



**Ldao • Learning Disabilities  
Association of Ontario**

*The right to learn, the power to achieve*

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**LDAO Position Paper on Interpretation  
of the  
LDAO Definition of Learning Disabilities, 2001**

**in Postsecondary Settings**

**September 2014**

**Background on Development of the LDAO Definition of Learning Disabilities**

In 1999 the Ontario Ministry of Education (EDU) provided funding to the Learning Disabilities Association of Ontario (LDAO) to lead a multilevel initiative focusing on children four to eight years old, the **Promoting Early Intervention (PEI) Initiative**, as one response to the 1999 McCain & Mustard report, “Reversing the Real Brain Drain – Early Years Study.”

First among the initiatives was the development of a new, scientifically based and widely acceptable definition of verbal and non-verbal learning disabilities for use within Ontario schools. A Definition Working Group was convened to develop a new definition and was composed of clinicians, researchers and advocates, all of whom had worked for many years in the field of learning disabilities (LDs).

The definition was developed and revised through meetings of the Working Group, input from focus groups of stakeholders around Ontario, and review by prominent researchers in the LD field as well as major associations in Canada, the United States and the UK.

In April 2001, the Working Group agreed that the revised definition now represented the best possible synthesis of current thinking and research regarding the definition of LD. The PEI Steering Committee and the LDAO Board of Directors approved the definition in May 2001.

In 2002 the Learning Disabilities Association of Canada (LDAC) adopted a definition of learning disabilities that, except for a few words, is identical to the LDAO definition. Since 2002, many of the provinces of Canada have adopted the LDAC definition.

Also in 2002, the Screening and Assessment Working Group of the PEI developed [\*\*Recommended Practices for Assessment, Diagnosis and Documentation of Learning Disabilities\*\*](#), based on the LDAO definition of learning disabilities.

The LDAO Recommended Practices Document is on the LDAO website and is also available on the website of the Association of Chief Psychologists with Ontario School Boards:

[www.acposb.on.ca/Resources/Recomm\\_Prac.pdf](http://www.acposb.on.ca/Resources/Recomm_Prac.pdf)

## The LDAO Definition in the Postsecondary Sector

In 1997 the Ontario government had established the **Learning Opportunities Task Force** to address concerns regarding the ability of students with learning disabilities (LDs) to transition to and succeed in the postsecondary environment, and to collect and analyze data regarding the most effective ways in which postsecondary institutions could accommodate and assist all students with LDs. LOTF commissioned 13 pilot projects at postsecondary institutions across Ontario. Relying on research that suggested strategies likely to improve educational success of those with LDs, the LOTF pilot projects implemented intensive learning skills, education, and self-advocacy interventions for students enrolled in such projects.

The 2002 Final Report of the Learning Opportunities Task Force recommended funding of learning strategy and assistive technology supports to students with learning disabilities, and starting in 2002 such supports were funded by the Ministry of Training, Colleges & Universities (MTCU) through the *Enhanced Services Fund for Students with LD*. In order to qualify for the enhanced services funding, postsecondary institutions were required to adhere to the LDAO Definition of Learning Disabilities (2001) in assessment and diagnosis of students with LDs.

### Issues in the interpretation and application of the LDAO definition

The **LDAO definition** states, “These disorders result from impairments in one or more psychological processes related to learning <sup>a</sup>, in combination with *otherwise average abilities essential for thinking and reasoning*. Learning disabilities are specific not global impairments and as such are *distinct from intellectual disabilities*.”

The recent fifth edition of The Diagnostic and Statistical Manual of Mental Disorder (DSM5) published May 2013, now includes the diagnosis of Specific Learning Disorder. The DSM5 diagnosis includes the exclusionary criterion, D. “The learning difficulties are not better accounted for by intellectual disabilities, ...”

The LDAO definition of learning disabilities and the DSM5 criteria for Specific Learning Disorder both differentiate LDs from intellectual impairments. However, the DSM5 diagnosis of Specific Learning Disorder does not explicitly require average to above average intelligence.

The distinction between learning disabilities and intellectual impairments has been considered a key concept in the definition for decades, and has implications for intervention. Individuals with intellectual impairment are not expected to manage at the same level and rate of learning the rigorous interventions appropriate for individuals with learning disabilities. Differentiating interventions and accommodations increases the likelihood of success for each group.

