

  
  
**Pittsburgh** Pennsylvania

**Testing  
Accommodations:  
Balancing Competing  
Demands**

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*Promoting Regulatory Excellence*

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**Audience Survey**

By show of hands, do you:

- Handle or review requests for test accommodations?
- Administer a licensing or certification exam?
  - PPT, CBT, Performance Assessment
- Administer periodically? Continuously?
- Have you noticed a change in the volume of requests? Types of requests?
- Do you get involved with test development?

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**U.S. Legal Framework**

- The Americans with Disabilities Act (ADA) has been in effect since January 1992
- The ADA Amendments Act (ADAAA) has been in effect since January 1, 2009
- DOJ and EEOC regulations
- Court Interpretations
- Some state statutes

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### U.S. Statutory Definition

- The ADAAA retains the definition of “disability” contained in the original ADA: “A physical or mental impairment that substantially limits one or more major life activities of such individual.”
- This definition “shall be construed in favor of broad coverage of individuals ....”

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### U.S. Statutory Language

- Requires entities that offer examinations “related to applications, licensing, certification, or credentialing for . . . professional, or trade purposes” to “offer such examinations . . . in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.”

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### U.S. Court Interpretations

- What is “a manner accessible”?
- What are “alternative accessible arrangements”?
- Most court opinions in the context of testing have interpreted “in a place and manner accessible to persons with disabilities” and “alternative accessible arrangements” as requiring “reasonable accommodations.”

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### U.S. Regulatory Language

- “The examination is selected and administered so as to *best ensure* that, when the examination is administered to an individual with a disability ... the examination results accurately reflect the individual’s aptitude or achievement level or other factor the examination purports to measure, rather than reflecting the individual’s [impairment].”

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### Other U.S. Court Interpretations

- Two recent court opinions from CA, addressing issues of testing accommodations, applied the “best ensures” standard, indicating that it is a higher standard than “reasonable accommodations”.

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### U.S. Court Interpretations (cont’d)

- One of those opinions talked about arrangements necessary to “best ensure” an individual’s chances of success on the exam.
- No! Best ensuring chances of success is a standard very different from best ensuring that exam results accurately reflect aptitude rather than disabilities!

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### U.S. Additional Regulatory Language

- “A private entity offering an examination shall provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills, unless [it] can demonstrate that offering a particular auxiliary aid would fundamentally alter the measurement of the skills or knowledge the examination is intended to test or would result in an undue burden.”

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### Testing Accommodations in Canada

- Responsibility of testing organizations to provide testing accommodations in Canada
- The legal obligation to provide testing accommodations falls under both federal legislation and provincial legislation in the 10 provinces
- Unlike the USA, Canada does not have a federal disability act like the ADA
  - Limited case law to provide guidance for examinations

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### Testing Accommodations in Canada

- Obligation or duty to provide accommodations falls under the following legislation:
  - Federal Charter of Rights
  - Provincial Human Rights Codes

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### Testing Accommodations in Canada

Federal Charter of Rights:  
“Every individual is equal before and under the law and has the right to equal protection and benefit of the law without discrimination”

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### Testing Accommodations in Canada

Provincial Human Rights Codes:

- Governed by a Human Rights Commission and Codes
- Codes provide for equal rights and opportunities, and freedom from discrimination
- Prohibits discrimination on the basis of a disability
- Applies to education, facilities and services

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### Testing Accommodations in Canada

Provincial Human Rights Codes (cont'd):

- Legislation often lacks specificity and definition and is subject to broad interpretation
- Definition of a disability is usually broad and covers a broad range and degree of conditions
  - Includes physical, mental and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities as well as other conditions.

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### Testing Accommodations in Canada

Provincial Human Rights Codes (cont'd):

- Duty to accommodate individuals with disabilities up to the point of undue hardship
- Undue hardship may be related to health and safety factors, financial costs, or interference with the rights of others
- Must act in good faith and treat individual with dignity and respect
- Some provinces have a Disability Act:
  - Example: Ontarians with Disabilities Act

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### Hypothetical #1: ADHD

Sufficient documentation has been presented demonstrating a disability under ADA.

Past test-taking experiences show accommodations previously provided to candidate.

Extra time in one delivery context translates differently/ may not be reasonable in another delivery method.

