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## **Legislative Accomodation Strategies for Post-Secondary Students with Attention Deficit Disorder**

Rose Indriolo

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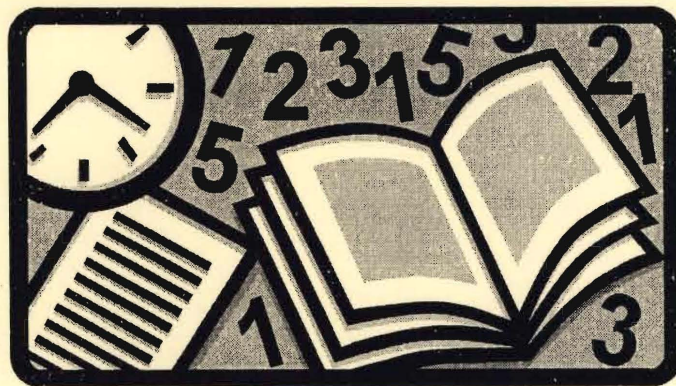
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# Legislative Accommodation Strategies for Post-Secondary Students with Attention Deficit Disorder



By  
Rose Indriolo  
For  
College Scholars Senior Project  
May 8, 2000

**A DISCUSSION OF LEGISLATIVE ACCOMMODATION  
STRATEGIES FOR POST-SECONDARY STUDENTS  
WITH ATTENTION DEFICIT DISORDER**

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Rose Indriolo  
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## INTRODUCTORY SUMMARY

Attention Deficit Disorder is a mental disability that has gotten much media coverage in K-12 populations. What is often overlooked is what happens to students once they enroll in institutions of higher learning. There are a great number of accommodations that allow and encourage students to attend post-secondary institutions, but these legislative strategies are questionable. The consensus seems to be that the current system is flawed and needs revision. Whether these revisions need to include more broad accommodations, less government interference, or a complete system overhaul is the point of contention facing issue advocates at the moment. Since the solutions will involve ADD sufferers, their families, and post-secondary schools as well as the taxpayers and all students, legislators and advocates must work together to ensure reasonable practices and advances for the twenty-first century.

The following paper will provide a background for consideration of accommodation issues in post-secondary ADD populations. The nature of the disorder will be examined as well as the current legal structures that provide for variations in the treatment of ADD students. Issues that proponents cite as important to legislation of comprehensive accommodations as well as the repercussions and arguments against government intervention will also be examined. This work is meant to be a preliminary tool for the examination of disability legislation, but it does include a brief conclusion with possible future actions to improve the current situation.

Legislative initiatives regarding ADD populations in Post-secondary situations are failing in the eyes of many. The costs and effects in society are becoming greater with each student that is included in such a questionable system. Taxpayers, namely those involved in higher educational systems, must keep abreast of these problems and work together to form a long term solution that will benefit all students and members of society.

# **CHAPTER ONE**

INTRODUCTION TO ATTENTION DEFICIT DISORDER:  
DIAGNOSTIC CRITERIA, SYMPTOMS, AND CASE STUDIES

## CASE STUDY: “KELLY”

Kelly<sup>1</sup> is a twenty-year-old college sophomore who has been visiting a psychiatrist for a number of months to deal with some problems she has been having. She has always scored very well on assignments and standardized tests, and she is attending a university on scholarship, but since she has been away from home, many problems have surfaced or been exacerbated. Thinking she was merely depressed, Kelly decided to try counseling so she could get her life in order. After seeing Kelly for many months, discussing symptoms and life issues, and administering extensive tests, her doctor told her that she had Attention Deficit Disorder or ADD<sup>2</sup>.

Kelly was shocked to hear that she was suffering from what she thought to be a problem that only unruly children and underachievers had, but as her psychiatrist explained her symptoms and test results, the myths were broken and Kelly was convinced. The first lesson was that people diagnosed with ADD are often very intelligent people, like herself. Many have a great deal of “natural intelligence” and can perform very well on tests and IQ indicators, but often do not do so because of their problems with impulsive and inattentive behaviors. In fact, studies have shown that the range of intellectual ability in ADD populations is the same as that in the population as a whole. This falsifies the popular belief

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<sup>1</sup> Kelly is a fictional character based on composites of actual case studies by Monroe A. Gross, M.D. and Sari Solden, M.S., M.F.C.C. The various case studies can be found in their books: Gross, Monroe A. The ADD Brain: Diagnosis, Treatment, and Science of Attention Deficit Disorder (ADD/ADHD) in Adults, Teenagers, and Children. Nova Science Publishers, Inc., Commack, NY: 1997. Solden, Sari. Women with Attention Deficit Disorder. Underwood Books, Grass Valley, CA: 1995.

<sup>2</sup> This is sometimes referred to as Attention Deficit Hyperactivity Disorder, ADHD, to indicate that one of the common symptoms of the disorder is hyperactivity or fidgeting, but the terms are interchangeable. For this paper only ADD will be used.

that ADD populations score consistently lower on IQ tests or are innately less intelligent than the general public. In both ADD and non-ADD groups, 2% show “sub borderline intellectual skills and 2% demonstrate gifted intelligence” (Goldstein, 1997, p.44). Kelly also learned that ADD is a neurological disorder meaning that it affects a person’s brain chemistry and central nervous system; that is why it can be effectively treated in many cases with medication and therapy. She found out that the disorder can be autosomally genetic meaning that only one parent has to have the gene to pass it on to a child; this does not, however, mean that it is strictly a hereditary disorder (Gross, 1997). While researchers still have many questions about the nature and causes of the disorder, they do know that all sufferers — including those who may not be diagnosed until later in life as their symptoms may be latent or unidentified — have the disorder as children. Of these, approximately 50% continue to exhibit signs as adolescents, and 30% still suffer as adults (Kelly and Ramundo, 1996).

