

Designing the Flexible Attendance Accommodation for Maximum Effectiveness

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Session Outline

- Defining the concept of flexible attendance
- Broadly exploring how to determine when reasonable for disability purposes
- Strategies for effectively adding to the accommodation letter
- Strategies for effective facilitation of the accommodation
- Guidance from OCR

Ultimate Goal

Offer ideas, directions, and concepts to consider (A “thinkbook”)

Not a specific blueprint (Not a cookbook)

Each of our office and campus cultures are different

This is NOT about Extended Time for Assignments

View flexible attendance (and related) for medical reasons as different from extended time for assignments for LD/ADHD and related reasons

How Did We Get Here as a Field?

How Did You Get Here as an Office?

- Because it “has always been done” this way?
- Has the mental health crisis created this need to do something/anything for students to try to “help” them?
- Does it feel hard to say “no” to these requests?
- Is this accommodation too easy for disability offices to recommend because the bulk of the work has historically been put on faculty?
- Do we believe we must give the students what they want?
- How have campus “student success” pressures influenced this?
- What other campus and resource pressures influence your process?

How is the accommodation packaged?

- Flexible Attendance only?
- Attendance, exams and assignments?
- Attendance and exams but not assignments?
- Should flexible attendance, make-up exams, and assignment extensions be different accommodations for medical reasons?
- How does online work (such as multi-day exam windows) impact decision-making?

Commonly Seen Facilitation Approaches

- Generic statements
 - Student is allowed to miss classes and submit assignments late when necessary for medical reasons
- Blanket Specific Statements
 - Student is allowed to miss 3 classes.
 - Student is allowed to turn in assignments 3 days late.
- Expect student and faculty to finalize the plan

Defining Flexible Attendance

Reminder of our Core Purpose (As Stated in 504)

No otherwise qualified individual with a disability in the United States, as defined in section 705 (20) of this title, shall, solely by reason of his or her disability, 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

Equitable Access Means No Barriers

Disabled people experience equitable access when they are able to:

- Fully engage and participate in the same activities, benefits, and experiences offered to a non-disabled person;
- Utilize the same information shared with everyone;
- Have the same opportunity to achieve.

Adapted from Section 504, 104.4 Discrimination Prohibited

Three Essential Steps to Facilitating Access and Determining Reasonable Accommodations

1. Is this a person with a disability?
 - Physical or mental impairment that substantially limits one or major life activities
2. Relative to a specific disability, is the requested accommodation (or what accommodations are) logical, reasonable and necessary to provide equitable access, to remove academic barriers and to ensure nondiscrimination?
 - What functional limitations intersect with the environment?
3. Determine whether the accommodation is reasonable within the academic context.

Explore – Keep This in Mind

- How is this accommodation supporting access through nondiscrimination?
- What is the academic barrier that warrants the flexible attendance accommodation?
- When is the student's concern more reflective of an intrinsic characteristic and a personal challenge (rather than an academic barrier)?

Explore -- What is the purpose of flexible attendance?

Explore -- The Most Critical Step...

- Define your version of flexible attendance in a way that works for your campus
 - Know WHY you are doing WHAT you are doing
 - Who (what type of disability) is the accommodation designed to support?
 - Consider what “flexible attendance” should and should not entail
 - Let the definition guide decisions to be made while keeping case-by-case in mind

How is the accommodation's coverage defined?

- To address unnecessary barriers within the policies of the course that limit equal access:
 - Attendance Policies
 - In-person exams without a make-up option
 - Assignment deadlines

What is this accommodation for us at UCF?

The Attendance, Exam, and Assignment Adjustment (AEAA) is appropriate when a student has a chronic physical or mental condition/disability with brief, periodic flare-ups that legitimately impact course attendance/assignments on occasion.

If a student believes he/she/they will, due to a disability, miss class on occasion, miss a test specifically because of a periodic flare-up, or miss an assignment deadline specifically because of a periodic flare-up, then the student should explore options with an Accessibility Consultant in SAS.

What It is and What Is Not at UCF

Please note that this accommodation is specifically designed to build in a slight amount of flexibility around attendance, test dates and course deadlines in order to specifically address the impact of a brief, periodic health or medical experience that interferes with these course activities. The intent is to provide a small amount of course flexibility to address the brief medical/health impact.

AEAA is not designed to support a substantial number of missed classes or lengthy assignment extensions or lengthy delays in taking an exam for reasons beyond brief, periodic flare-ups. Additional accommodations and options may need to be considered on a case-by-case basis in these extenuating, lengthy situations.

Furthermore, it is NOT...

