



**Everything you wanted to know  
about Reasonable  
Accommodations and supporting  
students with disabilities but  
nobody bothered to tell you...**



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## Table of Contents

<b>1 - Introduction</b> .....	<b>4</b>
<b>2 - Basis for Booklet</b> .....	<b>4</b>
<b>3 - The Law</b> .....	<b>5</b>
Legislation: .....	5
a. Employment Equality Acts 1998, 2004.....	5
b. The Equal Status Act 2000, 2004 and 2010.....	6
c. The Disability Act 2005.....	6
<b>4 - Definitions</b> .....	<b>7</b>
a. Disability.....	7
b. Service .....	7
c. Discrimination.....	8
d. Indirect discrimination.....	8
e. Reasonable accommodation.....	8
f. What is reasonable? .....	9
<b>5 - Defences or Exemptions</b> .....	<b>9</b>
a. Nominal Cost.....	9
b. Seriously detrimental effect / Impossibility.....	9
<b>6 - Who is Responsible?</b> .....	<b>10</b>
<b>7 - Consequences of Non-Compliance</b> .....	<b>10</b>
A. Equal Status Act 2000 as amended .....	10
B. Disability Act 2005.....	10
<b>8 - Process of Disclosure</b> .....	<b>10</b>
Encourage disclosure: .....	11
Disability Needs Assessment:.....	11
On receiving the LENS (Disability Needs Assessment Report) .....	12
Direct disclosure to the lecturer, not the Disability Service .....	12
<b>9 - Confidentiality</b> .....	<b>13</b>
Risk & un-consented disclosure:.....	13
Data Protection:.....	14
<b>10 - Fitness to Practice</b> .....	<b>14</b>
Reasonable accommodations on placement: .....	14
<b>11 - Fitness to Study</b> .....	<b>15</b>

<b>12 Reasonable Accommodations .....</b>	<b>15</b>
A. Assessment:.....	15
B. Exams: .....	16
C. Lectures, Labs or Practical Classes: .....	18
D. Lecture Notes.....	21
E. Placement .....	23
<b>14 - Most Common Types of Disabilities.....</b>	<b>23</b>
<b>Conclusion.....</b>	<b>23</b>
<b>References:.....</b>	<b>24</b>

## 1 - Introduction

This booklet was written by Michael Mullan, a Law student in Trinity College Dublin (TCD), and Declan Treanor, Director of the Trinity College Disability Service. It is a practical guide for lecturers and other academic support staff in Irish Higher Education Institutions (HEIs)<sup>1</sup>. It should be consulted when requested to provide additional help to a student with a disability<sup>2</sup>. It provides guidance as to what is expected of you, as an employee of an HEI, and as such a provider of educational services. In order to avoid legal liability under the relevant legislation<sup>3</sup>, **you must do all that is reasonably possible to accommodate the student**, with the intention of alleviating disadvantage due to disability.

There is a useful section at the back of this booklet which identifies the most common disabilities that you may encounter<sup>4</sup> together with suggestions on the most common reasonable accommodations you may be asked to implement<sup>5</sup>. It is important to stress that, in the first instance, all students should be encouraged to register with their HEI disability service, if they have a disability that may impact on their academic experience. Case law and legislative guidance in this area is constantly evolving. This guide reflects the laws, regulations, and interpretations at the time of writing, September 2012.

## 2 - Basis for Booklet

### Legal Opinion:

The recommendations in this booklet are based on legal opinion sought by Trinity College Dublin (TCD) in regards to its compliance with legislative responsibilities to provide reasonable accommodations to students with disabilities.

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<sup>1</sup> The relevant legislation refers to “educational institutions” which includes adult, continuing or further education and university or other third level or higher level institutions. This can be interpreted and accurately described as covering all HEIs.

<sup>2</sup> For definition of a disability see section 4 a. of this Booklet.

<sup>3</sup> For a summary of the relevant legislation see section 3 of this Booklet.

<sup>4</sup> See section 14 of this Booklet.

<sup>5</sup> See section 13 of this Booklet.

## **TCD:**

Throughout the booklet, there are references made to this legal opinion and the impact it has had on TCD's policies regarding reasonable accommodations. Other references are made to TCD's policies in an effort to give context to reasonable accommodations in practice, and to give an idea on how to improve a HEI's policies to reflect the HEI's legal requirements. The recommendations made should be adhered to in all HEIs.

In summary, the legal opinion advises that **every effort should be made to accommodate** a student with a disability, and that the authorities should be particularly careful where the student specifically requests additional help.

## **3 - The Law**

This section sets out the legal concepts and definitions used in the provision of reasonable accommodations.

It is unlawful for HEIs to discriminate against people on the grounds of their disability. **It is therefore important for lecturers and other academic support staff to be aware of the current legal requirements in relation to the education of students with disabilities and what the students are entitled to.**

The booklet is not intended as a substitute for legal guidance in this area, but will prove useful as a go-to guide for consultation when faced with a request for a reasonable accommodation. Lecturers should also liaise with their own HEI's disability service.

### **Legislation:**

The Employment Equality Acts 1998 as amended (relating to work experience, work placement, and apprenticeships undertaken as part of an educational course), the Equal Status Act 2000 (as amended), and the Disability Act 2005 are the relevant legislation.

