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Making the “D” Not Stand for “Difficult” ***Addressing (and Preventing) the Tough ADA Questions***

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Accommodation Process Refresher

- Always follow the accommodation process
 - Wait for request, obtain medical documentation, interactive process, grant/deny in writing
 - And Repeat (flowcharts are at back of room)
- Each decision is individualized.
- Document, document, document...

Accommodation Process Refresher

- ... and document some more!



Let's Dive in!



- Website Accessibility
- Clinical Sites
- Drug Testing
- Expensive Accommodations

Website Accessibility

- No Brightline Standard (yet)
 - W3C's WCAG
 - 2.0 or 2.1?
 - A? AA? AAA?
 - WCAG 2.1 AA held to be a good standard
 - See *Payan v. Los Angeles Comm. Coll. Dist.*, 2:17-cv-1697, 2019 WL 3298777 (C.D. Cal. July 22, 2019)
- More accessible, the more defensible

General Areas of Compliance

- Perceivable
 - Text alternative, captions
 - Operable
 - Keyboard, timing, navigation
 - Understandable
 - Readable, predictable
 - Robust
 - Compatible with user tools
- <https://www.w3.org/WAI/WCAG21/quickref/>

Website Accessibility

- Internal Compliance Process Guidelines:
 - Website Accessibility Coordinator
 - Periodic reviews by tech staff or outside vendor
 - Webpage with information on how to make a complaint or request further accommodation
 - Contract with outside vendors to be compliant

CONTROLLING THE UNCONTROLLABLE (CLINICAL SITES)

- Clinical sites have an independent obligation to accommodate students
 - e.g., they are places of public accommodation

AND

- Your institution has an obligation to accommodate students for all portions of the academic program.
 - Even at places that may be beyond your immediate control

LET THAT SINK IN...



“whoa”



“whoa”



“whoa”

CONTROLLING THE UNCONTROLLABLE (CLINICAL SITES)

- Preparing students
 - Before enrolling
 - List of essential functions to all students
 - During Interactive Process
 - Include advising in written grant/denial of accommodations
 - At clinical site assignment
 - Help students through accommodation process
 - Consider reassigning to other site if necessary

CONTROLLING THE UNCONTROLLABLE (CLINICAL SITES)

- Preparing Clinical Sites
 - Gently remind of independent duty to accommodate
 - **Understanding** this is a delicate relationship
 - Be a resource for alternative accommodations
 - Reframe discussion
 - Outcome is graduation...not employment.
 - Ensure “essential functions” live up to their name

DRUG TESTING

- Who wants to know?
 - Your institution? Clinical Site?
- What do they want to know?
 - What precise information is being sought?
- Why is the information being sought?
 - Patient safety? Student's safety? Just habit?

DRUG TESTING

- Ask for only what you need to know



UNREASONABLE ACCOMMODATIONS

- **UNDUE BURDEN**
 - No Brightline Test
 - Usual Suspects:
 - (1) Size of the university
 - (2) Corporate structure of the university
 - (3) The nature and cost of the accommodation needed
 - Clever Factors:
 - Impact on composite scores
 - Gross income vs. net profit
 - Executive salaries
 - **More factors = More defensible**

UNREASONABLE ACCOMMODATIONS

- FUNDAMENTAL CHANGE IN NATURE OF PROGRAM
 - Academic Standards
 - Waiving homework
 - Lowering threshold for passing
 - Academic Content
 - Not teaching a particular subject
 - Regulatory Requirements
 - Time to complete requirements

Thank you for attending!

Any Questions?

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