

2020

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Source Publication:

The Legacies of Institutionalisation: Disability, Law and Policy in the 'Deinstitutionalised' Community. Ed. Claire Spivakovsky, Linda Steele and Penelope Weller. Oxford: Hart Publishing, 2020.

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Accommodation in the Academy

Working with Episodic Disabilities and Living In Between

ROXANNE MYKITIUK

THIS CHAPTER STEPS away from the institutions of mental health facilities, the extended care home and the prison, to enter another institutional setting within which disability as a concept is constructed and materialises, but where, until recently, its lived experience has generally been excluded: the university. Unlike the institutional settings from which people with disabilities have conventionally wished to flee, the university is one into which many people, including those with disabilities, have sought entry. Historically, and even now, universities are regarded as elite institutions that restrict entry based on achievement and performance. As both an educational setting and a workplace, the university creates and enforces norms about who properly belongs within its sphere. Examining whether people with disabilities are permitted entry into the hallowed halls of the university and the conditions of their inclusion if and when they arrive exposes the dynamic interplay between the complex institutional logics of belonging and the inadequacy of the legal and policy regime of accommodation to dismantle the barriers to fully include people with disabilities.

While the rights of students with disabilities in higher education have received much attention in recent years,¹ attention to the accommodation of faculty members with disabilities has been more limited.² In Canada, federal

¹ M Price, *Mad at School: Rhetorics of Mental Disability and Academic Life* (Ann Arbor, University of Michigan Press, 2011); E Reynolds Weatherup, *Disability and Academic Exclusion: Voicing the Student Body* (Lanham, Lexington Books, 2017); EB Keefe, VM Moore and FR Duff (eds), *Listening to the Experts: Students with Disabilities Speak Out* (Baltimore, Paul H Brookes Pub Co, 2006); OECD, Centre for Educational Research and Innovation Staff, Organisation for Economic Co-operation and Development et al, *Inclusive Education at Work: Students with Disabilities in Mainstream Schools* (Paris, Organisation for Economic Co-operation and Development, 1999).

² AH Franke, MF Bérubé, RM O'Neil and JE Kurland, 'Accommodating Faculty Members Who Have Disabilities' (2012) 98(4) *Academe* 30.

and provincial human rights laws protect persons with disabilities from discrimination in the employment context.³ However, the representation of faculty members with disabilities on campuses is disproportionately low in relation to the general population.⁴ While universities are required by law to implement policies and procedures to accommodate faculty members with disabilities, the experience of faculty members on the ground is often one of misfit⁵ between the able-bodied norms governing the university worker and the body/mind of the faculty member. Required to meet medicalised and individualised conceptions of disability, live up to neoliberal performance indicators and navigate a convoluted bureaucratic system, faculty members who seek accommodations do not encounter an institution aimed at ensuring equitable and inclusive conditions and a fit between body/mind and environment. Rather, universities remain sites of stigma and discrimination whereby '[d]isabled people are expected to be recipients of professional attention, not professionals themselves'.⁶

In this chapter I consider one example of the interaction between the institutional logics of the university and the system of accommodation in achieving inclusion for people with disabilities. I focus on the inclusion and accommodation of faculty members with episodic disabilities – shifting experiences of moving in and out of health and illness, disability and non-disability – in the university. The chapter utilises my own experience of requesting support for two separate episodic disabilities in 2011 and 2012, and builds on qualitative and autoethnographic studies undertaken in Canada and the United Kingdom⁷ to explore how supportive and inclusive the university is for faculty members with episodic disabilities, and the inadequacies of the law of reasonable

³Note that when the first provincial *Human Rights Code* came into force in 1962 in Ontario, it did not protect disability as a ground of discrimination. In response to widespread social criticisms of the original Code being too narrow in scope, disability (narrowly conceived as 'handicap' at the time, along with race, ancestry, sex, age, etc.) was added as a Code-protected ground in 1981. See generally RB Howe, 'The Evolution of Human Rights Policy in Ontario' (1991) 24(4) *Canadian Journal of Political Science* 783.

⁴In 2012/13, 3.9 per cent of faculty in universities declared they had an impairment or health condition compared to 16 per cent of working age adults. N Brown and J Leigh, 'Ableism in Academia: Where Are the Disabled and Ill Academics?' (2018) 33(6) *Disability & Society* 985. Statistical data from Canada is difficult to obtain due to a lack of reporting and collection.

