



American  
Occupational Therapy  
Association

# Technical Standards and Disability Accommodations

Academic Leadership Council's Meeting  
October 2, 2024

# Objectives...

1. Understand the definition, origins and purposes of technical standards.
2. Identify the characteristics of well written technical standards
3. Understand how technical standards can be useful for both students with disabilities and students without disabilities.
4. Articulate the relationship between technical standards and disability accommodations.
5. Identify the process for determining disability accommodations.

# **Technical Standards:** **Definition, origin, purpose and requirements.**

# Definition

**Technical standards “refers to all non-academic admissions criteria that are essential to participation in the program in question.”**

Section 504 of the Rehabilitation Act of 1973 Federal Guidance, 45 C.F.R. pt. 84, App. A, p. 405 (1978).

# Origin of Technical Standards

**Section 504 of the Rehabilitation Act of 1973**  
**“..... prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance.”**

<https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-84>

# Purpose



Used both for students with disabilities and for non-disabled students;

Non-academic criteria essential for the student to participate in the program; they include the attitudes, experiences, and physical requirements the student must possess in order to learn and perform the essential requirements of the program, and

Helps students with disabilities determine prior to admission if they have the technical skills needed to complete the program and whether they will need to seek accommodations.

# Requirements

There is NO federal regulatory requirement to have Technical Standards

Some accreditors require Technical Standards (e.g. Medicine) but ACOTE® does NOT.

Some professional associations publish Technical Standards (e.g. American College of Radiology) but AOTA does NOT.

# **Technical Standards:** **Characteristics of well written standards.**



## Organic Technical Standards

versus

## Functional Technical Standards

Requires the student to be **able to demonstrate certain physical, cognitive, behavioral, and sensory abilities** without assistance and emphasizes how a student goes about completing a task, over the skill-based competency.

Focus on skilled based **competencies**, with or without the use of accommodations or assistive technologies.

McKee, M., Gay, S., Ailey, S., & Meeks, L. (2020). Technical standards. In L. M. Meeks and L. Neal-Boylan (Eds.), *Disability as diversity: A guidebook for inclusion in medicine, nursing, and the health professions*. Cham, Switzerland: Springer

## Organic Technical Standards

Requires the student to be able to demonstrate certain physical, cognitive, behavioral, and sensory abilities without assistance and emphasizes how a student goes about completing a task, over the skill-based competency.

Communication: A candidate should be **able to speak**, to **hear**, and to **observe** patients in order to elicit information, describe changes in mood, activity, and posture, and perceive nonverbal communications. A candidate must be able to communicate effectively and sensitively with patients.

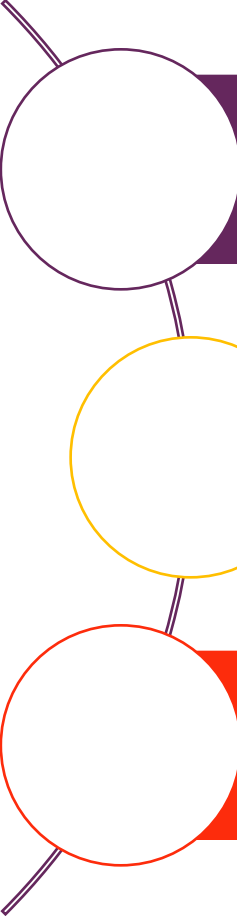
## Functional Technical Standards

Focus on the student competencies, with or without the use of accommodations or assistive technologies.

Communication: Students should be **able to communicate** with patients in order to elicit information, to **detect** changes in mood and activity, and to establish a therapeutic relationship. Students should be able to communicate effectively and sensitively with patients and all members of the healthcare team.