This accommodation is not designed from the outset to comprehensively address and fully support a student who misses or is unable to participate in more than one week's worth of classes in succession, who missed a significant number of classes during the semester, or who miss numerous deadlines and course activities for medical or other reasons. In these situations, students and professors (with SAS assistance) will often need to discuss if it is possible to adequately address missed work and to maintain course pace. If an AEAA plan was previously established, it may need to be revisited and a new plan, labeled as an AEAA or otherwise, may need to be established. In some cases, reasonable adjustments may not be possible, and the student's final grade may be impacted should the student choose to stay in the course.

Explore -- Assessing Reasonableness from a Disability Perspective

How our Definition Impacts Decision-Making

- Is the condition periodic or more ever-present?
- Is recovery generally within no more than 24 – 48 hours at the most?
- Can any late work or missed exams be completed within 24 – 48 hours?
- For students who have may have more than periodic impact and/or longer duration of impact...
 - AEAA may still be facilitated but we make the student aware of the limits (not come and go and do as please)
 - AEAA may not be appropriate
 - Other accommodations and options may need to be explored, if any are reasonable

One angle to analyze when determining if flexible attendance is reasonable as an accommodation for X disability:

- Can the student legitimately not get to class because of the disability?
 - The student wants to meet the requirements but cannot physically do so
- Does the student not want to be required to meet the attendance requirements (expectations) because of the disability?
 - The disability does not necessarily prevent the student from attending, but the student would prefer not to put forth the effort to attend at certain times
- What about when it seems like both areas? Or you simply do not know?

For what disabilities might flexible attendance be appropriate?

- **Chronic health conditions**

- Crohn's disease, seizures, fibromyalgia, cancer, etc.
- A condition that tends to have the occasional but specific flare-up or experience/episode for a short period of time
- Recovery period?
- Bedrest?
- Hospitalizations?

For what disabilities might flexible attendance be appropriate? (2)

- **On-Going, Necessary Medical Treatments and Appointments**
 - If these activities interfere with the class schedule...
 - To what extent does the student need to find classes that do not conflict with these treatments?
 - Online classes?
 - What control may the student have over scheduling?
 - How many treatments conflict with classes? (3 times per semester vs. every Wednesday)
 - Priority registration?
 - What is the potential nondiscrimination issue here?
 - If the class is accessible by design and the student cannot attend due to appointments, is this an academic barrier or a personal matter?

For what disabilities might flexible attendance be appropriate? (3)

- **Psychological conditions**

- Depression, Bipolar Disorder, anxiety, and similar conditions
 - With what frequency and degree is the student impacted?
 - Is this ever-present or does it wax and wane?
 - How do these conditions impact other areas of life?
 - How is the student working to manage the condition?
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- What can the student do? vs. What can the student not do? vs. What does the student not want to do? vs. What does the student need to do?
 - Could attend class with effort vs. detrimental to well-being to attend class in person on certain days

Explore -- What to Learn from the Student

- Frequency of condition / flare-ups
- Known triggers?
- How does the student take care of self during this time
- Duration of condition at time of flare-up
- Impact on academic work at time of flare-up
- Impact on life at time of flare-up (such as work and social engagements)

Consider Gathering Written Information

- Diagnosis warranting the request
- How long have you had this diagnosis?
- Explain why believe flexible attendance is necessary
- How long does a specific incident impact the student?
- How often unable to attend class, take an exam or submit an assignment?
- Does medical condition impact some class experiences more than others?
- Impacted in other life areas?

Something to Think About...

Assigning accommodations should be about letting students *in* to the same opportunities available to all college students.

Accommodations shouldn't be about letting disabled students *out* of responsibilities or expectations we hold for college students.

Connect Approvals to Your Accommodation Purpose

Knowing why you are facilitating this accommodation will assist in knowing when to approve this accommodation

Assists with the gray but does not make it black and white

**Explore – How is this Accommodation
Included on the Accommodation Letter?**

Commonly Seen Accommodation Letter Statements for Flexible Attendance

- **Statement 1:** Student is approved for flexible attendance. Student and professor need to discuss how to apply for the course.
- **Statement 2:** Student must have 3 extra absences, 2 make-up assignments and 1 make-up exam due to disability

Limits of the Accommodation Letter (especially for Flexible Attendance)

- Accommodations listed on the letter consider reasonableness from a disability perspective but not from a course perspective
- Likely do not know in advance if flexible attendance is reasonable for a course and how to apply if so
- How the accommodation is listed and the letter itself should encourage the continuation of the interactive process as necessary

Three Essential Steps to Facilitating Access and Determining Reasonable Accommodations (2)

1. Is this a person with a disability?
 - Physical or mental impairment that substantially limits one or major life activities
2. Relative to a specific disability, is the requested accommodation (or what accommodations are) logical, reasonable and necessary to provide equitable access, to remove academic barriers and to ensure nondiscrimination?
 - What functional limitations intersect with the environment?

ACCOMMODATION LETTER

1. Determine whether the accommodation is reasonable within the academic context.

Explore – How Does the Interactive Process Play Out?