⁵The concept of misfit is developed by Rosemarie Garland-Thomson in 'Misfits: A Feminist Materialist Disability Concept' (2011) 26(3) *Hypatia* 591.

⁶B Waterfield, BB Beagan and M Weinberg, 'Disabled Academics: A Case Study in Canadian Universities' (2018) 33(3) *Disability & Society* 332.

⁷See eg, S Kerschbaum, A O'Shea, M Price and M Salzer, 'Accommodations and Disclosure for Faculty Members with Mental Disability' in S Kerschbaum, L Eisenman and J Jones (eds), *Negotiating Disability: Disclosure and Higher Education* (Ann Arbor, University of Michigan Press, 2017); S Bassler, "'But You Don't Look Sick": A Survey of Scholars with Chronic, Invisible Illnesses and their Advice on How to Live and Work in Academia' (2009) 15(3–4) *Music Theory Online* doi: 10.30535/mt.15.3.3; P Moss, 'Not Quite Able and Not Quite Disabled: Experiences of Being "In Between" ME and the Academy' (2000) 20(3) *Disability Studies Quarterly* 287; B Waterfield, BB Beagan and M Weinberg, 'Disabled Academics: A Case Study in Canadian Universities' (2018) 33(3) *Disability & Society* 332.

accommodation to effectively include the bodies/minds of persons who live between ability and disability. The duty to accommodate is the cornerstone of the law of anti-discrimination and is held out as providing the mechanism by which adaptations inclusive of people with disabilities will occur. However, the implementation of the duty in the university continues to shore up the foundational exclusionary nature of the institution and operates to exclude minds/bodies that cannot be made (even with accommodations) to approximate the preferred institutional subject.

The chapter begins by situating the university as a valued institution, but one in which disability is generally excluded and unwelcome. I then describe the concept of episodic disability and introduce the idea of living ‘in between’ as a way of illustrating how people who live with episodic disabilities exist between states of health and illness and between the legal and policy categories within which accommodations are regulated in the university. In the third section I discuss my own experiences of trying to access support and accommodation at a Canadian university as a way of contextualising and illustrating one example of an attempt to achieve workplace inclusion while living in between. Elaborating on this discussion, section four highlights ways in which the institutional logics of the university, and the requirements of the duty to accommodate, operate to be unwelcoming of those living with episodic disabilities.

THE UNIVERSITY AS AN INSTITUTION

Jay Dolmage ponders whether the ‘university is in fact exactly the same as the almshouse or asylum, organizationally and even architecturally’.⁸ Like those institutions, the university is characterised as one removed from the rest of society, the site of hard work and isolation where its members labour in similar work alongside each other and in which defined routines are upheld. However, the subjects of one institution are restrained while those in the other are respected. Those who enter the university as professors self-select their participation and inclusion in the institution. Their admission is voluntary and competitive due to an increasingly high demand for coveted positions and the strict requirements regulating their entry and employment. Unlike extended care homes, mental health facilities and prisons, which focus (allegedly) on care, treatment and rehabilitation, the telos of the university is different: knowledge creation and dissemination and the education and training of the next generation of professionals⁹ and citizens. This combination of characteristics of the university

⁸ JT Dolmage, *Academic Ableism – Disability and Higher Education* (Ann Arbor, University of Michigan Press, 2017) 4.

⁹ DT Mitchell, ‘Disability, Diversity, and Diversion: Normalization and Avoidance in Higher Education’ in D Bolt and C Penketh, *Disability, Avoidance and the Academy* (New York, Routledge, 2016) 12.

sustains an intellectualism that has historically excluded persons with disabilities from this elite institution. Indeed, people with disabilities were and are the objects of research in the university, and not often its subjects.

In addition to its defining characteristics as an institution, the normative subject of the university is identified by the traits of rationality, presence, participation, productivity, collegiality and independence.¹⁰ A faculty member is expected to have mental agility, including the capacity for analysis and evaluation; mastery of a complex subject; initiative, creativity and strong communication skills.¹¹ But qualities of mind are not all that are valued and expected of university faculty. In a work culture that prizes long hours, high productivity, competitiveness and individualism, bodies who do not conform to the normative ideal and exhibit stamina, high energy, unchanging health status and reliability are problematic in failing to live up to the expected standards of functioning.¹² Thus, while we don't typically think of the university as an institution that operates through control, restraint and coercion, it is, in part, through the surveillance and disciplining of the activities, purpose and membership of the institution that it retains its narrow and fixed character.

