Section 504 and the Americans With Disabilities Act: Accommodating the Learning Disabled Student in the Foreign Language Curriculum

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THE last ten years have seen an increase in scholarship on foreign language study and the learning disabled student. Several articles published during that time deal with the linguistic problems encountered by the learning disabled. Richard Sparks and Leonore Ganschow, in collaboration with other experts in the field, study linguistic coding deficit as well as high-risk students in secondary and post-secondary foreign language classes (see Ganschow and Sparks; Sparks and Ganschow; Sparks, Ganschow, and Pohlman). Bettye Myer and Ganschow describe the frustrations of a particular group of second language learners. Barbara Freed reviews recent literature and policies and the foreign language requirement at the postsecondary level. She also discusses various problems encountered by the learning disabled student in the foreign language classroom, using as an example the policy at the University of Pennsylvania concerning requests for exemptions from foreign language courses (see also Demuth and Smith). Very little, however, has been written about accommodation in the foreign language curriculum since the passage of the Americans with Disabilities Act in 1990.

Much discussion of foreign language waivers and substitutions for learning disabled students deals with federal legislation like section 504 of the Rehabilitation Act of 1973 or state laws like the Virginians with Disabilities Act of 1985. Subsequent questions have arisen now that students with learning disabilities are being mainstreamed into the secondary level classroom and are completing requirements for a standard or academic diploma. The eventual objective of most of these students is postsecondary education, leading, for some, to a possible collision with a foreign language requirement. Yet another issue concerns the many teachers who, despite years of training, do not feel qualified to meet the challenge of teaching learning disabled students. Most such teachers ask how these students were placed in their classes, how they can teach them, and whether or not the students should be given substitutions or waivers of the requirement.

We must remember that the purpose of most foreign language requirements is to expose students to other cultures not as outsiders but from within, frequently satisfying a general education goal. The foreign language familiarizes students with the mechanics of language and is deemed an integral part of the drive for globalization on many college campuses. A foreign language also teaches problem-solving skills in a context unavailable in other classes.

Recently, in a graduate methodology course on the teaching of culture in a foreign language, I was asked to explain to the class (mainly foreign language teachers completing a recertification requirement) how to teach a foreign language to mainstreamed learning disabled students. One distressed instructor lamented the arrival of eighteen learning disabled students in a high school Spanish class of thirty students! My students also asked me why these students had to be accommodated and what policies of accommodation were in effect in Virginia colleges and universities. Language instructors in my own institution have told me that they are confronted with the same issues and questions. And so my search began. Consulting the ERIC database, the Virginia Department of Rehabilitative Services, and Internet discussion lists such as SLART-L (Second Language Acquisition and Research Technology List), SCOLT (Southern Conference on Language Teaching), and TESL-L (Teaching English as a Second Language List), I tried to find the answers.

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Title 5 of the Rehabilitation Act of 1973 is generally regarded as the principal piece of national legislation designed to protect the civil rights of Americans with disabilities. This act requires accommodations on such matters as physical barriers and discrimination in federal agencies. Section 504 mandates access to services and commands the attention of all in higher education. As amended, section 504 states that "no otherwise qualified person with a disability in the United States . . . shall, solely on the basis of disability, be denied access to, or the benefits of, or be subjected to discrimination under any program or activity provided by any institution receiving federal financial assistance." Furthermore, section 504 stipulates that such an institution "shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student" (Jarrow, Impact 2, 51). Institutions must provide methods of instruction and testing that do not magnify a student's disability but ensure that evaluation represents a student's achievement instead of simply reflecting the student's disability.

What are the implications of section 504 for institutions of higher education, particularly those with foreign language requirements? Which institutions must provide accommodation to the learning disabled student, especially to the student prone to risk in the foreign language environment? What are the legal ramifications of the Americans with Disabilities Act further stipulates that "[even] if you don't receive your operating funds from the federal government, you may not discriminate on the basis of disability" (Jarrow, Title 2). Jarrow wisely points out that whether the school is a public entity (receiving its primary funding from state or local government sources) or a private entity (receiving its primary funding from nongovernmental sources) all institutions of higher education have some federal monies involved in their programming and thus have been (and continue to be!) subject to the Rehabilitation Act in addition to their coverage under the ADA. (Title 2)

The Virginians with Disabilities Act of 1985, amended in 1990 and 1991, seeks to protect the citizens of the Commonwealth of Virginia in a similar manner. The legislation states, "It is the policy of this Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment" (Code 33).