#### **a. Employment Equality Acts 1998, 2004 and 2010 ("the EEA")**

The EEA prohibits discrimination and harassment during employment across nine grounds, including disability.

Importantly, for medicine, nursing, teaching and other courses involving work placements, the Act includes work placement as part of a course in its definition of employment. Section 3 (b) states that an employer who takes on a student with a disability as part of a course, but as an employee, must do all that is reasonable to accommodate his / her needs, by providing special treatment or facilities.

#### **b. The Equal Status Act 2000, 2004 and 2010**

Under the Equal Status Act, educational institutions are required to do all that is reasonable to accommodate the needs of a person with a disability.

Both public and private HEIs cannot discriminate<sup>6</sup>, directly or indirectly, in relation to:

- the admission or the terms or conditions of admission;
- the access of any student to any course, facility or benefit;
- any other term or condition of participation; or
- the expulsion of a student or other sanction.

The Equal Status Act states that a HEI discriminates against a student with a disability if it does not do all that is reasonable to accommodate the student.<sup>7</sup>

#### **c. The Disability Act 2005**

Under the Disability Act 2005 (“the 2005 Act”), students with a disability have a statutory right to an independent assessment of his / her educational needs and to the provision of resources of those needs. The Disability Service of the HEI carries out a Disability Needs Assessment<sup>8</sup>. The 2005 Act ensures appropriate access is available to mainstream public buildings, services, facilities and information.

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<sup>6</sup> For a definition of discrimination see section 4 c. of this Booklet.

<sup>7</sup> For a more in-depth summary of the 2000 Act see [http://www.tcd.ie/equality/pdf/Guide\\_to\\_the\\_Equal\\_Status\\_Acts\\_2000-2008\[1\].pdf](http://www.tcd.ie/equality/pdf/Guide_to_the_Equal_Status_Acts_2000-2008[1].pdf)

<sup>8</sup> For more information on a Disability Needs Assessment see section 12 of this Booklet.

## 4 - Definitions

### a. Disability

The term 'disability' is broadly defined in the Equal Status Act 2000-10<sup>9</sup>. It covers a wide range of impairments and illnesses. It covers all physical, sensory and intellectual disabilities. Another definition of a disability is found in the Disability Act 2005<sup>10</sup>.

A disability, for the purposes of receiving a reasonable accommodation must be **long term**. This means it generally will last more than a year. The disability must be **substantial**. This means the impairment, whether physical or mental, must be more than minor. A substantial restriction is as a restriction which - (a) is **permanent** or likely to be permanent, results in a significant difficulty in communication, learning or mobility or in significantly disordered cognitive processes, and (b) gives rise to the **need for services to be provided continually** to the person. A wide range of disabilities are covered under the current definitions of a disability. Any form of **absence of bodily or mental function, chronic diseases or illnesses**, any form of **disfigurement** of a part of the body, or any condition affecting a person's **thought processes, perception of reality, emotions or judgement** or which results in **disturbed behaviour**, are all covered in the current legislation.

### b. Service

The provision by any HEI of an educational service is included in the definition of a "service" in the Disability Act 2005, as it is a service or facility provided to the public by a public body. According to the Equal Status Act 2000, students should not be denied access to the educational service provided by the HEI

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<sup>9</sup> According to the Equal Status Act 2000 disability "means (a) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body, (b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness, (c) the malfunction, malformation or disfigurement of a part of a person's body, (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or (e) a condition, disease or illness which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour."

<sup>10</sup> According to the Disability Act 2005 disability means "a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment".

because of their disability and it is **illegal to discriminate in this regard on grounds of disability.**

### **c. Discrimination**

Employment Equality Acts 1998, 2004 and 2010 define discrimination as the treatment of a person in a less favourable way than another person is, has been or would be treated in a comparable situation on any of the nine grounds, which includes disability.

### **d. Indirect discrimination**

Indirect discrimination occurs when practices, policies or decisions, that do not appear to discriminate against one group more than another, actually have a discriminatory impact. Indirect discrimination may arise more often in a college context, where all students are treated the same, and this results in a disproportionate effect on or a disadvantage to a student with a disability. It is illegal to do so. If students with disabilities are not provided with RAs, this will constitute indirect discrimination.

### **e. Reasonable accommodation**

Reasonable accommodation may be defined as “any action that helps **alleviate a substantial disadvantage**”<sup>11</sup>. It involves providing special treatment or facilities, or making adjustments in order to enable access to a service. A reasonable accommodation is a required facility outside the mainstream provision to allow the student with a disability **to participate fully**, and without an educational disadvantage in comparison with his / her peers. The purpose of any reasonable accommodation is to allow the students with a disability to compete equally, on a level playing field, with those students without disabilities. Reasonable accommodations aim to **remove the impact of a disability** so that students can demonstrate their full level of academic potential, while not being given any advantage over other students. A HEI must provide to meet the needs of a person with a disability **if it would be impossible or unduly difficult for that person to participate in third**

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<sup>11</sup> [http://www.ahead.ie/employment\\_employers\\_reasonableaccommodation](http://www.ahead.ie/employment_employers_reasonableaccommodation).

**level education without the reasonable accommodation. Failure to provide these reasonable accommodations can amount to discrimination** under the Employment Equality Act 1998 and students are entitled to make a complaint to the Equality Tribunal.