Unlike other institutions considered in this collection, many of which have undergone transformative processes of deinstitutionalisation as a move towards social and political participation in the community for people with disabilities, the university remains a site where policies and practices continue to legitimate many of the historical systems and beliefs associated with this institution's exclusion of people with disabilities. While it might make little sense to speak of a deinstitutionalised university, some barriers to contemporary academia have been somewhat eroded to include a more diversified embodied subject concomitant with our now largely deinstitutionalised society. Current inclusion policies consistent with human rights and anti-discrimination laws are examples. However, this formal inclusion of people with disabilities can have the effect of carving out spaces for 'special' or 'separate' inclusion. Moreover, Allison Carey argues that laws and policies can grant formal rights and simultaneously legitimise their retraction.¹³ Likewise, as Niklas Altermark notes, policies related to ideals of citizenship can empower and formally include people with disabilities while at the same time setting a public threshold for them to live up to idealised expectations of citizen¹⁴ or employee. Within the university, policies that are designed to protect faculty members can also have this binding effect: on the one hand,

¹⁰ M Price, *Mad at School Rhetorics of Mental Disability and Academic Life* (Ann Arbor, University of Michigan Press, 2011) 5.

¹¹ Franke et al, 'Accommodating Faculty Members Who Have Disabilities' (2012). This list of capacities is adapted from AAUP's list of 'Essential elements common to all faculty positions'.

¹² A Vick, 'Living and Working Precariously with an Episodic Disability: Barriers in the Canadian Context' (2014) 3(3) *Canadian Journal of Disability Studies* 8–9.

¹³ AC Carey, *On the Margins of Citizenship: Intellectual Disability and Civil Rights in Twentieth-century America* (Philadelphia, Temple University Press, 2009).

¹⁴ N Altermark, *Citizenship, Inclusion and Intellectual Disability* (Abingdon, Routledge, 2018).

reasonable accommodation is the means through which employees are protected through anti-discrimination law; on the other hand, universities retain the power and authority to recognise what does and does not count as disability and the extent to which accommodations sought are reasonable. Mitchell and Snyder argue that inclusionist strategies (practices and policies) in present-day universities operating in conditions of neoliberalism fail to achieve meaningful inclusion for people with disabilities: 'Inclusionism requires that disability be tolerated as long as it does not demand an excessive degree of change from relatively inflexible institutions, environments, and norms of belonging.'¹⁵ According to them, universities continue to be institutions that produce professionals of normalisation and reinforce norms of normalisation.

For some in the university context, flexible work schedules, strategies to conserve energy and adjusting expectations about promotion and advancement are measures taken to self-accommodate.¹⁶ However, when employees with episodic disabilities self-accommodate, or do not disclose their need for accommodation, qualities of atomistic self-sufficiency and non-reliance that are valorised within the academy are perpetuated. Moreover, some employees with episodic disabilities, having internalised the responsabilisation of self-governance, work to meet able-bodied norms that in some cases 'intensify bodily symptoms that become increasingly difficult to manage'.¹⁷ Thus, when the disabled subject remains hidden from view, they reify the neoliberal ideal subject who flexibly, independently and successfully navigates the university workplace. By providing an opportunity to engage in critical reflection, the experiences of those living with episodic disabilities offer rich case studies from which to meaningfully complicate our understanding of disability inclusion and its relationship to the meaning of reasonable accommodation in the university setting.

EPISODIC DISABILITIES AND THE 'IN BETWEEN'

Episodic disabilities are characterised by unpredictable or intermittent, shifting periods of impairment and wellness. People with episodic disabilities often experience a 'fluctuating reality of pain, fatigue ... functional capacities, and side effects of medications'.¹⁸ Episodes of impairment may affect a person's ability to work in their usual manner for a brief or extended time. Many episodic disabilities are invisible and will often not be evident to others

¹⁵ Mitchell, 'Disability, Diversity, and Diversion' (2016) 12; DT Mitchell and SL Snyder, *The Biopolitics of Disability – Neoliberalism, Ablenationalism, and Peripheral Embodiment* (Ann Arbor, University of Michigan Press, 2015), 14.

¹⁶ S-D Stone, VA Crooks and M Owen, 'Going Through the Back Door: Chronically Ill Academics' Experiences as "Unexpected Workers"' (2013) 11(2) *Social Theory & Health* 151.

