

# 2003 Paperwork Reduction Act

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## DAIS

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## PROLOGUE

(WARNING: What you are about to read is not for the faint of heart. I am about to suggest something pretty radical. Look! There's a signpost up ahead. You are about to enter... the Twilight Zone!)

The classic television program of the 50's and 60's was known for its unsettling way of making us think about things from a different perspective. It turned conventional wisdom upside down. It helped us imagine a world in which those who were attractive were outcasts, shunned by the majority in a facially disfigured world, or what would happen if one a man sold his soul to the devil in exchange for immortality, only to find himself imprisoned "for life."

Just call me Rod Serling. Lately I've been having some pretty radical thoughts myself about what is happening -- and WHY -- in the world of DSS. For me, the dark vision is not of the future, but of the here and now. For example:

\* A recent post to one statewide DSS listserv asked for advice about a student from a small, rural southern town who has a severe anxiety disorder. The student was requesting accommodations in the area of in-class presentations. A post that I thought was going to generate some hard questions about when such an accommodation might (or might not) be appropriate was cut short by the last line of the post. "The documentation was provided by a Licensed Nurse Practitioner. Is that an appropriate person to make this diagnosis? Before I give the accommodation, what kind of verification should I ask for?"

\* A DSSHE-L discussion focused on the kind of documentation needed from the speech therapist to justify a request for extended time on essay tests for a very severe stutterer.

\* I visited a state system in which the service providers within that state are collecting very different levels and scope of documentation because they recognize that students living in different geographic locales will have very different ability to access personnel who can provide that documentation. With the coming of distance learning and cross registration within the state system, they are looking at the prospect of students verified as eligible on one campus taking classes from another campus where the documentation would not have been viewed in the same way -- and the student might not have been deemed eligible.

\* We witness endless discussions at meetings and on listservs about the form of documentation necessary for ADD, the necessity of adult testing (WAIS over WISC) for

students with learning disabilities, and how recent the documentation should be in order to provide a current picture of functioning.

### *MEANWHILE...*

Longtime readers of this newsletter and of the many (MANY!) listservs I frequent have been reading my epistles about the two very different purposes to be served by documentation. The harangue usually goes something like this:

"There are two distinct purposes for requesting documentation. The first is to establish that the student IS a person with a disability, as defined under the law. AFTER you have established that, THEN you look at the documentation to determine what, if any, accommodation is necessary in order for the student to have equal access. When those two very separate reasons get blended, in our minds and in practice, then we get into an "all or nothing" mode of thinking. If the student hasn't provided enough documentation to verify the need for accommodation, then we don't recognize them as a person with a disability at all. The determination of eligibility should come first!" Well, maybe it SHOULD'N'T. But, wait! I'm getting ahead of myself.

I recently gave a presentation in which I poked fun at architectural rules and guidelines that emphasize form over function. I told about the architect who did a site review of an institution that had long served a large number of folks in motorized wheelchairs. The architect made voluminous notes of the location of a number of drinking fountains that needed to be lowered because they were a good six inches above the specified code height. The service provider (and the students!) patiently explained that you needed the extra height in order to get under the fountain in a motorized chair with a standard joy stick and politely asked him not to fiddle with things.

I visited a campus recently with a perennial problem with the number of accessible parking spaces and their location. The administrator involved insists on focusing stubbornly on whether the existing lots have the designated parking in the right place, instead of acknowledging (and dealing with the fact) that the only existing lots are way too far away from some of the critical class buildings and what is needed is the development of additional parking options for students with disabilities in a more usable location.

The Dean at a small, Catholic college once asked me (with a straight face!) if I thought it was necessary for them to put a ramp on the one building on campus that was not accessible -- the chapel! (My response, by the way, was that I had an answer and a question. The answer was "no." They did not have to put a ramp on the chapel if it was used solely for religious purposes. The question was, "Aren't you embarrassed?")

Unfortunately, this kind of rigid adherence to rules over sanity is easy to denigrate because it doesn't make sense to *\*anyone\** looking at the situation, even if it is legal, so we simply say, "let's ignore what the rules say and do what is logical." But when the issue under consideration isn't about bricks and mortar (or asphalt?!?), but about paper and practice, it is harder to shift people's thinking.

