

Modifications to attendance policies should be considered

*By Jane Jarrow**

Rarely a month goes by without someone in higher education facing request to modify attendance requirements to accommodate a student with a disability. Students also occasionally ask to be excused from faculty members' rules about tardiness. Rather than considering any waiver of attendance requirements, this article focuses on the possibility of modifying existing policies as an accommodation.

It is important to remember that to be reasonable a proposed accommodation must be an appropriate response to the disability-related need without compromising academic standards.

Legitimate versus questionable requests:

Question: What are some legitimate reasons for students with disabilities to request modifications to attendance policies?

Answer: Persons most likely to request modified attendance policies are students with health-related disabilities that flare up episodically. This might include students with diabetes, epilepsy, cancer, migraines and conditions requiring dialysis. Flexibility in attendance policies sometimes is considered for students with mobility impairments during inclement weather. It is hard to get to class when the campus transportation system shuts down because of snow, and it might be dangerous to come to class during an ice storm for someone who is not too steady on his or her feet.

Question: What are some questionable reasons for students with disabilities to request flexible attendance policies?

Answer: Occasionally, a student with attention deficit disorder requests a flexible attendance policy for an early morning class, claiming he or she does not function well in the morning or is not organized and may forget to come to class. While this may be related to the student's disability, the institution does not have to excuse the student's failure to satisfy basic responsibilities simply because the student has not made the effort to manage his or her disability.

Other students with disabilities may seek flexibility in attendance policies when they need to miss class because of scheduled appointments with specialists. While this may be a legitimate need it does not seem different from the needs of other students who are in school but also have a life and commitments outside, particularly when the appointments might have been scheduled at other times. But be aware that students with disabilities may have to attend regularly scheduled appointments with specialists that can not be changed. Such absences may best be negotiated with faculty, as they would be for any other student, rather than being covered under an accommodation policy.

Dealing with faculty

Question: Can a service provider tell faculty members they have to change attendance policies they have established for classes? If not, does it matter what the student's disability-related reason is for missing class when a faculty member has an established policy regarding attendance?

Answer: Of course it matters. The service provider tell faculty member to change a policy in the context of providing an accommodation if it is necessary to ensure equal access for a student with a disability. It is all the time.

Faculty-born attendance policies are no more inviolate when it comes to the consideration of accommodation requests than are any other rules. Just as a Disability Services (DS) provider would not hesitate, when appropriate, to make sure a faculty member alters a policy on the amount of time allotted for

taking a test, the DS provider should ensure modifications in attendance policies are provided when such changes do not fundamentally alter the curriculum. This is not to suggest that strict enforcement of attendance policies is never reasonable, appropriate and necessary. In classes that clearly rely on participation, there may be many good reasons for setting attendance policies and refusing to alter them.

In clinical practicum classes, in which the student is supposed to be gaining a given number of hours of experience in a clinical setting over the course of the term, a student who misses too many sessions clearly will not have fulfilled the expectations of the class.

Lab courses often meet for long blocks of time but with relatively few classes per term. Each lab builds on the experience of the one before it. If a student misses too many classes, he or she may miss not only a significant portion of the hand-on experience, but also the skills and techniques taught that will be necessary in future lab sessions.

In a studio art class, in which the primary purpose is to provide ongoing feedback from faculty and fellow students as work progresses, a student is not participating in the exchange if he or she is not there.

ADA's requirements

Question: Does the ADA require that the institution modify attendance policies for a student with a disability?

Answer: There is no single answer to this question unless it is considered in the broadest sense possible. If the question is, "Are we legally required to consider modifying our attendance policies at the institution as a form of accommodation for disability?", then the answer is "yes."

The institution is legally required to consider whether any policy or procedure in place is discriminatory on the basis of disability and alter it if it is found to be discriminatory. Willingness to consider the possibility is legally required. Whether such consideration leads to a decision to modify attendance requirements in particular circumstances is an entirely different question that should be answered in light of numerous factors.

Factors to consider

In an Office for Civil Rights letter of finding resolving a complaint involving Cabrillo College in Aptos, Calif., the U.S. Department of Education listed factors to be considered in determining whether attendance is an essential part of a class and thus not open to accommodation:

- Is there classroom interaction between the instructor and students and among students?
- Do student contributions constitute a significant component of the learning process?
- Does the fundamental nature of the course rely on student participation as an essential method for learning?
- To what degree does a student's failure to attend constitute a significant loss to the educational experience of other students in the class?
- What do the course description and syllabus say?
- Which method is used to calculate the final grade?
- What are the classroom practices and policies regarding attendance?

Rationale for refusing requests

Question: On what basis can or should I refuse a request for modifying attendance policies?

Answer: It may be appropriate for the disability service provider to offer an explanation along these lines: "We will consider modifying attendance policies on an as-needed basis as an accommodation, but you

need to understand two things. Before we will grant that particular accommodation, we prefer to examine other options that may be less disruptive to the educational process. If there are no alternatives in the circumstances presented and if the faculty member has a policy regarding penalties for absence, we will review the circumstances in light of the policy we have established. Unfortunately, in your case, we have determined that it would not be appropriate because (cite specific reason in response to the questions you examine in your process). Let's talk about alternatives. Here are the policies currently in place regarding incompletes and withdrawals. Let's see whether we can have a contingency plan in place through the application or modification of one of those policies that could be activated in the event that you do have to miss more than the allotted number of classes.

Granting requests

Question: What considerations are there regarding this accommodation when the disability services provider determines that modifying the attendance policy would be appropriate?

Answer: If the service provider has reviewed the situation and determined that a modification to an attendance policy is necessary then that should be stated directly to the faculty member.

Do not send a note that details all of the other accommodations you have determined must be made and then separate it with a statement that suggests, "This student may miss classes because of his/her disability. The student will discuss this with you directly."

To most faculty, that would say, "The student's coming to see you to ask for a favor, but you aren't obligated to do anything." If the disability service provider has assigned modified attendance policies as an accommodation, as it often does with extended time or a scribe, the provider should not make it appear that the faculty member does not have to implement this accommodation.

Moreover, if a review has been conducted and a more flexible attendance policy is necessary, the faculty member and the student should be informed specifically what the accommodation will be.

Caps on absences

On a recent site visit, a faculty member asked about the accommodation of modifying attendance policies. The faculty member taught an English class and had not been uncomfortable with the idea that a student might need to miss some additional classes because of a disability until one student missed 18 out of 30. The student had a disability-related need to have more absences than the two the professor commonly allowed.

The faculty member understood from the communication provided by the DSS office that the student was not to be limited at all in her attendance or lack therefore, and the student took the statement of accommodation as a license to show up only when she felt like it. Less than half of the student's absences were, in fact disability-related.

If attendance policies are to be modified, the university should specify how the student will verify that the additional absences were disability-related and place a cap on how many absences will be allowed. For example, the service provider might state, "If the student misses more than X number of classes, the faculty member is urged to contact this office to discuss whether the student's continued enrollment in the class is viable."

Sometimes, though, granting a modification to attendance requirements will not be possible. In some instances, a student with the most legitimate disability-related need in the world still may not be able to identify any accommodation that would not unreasonably alter an essential element of the university's curriculum.

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