McKee, M., Gay, S., Ailey, S., & Meeks, L. (2020). Technical standards. In L. M. Meeks and L. Neal-Boylan (Eds.), *Disability as diversity: A guidebook for inclusion in medicine, nursing, and the health professions*. Cham, Switzerland: Springer

# Common issues to avoid



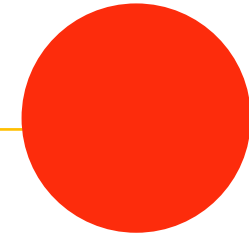
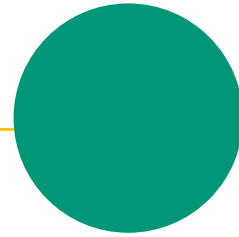
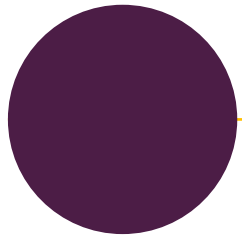
Often center around concerns for patient safety, the cost of accommodations, and false information about the availability of accommodations in employment or on licensing exams.

Often include “prohibitive” versus “inclusive” language

Screening out someone with a disability by applying a technical standard that is not grounded in actual competencies required by the program or that does not consider potential accommodations for meeting the standard

## Vision & Mission:

- Current practice
- Competencies needed for progression and graduation
- Learning outcomes and assessment & curricular goals
- Inclusion statement



## Identify a team:

- Assessment SME;
- Curriculum SME,
- FW educators,
- Students;
- Accommodations SME


## Technical Standards

- Reflect identified competencies & current practice
- Related to learning outcomes
- Use inclusive language that supports the program's statement on inclusion?


# Legal Implications

Section 504 requires that no “otherwise qualified” person with a disability be excluded from participation in any program that receives federal funds.

Students must be able to meet both the academic and technical requirements of the program to be considered “otherwise qualified.”



However, technical standards must not serve as an arbitrary barrier to students with disabilities.



Accommodations should be readily accessible, so that students with disabilities have the optimal chance to meet the standards.

"73% of medical schools used discriminatory language in their technical standards, and only 13% included mention of accommodating students with disabilities."  
(Stauffer et al., 2022)

Stauffer, C., Case, B., Moreland, C. J., & Meeks, L. M. (2022). Technical Standards from Newly Established Medical Schools: A Review of Disability Inclusive Practices. *Journal of Medical Education and Curricular Development*, 9. <https://doi.org/10.1177/23821205211072763>

# A model from the medicine literature.....

Reichgott suggests categorizing health professional technical standards into the following five domains (Kezar et al, 2019):

[1] acquiring fundamental knowledge;

[2] developing communication skills;

[3] interpreting data;

[4] integrating knowledge to establish clinical judgment; and

[5] developing appropriate professional attitudes and behaviors

# BREAK OUT DISCUSSION- Task #1

Does this model work for OT/ OTA education? Is there a domain(s) missing?

[1] acquiring fundamental knowledge;

[2] developing communication skills;

[3] interpreting data;

[4] integrating knowledge to establish clinical judgment; and

[5] developing appropriate professional attitudes and behaviors



# Breakout Feedback



Photo by Chris Montgomery on Unsplash

# BREAK OUT DISCUSSION- Task #2

Review the following examples of technical standards for OT/ OTA programs. Are modifications needed to meet the following criteria:

[1] uses inclusive language

[2] grounded in competencies

[3] avoids overuse of physical, cognitive, behavioral, and sensory abilities

[4] open to students with disabilities with reasonable accommodations

Ability to adapt effectively to fluctuations in emotional and physical stress levels to include ability to maintain composure in moderate to high levels of stress in emergency situations.

Ability to effectively attend to multiple features of a task, personal interaction, and/or group to include the ability to selectively focus and attend to key features, use divided and alternating attention between two or more features, in a quick, safe manner.

Sufficient strength and gross and fine motor ability and coordination to execute the movement and skills required for safe and effective therapeutic intervention and emergency treatment as necessary.