The **LDAO Recommended Practices for Assessment, Diagnosis and Documentation of Learning Disabilities** state in the list of Diagnostic Criteria for Learning Disabilities:

“B. Academic achievement that is *unexpectedly low relative to the individual’s thinking and reasoning abilities* OR *academic achievement that is within expected levels, but is sustainable only by extremely high levels of effort and support*.”

LDAO does not say that underachievement must be “relative to the average student”. On page 11 of the **LDAO Recommended Practices for Assessment, Diagnosis and Documentation of Learning Disabilities** the following statement appears: “Individuals whose abilities essential to thinking and reasoning are assessed to be above average or higher may demonstrate one or more psychological processes related to learning and academic achievement that are in the low average or average range. It is important to be aware that, for these individuals, these low average-to-average scores do reflect a significant weakness relative to their high level of cognitive ability, and may be indicators of a learning disability.”

The key areas of academic achievement are generally considered to be: listening comprehension, oral expression, basic reading skills and sub-skills (including phonological processing), reading fluency, reading comprehension, written expression (including spelling), math calculation, and math problem solving. On norm-referenced tests with a mean of 100 and a standard deviation of 15, a deficit is considered to be a score that falls at least one standard deviation below the mean. Clinical judgment is considered to be an important factor, however, when deficits relative to an individual’s own cognitive strengths are noted.

There are some individuals with LDs whose academic performance may fall within age- and grade-expected levels, despite the fact that measurable underlying processing deficits continue to exist. In these cases, such performance is maintained only with extremely high levels of effort (e.g., extraordinarily long hours of work/study) and support (e.g., parental, classroom teachers, special education/learning support teachers, educational assistants, tutors, extracurricular classes/tutoring services, assistive technologies).

In their recent research article, **High Reading Skills Mask Dyslexia in Gifted Children**, published online June 16, 2014 in *Journal of Learning Disabilities*, Sietske van Viersen and co-authors state “this study showed that gifted children with dyslexia outperform children with dyslexia on literacy skills and that they have a unique cognitive profile characterized by both deficits related to dyslexia and strengths associated with giftedness.” Furthermore, they contend that “masking of literacy difficulties can cause dyslexia to remain undetected in gifted children for a protracted time, despite achievement being lower than anticipated on the basis of the intellectual capacities of the child.

### **Functional academic impairment**

The concept of a *functional impairment* or *functional limitations* comes up often in the context of accommodation for disabilities. It is reasonable to expect that in order to access accommodations students with learning disabilities need to show a *functional impairment* in an academic area related to their deficits in psychological processes. The important question is how to define, measure and document impairments at the postsecondary level.

Pertinent to the question of *functional impairment* is the statement in the LDAO definition that “The impairments are generally life-long. However, their effects may be expressed differently over time, depending on the match between the demands of the environment and the individual’s characteristics.” Psychological assessments should include a thorough history to

document examples over time in which processing challenges seemed to be associated with functional impairments.

Under Diagnostic Features of Specific Learning Disorder in DSM5, there is statement that expresses a similar idea: “Specific learning disorder may also occur in individuals identified as intellectually ‘gifted’. These individuals may be able to sustain apparently adequate functioning by using compensatory strategies, extraordinarily high effort, or support until the learning demands or assessment procedures (e.g. timed tests) pose barriers to their demonstrating their learning or accomplishing required tasks.”

In his article, “Specific Learning Disability and Its Newest Definition: Which is Comprehensive? And Which is Insufficient?”, David Scanlon (2013) states that “a comprehensive definition should also reflect that a LD can affect higher-level skills performance even when foundational skills have been mastered.” And further that “LD can exist across the life span, changing and differentially affecting in its manifestations and significance across age and contexts, including first appearing in complex tasks, such as ... planning and executing tasks in postsecondary schooling”.

In their “Comments on Proposed DSM5 Criteria for Learning Disabilities”, Jack Fletcher and a group of prominent researchers point out that even though there are “situations where successful remediation has significantly reduced deficits in reading accuracy”, in some individuals, “because of the persistent difficulties in reading fluency and comprehension, adaptive functions will be significantly compromised as these individuals confront expanded content level text”.