- When you approve flexible attendance for disability reasons and the nature of the course greatly influences how the accommodation can be reasonably facilitated...
 - How will your process best connect the dots between your office, the student, and the professor?
- The interactive process does not stop when you notify the student that flexible attendance is a reasonable accommodation

As Listed on Our Accessibility Letter

AEAA -- This accommodation is appropriate when a student has a chronic physical or mental condition/disability with brief, periodic flare-ups that legitimately impact course attendance/assignments on occasion. How it works:

- **Step 1:** The student may choose to initiate a conversation with the instructor (AEAA Option 1) or may submit a request for SAS to contact professors to assess this accommodation (AEAA Option 2). No action is needed from professors until the student initiates Option 1 (via a form the student provides) or SAS initiates Option 2 (via a separate AEAA email SAS sends to professors).
- **Step 2:** We ask professors to work directly with the student via Option 1 or directly with SAS via Option 2 to determine if and how it is reasonable to slightly adjust any attendance policies, assignment deadlines or exam dates on occasion, if necessary, due to a chronic medical condition.

As Listed on Our Accessibility Letter continued...

- **As needed:** AEAA does not demand that course requirements and learning objectives be fundamentally altered. This accommodation is appropriate from a disability perspective but may not be justifiable from a course-learning perspective.
- **As needed:** If a professor prefers to use Option 2 after a student initiates Option 1, professors should contact SAS for assistance.
- **As needed:** SAS is available to all instructors as a resource.

More information is available online at [Link: <https://sas.sdes.ucf.edu/faculty/>]
within the FAQ section.

“Do not deny” on Accommodation Letter

- Consider a clear statement on accommodation letter that faculty must not deny any listed accommodations without first talking to your disability office.

OCR and Power Imbalance

The Student's process of requesting an extension from her Professor varied significantly from how the interactive process should work. Requiring students to request accommodations for their disabilities directly from their professors places them in the difficult and unfair position of having to negotiate for their accommodations with the persons who are ultimately responsible for evaluating and rating their academic performance. Such a process also puts professors in the unfair position of having to provide accommodations when they are not trained in such decision-making and do not have complete information about the student's needs. Individuals appropriately qualified to assess and address the needs of students with disabilities, such as the professionals of a disability services office, should serve as intermediaries between students and faculty so that students are not placed in a position of having to reveal confidential information regarding the nature or extent of their disability and to discuss/negotiate accommodations with their instructors.

OCR Letter to Simmons College (Complaint 01-16-2113)

No Student Negotiation with Professors

Based on the evidence obtained, we found that the College's requirement that students requesting accommodations meet with their professors to negotiate over the substance of accommodations is unreasonable and therefore in violation of Section 504 and Title II. Although a professor may be an integral part of the interactive process, he or she is not qualified to solely determine what the requesting student may be entitled to under Section 504 and Title II. Including whether the requested accommodation constitutes a fundamental alteration of the course. Also, the professor may not know the nature of the student's disability and the disclosure of such information to the professor may raise student privacy concerns.

No Professor Unilateral Denial

OCR has found violations of Section 504 and Title II where professors were allowed by a college to unilaterally deny academic adjustments that had been approved by the college's disability services office. While it reasonably might be expected that a course professor would be included in the process of determining what requirements are essential to participation, allowing an individual professor to have ultimate decision-making authority is not in keeping with the diligent, well-reasoned, collaborative process that warrants accord of deference by OCR to the judgments of academic institutions.

OCR Letter to Kent State University No. 15-21-2136 (April 22, 2022)

Facilitating the Interactive Process

Explore – Active Involvement

- Disability office is actively involved in the flow of communication
- Disability office has a process where you can land on the final decision in partnership with the faculty...
 - Acknowledges the unique nature of the respective course
 - Start with course policy as listed in the syllabus and as historically applied

Explore – Ways to Be Actively Involved

- How can you use the accommodation letter as a tool?
- Email communication?
- In-person meetings?
- What does case-by-case assessment look like for a class or a specific situation?

How We Facilitate at UCF

- **Option “0”:** Student chooses to do nothing with this accommodation
- **Option 1:** Student chooses to talk with instructor and work out an agreement (guidance online as to how to do it; optional agreement form)
- **Option 2:** Student asks our office to take the lead and provides us with information via a survey form to get started

Explore – Questions to Guide the Final Expectations/Plan

- What is the course policy?
- Are modifications to the course policy considered for any other student? When? Why? How?
- What is the actual attendance policy? (How many absences allowed?)
- How does attendance align with the learning objectives?
- Why is there a no make-up exam policy? (or no late assignments)
- What unique factors about the course need to be understood in relation to the course policies?