Students must be able to measure, calculate, reason, analyze, process, integrate, synthesize, retain, and apply facts, concepts, and data related to the art and science of health care. This may require comprehension of three-dimensional relationships and an understanding of the spatial relationships of structures. Students must have the cognitive capacity to appropriately utilize technology in the classroom and in clinical or community settings. Sound judgment, ethical reasoning, and clinical reasoning are essential.



# Breakout Feedback



# Final thought on inclusion...

“Technical standards that are available may utilize language that communicates a legalistic approach to working with students with disabilities. In many technical standards, the communication is very clear and suggestive that students with disabilities are not welcome.” (M. M. McKee et al, 2020 p195)

L. M. Meeks, L. Neal-Boylan (eds.), Disability as Diversity, Springer Nature Switzerland AG 2020 [https://doi.org/10.1007/978-3-030-46187-4\\_9](https://doi.org/10.1007/978-3-030-46187-4_9)

### Example 1:

If a student cannot demonstrate the following standards and skills without accommodation, it is the responsibility of the Student to request an appropriate Accommodation with the Coordinator for Special Services.

The College is committed to the principle of equal opportunity as defined in the catalog and will provide reasonable accommodation as long as it does not fundamentally alter the nature of the program offered and does not compromise patient safety, or impose an undue hardship such as those that cause a significant expense or are unduly disruptive to the educational process.

Technological accommodations can be made for some handicaps in certain areas of the curriculum, but a candidate must meet the essential technical standards so that he or she will be able to perform in a reasonably independent manner. The need for personal aids, assistance, caregivers, readers, and interpreters, therefore, may not be acceptable in certain phases of the curriculum, particularly during the fieldwork (clinical) requirements.

## Example 2:

The College is committed to diversity and to attracting and educating students who will make the population of occupational therapy providers representative of the national population. We actively collaborate with students to develop innovative ways to ensure accessibility and create a respectful, accountable culture through our confidential and specialized disability support. We are committed to excellence in accessibility; we *encourage students with disabilities to disclose and seek accommodations.*

The College provides the following technical standards to inform incoming and enrolled students of the performance abilities and characteristics that are necessary to successfully complete the requirements of the curriculum and provide effective and safe health care.

To matriculate (enroll) the student must meet technical standards with or without reasonable accommodations and maintain related satisfactory demonstration of these standards for progression through the program.

We wish to ensure that access to our facilities, programs, and services are available to students with disabilities. The university provides reasonable accommodations to students on a nondiscriminatory basis consistent with legal requirements.



# **Disability Accommodation:**

**What is an accommodation and why are well worded technical standards important?**



# What is an accommodation?



<https://unsplash.com/s/photos/sign-language>

A disability accommodation refers to academic adjustments and auxiliary aids that enable students with disabilities to have access to education equivalent to that of their peers.

The purpose of accommodations is not to ensure that a student with a disability succeeds in school; rather, it is to ensure that all students—with or without disabilities—have an equal opportunity for success.

# Legal requirements

## Americans with Disabilities Act (ADA) of 1990

Title II of the ADA protects individuals with disabilities from being denied the opportunity of participating in post- secondary educational activities.

Under the ADA, college applicants with disabilities must first:

- Satisfy the standards required by the university or college for all students.
- Be able to perform the **"essential course activities"** with or without **"reasonable accommodations"**

## Section 504 of the Rehabilitation Act of 1973

Section 504 requires that **no "otherwise qualified" person with a disability be excluded** from participation in any program that receives federal funds.