By the time of university entrance the predominant reading issue is often reading fluency, reading speed and their impact on comprehension, i.e., efficiency issues. These may affect students’ ability to deal with large amounts of reading material without accommodations such as text-to-voice software, or their ability to finish exams within the allotted time. How should such impairment be documented? For instance, high levels of academic support and intervention may have been provided to a young student with underlying deficits in phonological processing. Over time, the student may demonstrate independent reading decoding skills at ‘average’ levels on tests of reading achievement. However, in a postsecondary setting with a fast-paced curriculum and load on reading, additional measures of reading fluency and automaticity should be incorporated in an assessment. Standard tests used to assess academic achievement do not necessarily test reading comprehension under timed circumstances.

In addition to functional impairments in academic areas of reading, writing and mathematics, research has shown that areas of impairment common to all types of learning disabilities include: processing speed; general fluency of processing; working memory (visual/auditory); executive functioning; performance on complex tasks requiring the integration of information from different modalities (e.g., verbal/visual, visual/verbal, verbal/motor, auditory/motor). Assessment of these areas is especially important in individuals beyond early elementary school age.

## **Appropriate accommodations in postsecondary education**

In *Guidelines on Accessible Education, 2004* the Ontario Human Rights Commission (OHRC) states their position that “the duty to accommodate requires that the most appropriate accommodation be determined and then undertaken, short of undue hardship. The most appropriate accommodation is one that most respects the dignity of the student with a disability, meets individual needs, best promotes inclusion and full participation, and maximizes confidentiality. An accommodation will be considered appropriate if it will result in equal opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges enjoyed by others, or if it is proposed or adopted for the purpose of achieving equal opportunity, and meets the student’s disability-related needs.”

LDAO maintains that the determination of an accommodation and its appropriateness must be based on the type, severity and complexity of the identified learning disabilities, as well as the essential requirements of the educational course or examination. In order to decide on appropriate accommodations, the postsecondary institution must rely on a comprehensive psychoeducational assessment that covers the areas described in this document.

Diagnosis of LDs by a qualified member of the College of Psychologists requires proper use and application of tests and techniques; rendering of professional opinions that are based on current, reliable, adequate and appropriate information; and identification of the limits of certainty to which diagnoses, opinions, or predictions can be made about an individual (The College of Psychologists of Ontario Standards of Professional Conduct, 2009). Underscoring all of those elements is the role of clinical judgment and experience in formulating a diagnosis and making recommendations. For example, review of collateral source information, such as school report cards, developmental milestone markers and/or any second language issues, is critical for understanding the manifestations of processing impairments over time.

A discussion of issues relating to determination of the essential requirements of the educational course or examination can be found in [Accommodating Students with LDs in Postsecondary Studies](#), LDAO, June 2012. (See Appendix B)

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## Appendix A



### LEARNING DISABILITIES ASSOCIATION OF ONTARIO

#### Recommended Practices for Assessment, Diagnosis and Documentation of Learning Disabilities

(Excerpt)

#### Diagnosis of Learning Disabilities

Accurate diagnosis of learning disabilities is necessary in order to distinguish this disorder from other potential causes of the presenting symptoms or problems. It is also necessary to document the individual's strengths and to identify needs that result from impairments in specific psychological processes. Accurate diagnosis is fundamental to the development of specialized interventions at home, school, community, and workplace settings.

In view of the biological/neuropsychological nature of the disability, the formulation and communication of a diagnosis of learning disabilities is a complex process that requires professional training and skill. Professionals from a variety of disciplines (e.g., psychology, education, speech-language pathology, occupational therapy, medicine, audiology, etc.) play a significant role in identifying “at risk” individuals and in contributing to the evaluation, as well as to the development and implementation of a range of interventions. In Ontario, however, the communication of a diagnosis is controlled under the Regulated Health Professions Act, and may be performed only by appropriately qualified members of the College of Psychologists and the College of Physicians and Surgeons.

