

# January 27, 2017

## Slippage

A blog posting in Inside Higher Ed last week (<https://www.insidehighered.com/blogs/just-visiting/slippage-problems-textbook-example#.WH4iNIGg2is.gmail>) talked about the issue of “slippage” in the context of tuition and textbook costs. The post began this way:

*A lot of problems in life are the result of “slippage.”*

*It's very rare that fortunes change suddenly. Instead, issues accrue over time, like getting older and gaining weight. You don't suddenly wake up one day twenty-five pounds heavier.*

*Slippage related problems – like weight gain – are much easier to fall into than get out of. The extra pounds I put on in the ten days surrounding Christmas and New Years takes at least the entire month of January to get back off. And if you don't act relatively quickly, you begin to forget what everything was once like, and you lose sight of, for lack of a better phrase, “the real you.”*

I am probably going to regret this (and a lot of you are going to *hate* this!), but let's talk about attendance leniency as an accommodation – and *slippage*. When the field of disability services was in its infancy, after the passage/implementation of Section 504, I don't remember there being much (if any) talk about assigning the accommodation of leniency in attendance. Of course, in those days “students with disabilities” were primarily blind, deaf, or in a wheelchair (or some variation thereof), and there wasn't much of a need to consider what would happen if the student couldn't meet attendance requirements. There was no reason that they shouldn't.

In the 80's, we saw the huge influx of students with learning disabilities and then students with ADHD. The LD kids had no excuse for not making it to class. Early on, there were some who suggested that students with ADHD should not be penalized for tardiness or absences since their disability often made it hard for them to stay on schedule and remember their commitments. To which our general response was, “FIND a way to keep on schedule. Your disability doesn't prevent you from going to class and being there on time, it is the way you are dealing with your disability (or not!).” We did not assign attendance accommodations. We DID, sometimes, help the student with priority scheduling as an accommodation, to make it easier to fulfill their responsibilities re: class attendance.

From there, the timeline blurs in my mind. I think the first time I remember seeing significant discussion of attendance accommodations was in the 90's, when we started to see larger number of students with significant health problems attempting to pursue

higher education. There were students with traumatic head injury (kind of akin to today's influx of students with concussions?), students receiving chemotherapy or dialysis, students with HIV/AIDS, and more. The likelihood that, because of their disability, they would be literally unable to get to all classes was there, and we made some initial forays into the idea of asking the prof for some leniency on firm cutoffs regarding allowable absences without penalty.

And THEN there came the students with psych disabilities. Again, it began with a trickle that has become a flood. And it appears that the flood is very real. You have only to pick up any higher ed publication or report in the popular press regarding the mental health status of students in college to realize that we have a LOT more stressed out students now than we did then. And there were/are a lot more students asking for this accommodation. It gets harder to sort out the basis on which it should be granted (how "bad" is "bad" when it comes to being substantially limited?), so as a field we have gravitated toward granting the accommodation for students with psych disabilities. *Slippage.*

There seems to have been the same inexorable movement in how the accommodation is viewed by the Federal agencies. As recently as 2001, an OCR Letter of Finding in support of Flagler College upheld the institution's right to set and abide by attendance requirements.

*"The Office for Civil Rights decided that educational institutions are responsible for determining the academic requirements essential to a program. The requirements must have a rational relationship to the program and not be a disguise for discrimination. OCR determined that the college's attendance requirement was essential and not discriminatory." (<http://ahead.wiley.com:8080/ahead/articles/view/2127> )*

But in the years that followed, there was a series of OCR Letters of Finding that included reference to leniency in attendance as an accommodation. I THINK (haven't researched, so I can't say for sure) that the first high profile LOF in this regard was the Metro State case in 2010. I know that there was a huge flurry of activity/concern in the DSS community when this case first came about, with folks rushing to put in place a policy on attendance as an accommodation because "OCR said we have to give attendance leniency as an accommodation." Except – that is NOT what this case was about, and that is NOT what OCR said. Metro State was already providing attendance leniency as an accommodation. What OCR said was that if you are going to provide this accommodation, you need to provide it correctly. You cannot make the student negotiate their own accommodation with the faculty member" (which is how their policy was set up). But what the DSS community took away from Metro State was, "you'd better have a defensible policy in place for how you will provide attendance as an accommodation." *Slippage.*