# Accommodations

Extended time  
exams

Assistive  
technology

Notetaking  
assistance

Testing  
accommodations

Early access

Digital or  
physical copies

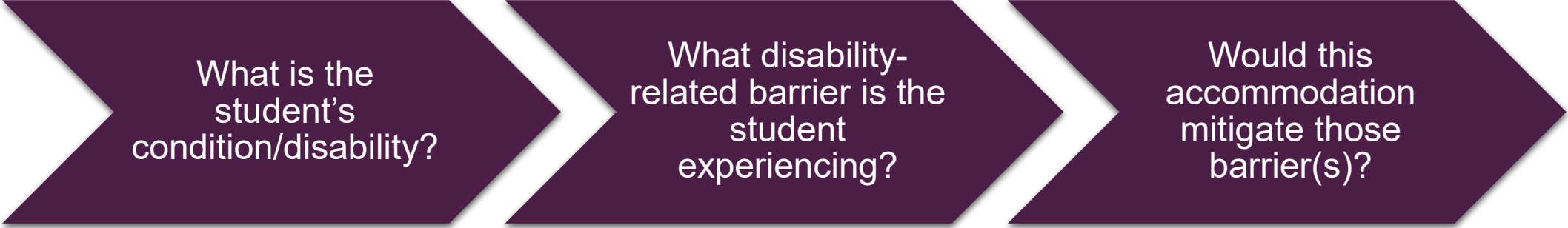
Video materials

Written materials

Reserved  
seating

Quiet space

# Fundamental Questions



What is the student's condition/disability?

What disability-related barrier is the student experiencing?

Would this accommodation mitigate those barrier(s)?

# Considering an accommodation?

Identify the barriers resulting from the interaction between the impact of the documented disability and the academic environment.

The possible accommodations that might reduce and/or remove the barriers.

Whether or not the student has access to the course, program, service or activity without an accommodation.

Whether or not essential elements of the course, program, service, activity or facility are compromised by the accommodations.

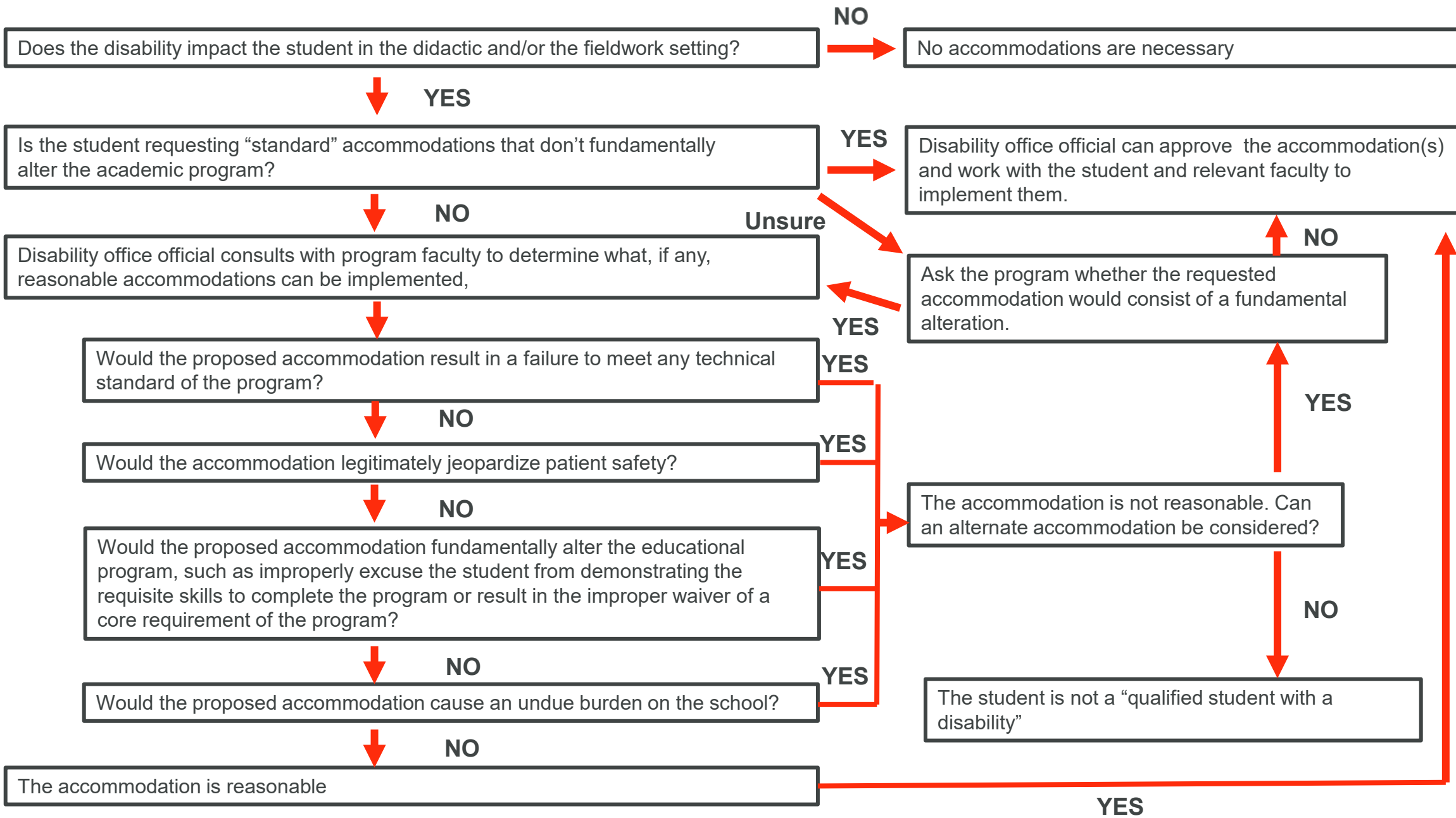
# Is the proposed accommodation reasonable?