**f. What is reasonable?**

HEIs have only to go as far as being reasonable in accommodating a student with a disability, but this concept of reasonableness will vary from case to case. The factors in determining this will include the effect on other students, the effectiveness of the reasonable accommodation, the available resources at the HEI's disposal, the effect on the maintenance of academic or other standards.

## **5 - Defences or Exemptions**

**a. Nominal Cost**

HEIs are not obliged to provide special facilities or treatment if the provision of the reasonable accommodation involves more than a 'nominal cost'. What amounts to a nominal cost will depend on the circumstances such as the costs entailed, the size and resources of the body involved, and the possibility of obtaining public funding or other assistance. The meaning of 'nominal cost' will depend on the circumstances of the case such as the size of and resources available to the HEI. A large and well-resourced HEI is more likely to be able to afford a higher level of cost in making reasonable accommodation than a small one is. As most HEIs are funded by the State, this would suggest the 'nominal cost' exemption may not be very significant in practice. If the State provides grants or other resources for assisting in providing special treatment or facilities, there is an onus on the HEI to avail of these.

**b. Seriously detrimental effect / Impossibility**

HEIs may be exempt from the requirement to provide services to a student with a disability only to the extent that doing so would have a **seriously detrimental effect** on the provision of education services to other students or would make it **impossible** to provide education services to other students.

## 6 - Who is Responsible?

**Individuals**, and the **HEIs** they work for, are legally responsible under the legislation. Any action of a lecturer, as an employee of a HEI, can be deemed to be the action of the HEI itself. Under Section 42 of the Equal Status Act 2000-10, a HEI is vicariously liable if its employees fail to reasonably accommodate a student's disability. If a lecturer refuses to provide a required reasonable support, proceedings can be brought against the HEI.

## 7 - Consequences of Non-Compliance

### A. Equal Status Act 2000 as amended

Under the Equal Status Act 2000, if a complaint is validly made against a lecturer and college regarding their non-compliance with the legislation, i.e. failing to reasonably accommodate a student with a disability, the complaint will be investigated by the Director of the **Equality Tribunal**. If the claim is successful, the college is liable to pay compensation of up to **€6,348.69** (at the time of writing). The Tribunal is also entitled to order the HEI to undertake **specific courses of action** that it deems appropriate. It is therefore important for both the college and its lecturers to do all that is reasonably possible to accommodate students' needs who have a disability. The individual responsible for providing the reasonable accommodation will be called to answer if a case is taken against the college.

### B. Disability Act 2005

The HEI may also be liable for investigation and fines under the Disability Act 2005 regarding access to buildings, information and services. Again, the individual lecturer and the HEI will be both investigated if such a claim is made.

## 8 - Process of Disclosure

Effectively, it is the responsibility of the student to notify the HEI of his/her disability. It is only then that the HEI can be held liable for not providing adequate reasonable accommodation, unless the disability was so obvious that it was reasonable for the HEI to know of the disability. Students with disabilities are encouraged to disclose

their disability when applying to the HEI during the CAO or equivalent method of application. At this stage, the college may become aware of the disability.

However, students can also disclose their disability at any time during the course of their studies in the HEI, particularly as medical conditions may change during a student's time at college.

### **Encourage disclosure:**

Such disclosure should be encouraged by all staff so that the HEI can work with the student in ensuring that any reasonable accommodation required is identified and facilitated. Students should be encouraged to register with their Disability Service. Under equality legislation, if a student discloses a disability to his / her lecturer, the HEI as a whole is deemed to be aware. It is therefore important to act on information that is disclosed to him / her as well as that disclosed to the student.

### **Disability Needs Assessment:**

At the point of disclosure, the Disability Service should be notified where consent is given to do so by the student. The Disability Service then carries out a Disability Needs Assessment (known as a Learning Education Summary Report (LENS) in TCD<sup>12</sup>), which assesses the academic needs of the student with a disability. The Disability Needs Assessment makes recommendations as to the reasonable accommodations the student is entitled. Please note that while the Disability Needs Assessment report contains only recommendations, the HEI has a duty to comply with the Equal Status Act, 2000 which provides that a HEI cannot discriminate against any student in relation to the access of a student to any course, facility or benefit provided by the establishment. In addition, the HEI has a duty to comply with the Disability Act 2005's statutory obligation on public service providers (in this instance the HEI) to support access to services and facilities for people with disabilities. With permission from the student, this Disability Needs Assessment report is circulated to the student's lecturers. In cases such as this, or where a student requests and is granted any form of reasonable accommodation, the HEI will, in consultation with the student, disclose relevant information to the individuals

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<sup>12</sup> For further details see <http://www.tcd.ie/disability/students/Current/Accommodations/Notify-Staff.php>

in those departments responsible for providing or facilitating students in accessing such accommodations. In such instances, only information relevant to the particular situation will be disclosed.

The LENS report outlines a student's disability, and how it affects their learning. The LENS report identifies academic supports and reasonable accommodations to which the student is entitled. The Disability Service may recommend and implement other supports for students such as library special borrowing privileges, exam accommodations, and assistive technology. If required, the Disability Service can also act as an advocate for the student.

It is important for Schools and Departments to access and review the students' LENS reports and to implement any reasonable accommodations recommended with efficiency and discretion.

