

June 27, 2019



The State University  
of New York

**NYSDSC SPRING 2019  
CONFERENCE**

# **Providing Accommodations In Difficult Or Novel Settings**

**Presented by:**

**Seth F. Gilbertson, Associate Counsel  
SUNY Office of General Counsel**

# On the Docket Today

- Lessons to be learned from accommodating students in:
  - Student conduct proceedings
  - International programs
  - Applied learning programs
- Classroom accommodations that go beyond extra time and a distraction free environment
- A primer on faculty/staff role in EIT accessibility

# Conduct Hypo 1

Joe, a student with a low-level autism spectrum disorder, is accused of violating the College's sexual misconduct policy by engaging roughhousing behavior (wrestling, pinching, tickling) with another student, Vera, beyond the limits of Vera's consent. The nature and context of the play could be interpreted as sexually charged.

# Conduct Hypo 2

The College's Title IX officer investigates and determines that there are important questions that need to be resolved in a conduct hearing. The TIX report indicates that:

- The parties disagree as to when/how consent was given and/or withdrawn.
- Whether the parties understood the play to be sexually suggestive.
- Whether Joe understood that Vera had withdrawn consent.

# Conduct Hypo 3

The College's Hearing Officer meets with Joe to describe the process. It is not clear that Joe understands the severity of what he is being charged with. Joe repeatedly asks if Vera is mad at him.

The Hearing Officer contacts the Office of Disability Services and asks for help. Joe is registered with ODS as a student with a disability and he receives several academic accommodations.

# Conduct Hypo 4

What should ODS do?

- Contact Joe to get permission.
- Arrange a meeting with Joe and the Hearing Officer.
- Work with Joe and the Hearing Officer to craft appropriate accommodations that enable the hearing to proceed under conditions that are fair to both parties.

# Conduct Hypo 5

- What are the competing interests that need to be addressed?
- What are some appropriate accommodations that the College can offer?
- What information can be shared with Vera?
- What information can be shared with the Hearing Board?

# Conduct Hypo 6

## Lessons:

- It is important for the College to work as a team.
- Much thought needs to go into how to share information.
- Sometimes accommodations can conflict with the rights of others and the College's separate legal obligations. Balancing these interests is key.
- Ultimately, the College must enforce its code of conduct and behavioral standards.

# Conduct Hypo 7

What if:

- Joe asks to only speak through a representative?
- Joe asks for all of the questions in advance?
- Joe asks for additional time to consult with his representative prior to answering any question?
- Vera asks for all of the same accommodations that Joe receives?

# International Hypo 1

Eric, a student with paraplegia, enrolled in Professor Miller's summer class on archeology in Egypt.

- The class travels around to various sites in Egypt by bus, staying in some hotels and some dorm-style accommodations at partner institutions.
- Some of the class is taught in a classroom setting by Prof. Miller and guest instructors at partner institutions, but a significant portion of the time is spent visiting archeological site (tombs, pyramids, palaces, digs, etc.).

# International Hypo 2

- Late in the Spring Semester, class participants are asked to fill out several forms and Eric discloses his disability on the health form.
- Approximately five weeks before the class is scheduled to depart, Professor Miller is going through the forms and notices Eric's health form.
- Professor Miller contacts Eric to explain the activities that the class would be engaging in and Eric signals that he intends to go and participate to the fullest extent possible.

# International Hypo 3

- Does the ADA apply abroad?
- What should Professor Miller do next?
- How will the College handle transportation?
- How will the College handle living arrangements?
- How will the College handle excursions?
- How will the College pay for the extra cost of the trip?

# International Hypo 4

## Lessons:

- Seek information about disabilities early.
- Work as a team and clearly explain why things are being done the way that they are.
- Have conversations with partners in advance and chose partners that are willing and able to work with us.
- Consider alternative options – we cannot always provide a perfect apples-to-apples experience. Effort, communication (and documentation) are key.
- Build the cost of providing accommodations into programs in advance.

# Applied Learning Hypo 1

Julie, a student with a visual impairment, is enrolled in the College's BSN program.

During her first two years of classes, Julie receives classroom accommodations (extra time, sitting in front, enlarged text handouts, etc.) and does very well.

# Applied Learning Hypo 2

In her third year, she is sent to a local hospital partner for her first clinical rotation. Julie receives some accommodations, such as a computer monitor magnifier and she struggles with some tasks, but she is able to complete most of the basic nursing tasks assigned to her and passes the clinic.

# Applied Learning Hypo 3

In her final year, Julie's clinical rotation at an outpatient surgery center essentially requires her to act as a junior nurse. She has much more patient interaction, which Julie generally excels at. However, Julie struggles with the quick pace and some of the more advanced procedural techniques, such as inserting catheters and assisting in surgery.

# Applied Learning Hypo 4

Several physicians refuse to work with Julie because it takes her longer to read orders and locate instruments and, after a mistake measuring a dose of medication, the hospital revokes her clinical assignment.

# Applied Learning Hypo 5

- What went wrong?
- How could it have been avoided?
- How do we respond to the clinic's action?
- What do we do about Julie's enrollment in the BSN program?

# Applied Learning Hypo 6

## Lessons:

- Have clear and accurate technical standards and essential functions listed for the program.
- Train faculty and disability services staff to spot potential problems early.
- Communicate our needs and requirements to placement sites BEFORE we need their help providing accommodations.
- Sometimes it is okay to try something, but expectations should be communicated and alternatives should be discussed well in advance.

# Classroom Accommodations

Is the request reasonable:

- Fundamental alteration?
- Undue administrative or financial burden?
- Equally effective alternative available?
- Is student an active participant in accommodation?
- Usually no need to provide a personal assistant.

# Classroom Accommodations 1

- Animals
  - Assistance Animals?
    - Not usually a classroom accommodation
    - Housing issue
  - Service Dogs?
    - Must follow our reasonable rules, including not disrupting class
    - Labs might have cause to deny

# Classroom Accommodations 2

- Personal Aids
  - Readers? Maybe
  - Note-takers? Usually
  - Interpreters? Yes
  - Tutors? No

# Classroom Accommodations 3

- Out of class materials
  - Usually reasonable to provide expanded access to lectures and other materials
  - Should have agreement in place with student limiting use

# Classroom Accommodations 4

- Modified/accessible multi-media
  - Any electronic information used in class or assignments should be accessible for everyone in class
  - Older materials should be modified as needed
  - Newer materials should be accessible

# Accessible EIT for Everyone

- This is not the role of IT staff, but the job of everyone who uses electronic means to communicate
- Faculty must ensure that course materials are accessible, even if no student has made a specific request
- Staff must make sure that web materials and other content they use in programing is accessible
- Faculty/staff must only work with products/vendors that supply accessible content

# EIT Accessibility Basics 1

- Websites and applications used in course instruction must have content that is accessible with a screen reader.
- Websites and applications used in course instruction must include alternative text for any non-text content that conveys meaning (e.g., pictures, graphs).



# EIT Accessibility Basics 2

- Websites and applications used in course instruction must be able to be navigated through use of a keyboard, as an alternative to mouse navigation.
- Websites and applications used in course instruction must not rely on color to convey meaning.
- Websites and applications used in course instruction must provide captions or transcripts for all audio or video content.

# Questions