The accommodation:

- **does not fundamentally alter** the nature of the program or activity.
- does not alter or remove essential requirements outlined in the **technical standards**.
- does not present an **undue financial or administrative burden** on the university
- **does not pose a threat to the safety** of others or the public.

# Didactic versus Fieldwork

- Accommodations must be provided in clinical settings, just as in didactic settings.
- Accommodations that may be appropriate in the classroom portion of a program could be considered unreasonable in a clinical setting.
- In each environment, the disability-related barriers may be different.
- **Must explore each barrier in context with the student to determine if accommodations are appropriate for that particular setting.**





# When to be careful...

**Costs:** OCR has consistently sided with students on the issue of cost. In the *Argenyi v. Creighton* case the court held that the medical school must cover the \$200,000 expense of providing real-time captioning and interpreters for a deaf student.

**Employment prospects:** Only legitimate concern is whether the student is able to meet the school's requirements to complete the degree program. The ability of the graduate to gain employment after graduation cannot be considered.

**NBCOT Exam:** Program must make an independent determination regarding accommodations provided to students. The ability of the student to pass the certification exam cannot be taken into consideration

**Concerns about "Precedent":** Must be based on the individual students needs.

## OCR Letter to the University of North Carolina at Greensboro

A student requested to be permitted to complete the requirements of a course as an independent study at home, rather than attend the classes. The disability office summarily concluded that this **request would be a fundamental alteration of the course, without investigating.**

OCR concluded that the university's failure to engage in the interactive process violated the ADA and laid out the following considerations the University was obligated to consider: "Factors to be considered in determining whether a standard is essential include: ■ the nature and purpose of the program; ■ the relationship of the standard to the functional elements of the program; ■ whether exceptions or alternatives are permitted; ■ whether the standard is required in similar programs in other institutions; ■ whether the standard is essential to a given vocation for which the program is preparing students; and ■ whether the standard is required for licensure or certification in a related occupation or profession."

OCR went on to say, "Furthermore, if it is determined that a requested academic adjustment would result in a fundamental alteration, the University must then consider whether there are alternative academic adjustments that could accommodate a student without fundamentally altering the course."

## **CASE EXAMPLE 4.1 Darian v. University of Massachusetts**

A nursing student who experienced complications in her pregnancy that rendered her unable to complete a clinical rotation requiring patient home visits was offered an approved accommodation reducing her clinical load to one patient per day in locations without stairs, per the doctor's recommendation. The school also offered the student the option of taking an incomplete in the rotation, which could be made up at a later date.