### **On receiving the LENS (Learning Education Needs Summary Report)**

The Disability Needs Assessment report called the LENS is sent to the Academic Liaison Officer (known as the ALO) in the School/Department. The ALO circulates the LENS to those lecturers who teach the student. The lecturer should read the report to understand the nature of the disability. The lecturer should also understand the reasonable accommodations the student is entitled. For example, the LENS report may state that the student is entitled to the provision of enlarged lecture notes.

**It is important for the lecturer to act upon the report and provide the reasonable accommodations recommended where reasonably possible.**

Provision of reasonable accommodations<sup>13</sup> enables students with disabilities to achieve their academic potential, and can make a significant difference to their experience of education.

### **Direct disclosure to the lecturer, not the Disability Service**

If a student discloses directly to a lecturer, refusing to speak to, deal with or through the Disability Service, a lecturer must still do all he / she possibly can to provide

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<sup>13</sup> For more information on one type of Disability Needs Assessment report, TCD's LENS report see <http://www.tcd.ie/disability/staff/ALO/LENS.php>

appropriate reasonable accommodations. If the lecturer knows of the disability, the whole HEI is deemed to know. The lecturer should consult with the student, and encourage the student to cooperate with the Disability Service, outlining the advantages of doing so (such as receiving the best possible reasonable accommodations across all modules).

## **9 - Confidentiality**

Any party that receives information regarding a student's disability must maintain confidentiality of such information. Students, when registering with the Disability Service of a HEI, will generally consent to information regarding his / her disability being divulged to academic and academic support staff who are required to know in order to implement the reasonable accommodation. Generally, information regarding the student's disability will be divulged on a need to know basis, i.e. lecturers who will teach or directly deal with the student.

If a student does not give permission to divulge such information they are informed that this may affect the level of supports they receive and no Needs Assessment report is circulated

A lecturer can speak to the Disability Service to obtain advice on the reasonable accommodations the student is to be provided with, but cannot involve a third party who has not been given permission to see this student's LENS (Disability Needs Assessment report).

### **Risk and un-consented disclosure:**

This duty of confidentiality must be balanced with the concept of reasonably foreseeable danger that may occur to the student if the information is not passed on to a relevant third party, who generally would not have permission to access such information. A breach of confidentiality may be warranted and the information disclosed, where necessary where the HEI foresees a reasonable risk to the life or safety of the student or others, which could be avoided through the disclosure of the disability to another relevant party.

## **Data Protection:**

Personal data that is acquired, used, saved and retained must be done so in accordance with the Data Protection Act 1988 (as amended)<sup>14</sup>. This ensures unnecessary or accidental disclosure does not occur. The Disability Service has data protection procedures in place to ensure personal information is protected; all HEI staff and areas should also comply with data protection guidelines.<sup>15</sup>

## **10 - Fitness to Practice**

This is an area which is concerned with a student's fitness to participate in clinical or other placements, which are an essential component of the student's course. There does appear to be an onus and requirement on students on professional courses, such as medicine, nursing, teaching where there are clinical or other placements, to disclose the existence of any disability that may pose a risk to the student in question or any other person. This can be difficult for some students as they may feel they can be discriminated against. Disclosure of disability dialogue between the student and the Disability Officer along with clear fitness to practice and equality/disability policies will encourage students to disclose a disability. This will allow for reasonable accommodation and pre-planning supports to be put in place for students with disabilities.

## **Reasonable accommodations on placement:**

Reasonable accommodations should also be provided during a student's participation in such placements. If the student fails to use these reasonable accommodations or still cannot participate with the reasonable accommodations there may be an investigation by the College Fitness to Practice committee. It is important to note that what is reasonable in a college setting may not be reasonable in a work placement setting. It is up to the employer to ensure that reasonable accommodations are put in place to ensure the student is properly supported, The Disability Officer in conjunction with the student and the professional placement officer can work with the employer (placement) to organise supports.

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<sup>14</sup> For more information on Data Protection see <http://www.tcd.ie/ITSecurity/guidelines/dataprotection.php> or the [Data Protection Commissioners Web site](#)

<sup>15</sup> For further see [http://www.tcd.ie/info\\_compliance/dp/](http://www.tcd.ie/info_compliance/dp/)

## 11 - Fitness to Study

This area is concerned with a student's capacity to continue studying a particular course, due to difficulties associated with his / her disability, such as prolonged absences due to illness. HEIs should facilitate students with disabilities who require longer to complete their courses than other students. HEIs should be **flexible** in this regard, and understand the benefits of allowing the student to take a year or another reasonable period "off books" and to continue the relevant course when appropriate. Another solution may be to allow the student sit his / her exams during the following year's exam sittings.

## 12 - Reasonable Accommodations

Specific reasonable accommodations will be recommended in the LENS (Disability Needs Assessment) report, following an in-depth needs assessment carried out by a Disability Service professional, which requires medical evidence of a student's disability. **However, the onus is on the lecturer to act upon this report, and ensure that the reasonable accommodations are implemented.** The following list is non-exhaustive; it outlines the most common reasonable accommodations lecturers may deal with. Other provisions and reasonable accommodations may have to be made depending on individual circumstances. Reasonable accommodations may include but are not limited to the following:

### i. **Assessment:**

#### i. Modification

Traditional methods of assessment may have to be modified to allow for a student's disability. This may involve awarding a greater proportion of grading to continuous assessment, laboratory work or oral assessment for example, where a student with a disability finds it difficult to sit written exams due to his / her disability.