There are many symptoms to look for and tests that can be done to diagnose ADD, and Kelly has quite a few symptoms. The three that are considered most important and are required by the Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition (DSM-IV)<sup>3</sup> are inattentiveness, hyperactivity and impulsivity. Kelly shows signs of inattention in a number of ways: she is an excellent student, but she never does much homework, reading, or studying. She complains of getting bored or distracted when she has to

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<sup>3</sup> The DSM-IV is the criteria put out by the American Psychiatric Association to set minimal standards and suggest testing strategies to diagnose ADD. The American Government bases its legal precedents on these criteria, and it serves as the official reference for any questions about testing and diagnosis for ADD.



complete assignments, and she says that they are unimportant anyway because she can simply remember things from lecture. Also, she has problems with keeping up relationships because of her lack of follow-through in social engagements or returning calls. Kelly has never been a hyper child, but she is very fidgety and has a number of nervous tics including physical tics like tapping her foot and blinking repeatedly and vocal tics like clearing her throat often. Most people would describe her as a "nervous person." Another problem that Kelly has is that she interrupts people, speaks out of turn, and cannot stand to wait in lines; these are all problems with impulsivity, or wanting instant gratification. The important thing to note about all of Kelly's symptoms is while they are common to many people, her problems are unusually severe, pervasive, and chronic, making them notable indicators of ADD.

Aside from the three DSM-IV symptoms, Kelly exhibits other signs of ADD. It takes her a long time to get to sleep whether or not she is tired or has anything on her mind; she generally just waits until she is exhausted to sleep (this is often very late at night). Also, she cannot wake up very easily. While she may be able to get out of bed on time, she says that it takes her a very long time to feel alert and functional. This morning grogginess feeling is always present; it disturbs Kelly's activities in significant ways; and it has nothing to do with the amount of sleep she has gotten the night before. Another problem Kelly has is her irritability. She is known to have a short fuse, severe mood swings, and is constantly critical of the world around her. Her friends describe her as "high

strung” and mention that she tends to harbor an unfounded negativity that often leads to sudden outbursts or fits of rage.

Kelly’s condition is treated with a combination of therapy and medication, and she begins to see great progress and change in her attitude and aptitude for doing well in school. She remarks that she feels more focused and calm, and those around her notice marked differences in her mood, motivation, and attentiveness. She begins to lose her old nervous habits and calms down a great deal in tense situations. Kelly’s grades rise and her ability to stay with a task mirrors, for the first time, her natural intelligence. The counseling and drugs almost eliminate her symptoms, but she still feels that she needs to look into legal options for accommodation, “just in case.” These legal issues will be discussed in the following chapter.

### **CASE STUDY: “JOHN”**

John<sup>4</sup> is a student who was diagnosed with ADD in the second grade. He is now a senior in high school, and his parents are pressuring him to go to college. John, however, has little faith in his ability to pass the standardized tests necessary for college admissions, but he also doubts his chance of success if he does pursue a higher education. John considers himself to be an underachiever, as do his friends and many teachers. He is used to being ignored by instructors at school and was identified as a “problem child” early in life. He was originally sent to a school psychiatrist and later to a private practice (where he was administered extensive tests, counseled, and ultimately diagnosed with ADD)

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<sup>4</sup> John is another composite character based on actual case studies by M. A. Gross & S. Solden.

because he was so disruptive in school. Despite years of counseling, coping-strategy classes, and various drug regimens, John and his doctors have had little luck with trying to alleviate or eliminate his symptoms.

John shares many of Kelly's symptoms including inattentiveness, disrupted sleep patterns, and mood swings. He however is much more prone to extreme hyperactivity and "acting out." Since his early teens, John has engaged in numerous high risk behaviors such as shoplifting and sex with multiple partners. He is known to cause major disturbances in class — that is, when he decides not to skip school — and is quite familiar with the principal's office. It is not uncommon to see John with a black eye or bloody knuckles as he is very aggressive and often in fights. He refuses to take "no" for an answer and becomes lethargic and sluggish when discouraged. Perhaps the most unusual behavior that he exhibits is his tendency to express delusional beliefs and compulsive lies, but he often seems unable to discern real and imaginary thoughts. He also repeats himself often and can be very incoherent at times (Bloomingdale, 1985).

## **INTRODUCTION TO ACCOMMODATION AND TREATMENT**

While both Kelly and John's symptoms are not necessarily significant if taken individually or demonstrated mildly, the consistency, severity, and combination of all of them are strong indicators of ADD. In fact, most accepted ADD indicators are behavioral characteristics that most people face, but as the DSM-IV, the official criteria for diagnosing ADD in the U.S., indicates, they must

be demonstrated and judged in light of a number of factors: onset, consistency, pervasiveness, severity, impulsive/hyperactive behavior, and outlined DSM-IV standards for testing. As ADD is an early onset disorder, one must demonstrate that symptoms existed before the age of seven; this does not exclude adults from being diagnosed, but they should be able to look back or talk with childhood mentors to find evidence of possible ADD symptoms. Impulsive or hyperactive behaviors also need to be present. These can be demonstrated in ways similar to John's or Kelly's behaviors or can be manifested in a score of other symptoms. Consistency, pervasiveness, and severity must be taken into consideration for a diagnosis, though. As Michael Gordon put it, ADD symptoms are "normal human characteristics that become manifest in the extreme." Sufferers have long-term problems, a variety of symptoms, and moderate to severe difficulties acting "normal" in society (1998, p. 104).