The student rejected the school's offer of taking an incomplete, instead requesting to be excused from a substantial amount of patient care and to take patient records home to review, in lieu of seeing patients face to face. The school determined that the student's further accommodation requests were unreasonable and denied those requests. Despite the approved accommodations, the student did not complete the course requirements, received a failing grade in the course, and sued the university for failing to provide her with reasonable accommodations.

The court held that the student's requested accommodations were not reasonable, saying the school "certainly had no obligation to permit [the student] to forego providing patient care, forego half of the required clinical assignments, and still receive credit for the course."

## CASE EXAMPLE 4.3 Martin vs. the PGA

A professional golfer on the PGA tour had a disability that affected his ability to walk long distances. He requested that he be allowed to use a golf cart to get from one hole to another. Once at the hole, he could hit the ball with a professional golfer's skill, but he needed the accommodation of being allowed to get there in a manner other than walking. The PGA said that walking between holes was a requirement of all pro golfers and they would not alter this standard for him because it would fundamentally alter the game of golf. Martin sued the PGA.

The case made it to the Supreme Court, which examined golf and its history to determine whether permitting an accommodation to take a golf cart between holes would **fundamentally alter** the game of golf. The Court concluded the “essence of golf has always been shot making” and “the walking rule is not an essential attribute of the game.” The Court also examined the PGA's claim that riding in a cart was unfair to the other golfers who might be more tired and therefore perform worse near the end of the day and concluded that the fatigue to other players from walking is insignificant compared to the fatigue that the disabled golfer experiences due to his disability, even riding in a cart. The Court's decision was 7-2 in favor of the golfer.

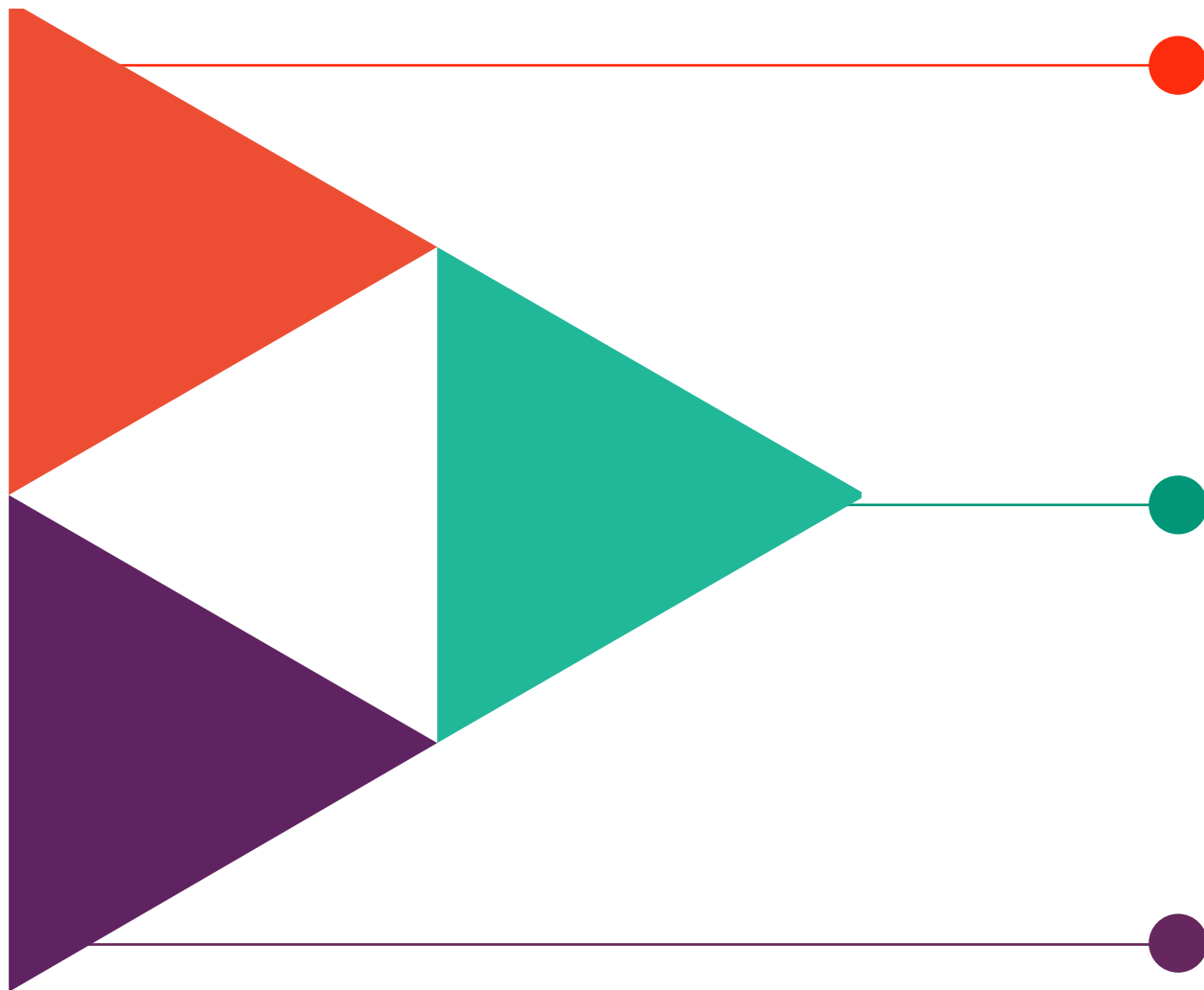
## CASE EXAMPLE 4 OCR Letter to Milligan College