#### ii. Time Extensions

Lecturers should, in certain circumstances, allow extra time or extended deadlines for assignments. For example, where a student is hospitalised due

to his / her disability and physically cannot complete the assignment in the given time. The lecturer should discuss with the Disability Service and the student regarding their progress with the assigned work and allocate an extended deadline, bearing in mind the severity of the student's situation.

iii. Feedback

Constructive feedback on continuous assessment should be such as to allow for improvement. This advice should be given in a sensitive manner, for example in a one-on-one meeting or through email. Students with certain disabilities may require additional guidance to gain a clearer understanding on how to improve. For example some students may be unaware of the standard required in university in areas such as grammar, spelling, referencing, structure, argument and conclusions.

ii. **Exams:**

i. Additional time

This may be allowed in exams, to allow for students who tire easily due to their disability and where their disability is likely to slow their progress when completing exams. For example, in TCD generally students are offered ten minutes extra per hour, though this can vary depending on the outcomes of a student's needs assessment. Depending on the HEI, this process may or may not involve the lecturer directly. The lecturer should consult with the exams office and the disability service in this regard.

ii. Low distraction venue

A low distraction venue is provided to a student who finds it particularly difficult to work in a large examination hall. This is a venue with few students. Venues are designed to be quiet and desks face the wall to reduce distraction.

iii. Reader

The provision of a reader assists blind students, or other students who have

difficulty accessing exam material due to a disability, by reading to the student.

iv. Rest Breaks

Some students find examinations physically challenging (for example students suffering from chronic pain or fatigue, or students with certain physical impairments). Rest breaks may be recommended where students can stop the clock for a rest break when necessary during an exam.

v. Scribe

An exam scribe types or writes down a student's dictated answers to questions in an examination. This benefits students who are unable, due to a disability, to write or type their own exams.

vi. Language waiver

Students with significant learning difficulties (for example, dyslexia) and hearing disabilities may apply for a spelling or grammar waiver. For example in TCD, such students get stickers to add to the covers of their examination booklets. These stickers advise correctors to mark for content rather than spelling or grammatical errors. Marks for spelling, grammar or punctuation should not be deducted from those students during exams or continuous assessment<sup>16</sup>.

vii. IT & AT

Students who have difficulties with writing due to their disability or who require other assistance should be allowed use Information Technology and Assistive Technology in lectures and exams.

viii. Support workers

Students should be allowed the use of a scribe, dictation or reader in exams where required.

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<sup>16</sup> See [www.tcd.ie/disability/docs/Examguidelines.doc](http://www.tcd.ie/disability/docs/Examguidelines.doc) for more details on how to correct written work from students with learning difficulties

### iii. Lectures, Labs or Practical Classes:

#### i. Provision of course materials in alternative formats

Lecturers should aim to provide accessible materials to all students. For example, students who are blind may need notes to be in Braille. By following the guidelines outlined below regarding accessible documents, this will be easier for the relevant party such as the Disability Service to convert the materials to Braille.

#### ii. Recording

Lecturers should allow the student to record the teaching session if unable to take accurate notes, for example, if the student is hard of hearing or has a physical disability affecting their handwriting. Students should ask permission before doing so via the LENS (Disability Needs Assessment) report.

#### iii. Rest Breaks

Lecturers should allow the student to take rest breaks. This may involve taking a short break between classes. The lecturer should take note that a student with such a disability may sit close to the exit to allow for this, or may be absent for certain periods of the teaching session.

#### iv. IT and AT

Lecturers should allow the student to use a laptop or computer so as to take notes or use assistive software during class. The students have a responsibility to use the IT or AT solely for this purpose in class.

#### v. Support Workers

Lecturers should facilitate support workers as much as possible, and allow them to attend lectures. Support workers include assistants, notetakers or Sign Language Interpreters. Lecturers should bear in mind that the support workers will primarily not participate in class discussions, only to assist the

student with the disability. The support worker should also be provided with lecture notes and handouts<sup>17</sup>.

vi. Permission to eat or drink should be given to the student if so required by his / her disability, such as physical illnesses. For example, lecturers should be aware that diabetics may require food at specific times.

vii. Additional time to develop practical skills

This involves giving students additional time to develop alternative techniques or to practice specific practical skills to reach an appropriate level of competence in a skill. This benefits students with reduced fine motor skills, processing speed difficulties or a disability which can cause pain, fatigue or reduced mobility. Where ever possible students should be given additional time to develop alternative techniques or practice specific practical skills to reach an appropriate level of competence in the skill. Lecturers are encouraged to consider ways students could supplement these skills with simulated or improvised resources.

viii. Tutorial support

Extra academic tuition may be organised to allow for absences or other difficulties with understanding due to the disability. Again, lecturers should consult with their respective department and the Disability Service.

ix. Accessible locations

Classes timetabled should ensure that any student who so requires, is taught in accessible teaching venue locations to allow for attendance, as required by Part 3 of the Disability Act 2005. Ease of access for wheelchair users in the class should be considered, for example, is there a lift in operation in cases where the class is not on ground level. If one is timetabled to teach in an inaccessible venue, it would be helpful to check the Disability Needs Assessment reports to see if this venue will be a problem for any student. If

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<sup>17</sup> For more information on the roles of support workers see [www.nuigalway.ie/student\\_services/disability\\_office/documents/esw\\_handbook\\_2009.10.pdf](http://www.nuigalway.ie/student_services/disability_office/documents/esw_handbook_2009.10.pdf)

so, talk to the appropriate party to seek a room swap with a group of similar size. The timetabling office or Disability Service may be able to assist you with this situation.

x. Field trips / off-campus accessibility

Lecturers should consider the accessibility of field trip locations. By providing full details of field trips in advance, students can make travel arrangements.

xi. Appropriate seating

Encourage all students to find the most appropriate seating for themselves.