Once sufferers like John and Kelly understand the known causes, diagnosis criteria, and treatments for ADD, they can better decide how to deal with their disorders. Kelly had compensated in the past through a number of strategies and guidelines imposed by parents and teachers at home, but without that structure, more was needed. She looked into options from medication to legal protections that could help her cope with her ADD. Her situation of being diagnosed with ADD as a young adult in college is a scenario that is becoming more common now that psychoanalysts have accepted that ADD is not just a childhood disorder.

John, on the other hand, had tried many treatments without showing much long-term improvement. He and his parents felt that the best way for him to further his education was to pursue legal accommodation in the classroom. While they agreed that junior college near home would be the best litmus test of his progress at first, they still wanted to explore avenues that would allow John to keep up with his class and have opportunities to work around his mental disorder. The concept of school mandates and classroom accommodations was not new to them, but they had never researched the options for their son. Now that college was an issue, they, like many families dealing with ADD students, felt obligated to learn more about John's options and rights. They also wanted to look into receiving supplemental social security benefits to aid in the cost of educating their son.

As a result of widespread acceptance that accommodations are needed for ADD sufferers and growing numbers of court cases dealing with ADD and other learning disabilities, government officials have stepped onto the scene. There have been a number of recent policy decisions on how to accommodate ADD sufferers, and this paper will focus on those dealing with post-secondary institutions. The following sections will explore the statutes and legal rights available to post-secondary ADD students as well as their effect on society, college campuses, and in the student's behavior and productivity.

## **CHAPTER TWO**

### **ACCOMMODATION LAW: A LOOK AT KEY STATUTES AND COURT DECISIONS**

Currently, it is possible for students with Attention Deficit Disorder (ADD) to receive legal benefits that might enable them to attend and better function in institutions of higher education. This section will examine those accommodations and the legal bases behind them, namely Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA). The following facts and observations shall be limited to unbiased reports and facts about the laws. An analysis of how appropriate these laws are perceived to be will follow in the next chapter.

## **STATUTORY BACKGROUND**

To be able to first examine ADD as a condition that qualifies for benefits and treatments under law, one must first wade through a complex series of rulings and definitions. The watershed piece of legislation that identified ADD as a disability is the Americans With Disabilities Act of 1990; it was not until the passage of this law that the stipulations under Section 504 of the Rehabilitation Act of 1973 applied to as wide an audience as those with mental disabilities. Following is a brief history of this legislation and court rulings dealing with accommodations for mentally disabled.

### AMERICANS WITH DISABILITIES ACT OF 1990

The most significant and widely named piece of legislation in terms of the movement toward accommodating individuals with mental disabilities (here the mental disorder, ADD) is the Americans with Disabilities Act of 1990 [PL 101-

336]. Gordon and Keiser (1998) establish a set of principles that are essential to know in order to understand how the ADA works in relation to ADD populations. Following is a brief introduction of some of their key points along with questions and problems that arise about clarifications of the ADA.

- “The ADA is a civil rights act, not an entitlement program” (p.4).

This law is historically rooted in the Civil Rights Act of 1964 and is a product of the US Government’s push toward civil rights. Both acts are intended to “level the playing field” and to “protect the rights of all citizens, regardless of race, color, or creed.” The ADA just goes further (along with section 504 of the Rehabilitation Act of 1973 [PL 93-112]) to include individuals with disabilities (*ibid.*). This distinction is important because the legislation is, in theory, very unlike that of the Individuals with Disabilities Education Act (IDEA; 1975, PL 101-476), which was passed as an education mandate or entitlement program to those with learning disabilities. The ADA is different because it is supposed to be outcome-neutral and is only meant to open doors to individuals with disabilities. So, while the education mandates and government programs like IDEA are directed toward specific programs and outcomes (positive freedoms), the ADA is only concerned with establishing equality of opportunity and is a negative freedom. The problem arises, though, as to where to draw the line between how to establish equal opportunity without affecting outcome or taking it into consideration as a benchmark for program quality.



- To qualify for ADA protections, one must be considered “disabled.”

The text of the ADA states, “The term disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual” (Gordon & Keiser, 1998, p.6). The Equal Employment Opportunity Commission (EEOC), one of the regulatory agencies that helped draft regulations based on the ADA, notes that “major life activities” include learning and working, thus including ADD populations among those protected (Gordon & Keiser, 1998). Despite these clarifications, however, there is still much contention as to how impaired a person must be and under what circumstances to still qualify for accommodations.

- Recent, professional documentation that a student has ADD and needs accommodation must be submitted in order for a student to qualify under the ADA. Compensation, however, is based on how impaired an individual is under specified circumstances.

While there are not specific rules about documentation and amount of compensation, a number of guidelines have been established about these issues. For example, the Educational Testing Service requires recent (within three years) documentation of ADD by a licensed professional that includes specific DSM-IV diagnoses<sup>5</sup> as well as suggestions, validation, and reasoning for accommodations. Moreover, these requirements are only to qualify for consideration of special circumstances in standardized testing (Cummings &

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<sup>5</sup> Diagnosis listings can be found on pp 83-85 of the DSM-IV.

Maddux, 1999). Once documentation has been submitted, there is no guarantee that a student will receive any benefits as the final decision is made by the governing body that administers the test. There is a great deal of institutional “wiggle-room” here, as well as a wide variety of professionals and interpretations of the DSM-IV.