#### LDAO Definition of Learning Disabilities, 2001

“Learning Disabilities” refers to a variety of disorders that affect the acquisition, retention, understanding, organization or use of verbal and/or non-verbal information. These disorders result from impairments in one or more psychological processes related to learning<sup>a</sup>, in combination with otherwise average abilities essential for thinking and reasoning. Learning disabilities are specific not global impairments and as such are distinct from intellectual disabilities.

Learning disabilities range in severity and invariably interfere with the acquisition and use of one or more of the following important skills:

- oral language (e.g., listening, speaking, understanding)
- reading (e.g., decoding, comprehension)
- written language (e.g., spelling, written expression)
- mathematics (e.g., computation, problem solving)

Learning disabilities may also cause difficulties with organizational skills, social perception and social interaction.

The impairments are generally life-long. However, their effects may be expressed differently over time, depending on the match between the demands of the environment and the individual's characteristics. Some impairments may be noted during the pre-school years, while others may not become evident until much later. During the school years, learning disabilities are suggested by unexpectedly low academic achievement or achievement that is sustainable only by extremely high levels of effort and support.

Learning disabilities are due to genetic, other congenital and/or acquired neuro-biological factors. They are not caused by factors such as cultural or language differences, inadequate or inappropriate instruction, socio-economic status or lack of motivation, although any one of these and other factors may compound the impact of learning disabilities. Frequently learning disabilities co-exist with other conditions, including attentional, behavioural and emotional disorders, sensory impairments or other medical conditions.

For success, persons with learning disabilities require specialized interventions in home, school, community and workplace settings, appropriate to their individual strengths and needs, including:

- specific skill instruction;
- the development of compensatory strategies;
- the development of self-advocacy skills;
- appropriate accommodations.

<sup>a</sup> The term “psychological processes” describes an evolving list of cognitive functions. To date, research has focused on functions such as:

- phonological processing;
- memory and attention;
- processing speed;
- language processing;
- perceptual-motor processing;
- visual-spatial processing;
- executive functions; (e.g., planning, monitoring and metacognitive abilities).

This definition is supported by a background document, *Operationalizing the New Definition of Learning Disabilities for Utilization within Ontario's Educational System, LDAO, 2001.*



## **Diagnostic Criteria for Learning Disabilities**

Consistent with the above definition, all of the following criteria must be met for a diagnosis of a learning disability to be made.

- A A non-random, clinically significant discrepancy\* between otherwise average abilities essential for thinking and reasoning, and one or more of the specific psychological processes related to learning.
- B Academic achievement that is unexpectedly low relative to the individual's thinking and reasoning abilities OR academic achievement that is within expected levels, but is sustainable only by extremely high levels of effort and support.
- C Evidence that learning difficulties are logically related to observed deficits in specific psychological processes.
- D Evidence that learning difficulties cannot primarily be accounted for by:
- (1) other conditions, such as global developmental delay, primary sensory deficits (e.g., visual or hearing impairments), or other physical difficulties;
  - (2) environmental factors, such as deprivation, abuse, inadequate or inappropriate instruction, socio-economic status, or lack of motivation
  - (3) cultural or linguistic diversity.
  - (4) any other co-existing condition such as Developmental Coordination Disorder, Attention Deficit Hyperactivity Disorder or anxiety.

*Note: Learning disabilities may co-exist with many conditions, including attentional, behavioural and emotional disorders, sensory impairments or other medical conditions.*

***\*See supporting document for a discussion of “clinically significant discrepancy”***

## **Assessment of Learning Disabilities**

### **Thinking and Reasoning Abilities**

Measures utilized to assess thinking and reasoning abilities should meet the requirements of standardized, individually-administered, psychometrically-sound, psychological test instruments, be supported by appropriate research, and interpreted by appropriately-trained psychological service providers.

