concentration or panic attacks

- Test in private room or allow to sit in back of room
- Seating away from window or doors and other distractions
- Provide extended time
- Provide a reader or test on tape
- Reduce or eliminate distractions
- Allow breaks
- Have plan of action to deal with emergencies such as passing out

Other Accommodations

Housing

May need housing accommodations

- Service animal
- Private room
- Allowances for support person to stay during stressful times
- Modified door or window locks

Problems that are often encountered

- Stigma
- Counselors with lack of training and sensitivity in mental health disabilities
- Variability of mental health symptoms
- Lack of counselors with specialization in psych rehab on staff despite having multiple counselors with other specializations

Problems that are often encountered (continued)

- Professors with lack of knowledge about legal rights to accommodations
- Getting all disability paperwork filed quickly
- Outside providers that aren't aware of accommodations
- Requirements that only allow for DSM IV- many providers are not yet trained on or using DSM V

What works

- Collaborate and assist with other campus services and needs
- Assist students with obtaining Medical Withdrawals (past W deadline) or Incompletes
- Financial Aid- may need someone to call and assist, such as making up incompletes
- Counseling Services
- Assist with documentation- possibly getting person an appointment on campus with psych provider who is familiar with accommodations and process

Suggestions

- Advertise** that those with mental health disabilities can qualify for accommodations
- Advocate** on behalf of students with professors and other departments
- Help** students learn how to advocate for themselves

Suggestions (continued)

- Peer Navigators**- former or current students who are familiar with campus and processes
- Classes** in Personal Success, Personal Development and Study Skills classes
- Inform** and allow students to bring a support person to appointments with DSPS
- Accept** both DSM V and DSM IV-TR
- Follow-up** agreements with students

Resources

Disability Rights California (2012). Rights of Students with Disabilities in Higher Education

<http://www.disabilityrightsca.org/pubs/530901.pdf>.

Stringari, T., DeGette, R., & Chandler, D. (n.d.) Developing Supported Education Programs at California Universities: A Toolkit of Possibilities

<http://calswec.berkeley.edu/sites/default/files/uploads/mhp-toolkitofpossibilitiesfinal.pdf>.

Mental Health Advocacy Services (2014) Know Your Rights; Tips for Students with Mental Disabilities in Higher Education <http://www.mhas-la.org/CalMHSA.htm>

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CaIMHSA

The California Mental Health Services Authority (CaIMHSA) is an organization of county governments working to improve mental health outcomes for individuals, families and communities. Prevention and Early Intervention programs implemented by CaIMHSA are funded by counties through the voter-approved Mental Health Services Act (Prop 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California's diverse communities.



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