- Appropriate accommodations will be assigned on individual bases according to the severity and nature of students' disabilities.

This statement means that accommodations should not give a student advantage over others or be outcome-based, but they should keep that student level with others. This statement seems quite self-explanatory when dealing with physical handicaps: for disabled students who are unable to open doors, it is required that automatic doors are installed and the problem is thus solved. It becomes more complicated, however, when a disability is hidden as is ADD, or when varying degrees and treatments leave much gray area for interpreting how much “enough” accommodations are for which individuals. Also, current treatments and medications that lessen or eliminate the symptoms of ADD must be considered when trying to assign accommodations or establish need (D’Agostino, 1998).

As an example of one interpretation of how to assign reasonable accommodation, Mosby’s Medical, Nursing, and Allied Health Dictionary, 5<sup>th</sup> ed. (1998) offers the following definition:

*Reasonable accommodation [is] an interpretation of the U.S. Americans With Disabilities Act regarding responsibility of an employer to provide an adequate (work) environment for a disabled but otherwise competent employee. The rule may apply in... restructuring jobs, reassigning disabled employees to vacant positions, modifying work schedules, acquiring or modifying equipment, and adjusting training materials and examinations.*

#### REHABILITATION ACT: SECTION 504

Section 504 of the Rehabilitation Act was written in 1973, but it was not until the ADA in 1990 that it applied to ADD populations as described above. Section 504 prohibits discrimination based on physical and mental handicaps and it reads,

*No otherwise qualified handicapped individual in the United States...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance (29 USC Section 794).*

In short, when combined with the ADA, any student with ADD that limits his/her learning is entitled to certain special assistance. The RA applies to most colleges as Section 504 is an entitlement program that must be followed by all public and most private schools, and the ADA applies to all colleges and schools whether or not they are publicly funded. The subtle difference between the two is

that the ADA protects students' civil rights by requiring that they be "provided with reasonable accommodations" while Section 504 prohibits discrimination by ensuring that students are provided with concrete "academic adjustments and auxiliary aids" for learning (House oversight, 1990, p.31). The ADA opened the RA up to ADD populations.

### **ACCOMMODATION CASES**

Keeping in mind that a letter from the family physician declaring a child to be ADD does not constitute a legal basis for accommodation, not all individuals with the disorder are entitled to protection under the ADA, Section 504, or other statutes protecting the mentally disabled. The following cases of court orders and institutional decisions involving individuals with ADD will examine established precedent; the decisions will then be paralleled with the fictional Kelly and John situations. Keep in mind that Kelly is the student who has adapted well to treatment and has a natural degree of intelligence and organization that has continued to allow her to achieve high goals. John, on the other hand, continues to be a troubled individual, a poor student, and his symptoms do not respond well to treatment.

### **ACCOMMODATION GRANTED**

It has been noted previously that certain accommodation strategies are widely accepted in many institutions. Extra time on standardized tests, for instance, can be granted if sufficient documentation is available. Also, most

colleges and universities have programs in place through disability services offices or the like. In cases where documented psychiatric assent is all that is needed for a student or employee to gain access to special treatment, it is possible that Kelly and John would both be likely to receive accommodations despite their obvious differences in academia and reaction to treatment. In one writer's words, "It's the documentation, stupid" ("University tightens documentation policy for students with ADD," 1996) meaning that nearly any student in American higher education today can technically qualify for some kind of ADD treatment if she gets the right papers.

A recent trend in many post-secondary institutions is the availability for students to receive benefits outside the classroom. Many experts have suggested that students with ADD be housed in single rooms so they do not have to deal with distractions derived from a roommate situation. Andrew Bryan from The Academic Institute in Washington, D.C., states that even with medication and extra time on tests, a private room can be a more comfortable environment for an ADD student (D'Agostino, 1998). This housing situation can not only cut down on distractions, but it also can help a student adjust to college life since such change can be particularly difficult for an ADD sufferer. While private housing is an option at many colleges including Messiah in Pennsylvania, Longwood in Virginia, UNC at Chapel Hill, Corning Community in New York; and Boston College, it is not a required offering by the Office for Civil Rights (OCR). Instead, Salome Heyward with the OCR suggests establishing quiet study areas

in the library or private study lounges for disabled students (“Students with Attention Deficit Disorder may not be entitled to private rooms,” 1998).

Aside from those programs that are directed at the student, there are also programs in place to teach educators and staff members how to deal with ADD students. Institutions are expected to put their staff members through special training on how to better serve the ADD community, and teachers are expected to monitor students and employ strategies to help the disabled population. Strategies suggested include tailoring lesson plans or teaching styles to the ADD individual, tutoring the student one-on-one outside the classroom on lesson materials and study techniques, providing extra feedback and reinforcement to the individual, and giving tests that are specially formatted to the student’s learning style (Gordon & Keiser, 1998).

#### ACCOMMODATION DENIED

A popular myth is that every individual diagnosed with ADD is instantly given special accommodations. The following cases and precedents denying access to special treatment demonstrate that this is not at all true. One must keep in mind that not all ADD sufferers seek accommodation, whether or not they are aware of their eligibility. How to deal with students who react well to treatment and judge the severity of any mental disability is a problematic subject. In cases that the major differences in accommodations come into play is where the rights of students like Kelly and those like John will diverge (D’Agostino, 1998).