We provide accommodations for students with disabilities so that they will have equal access to the educational opportunities provided to everyone else. We remind each other regularly that we do not provide accommodations in order to foster success

(although we hope that all students will be successful). We provide accommodations if, and only if, not providing the accommodation would mean that the student didn't have equal access. There is no suggestion that assigning leniency in attendance is a success-oriented strategy, so what's the problem? *The problem is, I can't figure out how providing leniency in attendance provides equal access!*

What is it that everyone else has access to? Everyone else has access to the chance to be enrolled in the class and be responsible for meeting the requirements of that class (including requirements for attendance, regardless of how arbitrary we believe them to be). When we ask for leniency in attendance requirements for a student with a disability, we are not asking the faculty member to abolish the attendance requirement for everyone else. Everyone else is still **expected** to meet the stated rules (hold on to that word "expected" – it is going to come up again in a minute). We tell faculty that we understand that they require no more than X number of absences from other students, but because this student has a disability, that requirement should change. WHY? Why is that about access? Other students are also required to turn in every homework assignment or face the consequences. Should that requirement be changed, as well, for a student with a learning disability who has to spend a WHOLE LOT more time working on those homework assignments? (We'll leave a discussion of extended due dates and deadlines for another time.)

About now, I can imagine some of you are thinking, "But these students cannot meet the same requirement for their physical presence in class *because of their disability*. If we don't make this accommodation for them, they would be graded down and that is discriminatory on the basis of disability." Hmm...

Skeptic that I am, I do not believe that *all* of the students receiving this accommodation really cannot meet the same requirement (for attendance) *because of their disability*. They just don't want to. And we make it possible for them to not push themselves by saying, "It's OK, Joey. We'll set it up so that you get a few extra classes that you can miss without penalty. If you don't feel like going to class, it will be alright." And why are we OK with assigning this accommodation *just in case* it becomes an issue for that poor disabled kid? Because it is such an easy accommodation for the DSS provider to assign. We are doing something the student wants and asked for, and we don't have to do anything more than write it in to the LOA (or check off the box on the form letter?). What SHOULD be happening is that before the accommodation is made, the DSS provider should sit down with the faculty member (for each class that each student is in) and have a conversation about why attendance is required and how many additional absences might be allowable before the academic integrity of the educational experience is threatened. But I know very few disability service providers who take the time to do that (and for those who do, I withdraw my objections!). Instead, the accommodation is too often assigned after a quick check in with the faculty member ("would it be OK to extend it to 6 instead of 3?") or, worse yet, the accommodation is assigned and the student is told to go work out with faculty what it means (which is EXACTLY what got Metro State into trouble).

I said I don't believe that ALL the students currently assigned this accommodation are really so substantially limited by their disability that they cannot make it to class. I DO believe that there are some for whom that is true. And for those who are so substantially limited by their disability that they cannot meet minimum attendance requirements, I **STILL** don't think the accommodation has anything to do with access. The law requires us to provide appropriate accommodations for any (otherwise) qualified student with a disability who would otherwise face discrimination. What does "otherwise qualified" mean? It means that with or without appropriate accommodation, the student meets all the same **expectations** – academic, professional, technical and behavioral **expectations** – that everyone else meets. If the student is SO limited by their disability that they simply can't make it to class, for a class that is meant to be provided (and participated in) in a face-to-face manner, then I have to question whether the student is "otherwise qualified!"

The bottom line is that no matter how I view this thing, I cannot see leniency in attendance as an accommodation that provides equal access. *It seems to me to be lowering expectations because the student has a disability.* I thought we were against that!