The 1992 Virginia General Assembly House Joint Resolution 4 "directed the Virginia Board of Education to conduct a study of the demographics of special education students exiting public education." The purpose of this report was to examine how education in Virginia serves this particular population and "to provide baseline data for the Commonwealth on the post-school outcomes for youth with disabilities" (Virginia i, ii). Several results of this report are enlightening not just to administrators of higher education but also to foreign language specialists in postsecondary education. The demographic study found that "3,801 students ages 14–22, receiving special education exited Virginia secondary education in 1990–91 [13% of all students receiving special education in this age range]" (Virginia 5; brackets in orig.). On completion of all requirements, 60% exited school with a standard or academic diploma. The study further notes that "many students with disabilities are completing school with a diploma and will be, in all likelihood, entering postsecondary education or training programs or the workforce" and that "these systems must be poised to receive these young adults and to provide the services they will need to be successful in these settings" (Virginia 8).

It is the rare institution of higher education that does not receive monies from the federal government, be they research grants, federal work-study assistance, or other operating funds. This fact alone gives legal reason to accommodate students. What accommodation policies are used by institutions of higher learning in Virginia? While section 504 and the Americans with Disabilities Act require accommodation, they do not legislate specific means to that end. The government, with certain guidelines, has left this decision to the individual colleges and universities. And while approaches may vary, almost all institutions I questioned have some policy on accommodating challenged foreign language students.

I surveyed the major public institutions in Virginia, as well as several smaller public and private institutions. Policies ranged widely; they included accommodating students within the classroom with no waivers or substitutions allowed, accommodating students with a substitution granted after a student has tried at least once and failed, and circumventing the requirement by claiming that the institution has no learning disabled students. Most policies that entertain requests for waivers or substitutions require students to document their claims with materials that may include test results from the Modern Language Aptitude Test, the Woodcock-Johnson Psycho-Educational Battery, and the Weschler Intelligence Scale. Many institutions in Virginia have a disabilities support service, and a member of this office's staff usually writes a letter in support of the student's petition. Letters from
advisers and foreign language instructors are also typically included as evidence. Often, a student will seek an adjustment to normal instructional practices in the classroom or a change in the grading procedure.

Once the student and the disability support service have gathered the materials in support of the claim, the packet is sent on to a person or a committee charged with deciding what type of accommodation or waiver will be granted. In certain Virginia institutions this decision is made by the academic dean's office. In other institutions a faculty committee—often composed of foreign language department members—or the foreign language department chair is charged with this task.

Longwood College, where I teach, is a four-year state-assisted comprehensive institution committed to providing [an] environment where all students have the opportunity to attain their educational goals. . . . To accomplish this goal, both physical and programmatic access must be provided. . . . This means that reasonable accommodations must be made in instructional delivery and evaluation methods to ensure full educational opportunities. (Guide 1)

The college further stipulates that

modifications in degree or academic course requirements will be made to ensure that such requirements do not discriminate against qualified students with disabilities (except where modifications result in a fundamental alteration of the academic program). (Guide 2)

(For a detailed description of Longwood's practices and policies, see app.).

Many institutions allow only substitutions, not language requirement waivers. The problem with substitution may not be immediately apparent to the student, the administration, or the faculty, but this cure is frequently worse than the disease. Students often are required to substitute writing-intensive courses that have heavy reading loads, unlike required foreign language courses, which now place most of their emphasis on speaking and listening. Such alternative course choices undermine the purpose of the substitution, which is to provide an understanding of a foreign culture, literature, or language.

Section 504 and the Americans with Disabilities Act advocate attempts to ensure that the learning disabled student receives a quality education and appropriate accommodation where necessary. My quest for the answers to my students' questions has led me to one important conclusion: Many learning disabled students can successfully complete the foreign language requirement. I have taught foreign language students with attention deficit disorder, hearing and visual impairments, and even dysgraphia who have graduated and continued to use their language skills in a variety of jobs and professions, including foreign language teaching. It is important to understand that, as a result of the trend toward mainstreaming, any class may include several learning disabled students. These students cannot be viewed as a homogeneous group. Without accommodation, many will fall by the wayside in the second or third semester.

Potential classroom problems include disruptions by the special-needs student, other students, or both; teacher frustration; and the inability of the learning disabled student to cope with the material and keep pace with the class, often eventually leading to failure. To counteract such frustrations, an eclectic approach to teaching is vital. Given the variety of student needs, it is advisable to use multiple modality instructional practices such as Total Physical Response, suggestopedia, and other kinesthetic or haptic approaches to ensure that, during any given lesson, information is received and processed by more than one sense. For example, an entire class devoted to reading comprehension would appeal only to the visual learner, thus denying the visually impaired student the opportunity to participate. Similarly, listening to tapes and doing dictations for fifty minutes would appeal primarily to the auditory learner.