As mentioned above in reference to private room accommodations, the OCR can set minimal standards that a university must comply with even though the institutions themselves may allow for more broad accommodations. In a case originating at the St. Louis Community College, Meramec, Missouri, a student alleged that she was being discriminated against on the basis of her mental disabilities: ADD and depression. The student was denied a waiver for a math class requirement of an Associates Degree. The OCR upheld the denial noting that the student made no written request for accommodations with the school and was moreover provided with a quiet study area and extended time on tests. Also, since the student had no learning disability affecting math skills, and upon request for further documentation none was provided, the student was required to take the class ("Colleges can seek additional medical documentation," 1998). This situation can affect any student without proper documentation or basis for accommodation, and would more than likely affect students like Kelly as she may no longer qualify for accommodations with her advances under treatment.

As in academic areas, the fact that compliance under the ADA and Section 504 in other situations is not all encompassing is demonstrated in the following three court cases. These precedents are notable because legal identification and accommodation of disabled individuals is applicable in all situations affected by previously discussed statutory law and can be applied to any post-secondary academic or extra curricular activities. For example, in *Elitt v. U.S.A.*, a minor requested to not only be allowed to play hockey on a team

comprised of younger players, but he also requested that a member of his immediate family be on the ice with him at all times. This request was rejected as unreasonable, unsafe, and disruptive as it impeded the flow of the game as well as the open ice rink for game play (Title 42, 1996).

In *Duverge v. APFEL*, the mother of a boy affected with ADD was denied Supplemental Security Income Benefits because despite having a learning disability, the boy was not considered legally disabled. The mother claimed benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, but the administrative law judge upheld the agency, saying that the boy did not have a "listed impairment" under the PR Act nor was he "significantly functionally limited" under the WORA 1996 ("Child is denied Social Security benefits under old and new legal standards," 1999). Again, this case applies to situations like Kelly's where a student may not be able to achieve her full potential without accommodations, but her hindered functional level may still be considered average in relation to the general population.

In a related incident, a wardrobe consultant was constructively discharged by his employer on grounds that he was not productive or able to perform the requirements of his job. The employee filed suit stating that he was not given reasonable accommodation under the ADA based on his mental disability, ADD. In *Jones v. Men's Wearhouse*, the court found that the consultant was not impaired in his ability to learn or care for himself. Furthermore, they cited a lack of any medical evidence that he was disabled, and the court noted that the former employee had excellent communication skills and an ability to learn and



excel at his place of work. He had never asked for or documented a need for accommodation previously and had no medical evidence to support any claim of ADD or disability ("Wardrobe consultant with Attention Deficit Disorder was not disabled," 1999). John, and those like him, may have to face issues like this since he and his family have never asked for accommodation or addressed a need for it in the past. This may be another road block for Kelly as well.

## **CHAPTER THREE**

### **GOVERNMENT AND POST-SECONDARY INSTITUTIONS: SUPPORTERS AND OPPONENTS OF ADD ACCOMMODATIONS**

The facts surrounding the education and accommodation of students with ADD have been discussed, but the issue of true importance that surrounds and has shaped the system as it is today is that of political legitimacy. Clearly, since the accommodation laws have been passed, there is an inherent legitimacy therein, but discussion continues. This section will explore the political aspects of how advocates and opponents of post-secondary ADD accommodations have shaped public, legislative, and judicial opinions. Theories and arguments from each side will be examined along with suggestions for improving the current system.

## **SOCIAL THEORY SUPPORTING ACCOMMODATION LEGISLATION**

There are numerous groups that support current and possible expanded legislation to accommodate ADD populations. As previously mentioned, legislation protecting those with mental disabilities began with the civil rights movements in the 1960's and 70's. During this time, many egalitarian activists pushed to allow new and, at the time, non-traditional students to participate in the growing movement in American mass education. The newly increasing popularity for various levels of schooling – namely two year colleges – as well as the push for mass education led to the formation of a new brand of college student. This change allowed for the growth of what could be called the multiversity, or a university that strives to serve as all things to all people. It was considered strange that at the same school, there can be a PhD candidate sitting in a room, while across the hall is a remedial reader who does not even want to

be in college. It is changes like these that have led to new ways of dealing with educational systems in post-secondary institutions (Epstein, 1974).

Regarding the issue of mass education, the question pertinent to ask is how did the modern university become such a melting pot? More importantly, how did accommodations for the mentally ill and learning disabled begin to apply to institutions that traditionally only admitted naturally capable individuals in search of a challenging intellectual experience? This has already been assessed from the legislative point of view; the discussion must now turn to the forces behind the statutes. Following are theories presented by proponents of government intervention outlining how the U.S. has come to admit and accommodate ADD populations in higher educational institutions:

### CONSUMERISM

As more diverse students entered post-secondary institutions due to the growing experiment in mass education, a new type of consumer entered the education scene. As with any business, a college must operate not only to satisfy its purpose but also to satisfy its clients, the students. While students may never take complete control of the workings of a school, even in a capitalist country like the U.S., there still has to be a degree of customer satisfaction for students to attend and return to an institution (this was a driving reason behind the formation of the multiversity: schools trying to be all things to all students). As student populations grew and changed, so did their demands, including those of the non-academic. Government and university officials surely saw that to

continue the mass education movement, steps had to be taken to ensure that those who lacked the aptitude for a strict academic education continued to be able and willing to support academic corporations, as it were. The counter-culture of less gifted and learning disabled students were a large enough group that their support and aggregate customer service demands had to be met in some way. This very well could have been a driving factor in accommodation law (Epstein, 1974).

