

AMERICAN
PSYCHOLOGICAL
ASSOCIATION
PRACTICE ORGANIZATION

The Honorable Judge Edward Chen
United States District Court
For the Northern District of California
450 Golden Gate Avenue
San Francisco, CA 9410

Amicus Letter, *Department of Fair Employment & Housing et al. v. Law School Admission Council*, Case No. CV 12-1830-EMC (N.D. Cal.)

June 1, 2015

Dear Judge Chen:

The Inter Organizational Practice Committee (IOPC) is a coalition of the American Academy of Clinical Neuropsychology (AACN), the Society for Clinical Neuropsychology/Division 40 of the American Psychological Association, the American Board of Professional Neuropsychology (ABN), and the American Psychological Practice Organization (APAPO) tasked with coordinating national neuropsychology advocacy efforts, and representing thousands of neuropsychologists in the United States.

The IOPC is writing to express our support for the process through which the LSAC accommodation documentation process will become less burdensome for law school applicants and students. Many neuropsychologists have had to appeal issued denials of accommodations for candidates with well-documented histories and continued deficits. We believe that the efforts to make the review process more objective and to involve additional reviewers are steps in the right direction.

That said, we have concerns that the following aspects of the recommendations are likely to lead to inappropriate accommodations for students:

1. The weight the new rules place on self-report,
2. Accepting documentation completed at age 13, and
3. The lack of a requirement for current data to ensure appropriate needs are being met.

While accommodations that are tailored to specific, current needs of students “level the playing field,” for students with learning disabilities, providing unnecessary accommodations creates a concerning consumer protection issue for law students who will face high tuition debt when leaving law school. Students who enter law school based on inflated LSAC scores from unnecessary accommodations are at financial risk if they enter law school without the reading,

writing, organization, planning and reasoning abilities that are crucial to studying law. Inappropriate accommodations may also lead to increased risk for failure on state bar examinations, which require documentation of impairment relative to the general population and administration measures of performance validity.

1. Accepting documentation completed at age 13.

The decision to accept as documentation an evaluation completed at age 13, without requiring an updated evaluation (or more recent evaluation) much closer in time to the LSAT administration is problematic for several reasons. First, research does not support age 13 as a developmental time when diagnoses of learning disabilities become stable. Age 13 is an arbitrary number in this context. It is well established that considerable brain maturity occurs in the teenage years and through the early 20s. A child at age 13 has a different brain from that of the young adult at age 22 or older, the time when students typically apply to law school. This means that students' cognitive profiles have likely changed over the intervening decade, with potential improvements in attention and executive function, as well as in other areas (Antshel & Barkley 2011). One cannot assume that a functional deficit present at age 13 is still present in the young adult.

Second, the impact of learning disabilities and ADHD on students' functioning varies greatly over the course of development. Although a student in middle school and high school may need accommodations while they are undergoing remediation, they may no longer need such accommodations once appropriate intervention has been provided. Also, with the increased demands on reading and writing in college, some students show marked improvement in reading and writing speed, and deficits present earlier in life are no longer present after college. Changes occur, and we must reevaluate students, to see what these changes are. Without an updated evaluations, accommodations may be granted that are no longer necessary.

2. The weight the new rules place on self-report.

The new rules place considerable weight on a candidate's self-report of a disability. It is not uncommon for students to report becoming easily distracted or being slow readers, therefore seeking accommodations for their "disability," when in fact, their distractibility and reading speed may not be different from their peers and/or may be due to other factors such as insufficient sleep (Lovett et al., 2008). Without an independent review of these skills, these individuals would be provided with accommodations that they do not require.

Providing unnecessary accommodations is problematic for several reasons. First, students who receive the unnecessary accommodations are given an unfair advantage. Research has shown that when high achieving students with disabilities are provided with 50% additional time, they complete more questions than their nondisabled peers do with the standard amount of time (Lewandowski, Cohen, et al., 2013). This provides an advantage, rather than leveling the playing field.

Second, if students are provided with accommodations that they do not need to be successful, they may begin to rely on such accommodations rather than develop the coping mechanisms they will need in their careers and lives.

3. The lack of a requirement for current data to ensure appropriate needs are being met.

The idea that providing the same accommodations a student had in middle school or high school, or the idea of minimum accommodations for all students with a particular disability is of concern. It is important that all accommodation decisions are made on an individual basis using current information. Not all students with ADHD are the same and although some work more slowly and need additional time, many do not (Lewandowski, Gathje et al., 2013). Similarly, although some students with learning disabilities may need additional time across all aspects of a test, others may only need it for only a specific portion (e.g., reading, problem-solving, or writing). If decisions are based on past history or provided as a minimum for a specific disability, this is likely to result in unnecessary and inappropriate accommodations.

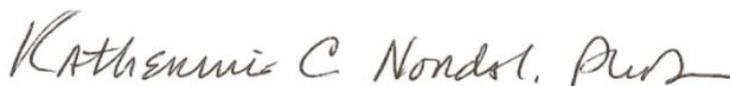
In summary, if recent data are not available, it will be impossible to determine a student's current needs in order to arrive at appropriate accommodations. We urge the LSAC to reconsider this recommendation and to return to requiring a more timely assessment of cognitive and academic skills, using adult versions of tests and preferably assessing students within three to five years of the LSAT exam. We applaud the other recommendations for more objective reviews, more reviewers, and an appeal process.

Thank you for your consideration of these points. We welcome any questions that you might have about the concerns outlined in this letter, and we would be happy to provide you with any additional information that you might find helpful (karenpostal@comcast.net; 978-475-2025).

Sincerely,



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