There are times when deficits in specific psychological processes mask normal functioning in more general thinking and reasoning abilities, making an accurate assessment of global intellectual ability difficult. It is important to note that a diagnosis of a learning disability does not always require an individual's global intellectual ability (e.g., full-scale IQ) to fall in the average range or above. In such cases other estimates of thinking and reasoning abilities independent of the underlying processing impairment (such as a relevant index, component, or composite

score, or other combination of appropriate subtest scores) can be taken as evidence of average functioning in these areas, provided these results are supported by evidence and interpreted with sound clinical judgment. (*See supporting document*)

*Examples of currently available appropriate test instruments are contained in the supporting document.*

### **Psychological Processes Related to Learning**

It is mandatory to document performance in one or more of the following areas that is significantly and reliably below the levels predicted by obtained measures of thinking and reasoning outlined above:

- Phonological Processing
- Memory and Attention
- Processing Speed
- Language Processing
- Perceptual-Motor Processing
- Visual-Spatial Processing
- Executive Functions

It is also necessary that statements related to such deficits in psychological processes are based on more than one source of information, and that they be logically related to the observed learning difficulties. It should be noted that a number of different professionals may be involved in this part of the assessment, with the relevant results being incorporated in the final documentation of the learning disability by the regulated health care professional qualified to communicate the diagnosis.

### **Academic Achievement**

The parent, teacher, and student themselves may be in a position to provide critical information about past and present academic successes and challenges, as well as the level of support provided to reach current levels of academic functioning.

It is mandatory to document under-achievement or achievement sustained by extremely high levels of effort or support in one or more academic areas (as evident in the classroom and in standardized test results) and to relate academic performance to underlying deficits in specific psychological processes. In most cases there will be evidence of a significant disparity between cognitive potential and measures of achievement in academic areas. In circumstances where there has been an extremely high level of effort and support, there may not be a significant disparity between cognitive ability and academic achievement.

The academic assessment measures should be individually administered, standardized tests. Canadian norms should be used wherever they are available. Where Canadian norms are not available, caution should be exercised when interpreting standardized scores. Measured achievement levels should, however, be consistent with the individual's observed on-going performance and areas of weakness

Comprehensive testing should be undertaken in observed areas of weakness, assessing all components of identified skills wherever possible. For example, if reading is identified as an area of weakness, assessment should include measures of decoding, comprehension, reading fluency, oral vocabulary, etc.

*Age-equivalents and grade-equivalents should not be used as a basis for comparison between tests, due to their imprecision. It is considered best practice to compare standard scores from co-normed tests, using proper statistical procedures.*

### **Other Factors in Assessment**

Additional evaluation may be used to identify or rule out co-existing conditions (*See supporting document*).

### **Documentation of Learning Disabilities**

Any diagnostic report should include all of the following components, unless a valid rationale is provided for not doing so.

- Relevant information regarding:
  - Information about home language use (original language, dialect, language(s) spoken in the home) medical/developmental/family history, including results of any vision/hearing evaluations
  - Educational history, including information about remedial programs, special class placements, or other support that have been provided
  - Other professional evaluations (e.g., speech-language, occupational therapy, educational consultant, etc.), including previous psychological assessments
- Examiner's statement regarding the validity of the present assessment results
- Behavioural observations during the testing session, as well as available observations (both anecdotal and from rating scales) from parents, teachers, classroom visits, etc.
- Reporting and interpretation of formal test results, including a description of the individual's strengths and needs, an indication of how the observed pattern of abilities and achievement demonstrates the presence of a specific disability, and adequately documented evidence as to the cause of the learning difficulties
- A specific, clear, diagnostic statement that the individual has a Learning Disability
- A description of how the individual's strengths and needs will impact on the challenges he/she confronts in present and future activities of daily living
- Based on the individual's strengths and needs, recommendations / suggestions / indications for further action and intervention in the areas of skill instruction, compensatory strategies, and self-advocacy skills, along with requirements for

appropriate accommodations at home, and in school, community and/or workplace settings

- Signature of an appropriately qualified member of the College of Psychologists of Ontario (CPO) or the College of Physicians and Surgeons of Ontario (CPSO). The qualified member must be present (preferably in person, or via telephone or teleconference) when oral diagnostic reports are delivered (*see supporting document for more details*).

Note 1: Appropriately documented, informed consent for psychological assessment must be obtained in advance from the individual concerned, or from his or her parents or legal guardians, by the individual who will be conducting the assessment. In addition to information regarding the assessment procedures themselves, such informed consent must include an explanation regarding: the potential release of information and/or the report to any third party; the potential distribution and storage of the assessment information and documentation, including circulation within a school system or inclusion in the Ontario Student Record (OSR); the individual's rights regarding withholding or withdrawal of consent; and the right of direct access to the qualified member of the CPO or CPSO who is responsible for the diagnosis.