This may involve moving seats several times to perceive things from different points of view. For example:

- students with medical conditions such as diabetes may only feel comfortable sitting close to the door so that if they need to leave they can do so without disruption,
- students with mental health conditions such as anxiety or social phobia may feel uncomfortable sitting in the middle of the room or among other students,
- students with sensory impairments may need to sit closer or further away in comparison to other students depending on their need.

xii. Repeat questions asked

Lecturers should aim to repeat questions asked in class before answering, to enable those students with hearing difficulties to participate fully. Repeating it will widen the audience to the lecturer's response, will allow other students time to reflect on the question and give them time to come up with their own answer. This assists all students, not just those who may have a hearing impairment.

xiii. Microphone

Lecturers should use a microphone to assist those with hearing difficulties if requested to do so via a LENS (Disability Needs Assessment) report.

xiv. Absences

Teaching staff should be accommodating and understanding as regards absences due to a student's disability. Students should not be penalised when absent due to sickness or when attending hospital appointments such as students with, for example, cystic fibrosis. While a Disability Needs Assessment report cannot act as an open ended medical certificate, it should alert staff to the fact that regular absences may be necessary and that agreement should be sought as to what level of absence can be reasonably accommodated.

xv. Provide deadlines in advance

This benefits students who may have difficulty prioritising and focusing on the required elements of the assessment, and students who find that completion of assignments takes longer due to their disability. It also benefits blind students who need time to convert information to alternative formats.

#### **D. Lecture Notes**

i. Handouts

Any handouts given as part of a course should be given in advance to those students with disabilities, preferably in electronic format. Handouts particularly benefit students who have difficulties structuring notes and students who find note taking physically difficult.

ii. Reading lists

Lecturers should provide reading lists in advance, with the most important topics and readings highlighted. This will allow students with disabilities to prepare adequately for the teaching session. This can be done through email.

iii. Lecture notes

When requested, lecturers should provide lecture notes, if the lecturer uses a typed set of notes. These notes should be provided in advance, preferably in electronic format to allow for the use of Assistive Technology. These notes may include the overhead slides, and notes of

the lecturer. This, as with all reasonable accommodations, should be done in a discreet manner for example by email. It is no defence to suggest that the lecture materials belong to the lecturer, as this material belongs to the employer, i.e. the HEI.

iv. Accessible materials<sup>18</sup>

The provision of accessible materials is required by section 28 of the Disability Act 2008. The use of a 12 or 14 point sans serif font (such as Arial, Verdana or Tahoma), using 1.5 spacing is recommended. Text should always be left aligned to facilitate conversion to Braille and aid dyslexic readers. Preferably, materials or exam papers should be printed on coloured paper so as to enhance readability. Materials should be created as word documents, or as an accessible PDF<sup>19</sup>.

v. Alternative formats

Notes should be provided in Braille or audio format if requested by a student who is blind as this will allow the student to access and understand lecture materials in the same manner as those without a disability.

vi. Books for the Visually Impaired / Blind

Where a visually impaired or blind student is due to begin a module, every effort should be made to have the core textbook (if there is one) in Braille. The college should contact the publishers of the book a couple of months in advance.

vii. Enlarged size

Lecturers should bear in mind that enlarged (size 14 and above) lecture notes and handouts enhance readability, particularly when using PowerPoint presentations and lecture slides. Such slides should be visible for all students, bearing in mind font and background colour, font and size.

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<sup>18</sup> See NUIG's 'Guidelines for all Staff in the preparation of accessible learning materials' for further details: [www.nuigalway.ie/disability/documents/guidelines\\_on\\_preparing\\_accessible\\_materials.doc](http://www.nuigalway.ie/disability/documents/guidelines_on_preparing_accessible_materials.doc)

<sup>19</sup> Please note that accessible PDFs can only be created on Adobe Professional.

## E. Placement

Students on work placement also require reasonable accommodations to be made, under the Employment Equality Act.<sup>20</sup>

### i. Pre-placement planning meeting required

Students on professional courses who are registered with the Disability Service will benefit from a planning meeting prior to the commencement of their first placement. The Disability Service will arrange this meeting with the student and the placement co-ordinator at a suitable time in advance of placements beginning. The purpose of the meeting is to discuss any support needs that may arise on the placement and to arrange reasonable accommodations in advance. The meeting will also provide an opportunity for the student and placement co-ordinator to discuss issues such as disclosure, course core competencies and fitness to practice.