### SOCIAL PROMOTION

The idea that it is equally important for a student to feel good about herself as it is for her to achieve academically has become popularized with recent psychoanalysis and emphases on emotions in learning. This phenomenon, social promotion, is a possible explanation why legal accommodations were initially considered in many arenas. William Henry (1995) mentions that social-promotion advocates support accommodating students in many fields; they say that students who feel that they can achieve what may otherwise have been impossible have better self esteem and are healthier people. Paul Williams (1990) supports social promotion theories as well, citing cases in Scandinavia where disabled individuals were able to “normalize” themselves in society.

### ENTITLEMENT

With the rise of massive multiversities and affirmative action, there is a growing national sentiment that if one citizen can gain entrance to an institution,

everyone should. William Henry (1995) suggests that the country has gone so far with this idea that students and parents feel that despite standards for admission and the implicit nature of higher education as being an arena for intellectuals to further themselves, all people are entitled to a higher education. Citizens expect that because Americans are granted “life, liberty...” and federally funded education programs, they should not only be allowed to attend, but they should be awarded high marks. Henry states that this – combined with the recent pressure to reward all students with good grades or lower standards to suit the masses – has created a society of students and teachers that will reward even the least competent and accommodate those who are unable to achieve otherwise.

## DIVERSITY

Arguably, higher education should be more than just the “three R’s” as it serves a purpose in preparing students for a variety of life experiences. By this logic, students should be in contact with diverse populations including those with differing academic and mental capacities. Mara Sapon-Shevin (1989) comments that students of varying capacity should be exposed to one another as it naturally enriches their education and serves the interests of all people. She also mentions that not including any student in a learning environment not only inhibits his potential, but it also prohibits others from experiencing any input from the student. Paul Williams (1990) agrees, adding that diversifying classrooms by including ADD students not only helps the diversity educational aspect, it also

increases the amount of social value that all students feel about themselves and others.

### “FEEL-GOOD” POLITICS

Sally Tomlinson (1994) entertains an extremely political view of why special education and accommodation programs for populations – including those with ADD – are so popular among lawmakers. She thinks that most policy makers and many supporters of accommodation statutes are simply caught up in an egalitarian movement to appeal to people’s emotions regarding the disabled. Tomlinson further asserts that when faced with this “benevolent humanitarianism and the ‘feel-good’ factor...politically, no party can afford to ignore special educational needs nor the powerful lobbies” (p. xiv). When this factor is combined with the question of ethics, the position of the accommodation lobby strengthens. Law is inexorably related to ethics, and any number of arguments, including those discussed here, can be supported by a person’s belief that ignoring or not supporting accommodation legislation is unethical (Howe & Miramontes, 1992). It is true that public opinion and image spin are incredibly powerful in American politics, and such factors surely influence many politicians.

### PUBLIC HEALTH AND WELFARE

The final argument that will be discussed here states that accommodating ADD students and encouraging their post-secondary studies lessen the potential that the students will be destructive members in society. Earlier, it was

mentioned that a common problem that can stem from ADD symptoms is criminal, socially, and personally destructive behavior. These problems not only affect the individuals suffering from the disorder, but they also impose high monetary, physical, and latent costs to taxpayers and society as a whole. Some researchers suggest that proper treatment and accommodation in school can significantly cut down on criminal or inappropriate social behavior that stems from an ADD sufferer's lack of motivation, poor self image, or impulsivity. It is further noted that when appropriate measures are not taken with ADD individuals, "the cost [to society] is hidden in divorce statistics, unemployment, underemployment, inefficiency, bankruptcy, substance abuse treatment costs, and the extraordinarily high cost of incarceration, not to mention the medical expenses of countless adults" (Nadeau, 1995, p. xiv). The cost to society alone is reason enough for legislative interest. This is evident in a section outlining "The Impact of ADD in Contemporary Society" in a House of Representatives oversight hearing addressing approaches to handle the disorder (Oversight of the Department of Education and the National Institute of Mental Health, 1996).

While this has been an overview of all the many factors and arguments associated with the movement toward more effective legislation to aid ADD students in their post-secondary studies, the fact remains that for any number of reasons, ADD accommodations have gained widespread acceptance and prevalence. Mary McDonald Richard (1995) offers an appropriate summary when she writes,



*The impact of the Americans with Disabilities Act is likely to be felt as more students with disabilities choose to participate in higher education, and there is an increased focus on disability services and programs. Campuses benefit from the increased participation of persons with [ADD] in academic life. Their presence on campus show that they are taking charge of their lives and are bringing their abilities to bear on their education and future careers. After all, this [presence] is a good deal of what education and student development are all about (pp. 304-5).*

## **ARGUMENTS OPPOSING ACCOMMODATION LEGISLATION**

There is much support for the institution of statutory law requiring protections for ADD populations, but the opposition is quite strong as well. Those who are against various legislative initiatives range from mild reformers to those who believe that no individual should have any added assistance to complement his natural abilities. This section will examine various positions against different legislative initiatives dealing with ADD populations in higher education.

### “Labyrinth of Laws”

Politically, one of the stronger arguments used by opponents of far-reaching legislation is that government is becoming too invasive in regards to

the academic freedom of universities. As early as 1978 in a roundtable discussion, moderator John C. Daly noted that the “labyrinth of laws, directives, and regulations... circumscribes and sometimes compromises historic rights of the academy” (p.2). David Matthews, former HEW secretary, agreed describing the effects of much governmental interference in higher education “excessively burdensome.” He went on to question the methods used to integrate populations such as those with ADD into the university system and mentioned that the level of intrusion as early as 1978 was potentially detrimental to institutes of higher education. He also said that the government was taking liberties that could ultimately be very bad for the country.