Note 2: The above components for documentation of a learning disability are consistent with the LDAO definition of Learning Disabilities, as well as with the Practice Guidelines Regarding Psychological Assessment Reports Written for Clients with Learning Disabilities that was adopted by the Ontario Psychological Association.

## Appendix B



### Accommodating Students with LDs in Postsecondary Studies

June 2012

Students with learning disabilities (LDs) form the majority of students seeking services from offices for students with disabilities at Ontario colleges and universities. There are increasing numbers of students with LDs who are graduating from high school and continuing on to postsecondary studies. In some cases they have been receiving accommodations in high school and expect to continue these accommodations at postsecondary. Others do not get assessed and diagnosed as having learning disabilities until the postsecondary level, when they encounter a level of complexity that challenges areas of weakness for which they have been able to compensate up to that point.

**Accommodations** for students with learning disabilities refer to those supports, resources and services, over and above that provided to all other students, which enable students with LDs to fully access and utilize the education system.

In elementary and secondary education, accommodations may be provided on the basis of a special education identification under the *Communication – Learning Disability* category and definition, or even informally on the basis of demonstrated special education needs. The primary legislative basis here is the Education Act and its Regulations. The Education Act does not apply to postsecondary studies, but the Ontario Human Rights Code applies to postsecondary institutions, as it does to all providers of goods and services in Ontario. Under Human Rights legislation, discrimination is prohibited on the basis of disability, and the definition of disability includes “a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language.”

Eligibility for accommodations at postsecondary institutions, under the Ontario Human Rights Code, is based on having a diagnosed disability, not on identification as exceptional in the elementary/secondary school system. The kinds of accommodations that are allowed in postsecondary studies may also be different from what is allowed in elementary/secondary education. Furthermore, the legislated entitlement to accommodations differs since students at the elementary and secondary level have a mandated right to an education under the Education Act, while there is no guaranteed right to an education at college/university.

#### Diagnosis

Postsecondary institutions require diagnosis of a learning disability or learning disabilities by a professional who is qualified in Ontario to diagnose (a member of the College of Psychologists

or the College of Physicians and Surgeons). Learning disabilities are diagnosed on the basis of a series of tests called a psychoeducational or psychological assessment. Postsecondary institutions have requirements for the assessment content and report in order for accommodations to be granted.

Colleges and universities in Ontario use the LDAO definition of learning disabilities (see Appendix 1) and the diagnostic criteria developed with that definition:

- A. A non-random, clinically significant discrepancy\* between one or more of the specific psychological processes related to learning (phonological processing; memory and attention; processing speed; language processing; perceptual-motor processing; visual-spatial processing; executive functions) and otherwise average abilities essential for thinking and reasoning.
- B. Academic achievement that is unexpectedly low relative to the individual's thinking and reasoning abilities OR academic achievement that is within expected levels, but is sustainable only by extremely high levels of effort and support.
- C. Evidence that learning difficulties are logically related to observed deficits in specific psychological processes.
- D. Evidence that learning difficulties cannot **primarily** be accounted for by: other conditions, such as global developmental delay, primary sensory deficits (e.g., visual or hearing impairments), or other physical difficulties; environmental factors, such as deprivation, abuse, inadequate or inappropriate instruction, socio-economic status, or lack of motivation; cultural or linguistic diversity; and/or any other co-existing condition.

Students entering postsecondary studies may find that they need to have a psychoeducational assessment completed that fits the above criteria, with a clear statement of a diagnosis. Formal or informal identification for special education services in elementary or secondary school are not sufficient without such an assessment report, and may only allow access to interim accommodations until there is an adequate assessment.

### **Assessment report**

The psychoeducational assessment report should contain a list of recommendations from the professional, and any recommended accommodations should be clearly related to underlying deficits in psychological processes. The office for students with disabilities at the college or university receives the assessment report and determines what accommodations are appropriate for the particular setting. The report itself stays confidential, but a letter is prepared for the student to take to each instructor outlining which accommodations the student is entitled to.

