

The Cure for Operation Varsity Blues – Untimed Testing

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Last week, wealthy parents were charged in a conspiracy to get their children into elite schools by rigging the system. They obtained fraudulent disability accommodations, paid off standardized-testing officials to doctor test scores, sent smarter students to take tests; or paid proctors on the inside to allow for extra time.

After the scandal hit, persons with learning disabilities across the country are fearful that their need for accommodations will now be questioned. Academic success is often measured by a score on a test. A test score can make the difference in being accepted into a desired school or in obtaining a professional license. However, a learning disability of a mental illness or disorder, or other disability, can derail a person's career or learning goals when an accommodation is not given to level the playing field. In fact, all schools, testing organizations and professional licensing organizations should (and usually do) provide for testing accommodations.

In the same way, a test should be designed to test the test taker's intelligence or mastery of the subject and not how quickly a person completes a test or the person's skills in blocking out extraneous noises. For years, accommodations have been denied to those who are intelligent, based on the rationale that accommodations were not needed due to their intelligence. When the ADA was amended in 2008 to clarify that impairments in the major life activities of learning, reading, concentrating, and thinking were disabilities, the Congressional drafters of the law commented as follows:

When considering the condition, manner, or duration in which an individual with a specific learning disability performs a major life activity, it is critical to reject the assumption that an individual who has performed well academically cannot be substantially limited in activities such as learning, reading, writing, thinking, or speaking.

The Committee believes that the comparison of individuals with specific learning disabilities to 'most people' is not problematic unto itself, but requires a careful analysis of the method and manner in which an individual's impairment limits a major life activity. For the majority of the population, the basic mechanics of reading and writing do not pose extraordinary lifelong challenges; rather, recognizing and forming letters and words are effortless, unconscious, automatic processes. Because specific learning disabilities are neurologically based impairments, the process of reading for an individual with a reading disability (e.g. dyslexia) is word by word, and otherwise cumbersome, painful, deliberate and slow throughout life.

Accommodations verses Universal Design

"Universal design" or "design for all" is a concept where a physical structure or information technology is accessible to the greatest extent possible by everyone, regardless of ability. Because a test should be designed to assess understanding of a subject or aptitude, the time that someone completes the test

should be irrelevant. Many tests are now taken in test-taking centers, and the administrative burden in providing the same test for two, three, or four hours is negligible. Furthermore, electronic and in-person monitoring, as well as administering different tests on different computers can reduce the potential for cheating.

The current processes for obtaining even minor extended time accommodations are cumbersome.

Currently, to obtain any accommodations for students in public schools, parents that believe that their children have a learning disability can request an evaluation through the child find identification procedures under the IDEA, 20 U.S.C. 1412, where the public school can do the evaluation or pay for an independent educational evaluation through a private provider. For private schools, parents can pay for their own independent evaluation to determine the extent of a learning disability and provide recommendations.

For standardized tests, like the ACT or SAT, most test providers have forms where a request can be made. An accommodation should be provided where the applicant has documentation that demonstrates a consistent history of a diagnosis of a disability, with a recent evaluation by qualified professional who has made a face to face evaluation. The earlier and more consistently an evaluation is provided, the better likelihood of the approval of the accommodation request, such as though high school.

While it is preferable to have a history of receiving accommodations, it is not a strict requirements. A student can demonstrate the existence of a disability without early evaluations, such as observations by educators and a series of psychoeducational testing prior to making the request. Under the ADA regulations, once a test taker receives accommodations for post-secondary school testing, such as the SATs or the ACTs, those accommodations should be presumptively accepted by other testing agencies.

There are large racial and ethnic disparities in students that are identified with learning disabilities in public schools. Further, many students are intelligent and develop coping mechanisms to address impairments, or other students failure to adequately perform or frustration is not ascribed to disability but rather to lack of intelligence.

As such, taking out the time element for testing would assess intelligence for the vast majority of persons with diagnosed and undiagnosed learning disorders. It would also remove the game from persons who wish to game the system.