¹⁷ Vick, 'Living and Working Precariously with an Episodic Disability' (2014).

¹⁸ Ibid.

without disclosure. Examples of diagnoses that may result in episodic disability include multiple sclerosis, lupus, HIV/AIDS, Crohn's disease, chronic fatigue syndrome, migraine, chronic pain syndromes, some forms of cancer and some mental health conditions, including bipolar mood conditions and depression.¹⁹ It is estimated that 82.4 per cent of adult Canadians who report a disability can be classified as having an episodic disability,²⁰ while 77 per cent who report having an episodic disability state that it affects their ability to do their job.²¹ In 2012, among those Canadians between the ages of 18 and 64 with episodic disabilities, just over half were in the labour force, while about 24 per cent were of the view that they would be able to work with the appropriate accommodations and flexibility. Of those who were employed, 77 per cent were full time, 21.2 per cent were professionals or managers, 59.2 per cent had a post-secondary credential and 46.3 per cent had been in their job for 12 years or more.²² There is no cure for episodic disabilities, and some individuals experiencing an episode may appear healthy, evoking suspicion and experiencing marginalisation from others.²³

As people with episodic disabilities move between periods of health and illness, ability and impairment, they do not fit into the institutionally recognised and rigid categories of able/disabled that are often used to determine eligibility for sick leave benefits, return to work and accommodation plans. Indeed, as Lightman et al contend, people with episodic disabilities challenge homogenised constructions of ability, disability, health and illness. They 'threaten the logic of classificatory systems by straddling ... boundaries ... they are between the statuses of sick and well'.²⁴

Several scholars have invoked the concepts of 'between', 'in between' and 'living in between'²⁵ to draw attention to 'the constitutive permeability of moving back and forth between embodied states and identities'.²⁶ Living in

¹⁹ House of Commons Canada, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, *Taking Action: Improving the Lives of Canadians Living with Episodic Disabilities* (Ottawa: House of Commons March 2019) 35.

²⁰ A Furrie et al, *Episodic Disabilities in Canada* (Ottawa, Adele Furrie Consulting Inc, 2016) 8. Available at: www.adelefurrie.ca/PDF//episodic_disabilities_in_canada_-_october_4_final.pdf. These statistics are based on data from Statistics Canada's 2012 Canadian Survey of Disability.

²¹ *Ibid*, 22.

²² A Furrie, *People with Episodic Health Conditions Speak About ...* Final Report for Employment and Social Development Canada (Ottawa, Adele Furrie Consulting Inc, 2017). Available at: www.adelefurrie.ca/PDF//People_with_episodic_health_conditions_speak_out-about.pdf, 22. These statistics are based on data from Statistics Canada's 2012 Canadian Survey of Disability.

²³ E Lightman, A Vick, D Herd and A Mitchell, "'Not Disabled Enough": Episodic Disabilities and the Ontario Disability Support Program' (2009) 29(3) *Disability Studies Quarterly*. doi: dx.doi.org/10.18061/dsq.v29i3.932.

²⁴ *Ibid*, citing RA Hilbert, 'The Acultural Dimensions of Chronic Pain: Flawed Reality Construction and the Problem of Meaning' (1984) 31(4) *Social Problems*, 365.

²⁵ *Ibid*; Kerschbaum et al, 'Accommodations and Disclosure' (2017); Bassler, "'But You Don't Look Sick'" (2009); Moss, 'Not Quite Able and Not Quite Disabled' (2000); Waterfield et al, 'Disabled Academics' (2018); Vick, 'Living and Working Precariously with an Episodic Disability' (2014) 9.

²⁶ Lightman et al, "'Not Disabled Enough'" 4.

between is ‘not a merging of opposite states of being or an oscillation between polarities, but an inhabiting of permeable borders that are fused, fleeting, and held in tension’.²⁷ Given the variability and unpredictability with which impairments are experienced, the concept of living in between embraces the elasticity and fluidity of what becomes possible given the inconsistency of body/mind states in relation to the variation in work projects, responsibilities and expectations persons with disabilities encounter.