I regularly read listserv posts from folks who question the credentials of an evaluator/diagnostician or the appropriateness of a test used as part of an evaluation -- with no mention made of the student OR the kind of accommodations the student is requesting. Somehow, we seem to be at least as much engaged in certifying the paperwork as we are with certifying the student these days! More to the point, it is worrisome because, too often, if the paperwork doesn't pass muster, the student is sent away to "get better documentation" and we never get around to exploring what exactly it was that the student wanted, or why. I have two problems with that scenario:

1) Recently I got a call from someone who had a student requesting a single room in the residence hall for next Fall because of her ADD. The documentation of the ADD was pretty weak. The service provider was asking if I thought it would be appropriate to ask the student to bring documentation more in keeping with the guidelines stated on their website. My question was, "do you usually give students with documented ADD single rooms if they ask for them? She replied, "Oh, no. We almost never give single rooms for students with LD or ADD. But she hasn't even established that she has ADD." Sometimes, it is an (expensive) exercise in futility to send the student out for more/better documentation, because you won't grant the accommodation, anyhow.

2) Sometimes what the student is requesting is relatively simple and straightforward -- and often creates no problems for anyone. But if we never get around to finding out what is wanted, we may be significantly altering a student's experience at the institution unnecessarily. Just yesterday, someone on the list asked if Scotopic Sensitivity (the Irlen Syndrome) was a "substantial limitation" and therefore eligible for accommodation. If the student wanted a reader and extra time, I'd say "no." THIS student wanted to be allowed to use colored overlays when taking in-class tests. To that request, I say, "why not?" It isn't an accommodation, it is an arrangement, and an arrangement I would have no qualms in helping to facilitate. Where is the harm?

Job descriptions for DSS personnel continue to stress "ability to read documentation" over "experience in determining appropriate accommodations." Yeah, yeah, I know. Maybe they want someone to read the documentation \*in order\* to determine appropriate accommodations. It could happen (!). But anecdotal evidence suggests that is NOT the focus. When was the last time you saw an ad for a DSS position that emphasized the "ability to read xrays" for students with spinal cord injuries, or "ability to evaluate ophthalmologic testing results," or even the "ability to evaluate audiograms" in order to determine appropriate accommodations for a deaf student (which, by the way, can't be done from an audiogram alone!). What they are looking for is someone who can pass judgment on the documentation for LD, to see if it is adequate. My question... adequate for WHAT????

I find it particularly annoying when the DSS providers insist that faculty and administrators adhere to the basic precept of "case-by-case" in considering accommodations for students with disabilities, and then VIOLATE that case-by-case rule on a daily basis when they practice strict adherence to documentation guidelines!

The bottom line is that such emphasis on documentation prior to consideration of needs is another (less obvious) case of "form over function." And it needs to stop! The question is, HOW??? We have gotten so entrenched in the practices that support our current path that simply saying, "let's not be so tied to the documentation" isn't a very helpful way of effecting change (heck... I've been saying it for some time and don't seem to be making any headway! GRIN). Which brings me to the potential solution for this dilemma. Ladies and gentlemen, allow me to introduce

## **The 2003 DSS PAPERWORK REDUCTION ACT**

This important new provision will replace existing practice in serving students with disabilities in a radically different paradigm. The emphasis remains on fulfilling the institutional mandate for equal access to educational opportunity for students with disabilities, but the decision of when and how to accommodate will focus on student function over DSS form.

### Step 1)

When a new student presents to the DSS office, the service provider is hereby directed to collect whatever documentation the student has brought, put it in an envelope, seal it, and put it into a file folder with the student's name on it. Do NOT look at the documentation, do NOT look at the diagnosis, and do NOT compare the documentation provided against your documentation guidelines (which, of course, were only provided to give direction, right?!). Seal 'em up and set 'em aside.

### Step 2)

BREATHE. It will be alright!

### Step 3)

TALK TO THE STUDENT! Ask the student what his/her disability is. Ask about the student's history. Ask what kinds of accommodations have been given in the past. Ask how those accommodations worked out. Probe a little about how the student feels about the disability and their accommodation needs. Then ask the student what accommodation(s) he/she is seeking at this time.

### Step 4)

If the accommodation is something that is not appropriate at the postsecondary level (for example, untimed tests in all circumstances), explain why that particular request is inappropriate in this setting and will not be granted, and explore options that might accomplish the same goal for the student. For that matter, why did they ask for untimed tests in the first place? Because that is what they had in high school? Because that is what their diagnostician said they should get?

