



This information is being provided to ensure that members of the Cornell Faculty are well-informed about federal disability laws and the rights of students with disabilities.

## Updates to the Americans with Disabilities Act

Federal law (Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990) was written with the intent of protecting people with disabilities from discrimination and clearly states that students with documented disabilities must be provided with the reasonable accommodations required to afford equal access in programs and activities. Out of concern that the courts were too narrowly defining who was disabled and therefore violating the intent of the ADA, Congress passed the ADA Amendments Act of 2008, which was signed into law in January 2009. The ADAAA includes several significant changes that also apply to Section 504. Changes most relevant to classroom accommodations include the following:

- The definition of “major life activities” was expanded to include learning, reading, concentrating, and thinking. In addition, the definition of “major bodily functions” has been expanded to include neurological and brain functions.
- The ADAAA requires that the limitation on a major life activity be broadly, rather than narrowly, interpreted.
- Conditions that are episodic or in remission are covered when they are active.
- Under the ADAAA a person cannot be denied protection simply because he uses a mitigating measure, such as taking medication or using a hearing aid.

Many of the court cases that prompted Congress to make these changes were from the employment sector. The impact of these changes in higher education remains to be seen. At Cornell, students have always been required to provide current and objective documentation from a qualified practitioner that demonstrates the presence of a disability and the need for accommodations. The ADAAA supports this practice. Cornell guidelines for disability documentation are on the SDS website at [sds.cornell.edu](http://sds.cornell.edu) (see Documentation Guidelines). The ADAAA continues to support the right to refuse accommodations that would fundamentally alter programs or services.

*Learn more about  
teaching students with  
disabilities*



The recently updated *Faculty Resource Guide to Teaching Students with Disabilities* has information about types of disabilities and their impact on student learning. The guide also has suggestions for inclusive instructional strategies that help all learners and reduce the potential need for individual accommodations.

The guide, along with other helpful information, can be found on the SDS website at [sds.cornell.edu/faculty](http://sds.cornell.edu/faculty)

## *Student by Student, Case by Case*

### **Accommodation Decisions Must be Individualized**

Requests for accommodations made by students with disabilities must be considered on a case-by-case basis. Accommodation decisions are made using a deliberative and interactive process. At Cornell, the staff of Student Disability Services is primarily responsible for making these decisions. To comply with the law, all requests must be considered, accommodation options must be explored, and appropriate and effective modifications to policies, practices, or procedures must be made that will reduce the barrier(s) caused by the disability. *(Continued on next page)*

## Student by Student, Case by Case

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Determining modifications that will allow access for a student with a disability without altering the fundamental requirements of the course or program may require discussions among the SDS staff member, the student, and the instructor or program chair. Because accommodation requests are considered on an individualized basis, making a decision about an accommodation for one student does not set a precedent for future students, even those with the same disability.

We must also keep in mind that arbitrary or unilateral decisions that result in discrimination against a student with a disability are prohibited. An example would be in the case of a student who is not able to take an exam due to his/her disability and then not allowed to take a make-up exam because no one in the course is allowed to take a make-up exam. This testing practice places students with disabilities at a disadvantage as compared to other students and denies them an equal opportunity to take tests. In this case, a make-up exam may be the appropriate and necessary accommodation.

### Using Audio-Video in the Classroom – and Beyond

YouTube and other audiovisual (AV) materials in classrooms can be very effective teaching tools. Unfortunately, most YouTube videos and many others are not closed captioned. For students who are deaf or hard-of-hearing (D/HH), captions are vital to their understanding of audio-visual material. In-classroom captioning or sign-language interpreting of AV material is not sufficient to afford students equal access to the material being presented. Captioning and interpreting cannot be provided quickly enough to keep up with the rapid pace of most films and other AV material. And it is difficult for a student to view the interpreter or computer screen and watch the video at the same time. Thus, providing videos with closed captions or subtitles is necessary.

Increasingly, instructors are having their lectures video and/or audio recorded. If these recordings are made available to all students in the class, a student who is D/HH must be provided access to captioned versions of videos or transcripts of audio recordings. Please contact SDS for information on how to ensure equitable access to these materials for students who are D/HH.

### When AV Material is to be Used in Class

If you have a student who is D/HH in your course, it is extremely important to notify the student's captionist –or SDS if the student is not receiving real-time captioning– as soon as an in-class audio or video presentation has been planned so that we may assist you in providing captions or transcripts.

### When the Accommodation is a Make-up Exam

Students with episodic or chronic medical disabilities may not be able to take a scheduled exam because of a flare-up or hospitalization. In these cases, a make-up exam may be the necessary accommodation, even if make-up exams are not offered or given to other students.

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### When All Students Get "Extended Time"

On occasion, an instructor will allow more time than s/he believes is needed for all students to complete an exam. For example, the instructor has written an exam s/he believes will take most students in the class two hours to complete but allows all students three hours. S/he also believes that, because of the extra time given to everyone, a disability accommodation of extended time would not be required for a student who qualifies for extended time. However, the Office for Civil Rights has determined that it would be discriminatory to not provide extended time for a student with a disability beyond the time given to non-disabled students. (*OCR Letter to: Lewis and Clark College, No. 10092092 – OCR 01/08/10*).

**If you have questions about these or any other accommodations, do not hesitate to contact the SDS staff. Our goal is to help identify reasonable solutions for challenges to providing accommodations.**

## Student Disability Services

Katherine Fahey, Director (kf75)  
Michele D. Fish, Associate Director (mdf6)

420 CCC  
t. 607-254-4545  
e. [sds\\_cu@cornell.edu](mailto:sds_cu@cornell.edu)  
w. [sds.cornell.edu](http://sds.cornell.edu)