Moss describes how faculty members with episodic disabilities live in between the institutional categories available in university policies and procedures for disability accommodation.²⁸ The university system discounts the complex reality of people whose bodies or minds resist permanent constructions as neither fully able nor completely disabled but shift between these spaces.²⁹ This embodiment is deemed experientially impossible within the realm of university policy. Faculty members with episodic disabilities are expected to recover in a set time period or not recover at all, to work full time or not work at all, to be fully abled or fully disabled. The categories of institutional ordering, and the policies and programmes that implement them, do not recognise those who live in between – who are both able and disabled, ill and healthy, or ‘in between the distinguishable spaces of ability and disability’.³⁰ University policies and procedures regarding accommodation, accessibility, short and long-term disability or sick leave are not designed around the experiences of episodic disabilities. Thus, there is a misfit³¹ between existing university policies and procedures and the experiences and needs of faculty members with episodic disabilities.

Telling Tales in and of School – My Experiences/Accommodating the In-Between

In late autumn 2010, I received notice that two large and well-funded research grants on which I was a co-principal investigator had been successful. While this was good news for me and my university, the grants did not provide funding to relieve any teaching or administrative responsibilities. In anticipation of the increased workload and in the knowledge that my Dean and I could arrange teaching release in the event of successful national grant funding, I made an appointment with him. I sought a reduced course load as a preventive measure to avoid migraines, which for me are triggered principally by lack of sleep but are subject to and compounded by other factors. It is essential that I get enough

²⁷ Ibid, 4.

²⁸ Moss, ‘Not Quite Abled and Not Quite Disabled’ (2000) 288.

²⁹ P Moss and I Dyck, ‘Body, Corporeal Space, and Legitimizing Chronic Illness: Women Diagnosed with M.E.’ (1999) 31(4) *Antipode* 372.

³⁰ Moss, ‘Not Quite Abled and Not Quite Disabled’ (2000) 288.

³¹ Garland-Thomson, ‘Misfits’ (2011) 591.

sleep, thus restricting my ability to pull ‘all-nighters’ and fit research and writing into the late night and early morning hours as is often the case with many academics.

Like many who experience episodic disabilities, my flare-ups and symptoms can result in physical, psychological, cognitive and social limitations that hinder my work, but ‘may or may not reappear with the same symptoms, intensity, duration, or within the same contexts with each flare-up’.³² The body/mind experience of having an episodic disability is unpredictable: some days, or even parts of a day, you feel well – able to organise thoughts, speak intelligently and cogently, run from meeting to meeting, concentrate for hours and ‘be on’. But this can be quickly supplanted by unsubiding fatigue, loss of bodily sensation and coordination, unrelenting brain fog, dizziness, excruciating pain, vision and hearing loss and crashing change of mood. Unlike more apparent and familiar disabilities such as blindness, a missing limb or a spinal cord injury, whose embodiments are quite static and permanent, episodic disabilities fluctuate between periods of disability and ability.³³

My Dean assured me at our meeting that ‘something would be done’ to adjust the workload issue. It was a surprise, then, when in late April 2011 I was informed that I was assigned to teach three courses in the 2011–12 academic year, two of which I had never taught before. Additionally, I was assigned to three committees, including the most onerous Senate committee and to the only Faculty committee required to meet and do a substantial amount of work over the summer. My summer now needed to include work on two new research grants, previous research commitments, preparation for two new courses, and an active committee. While I had been given a teaching release of two out of 12 teaching credits, the fact that I was assigned two new courses seemed punitive and intended to eliminate any benefit from the small course release that I was granted.

This two-credit teaching release was characterised as a special favour from the Dean. However, my faculty had a policy that faculty members who had research grants worth at least \$100,000 were eligible for a course release. My grants were worth more than \$200,000, satisfying the condition for two course releases under the policy. Nonetheless, I was informed by the Associate Dean that I did not ‘meet the threshold’ and there were concerns about my ‘characterisation of entitlement to teaching release’. I was denied the two releases to which I should have been eligible under this policy, and no reasons were provided.

The correspondence I received from the Associate Dean in late April 2011 accompanying the 2011–12 course assignment stated further that: ‘I am mindful that this is not the result for which you were hoping, but it is the best we can do in the circumstances – really better than best, absent documented medical advice

³²Lightman et al, “‘Not Disabled Enough’” 7.

³³A Vick, ‘Living and Working Precariously with an Episodic Disability’ (2014).

that stipulates a reduced teaching load.³⁴ The same memo stipulates that my teaching load for the following year – 2012–13 – when I would be under the same intensive research obligations – would be a full load.