Whatever prejudices toward the learning disabled student exist in higher education, we must recognize that we are unquestionably bound by law to accommodate these students. Institutions that claim not to have learning disabled students should rethink their assessment of their student bodies. Further proof of the need for accommodation appears in a recent issue of the Chronicle of Higher Education. The article discusses a class action lawsuit brought by four learning disabled students at the University of Miami, who alleged that the institution violated the Americans with Disabilities Act by not providing them with qualified note takers. Although the article does not specifically mention the foreign language curriculum, it does sound a loud warning to all institutions of higher education:

Since the law, known as the ADA, was enacted in 1990, many in higher education have predicted legal problems for colleges. A number of lawsuits have been brought, typically involving individual students' seeking entry to various programs or specific changes in the curriculum or a campus building. . . . [and further] lawsuits may be inevitable. The ADA . . . is a very ambiguous law, particularly with its requirements that "reasonable" changes be made to give people with disabilities access to programs. (Jaschik A38)

It is our responsibility as educators to guarantee that our courses contain requirements that measure material taught and retained, not a student's disability. Schools with no clear policy on accommodation must face the issue and formulate coherent, fair, and legal policies. These policies should be directed by the faculty, not legislated by the administration. Faculty members see the problem daily and are the curriculum experts in their fields.
It is also imperative that foreign language instructors be educated in methods based on multiple modalities. An aurally impaired student, for example, would greatly benefit from a learning environment where a kinesthetic or haptic modality was used. An instructor using a multisensory, multiple modality approach, especially in a general education foreign language course emphasizing reading, writing, listening, and speaking, will enable many learning disabled students to succeed. This approach is inherently a form of accommodation. Not only will the special-needs student achieve success in this kind of classroom, but so will the average foreign language student. And, after all, isn’t that our ultimate goal?

Appendix

Longwood College has appointed a coordinator of services for individuals with disabilities and a committee on access for individuals with disabilities to monitor college policies and practices (Guide 2). In addition, the Longwood Assembly, one of two faculty governance bodies, appoints the Faculty Petitions Committee. This group handles all student appeals for exemptions, waivers, or substitutions of courses, rules, or regulations; it has three voting members, who serve three-year terms, and two alternates, who serve one-year terms.

A student with a learning disability who seeks a waiver of the foreign language requirement or a substitution is urged to see the director of support services to discuss the appeal. If the student has attempted the foreign language, the instructor is often asked to provide a letter of support for the claim (students are not required to attempt the foreign language course before seeking a substitution or a waiver, but usually they do). Often the academic adviser does the same. The director of support services provides documentation (test results, analyses, and interview results) supporting the request, and the registrar supplies all pertinent transcripts. This material is forwarded to the Faculty Petitions Committee.

As an ex officio member of the committee, the registrar is responsible for notifying the committee chair when a petition must be heard to vote. A simple majority is required to vote. A member believes that he or she recognizes the student in question an alternate member is called on to vote. A simple majority is required to support or deny the request. A student who is not happy with the result of the hearing may appeal to the academic dean or the vice president of academic affairs. Such instances are very rare, but they have occurred. The official often asks the committee to reconsider its decision, especially if there is new evidence available.

The committee very rarely waives a foreign language requirement. It may choose a substitution from a list of approved courses, but it may also deem another course more appropriate. Approved courses include Anthropology 104 (Language and Culture), Philosophy 242 (World Religions), Geography 241 (Cultural Geography), and Speech 406 (Intercultural Communication)—all classes with the kind of intercultural content the college promotes in its foreign language curricula.

Works Cited


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Accommodating Students with Disabilities in Science, Technology, Engineering, and Mathematics (STEM): Findings from Research and Practice for Middle Grades through University Education. Nathan W. Moon, PhD Robert L. Todd, MS. Other legislation, such as the Americans with Disabilities Act (ADA) and the Rehabilitation Act, has supported efforts to ensure that Americans with disabilities have access to a quality education through the provision of classroom accommodations. In addition to legislative mandates, a number of programs set up by government agencies at all levels, as well as private and non-profit initiatives, have worked to further the goal of improving the education of students with disabilities in the United States. @inproceedings{Arries1999LearningDA, title={Learning Disabilities and Foreign Languages: A Curriculum Approach to the Design of Inclusive Courses.}, author={Jonathan F. Arries}, year={1999}. Jonathan F. Arries. Most universities require 1 or 2 years of foreign language (FL) study in at least 1 program as part of their general education requirements, yet many students with learning disabilities (LDs) find it extremely difficult to complete traditional FL courses. Section 504 and the American with Disabilities Act: Accommodating the Learning Disabled Student in the Foreign Language Curriculum. Francis X. Moore. 1995.