Explore -- Making Expectations Clear

- Clear expectations as to what is reasonable and allowable given the disability and the course:
 - Concrete number of additional absences
 - Concrete window for extension for make-up exams, assignments, etc. to the extent considered
 - Other specific details as necessary
- Clear expectations about how/when a student communicates the need to use the accommodation once a plan is established

Examples of Where We May Land

- Student may miss up to two additional live classes (without grade penalty) beyond what is stipulated in the attendance policy (when applicable).
- The student may make up one exam and one quiz within two business days (in-person exams/quizzes) or two days (online exams/quizzes).
- For assignments in which students have 6 calendar days or fewer to complete the task from the day assignment content is fully available to do the work through the due date, the student can submit two assignments within 24 hours past deadline.

Explore -- Additional Facets to Stipulate

- Limits are reasonable; not a blanket “come-and-go and submit work as please”
- The assignment should be nearly done and exam prep mostly complete
- Is a doctor’s note still necessary to fulfill course policy?
- The accommodation does not cover absences related to non-disability related illness (such as COVID or flu) or other non-medical reasons
- Perhaps offer the option to revisit as needed but mention to student that additional adjustments are always possible
- How does the professor manage these situations in non-disability incidents?
- What are the communication expectations regarding actual usage?

Details of this accommodation and usage:

- AEAA is only to be used for the disability/medical/health reason on record with SAS. Health or non-health matters not on record, seasonal colds/flu, or COVID do not apply.
- This accommodation is designed to establish a slight amount of flexibility for attendance, test dates and assignment deadlines when a brief, periodic health or medical experience with potential abrupt onset impacts these areas.
- The AEAA is not designed to support a substantial number of missed classes (sporadic or consecutive) or lengthy assignment extensions or lengthy delays in taking an exam. In these cases, reasonable adjustments may not be possible.

More details...

- Remote attendance, course recordings and course notes are not a necessary or required component of any missed classes associated with this accommodation.
- The provision of a doctor's letter to the professor should not be required to utilize the accommodation since the chronic condition is on record with SAS. (A doctor's letter for reasons beyond this accommodation can be requested).

Communication Expectations Listed on Letter

- When the student's health is directly associated with the AEAA impacts involvement with a listed course activity, the student needs to contact the professor preferably before but definitely no later than 24 hours after the course event (paper due date, test date, etc.) to utilize the listed AEAA accommodations.
- The student must reference this accommodation in the email/communication to assist the professor with managing logistics.

Code of Conduct Notice

As stated in the UCF Golden Rule Rules of Conduct, certain actions may warrant disciplinary action, including Possessing and/or Providing False and Misleading Information and/or Falsification of University Records, such as (a) Withholding related information, or furnishing false or misleading information (oral or written) to University officials, university and non-university law enforcement officers, faculty or staff. **Awareness of misuse of this accommodation may result in disciplinary action.**

Fundamental Alteration?

Explore -- When flexible attendance is potentially not reasonable within the academic experience...

- When attendance policies logically tied to the learning outcomes of the course
- Potentially for clinical, practical, experiential lab and other highly interactive, “hands-on” experiences; when absences impact others
- When exams are not offered as a make-up to any student for logical learning outcome reasons
 - (And this is consistently applied)
- When no student can submit an assignment late for logical learning outcome reasons
 - (And this is consistently applied)

Explore -- When flexible attendance is potentially not reasonable within the academic experience... (2)

- Group Work and Discussion Posts
- Consider the length of time assignments were made available
 - Disability impact vs. poor time management and 11th hour work
 - Have students submit whatever is completed by deadline?
- How might online coursework and expectations be different from in-person courses?
 - Assignments that can be submitted online vs. in-person?
 - Is online submission an accommodation?

Explore – Assessing Fundamental Alteration

- Getting a "Yes, it would be" or some similar quick email-type response often isn't sufficient.
- The interactive process might entail:
 - Reviewing the syllabus
 - What is in writing vs. what is communicated?
 - Are course policies consistently applied? Why and when are exceptions made?
 - Understanding technical standards (if relevant)
 - Understanding the level of interaction in the class and the role of student participation
 - Assessment of course assignments and deadlines
 - Assessment of tests and make-up policies

Explore – Assessing Fundamental Alteration (2)

- Communicate/Meet with a professor (and others as needed) to discuss learning objectives and how those are achieved within the course and how an accommodation may impact achievement
- Is there any path through which this accommodation would be reasonable?
- What other options could be considered beyond what is on the table?

Overall Summary

Exploration Summary

- Define your why/purpose behind the accommodation
- Create a process that matches the purpose
- Determine what aspects of the accommodation are included
- Establish the right wording to explain the accommodation
- Consider how faculty will be involved in the interactive process
- Relying on students and faculty to resolve, as the only option, does not align with OCR guidance
- Clearly outline expectations of accommodation use through a process
- What additional parameters and boundaries need to be outlined?
- *Discuss this accommodation process/concept with faculty*

Questions?