In the midst of these discussions, the one issue about which there was almost silence was my migraine. Having raised the issue once with the Dean in late autumn 2010 and being assured that it would be ‘dealt with’, I assumed that the research grant policy would accommodate my needs. When discussions about a course reduction became particularly problematic in late April 2011, I asked to meet with the two of them about my situation and the problematic application of law school policy. At that meeting my migraines were again raised and the Dean replied, in passing, that ‘we may need to pursue accommodations if the time comes’. At that time I was not in favour of pursuing a course release as a form of accommodation, first, because the application of the law school research grant policy should have entitled me to a course release and, second, because I had been informed that there would be a proportionate loss of income in relation to the reduction of teaching hours. This seemed tremendously unfair, especially in a situation where my research responsibilities were increasing correspondingly such that my time commitment to the academic position would not be reduced.

I did not see what I was asking for as an accommodation. I wanted a redistribution among the essential duties of my position: research, teaching and administration to keep the number of hours of sleep more or less constant to prevent migraine flares. The message I received was that disability prevention could not be negotiated; however, for some episodic disabilities it is precisely this kind of accommodation that is required. Just as preventive health strategies in the workplace such as providing ergonomic chairs, safety equipment, proper ventilation, lighting and rest breaks make sense in protecting the health of the worker and preventing injury, preventive accommodations save resources by reducing the need to take time off if there is a flare-up, thereby reducing the unpredictability of episodic conditions if and where possible.

At the end of the spring of 2011, I questioned whether I should have had a proactive conversation with the Dean about my migraines and the need to rearrange the allocation of some of my work hours. It seemed to me that administrative suspicion about my disability status was used to influence a decision about the application of the research grant policy, a policy which was silent about disability and determined eligibility for teaching release on the basis of the amount of grant funding brought in by the faculty member. (Note that the course release policy and \$100,000 threshold for a course release was announced just prior to the time I was requesting one, which is why I did not refer to it in my conversations with the Dean five months earlier.) Had I not raised the issue

³⁴ Memo from the Associate Dean – Teaching and Committee Assignment in 2011–12, 25 April 2011. On file with the author.

of migraine as a reason for requiring teaching release previously, in my view it is highly unlikely that the Associate Dean would have referred to ‘documented medical advice’ in her memo to me. After all, at that point I was seeking course releases based on the value of my research grants. I argue that a kind of disability-suspicion overreach informed the decision-making of the Association Dean, one so capricious as to infuse the application of a policy which – in relation to non-disabled faculty members – would normally be valourised. My experience of negotiating an adjusted allocation of work responsibilities suggests how disability can become a basis of further debilitation, associated with suspicion, dishonesty and denial, rather than a basis of capacity building or recognition connected with legitimacy, rights and support.³⁵

Over the next three months I worked tirelessly under strenuous pressure of deadlines, amidst a lack of institutional support, and growing feelings of alienation and unfairness. I had significant periods of migraine that I self-accommodated and then the deep root of depression surfaced. I could no longer function and my physician determined that I should take a leave of absence.

I discovered that navigating the accommodation and disability support system of the university is onerous. It was difficult to determine the proper office to which a request for accommodation should be directed: human resources (HR), the Dean, or a disability services office. Such difficulties are exacerbated when one’s health is impaired, depriving one of the energy to make inquiries. Eventually I was directed to the euphemistically titled Employee Well-Being Office of the HR department, where I was informed that my university provided 15 weeks of ‘sick leave’ at full pay for short-term absences with medical validation and after that, the possibility of long-term disability leave for up to a maximum of three years, paid at up to a maximum of \$6,000 a month. After that time my employment would be terminated.

I was sent a Practitioner’s Report on Abilities and Limitations for my treating physician to complete in determining my eligibility for short-term sick leave. This is the same form used to determine accommodation needs. It provides tick boxes to indicate physical ability and limitations regarding specific body parts and functional abilities and asks whether ergonomic or assistive devices are required due to the condition and whether the employee is undergoing any treatment that would affect their ability to perform their essential duties. Fearful of disclosing depression, I asked my physician to state something more generic. She wrote that I had been ‘struggling with many occupational demands which would seem impossible to manage in a work week that has led to excessive hours of work and burnout’. In response, I was sent a letter from the Employee Well-Being Office stating that this information was insufficient to ‘constitute the basis for a medical leave and further accommodations on medical grounds’.