## 14 - Most Common Types of Disabilities

- a. Attention Deficit Disorder (ADD), Attention deficit hyperactivity disorder (ADHD)
- b. Autistic Spectrum Disorders - Asperger Syndrome, Autism
- c. Blind, Visual impairment
- d. Dyspraxia, Dyslexia, Dyscalculia
- e. Hearing Impaired, Deaf, Hard of hearing
- f. Mental Health Illnesses (including depression, Bi-Polar disorder, eating disorders, schizophrenia, and anxiety)
- g. Neurological Conditions (including Brain injury, Speech & Language Difficulties)
- h. Physical or mobility disabilities
- i. Significant On-going Illnesses – Diabetes, Epilepsy, Cystic Fibrosis, Asthma

## Conclusion

Some things to remember:

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<sup>20</sup> For more information on the EEA see section 3 a. of this Booklet.

- ☑ Take a request for reasonable accommodation seriously and act promptly
- ☑ Be open-minded
- ☑ Always keep medical and personal information confidential
- ☑ Be flexible
- ☑ Take a common sense approach
- ☑ Remember the key role played by lecturers in providing reasonable accommodations and in ensuring the HEI abides by the law
- ☑ Do all you possibly can to support the student to achieve their academic potential

### References:

- 'Good Practices Guidelines for the providers of supports and services for students with disabilities in Higher Education', by AHEAD
- Guidelines for Staff on Academic Supports for Students with a Disability in UCD
- Educational Support Worker by DAWN and AHEAD

Appendix – Legal Opinion and relevant sections

**Appendix – Legal Opinion and relevant sections**

Query	Summary of Opinion
<p>1. Can students with a disability who are offered a place in College via the Supplementary procedure be excluded if it is deemed the disability will cause difficulty?</p>	<p>Section 7(2)(a) of the Equal Status Act 2000 states that an educational establishment shall not discriminate in relation to the admission or the terms or conditions of administration of a person as a student to the establishment. However Section 7(4)(b) of the 2000 Act states that the above does not apply to the extent that compliance with any of its provisions in relation to a student with a disability would, by virtue of the disability, make impossible, or have a seriously detrimental effect on, the provision by an educational establishment of its services to other students. The wording here is quite strong <u>“impossible or have a seriously detrimental effect”</u> and therefore I feel that it would not be possible to exclude a student from entry merely because it will cause difficulty, whether this is prior to or post-registration. The defence of impossibility or serious detrimental effect to any action brought under the Equal Status Acts 2000 – 2008 is only in relation to individual students and cannot be used to exclude, for example, all students with a specific disability from a particular course of study.</p>
<p>2. Students are asked to provide evidence each time they apply for reasonable accommodation related to their disability, when evidence is on file in Disability Services, is this reasonable?</p>	<p>Once a student has disclosed evidence of their disability to the Disability Service, this should be sufficient for the relevant departments which are requested to provide reasonable accommodation.</p>
<p>3. Can students be excluded from rooms based on lack of independent living skills?</p>	<p>Section 6(1) of the 2000 Act provides that there shall be no discrimination in providing accommodation or any services or amenities related to accommodation or ceasing to provide accommodation or any such services or amenities. This relates to the provision of accommodation only. Accommodation must not be withheld on the basis of disability but neither must the College take responsibility to support students who are unable to engage in independent living. If assisted living</p>

	<p>was something that was already being provided by College then the situation would be drastically different. However, in this case the College must only ensure that persons with a disability are given the same access to accommodation as other students with consideration given to the particular disability of any given student. The engagement of Carers to maintain the student once he/she is residing in the accommodation must ultimately fall to the student himself /herself.</p>
<p>4. Is it reasonable for academics to refuse to give notes in advance or to refuse a student with a disability to record lectures?</p>	<p>This falls within the ambit of section 7(2)(b) of the Equal Status Act, 2000 which provides that an educational establishment cannot discriminate in relation to the access of a student to any course, facility or benefit provided by the establishment. The material word here is benefit. If notes are provided as a part of a particular module or subject then these should be made available in advance to students whose disability would prevent them from taking an accurate note during the lecture involved. This also applies in relation to the recording of lectures where students are not able to take such a note.</p>
<p>5. Do lecturers have an intellectual property right to their lecture material or is it the property of the College?</p>	<p>Whether or not the material belongs to the College will depend on the written contract of the lecturers involved. If the employment contract is silent as to copyright of any material provided or the requirement to provide any such material then it is certainly arguable that the material belongs to College. However as the legislation specifically states “author”, it is only arguable that such material belongs to College.</p>
<p>6. In organising special examination facilities would it be reasonable for the Examinations Office to be furnished with additional information in relation to students disabilities?</p>	<p>The Equal Status Acts 2000 – 2008 are themselves silent in relation to the collection and administration of information in relation to a person’s disabilities. Therefore the provisions of the Data Protection Act, 1988 (as amended by the Data Protection (Amendment) Act, 2003) must be considered. Section 2(1) of the Data Protection Act 1988 provides that the following provisions must be complied with in relation to the obtaining and disclosure of data:</p> <p>“(a) the data or, as the case may be, the information constituting the data shall have been obtained, and the data shall be processed, fairly,  (b) the data shall be accurate and, where necessary, kept up to date  (c) the data – shall be kept only for one or more specified and lawful purposes, shall not be used or disclosed in any manner incompatible with that purpose or those purposes, shall be</p>