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### Hypothetical #1: ADHD (cont'd)

Paper & pencil exam delivery

- a 200-item exam
- 4 hour exam time period
- Candidate requests:
  - double time for a total of 8 hours
  - extra time for extra breaks or testing time
  - large print
  - separate room
  - reader

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### Hypothetical #1: ADHD (cont'd)

CBT Exam Delivery

- 200-item exam
- 4 hour exam time period
- Candidate requests:
  - Double time for a total of 8 hours
  - Split exam into 4 hours over 2 separate days
  - Paper & pencil exam split into two 100-item blocks –(fundamental alteration?)
  - Separate room
  - Reader

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### Hypothetical #2: Anxiety

- A 23 year old male graduate student reports that he is often uneasy in the classroom environment and that this uneasiness severely distracts him when he takes tests.
- His treating physician reports that the student “becomes anxious” before and during testing and in any environment where he feels he is being judged by other people.

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### Hypothetical #2: Anxiety (cont'd)

- Subsequent documentation arrives establishing generalized anxiety disorder.
- Candidate submits a request for test accommodations, seeking extra testing time, extra breaks and a testing location where others are not present.
- P & P Exam Delivery: In a standard P & P administration, the student would be expected to take the examination with 20 - 60 candidates in a room.

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**Hypothetical #2: Anxiety (cont'd)**

- CBT Exam Delivery
- The standard exam length is 5 hours, including a ½ hour break.
- In a standard CBT administration, the student would be expected to take the examination with up to 20 other people in a room.

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**Hypothetical #2: Anxiety (cont'd)**

- Oral examination: In addition to extra time and breaks, he asks to have the exam administered in an essay or short answer format, to avoid any interaction with the examiners.
- Alternatively, he seeks a computer based form of the exam, where questions are emailed to him by evaluators in real time and he responds to them via email in real time. He asks that the evaluators not see him.

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**Sensory Disabilities**

- Hypothetical #3: Blind candidate
- Hypothetical #4: Hard of hearing candidate

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### Hypothetical #3: Blindness

- Candidate has light perception only.
- Vision loss has been progressive. Candidate had usable vision during elementary and middle school and relied on large print and magnification. Vision reached current status during high school.
- Candidate accesses text via screen reader (text-to-speech) software.

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### Hypothetical #3: Blindness (cont'd)

- Test A: English Literature
- Middle English:  
    “Whanne that April with his shoures  
    sote  
    The drougte of March hath perced to  
    the rote.”  
    Chaucer, *Canterbury Tales*. Prologue. Line 1.

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### Hypothetical #3: Blindness (cont'd)

- Test A: English Literature
- Dialect:  
    “Wee, sleekit, cow'rin, tim'rous  
    beastie,  
    O, what a panic's in thy breastie!  
    Thou need na start awa sae hasty  
    Wi bickering brattle!”  
    Robert Burns, *To a Mouse, on Turning Her  
    Up in Her Nest with the Plough*

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Hypothetical #3: Blindness (cont'd)

- Test B: GRE General Test or GMAT

Computer-based testing platforms aren't always compatible with assistive technology.

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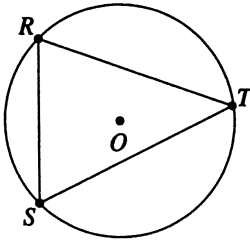
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Hypothetical #3: Blindness (cont'd)

Screen readers don't yet read math graphics or expressions. E.g.:



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Hypothetical #3: Blindness (cont'd)

- Test C: Medical or Allied Health Exam
- What if the exam includes:
  - x-rays
  - blood smears
  - dermatological conditions

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**Hypothetical #3: Blindness (cont'd)**

- Can these conditions be described without cuing?
- Is the elimination of such items from the test form a reasonable accommodation or a fundamental alteration?

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**Hypothetical #4: Partial Hearing Loss**

- Candidate is congenitally hard of hearing. Uses hearing aids.
- Can understand speech fairly well (using combination of hearing and speechreading) under good listening conditions.
- Experiences difficulty under less-than-ideal listening conditions (multiple speakers, ambient noise, speaker's face not visible, foreign accents).
- Requests extended time.

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**Hypothetical #4: Partial Hearing Loss (cont'd)**

- **Test A:** For licensure for teaching Spanish. Includes listening, speaking, reading, and writing components.
- **Test B:** A clinical skills assessment that involves gathering patient information and tests, e.g., communication and interpersonal skills.

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### Summary

- You have to know what you are measuring.
- Item Writing: How will new item types affect/be affected by accommodation requests?
- Test Development Committees: Do they think about accommodations when constructing exams?
- Can the exam be modified to meet accommodations requests without fundamental alteration?

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