### **Appropriate accommodations**

In *Guidelines on Accessible Education, 2004* the Ontario Human Rights Commission (OHRC) states their position that “the duty to accommodate requires that the most appropriate accommodation be determined and then undertaken, short of undue hardship. The most appropriate accommodation is one that most respects the dignity of the student with a disability, meets individual needs, best promotes inclusion and full participation, and maximizes confidentiality. An accommodation will be considered appropriate if it will result in equal opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges enjoyed by others, or if it is proposed or adopted for the purpose of achieving equal opportunity, and meets the student’s disability-related needs.”

The determination of an accommodation and its appropriateness must be based on the type, severity and complexity of the identified learning disabilities, as well as the essential requirements of the educational course or examination.

**Essential requirements** of an academic course are the components and outcomes which every student must achieve in order to pass the course or program.

According to a document developed by the Inter-University Disabilities Association (IDIA), “Essential requirements’ is a specific term used in human rights legislation, referring to the *bona fide* requirements of a task or program that cannot be altered without compromising the fundamental nature of the task or program. Determining what is an essential requirement and what is not is critical in distinguishing requirements that cannot be accommodated from what can and should be altered.”

The IDIA document goes on to describe two factors in determining ‘essential’ – the skill that must be mastered to meet the objectives of a course, and the way that the skill must be demonstrated (i.e. is there a prescribed method of demonstration?).

Students coming from high school may not be familiar with the concept that accommodations must respect the essential requirements of a course, although the concept exists in secondary education as well. In secondary curriculum the essential requirements are usually clearly outlined in the specific expectations for each subject, developed by the Ministry of Education.

In postsecondary education essential requirements are determined by the academic department or faculty, within guidelines approved by the Ministry of Training, Colleges and Universities. For most college programs, there is a Program Advisory Committee, comprised of specialists in industry who confirm the essential requirements. It is helpful if the instructor is very clear about what is being taught, what skills must be mastered, and if and why they must be demonstrated in a certain way. Determining what requirements are essential is at the crux of decisions about allowable accommodations for students with learning disabilities.

Decisions about what accommodations are appropriate for each course should be made in a collaborative manner between the instructor, the student and the office for students with disabilities. Sometimes there are disagreements. Students may find that some of the accommodations they were used to in high school, or even accommodations recommended in their assessment report, are disputed by the instructor or the academic department. The

disagreements often centre on whether essential requirements are being compromised. Faculty may raise concerns about *academic freedom* and/or *academic integrity*.

### **Academic freedom**

The OHRC, in their document *The Opportunity to Succeed*, has taken the position that “academic freedom is unrelated to the duty to accommodate and should not be a defence to accommodating persons with disabilities. The purpose of academic freedom is to protect the special role of institutions of higher education in the free search for truth, and its free exposition. As such, it relates mainly to freedom of research and of expression in instruction. It will be rare for a disability-related accommodation to impinge on academic freedom.”

### **Academic Integrity**

Academic integrity refers to the maintenance of standards for curriculum, evaluation, and student achievement. Appropriate accommodations should not lead to lowered standards or outcomes. Accommodations are designed to ensure that the student can meaningfully access the curriculum content and successfully meet the essential requirements of the program, although the manner in which the student demonstrates mastery, knowledge and skills may be altered.

In their discussion of academic integrity, in *The Opportunity to Succeed*, the OHRC says that “a consideration of the appropriateness of an educational accommodation begins with an analysis of the nature of the educational right at issue...The next step is to consider what the essential duties or requirements attending the exercise of the right are.” The OHRC further states that “a requirement should not lightly be considered to be essential, but should be carefully scrutinized. This includes course requirements and standards. For example, it may likely be an essential requirement that a student master core aspects of a course curriculum. It is much less likely that it will be an essential requirement to demonstrate that mastery in a particular format, unless mastery of that format (e.g., oral communication) is also a vital requirement of the program. Educators must provide accommodation, up to the point of undue hardship, to enable students to meet these essential requirements.”