### Cost

In any government mandate, the price tags involved are going to be hot topics of debate. Parrish and Guarino estimate the cost of educational accommodation programs at over \$35 billion a year (1998). Even strong advocates of such programs admit that changes and maintenance of such are quite costly to the public (Tomlinson, 1994). Whether or not most advocates know how much programs can cost, they have no problems demanding that the public pay out billions of tax dollars each year – asking for more all the time – to support what is estimated to be between 3 and 9% of students K-college (Parrish & Guarino, 1998). Aside from program costs, uncounted dollars are spent each year on supplemental social security benefits and other welfare programs to aid families with students suffering from ADD (Keim, 1997).

## Failure Rates

While the rhetoric in support of ADD accommodations is strong, what proponents fail to mention is the failure rates of so many of the programs.

Failure is not just getting poor marks, but there are four main components to such an accusation:

- 1) Despite the growing number and cost of accommodation programs, ADD is still cited by many as the number one reason for drop out rates in colleges and universities (Kelly & Ramundo, 1995).
  
- 2) While programs may seem to aid a student's academic performance, there is a growing argument that such accommodations hurt the students more in the long run. William Henry (1995) remarks that when educators are continually giving students special privileges and overlooking many of their shortcomings, the students fail to acknowledge that they might someday have to struggle through something on their own. He mentions that the students who are consistently given extra time on exams, exempted from activities that are 'too difficult,' and handed high marks for trying (the "E" for effort phenomenon) come to expect special treatment and never learn to truly work hard and fully reach their potentials. He further states that such irresponsibility in the long run will levy an even higher cost on taxpayers and society at large in government aid programs and corrections.

3) Along the same lines as Henry, Leon Epstein noted in 1974 that often accommodations led to behavioral problems among students. He said that until universities were disaggregated (broken into college and post-graduate institutions), there would always be students who were out of place. No matter how many accommodations, such problem (ADD) students could cause disruption in class and act out with poor behavior that would not be punished but accommodated. These traits would stay with a student throughout life. In a 1997 Knoxville News-Sentinel article, David Keim upheld Epstein's 1974 hypothesis with a story about ADD students in special accommodation programs. He reports that even though teams of researchers, doctors, teachers, parents and the like spend countless hours and dollars to help students, the students take little seriously. Keim says that teachers have reported students misbehaving in classes and skirting punishment by blaming their ADD. What is more disturbing are the students who laugh about their "crazy checks," supplemental social security benefits of up to \$470 a month given to families with ADD dependents. He says that while teachers generally agree with the spirit of the accommodation laws, like the Individuals with Disabilities Education Act, in practice the programs are doing little save possibly hurting the students in the long run.

4) Do the ends justify the means? Kenneth Strike (1992) attempts to answer this when he examines how accommodation programs are judged and changed to suit the public. He speaks of various ADD problems in post-secondary schools including poor treatment or uniform accommodations and medication for all students. He also states that too often, if ADD students aren't scoring as high or higher than other students, programs are considered ineffective and changed to ensure equality of outcome, not equality of educational opportunity. Strike cites examples previously discussed including costs, responsibilities of students and teachers, and students who abuse the system as a number of factors contributing to possible latent failures in the system. In short, he suggests a major overhaul of the accommodation system so it can be more effective in spirit and practice.

### Political Opposition

Aside from empirical evidence that ADD accommodation programs may not be an answer to the disability maze, political opinions will always come into play. It goes without saying that a number of people advocating smaller government and less interference are going to disagree with special education accommodations. Many say that students should rise to their own potential or choose a career and school that they will fit in, rather than having a school mold to an individual.

## **LOOKING TO THE FUTURE**

The question on many people's minds is, "What now?" Perhaps accommodations should be abolished; maybe more money should be spent on mass higher education; should post-secondary school attendance become compulsory? The debate about these issues is still quite young, and with the rising awareness of adult ADD, will become more prevalent and heated in years to come. Armed with information and a clear understanding of medical, political, and opinion set data, hopefully, the country will soon settle into an agreeable and truly beneficial system or lack of accommodation strategy.

**CONCLUSIONS**  
REFLECTIONS AND FUTURE VISION

After examining the nature of Attention Deficit Disorder in young adults, the legislative background of accommodations, and the major social theories associated with the accommodation debate, it is imperative that the government and private citizens work together to decide if the current situation is optimal for America's post-secondary institutions. Following will be a brief look at some personal insight and suggestions for future action.

### **PERSONAL REFLECTIONS**

As discussed in chapter three, the current system of accommodations may well be outdated and ineffective. As more educators understand ADD populations, and these groups receive appropriate diagnoses and treatments, the need for costly special programs for a population that constitutes only 3-5% of all Americans will be lessened greatly. It is true that Ritalin abuse seems common, and genuine ADD sufferers are quickly becoming the butts of a worldwide joke about the "American Disorder" as it is called in Europe ("University tightens documentation policy for students with ADD, 1996). This, however, should not affect the diagnosis and treatment of ADD individuals, but it is argued that expensive programs and supplemental Social Security checks are too much and lead to ADD students being singled out for ridicule and coddling alike.

Indeed, it should not be necessary for the government to lay its heavy hand on the waning pulse of quality higher educational institutions. The accommodations available to students with ADD, while they may sound "nice" and "good," are detrimental to a student and his education about self-reliance and hard work. When students are handed money and grades, they tend to lean



on accommodations and use disabilities as an excuse to underachieve; this is evidenced in many court cases and articles discussed previously. Also, by lowering standards for some students in higher education, they are lowered for all the students as a key element in the quality of an institution is its student population. While it would not be reasonable to take away all accommodations for mentally disabled students at this point in time, great changes need to be instituted and current legislative agendas need to be weighed more heavily in light of long term solutions.