If the accommodation is something that is not INappropriate at the college level, ask yourself whether the accommodation is being requested to support access or success. Institutions have the right to choose to do anything they wish to support their students, including providing services they may have available to support the success of students

with disabilities. But if the activity is "success" oriented, it is NOT an accommodation, it is a service. That needs to be clearly established with the student before going further. (NOTE: I know it is not always easy to sort out things along that access/success continuum. Stay tuned for the second article in this newsletter!)

If the accommodation requested is something that you are not prepared to grant at this time NO MATTER WHAT is in the documentation (such as the private room request cited earlier, or a course substitution without any attempt to take the class with accommodations), then say so! Discuss the accommodation request in the context of the student's needs and the curricular or logistical issues those requests may generate.

Step 5)

BREATHE. The next part is the hardest.

Step 6)

NOW you are ready to open the sealed envelope and take a look at the documentation provided. You are evaluating that data with a single question in mind: Does the information provided to you provide adequate support for the accommodations the student is requesting. To establish that, you must determine whether the individual IS a person with a disability, protected under the law. Now, IF YOU MUST, you may take out your documentation guidelines and take a look at how closely what you are holding matches your preconceived notion of what is needed. But remember, you are NOT YET asking if the documentation establishes the need for the requested accommodation... you only want to know if this is a person with a disability, protected under 504/ADA. That includes ALL THREE prongs of the definition -- "has the disability, has a history of disability, or is regarded as having a disability."  
(Hold on to your hats, folks... here it comes.)

a) If the documentation you are holding clearly establishes the existence of a substantial limitation to a major life activity, the student has passed the first test. He/she has a disability;

b) If the documentation you are holding for... oh, let's say a learning disability?... is "old" documentation (does not provide a current picture of functioning), but includes a clear indication that when the student was tested five years ago, when in 8th grade, the evidence indicated the presence of a learning disability, THE STUDENT PASSES THE FIRST TEST! He/she has a history of disability and thus is protected under the law;

c) if the documentation you are holding establishes neither the existence of a substantial limitation nor a history of such, then you MAY need to ask the student for more documentation.

i) If the accommodation/consideration the individual is requesting is not dependent upon formal determination of disability (such as the colored overlays cited above), it is important to make the student understand that the documentation is not adequate to establish protection under the law for purposes of Section 504/ADA, but that you may still be able to assist in helping them secure the arrangements they seek.

ii) If the accommodation/consideration being requested is one that you would make only

for a student with a disability, then you will need to have that substantiated before you proceed. You must tell the student what further information would need to be presented in order to document his/her protected status. You are NOT allowed to hand the student a copy of the documentation guidelines currently in use and send them off to get something that matches. You must sit down with the student AND the guidelines (if you insist on using guidelines!), evaluate the information already in hand, and highlight any information from your guidelines that may already be available within what has been presented to date. In an effort to reduce the amount of paperwork involved in establishing documentation/eligibility for services, you may NOT ask the student to duplicate unnecessarily anything already available.

(NOTE: This last requirement -- matching existing documentation against arbitrarily established requirements for the same -- serves two purposes. While it MAY cut down on both the scope and the expense of reevaluation for the student with a disability, it will also force the service provider to acknowledge what information IS available, as well as what is missing!)

#### Step 7)

Once the student's status as a person with a disability, protected under the law, has been established, consider the specific requests for accommodation/consideration in light of the documentation presented.

a) If the request is clearly justified by the information you are holding, then it should be granted and arrangements made as prescribed by existing policy;

b) If the request cannot be granted without further documentation of NEED for that accommodation (remember, you have already established eligibility), then discuss with the student what additional documentation/testing might establish such a need. Be specific. If you CAN'T be specific then you need to go back and think things through again. If you aren't about to grant this accommodation no matter WHAT documentation the student supplies, then make that clear (see Step 4). If you can't figure out what specific information might be helpful in establishing need, then maybe the answer is that you HAVE all the information you need to make a decision and you just have to bite the bullet and decide, one way or another. And that brings us to the biggest leap of faith...

#### Step 8)

Maybe you better take another deep breath...

#### Step 9)

In determining whether or not to grant an accommodation that is questionable EITHER because you aren't sure of the documentation of need OR because you aren't sure if it is an appropriate accommodation in response to that need, ask yourself these questions:

- i) What is the likely impact on academic performance if the accommodation is not provided (in other words, is it clear what will happen without this accommodation)?
- ii) Is there a negative impact on the student's academic progress that may be significant and permanent if the request accommodation is not provided;

