

Power Point Content

**Section 504 at Fifty**

**Disability Policy in Higher Education**

**Why 504 Remains Relevant and Important**

**How Law Schools Can Make a Difference**

January 6, 2023

AALS Annual Meeting – San Diego

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(Slide 1)

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(Slides 2 through 6) [Then and now]

[Compare 1973 and 2023 in several contexts –

Disability law

Political events (Watergate/January 6)

Legal developments (*Roe v. Wade*, post *Dobbs*)

Personal (Laura and Mark Rothstein in 1973 and today)]

(Slide 7)

### **Overview of Presentation**

- History of Section 504 through lens of higher education
- Continued relevance of 504; it's not just the ADA that matters
- Brief overview major disability issues on campus today
- Focus on mental health in higher education and significance of Section 504
- How law schools can make a difference

(Slide 8)

### **Continued relevance of 504 on campus after the ADA**

Guidance from Department of Education about disability issues on campus

OCR investigations – an enforcement mechanism that may have “quietly” made higher education more responsive and proactive ????

504 remedies more expansive than ADA remedies in some situations and procedures broader at least in higher education

(Slide 9)

### **Brief overview of topics of greatest attention in higher education now**

- Neurodiversity
- Attendance as an essential function (post COVID)
- Documentation and making “known” the disability
- Technology
- Other COVID related issues – is long COVID a disability; what about associational disabilities related to COVID; what about those who are immunocompromised?

(Slide 10)

**Highest priority – mental health  
-- need for counseling  
procedures related to behavior and conduct**

College students highly stressed

Made worse by pandemic

High need for mental health services on campus

High need for “training” for faculty and staff on front line for referral

Need for appropriate responses to concerning conduct – including self harming

[Image – student looking stressed behind pile of books]

(Slide 11)

**Lessons for  
Higher Education  
Mental Health Situations**

Depressed

Different (sometimes “Disruptive”)

Dangerous

[Images from Campus Suicide Prevention Center of Virginia logo, TV Series “Atypical”,  
Virginia Tech shooting]

(Slide 12)

**Highest priority – mental health – what law schools must, can, should do**

Assessment of counseling services and procedures for responding to issues of concern on campus

Provide counseling? Liability for not doing so?

Withdrawing students based on mental health concerns?

Ensuring that decisions are based on behavior and conduct, not status

Bar admissions reporting -- deterrence to counseling

(Slide 13)

**Relevance of 504 and ADA to this issue?**

Like the homeless person with mental illness in major cities – and trying to address a complex situation to protect the individual and others in the community

CULTURAL COMPETENCE,

TRAINING and

SUSTAINED SERVICES are required

(Slide 14)

**How Law Schools Can Make A Difference**

Litigation

Legislation

Regulation

Public Opinion

[Images of several law professors appearing on television – Neal Katyal (Georgetown), Joyce Vance (Alabama), Barbara McQuade (Michigan)

and Eric Chemerinsky (Berkeley)

(Slide 15)

**How Law Schools Can Make A Difference**

Litigation

Legislation

Regulation

Public Opinion

[Images of Liz Warren, Katie Porter and Jamie Raskin – former law professors who are now in Congress]

(Slide 16)

### **How Law Schools Can Make A Difference**

Policy Changes within Bar Admissions

New York law school deans / character and fitness questions on New York Bar Exam

Also needed, advocacy re: bar exam accommodations

Policy Change within Law Schools

Inclusion of students in accommodation policy creation and implementation

(Slide 17)

### **In conclusion**

As scholars, you can make a difference by

- Writing and focusing on key issues – being “advocates through education”
- Guiding student work on these topics
- Encouraging policies, practices and procedures at your own institutions that are inclusive
- Persuading with your expertise – media, amicus briefs, advocacy in legislative, regulatory and judicial proceedings

(Slide 18)

- **Goals of the presentation and article in progress**
- Provide overview of key 504/ADA issues on campus
- Highlight critical issue of mental health on campus
- Publication in 2023 will address these issues in much greater detail – feedback welcome