³⁵ I am grateful to Linda Steele for these insightful reflections. For a discussion and theorisation of debility and capacity, see JK Puar, ‘Prognosis Time: Towards a Geopolitics of Affect, Debility and Capacity’ (2009) 19(2) *Women & Performance: A Journal of Feminist Theory*, 161.

Contrary to the form's clear privacy protection provision, a copy of the letter was sent, without my authorisation, to two university administrators, including the Dean of my law school. When I called the HR office to inquire about the protection of my privacy and why it had been breached, I was told that confidentiality is only protected for those whose applications are successful.

Despite eventually being granted sick leave, I was pressured by my Associate Dean to return to work earlier than my health permitted. Seven months later I had a relapse, even more serious than the first, and was required to take subsequent leave. It was only with a change in Associate Dean (one with a close family member who experienced depression) that my need for a reduced teaching load was understood and implemented. However, the letter regarding that plan clearly stated that this was a one-time-only arrangement – counter to any understanding of the flexible, fluid nature of episodic disabilities.

BARRIERS TO ACCOMMODATION

Accommodation practices, while ostensibly aimed at equity, often reinforce individualised normative standards of functioning by making personal adjustments in relation to the person with the impairment rather than systemic changes to the environment in which the person is situated. Despite provincial laws and policies regarding workplace accommodation and accessibility in Canada, there are several reasons why people with episodic disabilities choose not to pursue accommodations or are blocked by barriers to accommodation, such as navigation and gatekeeping, disclosure, and inadequate workplace accommodation policies.

Navigation and Gatekeeping

Navigating the accommodation and disability support systems of many universities is onerous. As noted earlier, it is often difficult to determine the proper office to which a request for accommodation or leave should be directed, especially when one's health is impaired.

HR personnel are often unhelpful in processing and implementing requests for faculty sick leave and accommodation, playing the role of gatekeeper rather than facilitating the equitable working conditions of the faculty member. This is especially true for faculty members with episodic disabilities, about whose condition HR personnel and other administrators have little or no knowledge, and about which much stigma exists.

Given the lack of institutional support for and knowledge about episodic disabilities, in some instances requests for accommodation are met with refusal³⁶

³⁶Bassler, "But You Don't Look Sick" (2009) 4.

(especially if they interfere with an essential work duty) and in others the kind of accommodation that would be appropriate for the episodic disability is not agreed to by HR. Recall that, in my case, in order to qualify for medical leave, not only was medical certification required, but the level of disclosure and the details provided needed to correspond to a predetermined standard of illness or disability. Consequently, I had to instruct my physician to provide a diagnosis of depression to comply with the university's requirements. Privacy with respect to this disclosure was not an option.

Moreover, university administrations lack policies and publicly available precedents to initiate systemic policy changes for episodic disabilities. As a result, faculty with episodic disabilities are left to negotiate individual leave, workloads and accommodations not as systemic issues but as isolated, individualistic occurrences in the face of institutional policies that fail to recognise those who live in between.

Disclosure

The politics of disclosure are complex. Some regard disclosure as a political act, whereby failing to disclose reinforces the invisibility of episodic disabilities and the status quo that episodic disabilities are not a legitimate form of disability. Further, not being open about disability creates its own harm to employees, who are forced to work in a timeframe consistent with 'healthy' scholars.³⁷ By not disclosing, those who make university policy remain unaware of the numbers of disabled faculty and the kinds of accommodations that would be useful.³⁸

However, disclosure – a necessary pre-condition of accommodation – can put one's job at risk by raising suspicion and soliciting scrutiny from administrators and colleagues who doubt the 'existence, seriousness, and impact' of the episodic disability.³⁹ Stigma may make the very disclosure required for accommodation fraught. Disclosure may also place one in a burdensome position of having to continually represent oneself institutionally and interpersonally as ill or disabled and needing accommodation, to make visible to others what is, in fact, invisible, so as to be believed.⁴⁰

Some faculty find ways of identifying disabilities for which accommodation appears more acceptable upon which to base their requests,⁴¹ or they avoid disclosure altogether by self-accommodating – for example, by adopting flexible work schedules, employing strategies to conserve energy, or adjusting

³⁷ Ibid, 8.

³⁸ S-D Stone, VA Crooks and M Owen, 'Going Through the Back Door: Chronically Ill Academics' Experiences as "Unexpected Workers"' (2013) 11(2) *Social Theory & Health* 168.