AS ALWAYS, there will be exceptions, and I am certainly not afraid to fight for those exceptions for a student who missed more classes than planned because of a disability-related flare or unexpected complications. But asking for consideration for the student who has missed too many classes with good reason seems to me a very different exercise than asking, IN ADVANCE, for consideration for extra absences by a student with a disability who *might* need them because of that disability.

If the accommodation of leniency in attendance isn't tied to access, then how did we get where we are today, with it being a regularly assigned perk for the DSS provider to hand out (a little editorializing there!)? *Slippage*. I contend that for those early students who first requested leniency in attendance (the ones with significant health-related problems), we provided advocacy in making such arrangements for them as a COURTESY, not as an accommodation. It seemed like (was!) a logical and appropriate response to the student's physical limitations. And my recollection is that such students were rarely assigned the accommodation up front, on the LOA, with a specific number of extended absences suggested. This was more likely to be an individual negotiation with the faculty members (some of whom approved and some of whom didn't) based on their role as reasonable human beings, not because we told them they HAD to provide the extension as a legally mandated accommodation.

Somewhere along the line, we lost the distinction between "the right thing to do" (a courtesy) and a legally mandated accommodation. And once we slipped over that line and started doing everything for students under the same "it's the law" rubric, the idea that leniency in attendance was a required accommodation took on a life of its own.

And *now* some of you are thinking, "but there have been other OCR findings that spoke to the issue of providing leniency in attendance as an accommodation." I believe that's

true. And I believe the OCR folks who wrote those Letters of Findings were victims of the same *slippage* that the DSS providers were/are responding to. I think they started seeing the accommodation being granted so often that they stopped thinking about WHY it was being granted and started developing policies and rules for how to grant it appropriately.

For those who think OCR really *does* consider attendance leniency as a necessary accommodation, try this for an eye-opener. Take a look at the fact sheet posted to the OCR website entitled *Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities* (<https://www2.ed.gov/about/offices/list/ocr/transition.html> ). You know the one I mean – the one that we have all distributed to incoming freshman and posted to our websites for well over a decade (first published in 2002). Here is a quote from that publication:

***What academic adjustments must a postsecondary school provide?***

*The appropriate academic adjustment must be determined based on your disability and individual needs. Academic adjustments may include auxiliary aids and services, as well as modifications to academic requirements as necessary to ensure equal educational opportunity. **Examples of adjustments are: arranging for priority registration; reducing a course load; substituting one course for another; providing note takers, recording devices, sign language interpreters, extended time for testing, and, if telephones are provided in dorm rooms, a TTY in your dorm room; and equipping school computers with screen-reading, voice recognition, or other adaptive software or hardware.***

I readily acknowledge that the list of examples is not meant to be exhaustive. There are other accommodations that can and should be provided as needed. *But there is no mention of attendance accommodations.* Considering the things that ARE included, it seems to me that attendance leniency is conspicuous by its absence. OCR didn't seem to consider attendance leniency as important enough to be mentioned on this listing for incoming postsecondary students of things they could/should ask for. The publication was last updated in 2011. I wonder if, in a new iteration of the publication, there might be a reference to attendance accommodations. I am guessing there wouldn't be. But if there WAS, it would be there because of... *Slippage!*

Now that we have SLIPPED so far, I don't know if there is any way we can find our way back (any more than we will see significant reductions in college tuition or textbook costs). But the fact that it is a constant in our environment these days doesn't make it any less of a mistake on our part. It is just one we are (apparently) stuck with.

I told you that you were gonna' hate it!

Janie

*Bad habits are like a comfortable bed – easy to get into, but difficult to get out of.*

*Live less out of habit and more out of intent.*

*Most people don't have the willingness to break bad habits. They have a lot of excuses and they talk like victims.*

*This could be the day you stop doing that self-destructive thing you do.*

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