A student who used a wheelchair complained to OCR that her school did not provide accommodations at her practicum site.

OCR concluded, “The College did not guide the interactive process between the Complainant and the Hospital. While the College may work with the Hospital to determine possible accommodations: they cannot simply wash their hands of the task of determining what accommodations, if any, are feasible.

The College was derelict in its duty to lead the accommodation process, and facilitate the interaction between the Complainant and the Hospital. This dereliction in duty was the equivalent of the College telling the Complainant she could not participate in the practicum.”

# Documentation



## Who was involved in the deliberation process?

- People within the school
- Colleagues in the field
- Legal counsel.

## Reasons for the denial

- Pros and cons of the request
- Why it was deemed unreasonable?

## Alternative accommodations

- What other accommodations did you and the experts consider?
- Did you reject any ideas? If so why? ■ Did you offer the student any alternative accommodations that effectively remove the barrier? What response?

## **OCR letter to University of Massachusetts-Boston, (2018).**

“Thus, leaving students to negotiate with their professors to obtain accommodations compromises the interactive process, which is further compromised because of the disparity in power and authority between a student and a professor who ultimately assigns the student a grade.” “Professors do not necessarily have specialized training in the law or disability issues to make informed decisions about what is legally required by Section 504 or Title II.”<sup>51</sup>

## **OCR letter to Metropolitan State College of Denver, (2017)**

“Although a professor may be an integral part of the interactive process, he or she [sic] is not qualified to solely determine what the requesting student may be entitled to under Section 504 and Title II, including whether the requested accommodation constitutes a fundamental alteration of the course. Also, the professor may not know the nature of the student’s disability and the disclosure of such information to the professor may raise student privacy concerns.”

## BREAK OUT DISCUSSION- Task #3

1. Describe your institution's interactive process between the Disability Resource Professional at your school and the student for discussing barriers and determining an accommodation plan. How is the determination process communicated to students? Are others included in the creation of the accommodation plan?
2. What's the process used to determine the reasonableness of an accommodation request? Where are technical standards considered/addressed?
3. There needs to be a balance between the concerns expressed about potential risks to the health and safety of patients and the accommodation needs of students. The ADA has regulations about how to assess the potential for "direct threat" against patients and/or students in the clinical or educational setting.
  1. Discuss past accommodation requests at your school that have raised patient safety concerns, or accommodation requests you think could raise concerns, and how might they be resolved?
  2. Discuss past FW accommodation requests that have raised patient safety concerns, or accommodation requests you think could raise concerns, and how might they be resolved?
  3. Who would you want to bring into the discussion? What questions would you ask?