	<p>adequate, relevant and not excessive in relation to that purpose or those purposes, ...”</p> <p>Therefore I would have to conclude that once students are informed that information obtained by the Disability Services is necessary in order that the College may take all necessary and reasonable steps to prevent harm or distress to the student in question and all other students, then the disclosure of this information to the Examination Office or any other area of the College concerned with the care and welfare of students will not be inconsistent with the provisions of the Data Protection Acts. However this information must be handled with the utmost sensitivity and only disclosed to persons who will require that information to organise accommodations, lectures, field trips etc. in such a way so as to prevent harm or distress to any student.</p>
<p>7. If the Disability Service is in possession of relevant information, does it owe a duty of care to other staff and students of the University?</p>	<p>As the Disability Service is part of the College I can advise that there would be a sufficiently close relationship between the College and other staff and students and therefore a duty of care would arise.</p>
<p>8. Once the Disability Service has received this information is it then considered that the College has received the information and, thus does the College owe a duty of care to staff and other students?</p>	<p>In such an instance once the information has been received by the Disability Service it is presumed to have also been received by the College and in such a case the College would owe a duty of care to staff and other students.</p>
<p>9. If a student with a disability (known to the Disability Service) chooses <b>not</b> to disclose their disability to their school or course, could the Disability Service</p>	<p>Yes, the College could be held responsible for any damage caused or injury sustained if they were negligent in not providing safe guards to ensure that any reasonably foreseeable damage or injury was averted in any given circumstance.</p>

<p>be held responsible for any damage caused?</p>	
<p>10. Would it be acceptable to require students to disclose their disability if, in specific circumstances, it is reasonably expected that they could cause harm to themselves or others?</p>	<p>Again the Equal Status Acts 2000 – 2008 are silent on the obligation of persons to disclose their disability. However taking the duty of care owed by the College to staff members and other students I believe it is reasonable to require all students on professional courses where there are clinical or other placements to disclose the existence of any disability that may pose a risk to the student in question or any other person.</p>
<p>11. Is different treatment among students permissible to prevent harm?</p>	<p>Section 14 of the Equal Status Act 2000 provides that it is permissible to give certain persons preferential treatment to promote equality of opportunity for persons who are, in relation to other persons, disadvantaged or who have been or are likely to be unable to avail themselves of the same opportunities as those other persons, or cater for the special needs of persons, or a category of persons, who, because of their circumstances, may require facilities, arrangements, services or assistance not required by persons who do not have those special needs. Therefore different treatment is permissible in order to ensure that the student in question is able to carry out the activity. Further section 4(4) of the 2000 Act provides that it is permissible to treat a person who has a disability that could cause harm to that person or another, differently from other persons and that same will not be construed as discrimination.</p>
<p>12. Does the College have a duty of care towards the public, staff or students, if a student has not disclosed their disability even if it could cause harm?</p>	<p>The College will not have any liability under the tort of negligence for any acts which were not reasonably foreseeable, therefore if the College makes all legitimate enquiries of students in relation to disabilities that may pose a risk, and students are not forthcoming with that information then the College could not reasonably expect harm or injury associated with that disability to have accrued.</p>
<p>13. Which legislation is more applicable to professional courses: employment legislation or Equal Status Acts?</p>	<p>Neither of the acts is more applicable and each must be read in conjunction with the other. However whether or not employment legislation applies to students on professional courses will depend if that student is classed as an employee or not. The definition of employee under the Unfair Dismissal Act, 1977 is as follows:</p>

	<p>“employee means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment...”</p> <p>The Act further states that a contract of employment means a contract of service or of apprenticeship, whether it is express or implied and (if it is express) whether it is oral or in writing.</p>
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<b>Extension of Reasonable Accommodations in the Disability Service</b>	<b>Counsel’s Opinion</b>
<p>The Disability Service recommends that the list of possibilities for flexibility in the scheduling of examinations should be extended in exceptional cases to include the following:</p>	
<p><b>Re-schedule the exams within the annual examination period:</b> When there are two 3 hour exams on the same day for some students with a physical, sensory or medical disability and they may be taking medication and require additional time or rest breaks. When essential medical treatment is required or to allow for recovery from medical treatment.</p> <p><b>Split exams between annual and supplemental sittings:</b> When preparation for or the sitting of exams have been significantly interrupted by the nature of the disability and when the situation may not have changed in time for the supplemental examination period. When the workload is considered too great for the student with a disability to take on and be fairly assessed in comparison with their peers. Some students face up to 11 exams of 3 hours duration.</p> <p><b>In Junior &amp; Senior Sophister years where there are no supplemental examinations:</b></p>	<p>I can say that all seems to be fair and reasonable given the requirements of the legislation except for the provision that students with a disability can be permitted to sit their annual exams during the supplemental examination period as a first sitting with no option of repeating the exams. I would advise that a repeat examination should be accommodated if necessary; otherwise this could be viewed as discriminatory treatment.</p>

Students may be permitted to defer one or more of their exams to the supplemental period and sit those exams as a first sitting. This is a reasonable accommodation in circumstances where the nature of the disability affects the student completing the annual examinations.

As for the reasons given above, students with a disability can be permitted to sit their annual exams during the supplemental examination period as a first sitting with no option of repeating the exams.