³⁹ K Teghtsoonian and P Moss, 'Signaling Invisibility, Risking Careers? Caucusing as an SOS' in D Driedger and M Owen (eds) *Dissonant Disabilities* (Toronto, Canadian Scholars Press, 2008) 199.

⁴⁰ Ibid.

⁴¹ Kerschbaum et al, 'Accommodations and Disclosure' (2017) 320.

expectations about promotion and advancement. However, self-accommodation may not be an adequate way to comprehensively address one's disability needs – especially in a teaching context, as well as with grading, office hours, and site-specific research, such as labs.

Other people with episodic disabilities internalise the responsabilisation of self-governance and work to meet able-bodied norms that in some cases 'intensify bodily symptoms that become increasingly difficult to manage'.

Inadequate Accommodation Policies

For faculty members with episodic disabilities, the procedures for accessing accommodations tend to be ineffective. Models of accommodation and leave embedded in university policies and procedures assume that disability is a static, individual condition that can be fixed with simple accommodation. However, episodic disabilities that are intermittent and unpredictable often make it 'impossible to predict exactly when accommodations need to be in place or even which accommodations would be helpful at which times'.⁴² University policies regarding short-term disability apply only to illnesses with short and predictable recovery periods and reserve long-term disability for conditions that can go on for extended periods of time, leaving no room for episodic disabilities.⁴³

The objective of short-term leave and return-to-work arrangements is always to have a faculty member resume full-time work. This is often impossible for faculty members who live in between. Indeed, at my university, full-time work means full-time teaching, plus research and administration. Any accommodation that reduces one's teaching load results in a loss of salary, notwithstanding that for faculty with episodic disabilities, increased admin and research responsibilities and less teaching might be a more flexible way of accommodating episodic disabilities. This further demonstrates the misfit between the model of accommodation and the disability and a misfit between the way the job is conceived and the way impairments play out in the job. Moreover, consistent with Mitchell and Snyder's critique of inclusionism,⁴⁴ only accommodations that align with norms of able-bodiedness are permitted, allowing the deeper structures, values and practices of the institution to go largely unchanged.

CHALLENGING ACADEMIA'S LOGICS AND LEGACIES: REIMAGINING ACCOMMODATIONS

The twenty-first century university aims to be more inclusive and diverse, opening its programmes and its employment opportunities to members of groups

⁴² *Ibid.*

⁴³ Moss, 'Not Quite Able and Not Quite Disabled' (2000) 283.

⁴⁴ Mitchell, 'Disability, Diversity, and Diversion' (2016) 12.

who have traditionally been denied entry. This form of desired institutional inclusion is often facilitated and circumscribed by the requirements of the legal duty to accommodate, which structure and regulate the terms of belonging. For example, having to meet and prove a particular definition of disability, perform essential requirements of a job, rigidly construed, or disclose one's disability are integral to the legal concept of accommodation. However, as this chapter has illustrated, implementing the duty to accommodate within the university, an institution, which at the administrative/executive level, remains committed to neoliberal values aligned with able-bodied norms, has not led to the easy inclusion of people with episodic disabilities.

Faculty members who live in between embody different ways of being in the world and alternate ways of being a scholar. It is therefore imperative that universities develop systemic, policy-based approaches to accommodating faculty members with episodic disabilities to avoid reliance on the empathy or capriciousness of individual university administrators. Academic institutions need to understand episodic disabilities in ways that incorporate the experience and requirements of those who live in-between, rather than reinforcing dichotomies of disabled/abled and failing to make adjustments to the workload balance and conditions of academic workers.

Ultimately, university accommodation policies, practices and procedures need to recognise a different model of bodies and disability whereby decisions about a faculty member's work arrangements arise out of a set of principles that seek to create a barrier-free working environment for all disabilities. Discussions between the employer and the employee should focus on adjusting working conditions, both socially and materially, to ensure that a faculty member with an episodic disability has what they need to accomplish essential service, teaching, and research duties. Limitations that constrain the working lives of those with episodic disabilities are determined by those who make choices about workplace design and implement policies and expectations based on discriminatory notions of who university faculty ought to be. As long as we continue to separate the material body of the individual faculty member from the financial and structural forces that facilitate the operation of the university as an institution, there will be little or nothing done to accommodate those living with episodic disabilities other than to attempt to retrofit them so they fit within the tidy conceptual boxes that define the boundaries of the legal concept of reasonable accommodation.