# Breakout Feedback





**Neil Harvison, PhD, OTR,  
FNAP, FAOTA** Chief Officer,  
Knowledge Division  
nharvison@aota.org



**Sabrina Salvant, EdD,  
MPH, OTR/L, FNAP, FAOTA**  
VP, Education & Professional  
Development  
ssalvant@aota.org



American  
Occupational Therapy  
Association

The occupational therapy student must:

- Have gross motor skills to move safely about the medical center and fieldwork sites.
- Be able to perform moderately taxing physical work, often requiring prolonged sitting.
- Have strength, balance and equilibrium necessary to do such things as move clients from bed to wheelchair or to manipulate parts of, or whole bodies of, simulated and real people of all ages.
- Have fine motor skills essential to perform such tasks as writing, typing, manipulation of objects (such as wheelchair features and adaptive equipment), splint making, material development or maneuvering equipment.

Demonstrate sufficient postural control, neuromuscular function, strength, coordination and endurance to perform occupational therapy evaluations and interventions accurately, safely, and effectively in classroom, community, and clinical environments during a full work day. This includes fine and gross motor functions needed to safely operate equipment, position clients for treatment, and demonstrate desired actions for educational purposes.

Individuals must perform physical activities that require considerable use of arms and legs and moving one's whole body, such as climbing, lifting, getting up and down from the floor, balancing, walking, bending, stooping and handling of material and people. Standing and sitting for long periods of time are also necessary. This includes being able to apply physical restraints, and to lift, push and pull at least 50 pounds for routine transfers from varying surfaces, and be able to manually adjust equipment found in the occupational therapy clinical setting.



Students must demonstrate the ability to plan and implement activities and programs to improve sensory and motor functioning at the level of performance normal for the patient's stage of development.

Students must be able to complete a comprehensive Occupational Therapy evaluation and conduct treatment in a clinical environment which may include measuring Range of Motion, strength, endurance, muscle tone, pain level, ADL skills, fine motor skills, transfer skills, functional mobility, balance, response to sensation, cognitive status, and home management skills.

Students must demonstrate the ability to maintain composure and continue to function well with patients who are undergoing periods of stress and may exhibit challenging attitudes or behaviors.

Prospective and current students must use cognitive skills to demonstrate effective critical thinking skills in order to safely and effectively direct the occupational process.

## **CASE EXAMPLE Varlesi v. Wayne State (6th Cir. 2016)**

An unmarried, pregnant social work student was assigned a field placement in a religious-based rehabilitation center for men. Her field instructor repeatedly commented on her pregnancy, marital status, living arrangements, and clothing choices, and told the student to stop rubbing her belly, wear looser clothing, and that the clients were “being turned on by her pregnancy.”

The student had multiple meetings with her program, which would not intervene, and then complained about the discrimination to the University’s Equal Opportunity office and Ombudsperson. The student received no criticism regarding the quality of her field placement work until the very end, when she was given a failing grade and an unusually critical evaluation, resulting in her dismissal from the program. The student then filed a formal discrimination complaint with the school, which dismissed the complaint without an investigation. Her grade appeal and request for readmission were also dismissed by the school.

The student then filed a Title IX pregnancy discrimination and harassment lawsuit. A jury awarded the student \$848,690 in damages, which was upheld on appeal. Despite the fact that the discrimination occurred at the field placement site and not the school, the school was found liable because it failed to intervene and investigate after the student reported it, and retaliated for her complaints with a failing grade, despite her good performance. Although this case addressed discrimination based on pregnancy, the principles here would undoubtedly be applied to disability discrimination, as well.