### **Undue Hardship**

Undue hardship is a term used in human rights legislation to describe a circumstance or grounds where an individual or an institution may deny accommodations to someone who has a disability. Under the *Ontario Human Rights Code*, every student with a disability is entitled to accommodation up to the point of undue hardship. The *Code* sets out only three elements that may be considered in assessing whether an accommodation would cause undue hardship:

- cost
- outside sources of funding, if any
- health and safety requirements, if any.



To claim the undue hardship defense, the education provider has the onus of proof. The student requesting accommodation does not have to prove that the accommodation can be accomplished without undue hardship. Determining undue hardship for cost involves proving that financial cost would alter the essential nature or substantially affect the viability of the educational institution. In postsecondary educational institutions this defense against granting accommodations to students with learning disabilities is unlikely.

Health and safety concerns can be raised by postsecondary institutions in regard to altering what are considered 'essential requirements' of courses or providing accommodations. This argument is used particularly in medically-related programs. In order to use this undue hardship defense educational institutions or faculty would need to demonstrate that altering 'essential requirements' or providing specific accommodations would potentially threaten the health and/or safety of the public.

### **Alternative Formats**

One of the most common accommodations used by students with learning disabilities is getting printed materials in alternative formats.

The *Integrated Accessibility Standards* under the *Accessibility for Ontarians with Disabilities Act, 2005* states that:

**15.** (1) Every obligated organization that is an educational or training institution shall do the following, if notification of need is given:

1. Provide educational or training resources or materials in an accessible format that takes into account the accessibility needs due to a disability of the person with a disability to whom the material is to be provided by,

i. procuring through purchase or obtaining by other means an accessible or conversion ready electronic format of educational or training resources or materials, where available, or

ii. arranging for the provision of a comparable resource in an accessible or conversion ready electronic format, if educational or training resources or materials cannot be procured, obtained by other means or converted into an accessible format.

Under Human Rights legislation educational institutions were already required to provide printed materials in alternative formats if this is considered an appropriate accommodation for a student. Problems can arise due to timeliness of this provision. In its response to the draft *Integrated Accessibility Standards*, LDAO stated:

*“A statement should be added that every effort must be made by the educational or training institution to provide accessible versions of educational or training resources or materials to the student with a disability **at the same time as other students in the same program or course.** When this is not possible **alternative measures** must be taken to enable the person with a disability to fully participate in the program or course.”*

It is currently problematic for students to receive print materials in alternative formats in the same time frame as their peers. Promising practices include *Alternate Education Resources Ontario (AERO)*, a web-based digital repository operated by the Ministry of Education in partnership with the Ministry of Training, Colleges and Universities that provides electronic versions of books from six Canadian publishers to students with print disabilities in some colleges and universities, as part of a pilot project. Due to copyright rules, students must have a documented perceptual disability, and electronic versions of books must be deleted or returned at the end of the academic loan period.

AERO may in the future build up a repository of books that will speed up access to a range of textbooks in electronic formats. In the meanwhile, students may be faced with a confusing assortment of services at their educational institution. Sometimes offices for students with disabilities may approach publishers to ask for a conversion ready electronic format of their book, but this approach is not always successful. Books that cannot be obtained in electronic format, and other print materials such as journal articles or course packages, need to be converted with optical character recognition software, e.g. Kurzweil. This process is time-consuming and labour intensive.

The timeliness of any of these processes depends on the instructor making a list of required course materials available well before the course starts. Otherwise students are put at a disadvantage when they do not have their required course materials at the same time as other students.

### **Transition to Postsecondary**

Offices for students with disabilities have long noted the importance of appropriate transition activities to help prepare students with LDs to maximize success in a new and often confusing environment. The Ministry of Training, Colleges & Universities offers postsecondary institutions support for conducting summer transition programs. While these have been demonstrated to be helpful by students, staff and parents, they continue to be undersubscribed. A study of students in a college and a university who attended a summer transition program found that those students were more likely to access disability supports and therefore to be more successful in their academic pursuits.

Transition activities should be promoted by guidance counsellors and special educators at the secondary level, so that students have the correct information and understanding about the essential requirements of their chosen careers. Self advocacy development is also critical, since students are required to advocate for themselves at the postsecondary level. Parents should be involved in learning about expectations for their sons and daughters at college or university, and learn how to support them in advocating for themselves, especially as students leave home communities for education elsewhere.

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