The most important fact to keep in mind when trying to address a rampant egalitarian movement toward making all students “equal” in post secondary institutions is that there is no compulsory education past high school. While it may be reasonable to try and accommodate K-12 populations that are required to be in school, it becomes less clear why institutions of higher learning face the same requirements. All people should have the *opportunity* to apply for admission in post-secondary institutions, but by nature of the systems, not all people should be guaranteed admission. Particularly in universities, admission is based on academic criteria that make sure students enrolling will be well suited to enter an academic world. When academic standards are overlooked, the nature of the university changes to become a second high school or suckling ground for many students.

### **LEGISLATIVE SUGGESTIONS**

To restate, all people should be allowed to apply for admission in post-secondary institutions. Admission standards, however, should be kept intact

otherwise application methods become moot and worthless. America is indeed the land of *opportunity* for all, but the opportunities do not have to be uniform across the board. All people are different, and more choices should be available, without stigma, to high school graduates. What might help is the institution of an educational movement more in line with international educational systems, where students complete a compulsory education before being allowed the option to choose and apply to a post-secondary school tailored to their needs and talents. This is reminiscent of Gramsci's idea of a socialist society where each citizen is encouraged to pursue personal goals rather than fulfill the goals of society.

The best legislative movement at present may be to abstain from legislating specific accommodations for students, but keep with the spirit of the ADA and uphold civil liberties and negative freedoms in educational institutions. More junior colleges and vocational-technical programs need to be started to accommodate those who want more education, but are not well suited for an academic world. Collegiate programs like business and engineering might better serve students in separate, technical-skill-based institutions, while liberal arts and academic research fields should be concentrated in universities. By carefully tailoring institutions more to the needs and aptitudes of all kinds of students, more Americans may be able to receive more schooling that is better suited to their abilities.

While the brief suggestions presented are not meant as absolute quick fixes to the problems with accommodation legislation, they are meant to make citizens think about how to include people in schools of higher learning without

compromising the education of any student, disabled or gifted. Hopefully, as the issue is better publicized and more citizens are aware of the problems with the conglomeration of accommodation legislation initiatives, there will be more cooperation and appropriate action taken to include and accommodate all students.

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## **APPENDIX A**

### **A BRIEF OVERVIEW OF COMMON DIAGNOSTIC CRITERIA AND SECONDARY SYMPTOMS ASSOCIATED WITH ATTENTION DEFICIT DISORDER**

There is much controversy surrounding how ADD should be diagnosed and what symptoms are most important in identifying the disorder. Following is a brief synopsis of various techniques, citations for further research, and a discussion of secondary symptoms or behaviors that are suggested to be caused by primary ADD symptoms. While this is just an overview of some various opinions, it should help to better explain some ways that ADD is discovered and diagnosed.

For a full listing of the specific criteria, accepted by the U.S. government, that must be met in order to diagnose ADD, please refer to the following:

American Psychiatric Association. (1994). Diagnostic and statistical manual of mental disorders (4<sup>th</sup> ed.). Washington, DC: Author.

According to Monroe A. Gross, MD, the ten most common symptoms that show up in ADD individuals are inattentiveness, hyperactivity, impulsivity, falling asleep with difficulty, coming awake slowly, irritability, episodic expressiveness, negativity without focus, primary nocturnal enuresis, and dyslexia. He notes that these can be in any number of combinations and that they must be severe, pervasive, and chronic (pp. 17-18).

Russell A. Barkley, MD points out various "impaired functions" that are indicative of ADD and offers how these lead to various noticeable symptoms. The various consequences of such "disruptions in brain functioning" or neurobiological malfunctions include: poor sense of time, bad memory with problems actualizing abstract events . Other symptoms are talking too much, having deficient "self-guidance," being unusually open with emotional outbursts,

and lacking motivation. Also, he points out that typical ADD patients tend to have poor overall self-control, do not solve problems well, and get frustrated very easily and often (1998, p.70).

Another way to look for ADD is to use exclusionary as well as inclusionary criteria. One psychiatrist excluded diagnosis of ADD in adults when he found certain symptoms including signs of bipolar, depressive, schizophrenia, Borderline Personality, and Antisocial Personality disorders (Wender, 1995, p.129).

Some researchers suggest a number of ways to diagnose that are not solely based on interviews and counseling. These methods include the typical DSM standards (not just 4<sup>th</sup> edition, but 2<sup>nd</sup> and 3<sup>rd</sup> as well) in conjunction with clinical tests like genetic tests, thyroid receptor analyses and various brain scans to try and separate outside factors or problems that might cloud the diagnosis. These and other such tests also allow for researchers to look into more possible causes or diagnostic measures for ADD (Nadeau [Ed.], 1995).

Aside from the primary signs of ADD and diagnostic measures, it is accepted that many ADD symptoms, if left untreated, can lead to other behaviors or secondary symptoms. Dr. Gross says that untreated ADD can lead to severe depression and ultimately, suicide (1997). Another researcher submits that sexual promiscuity, poor self-image, and agoraphobia can result from ADD symptoms (Solden, 1995). Also, it is generally agreed that various kinds of compensatory behaviors spawn from symptoms including imposed structure, extra time given to one's self to complete tasks, and an ability to work well under

pressure due to frequent procrastination. There are innumerable examples of secondary behaviors associated with ADD, but these are meant to simply give an idea of what a few of those are.