Teaching disabled students in higher education

Ozcan Konur*
Researcher, Fethiye, Mugla, Turkey

As the number of disabled students in higher education has increased in recent years, teaching them in compliance with public policy while maintaining academic standards has become a crucial issue. The access of disabled students to programs and to the curriculum are two separate but inter-linked features of such policies. This paper reviews the key features of the major four anti-discrimination laws and outlines the key adjustments to the curriculum for these students that are needed in response. It then outlines and discusses the current research on these adjustments. Four curriculum adjustments are explored: presentation format, response format, timing, and setting. The policy and practice of the curriculum adjustments have implications for academic staff. Research priorities are set out in relation to the attitudes of disabled students, academic staff, managerial or support staff, and non-disabled students.

Introduction

'Disabled students' have long been denied the opportunities to pursue higher education around the world. However, they have increasingly participated in higher education in recent years. The latest surveys and statistical data suggest that nearly 9%, 5%, and 3% of all students in higher education programs have a type of disability in the US, the UK, and Australia, respectively (Henderson, 2001; Higher Education Statistics Agency, 2002; Productivity Commission, 2003).

The evidence suggests that there are two major driving forces for the increasing participation of disabled students in higher education. The first one relates to the introduction of public policies requiring better access to the school education for disabled children. The Individuals with Disabilities Education Act (1991) and its predecessors, the Education Act (1996), its predecessors, and its national versions, and similar state laws in Australia have required the education authorities to identify disabled children and to provide them with an appropriate education where possible in the US, the UK and Australia.

The development of public policies regarding the direct access to higher education by disabled students has been the second major driving force for the increasing participation of disabled students. The introduction of section 504 of the Rehabilitation Act (1973) and Americans with Disabilities Act (ADA) (1990) in the

*P.K. 290, 48300, Fethiye, Mugla, Turkey. Email: okonur@hotmail.com

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US has been a cornerstone in the history of access to higher education by disabled people across the world. Various state laws worded along similar lines have given further support for such policies.

The Australian State equal opportunity laws were revised to prohibit discrimination on the grounds of disability in the early 1980s. Furthermore, these laws were harmonized at the federal level by the Disability Discrimination Act (DDA) (1992). This Act similarly has prohibited discrimination against disabled students.

On the other hand, the original provisions of the UK Disability Discrimination Act (DDA) (1995) had not prohibited discrimination against disabled students. However, the DDA was revised by the Special Educational Needs and Disability Act (SENDA) (2001) to prohibit discrimination against disabled students and applicants in a three-stage process. Thus, discrimination against disabled students has been prohibited in the UK since September 2002. The protection of the DDA was extended to professional training and licensing from 2005 under the European Employment Directive (2000).

The extension of the protection of the DDA to disabled students has increased the public and scholarly debate on the appropriateness of the DDA and the debate on the admission, teaching, examination and expulsion of disabled students and applicants in the UK since 2001. The recent narrowing of the protection offered to disabled university students under s 504 and the ADA following a series of landmark Supreme Court rulings has similarly increased the debate on disabled university students in the US. The recent review of the DDA in Australia by the Australian Productivity Commission has also increased the debate on access to higher education by disabled students there. There have been similar developments in continental Europe (i.e., other than the UK), Canada and other countries.

Although there has been research on several aspects of access to higher education by disabled students in these three countries, there has not been any recent study exploring the teaching and learning aspects of these issues from a comparative and interdisciplinary perspective (Hurst, 1996). Therefore, this paper first reviews the key parameters of the anti-discriminatory laws within a comparative and interdisciplinary context as these policies shape the incentive structures for the key stakeholders (North & Weingast, 1989). It then reviews the recent research published in 2003 selectively on the teaching and learning of disabled students in higher education spanning the academic disciplines, countries, types of disabilities, and topical areas. The emerging issues are then explored and discussed within each section and a number of conclusions are provided. It is argued that members of academic staff, as major stakeholders, have a crucial role in facilitating curriculum access for disabled students as highlighted by both policy and practice.

The policy foundations

This section briefly reviews the key provisions of the anti-discriminatory disability laws to inform discussion on the teaching and learning of disabled students. These
provisions in essence reflect the perspectives of the policy-makers complementing the perspectives of other key stakeholders as discussed later. These provisions could be grouped under the four major headings: jurisdictional and procedural tests, disability tests, discrimination and justification tests, and enforcement tests. The former tests act as a gatekeeper for the latter tests.

Under these laws and the related regulations on the operation of the courts and tribunals, disabled applicants should comply with a series of rules on the jurisdiction and procedures of these courts and tribunals in the first instance. For example, a claim should be made in time.

One other major issue raised in recent years in the US is the ‘sovereign immunity’ of the state universities and state licensing boards for monetary claims. These jurisdictional and procedural tests act as a critical gatekeeper for the latter tests since the applicants failing at this stage would not be able to pursue their disability claims further.

The disabled applicants next should establish that they are ‘disabled’ in compliance with the respective disability tests. The UK disability tests could be seen as the most strict of these tests. Disabled applicants must establish that they have an ‘impairment’, their impairment ‘adversely affects’ one of the ‘normal day-to-day activities’ such as hearing, walking etc, that this adverse effect is ‘substantial’ and it lasts over 12 months. In contrast, the Australian applicants should only establish that they have an impairment, thus foregoing the other tests established by the UK DDA.

The US applicants, on the other hand, are expected to establish that they have an impairment and their impairment ‘limits’ one of the ‘major life activities’ such as learning and working and this limitation is ‘substantial’, thus foregoing the time limit sub-tests of the corresponding UK tests. However, the US tests have been substantially narrowed since 2000, where the effect of using auxiliary aids should be taken into account in determining the substantial effect.

The close analysis of the case law and research on disabled university students shows that the acceptance, disclosure and documentation of the disability by disabled applicants and students emerge as the key issue in the US and the UK and to a lesser extent in Australia. These students have the burden of documenting their disability, unlike the disabled children in both countries. In other words, students are required to accept that they have a ‘disability’ as identified by these laws. Furthermore, unless such disclosure is made, the higher education programs would have no duties to provide any accommodations regarding any aspect of the student experience. As both the case law and research show, some students elect not to accept the label of ‘disability’ due to the attached stigmas with such labels and consider the requirement for the disclosure as discriminatory (see Olney & Brockealman, 2003).

Normally, any impairment approved by the medical profession is eligible for such tests (American Psychiatric Association, 1994). However, the focus under both the US and UK tests is much more on the effect of the impairment on a major life activity than the existence of the impairment itself, unlike the corresponding
Australian tests. Thus, ‘learning disabilities’ such as ‘dyslexia’, ‘dysgraphia’, ‘dyscalculia’, ‘attention deficit and hyperactivity disorder’ (ADHD), ‘mental health disabilities’ such as ‘depression’ and ‘generalised anxiety disorders’, HIV, ‘visual disabilities’, ‘hearing disabilities’, and ‘back and repetitive strain injuries’ have all been considered by the courts and tribunals as an impairment over time. In some countries such as the UK, the statutory language of the other legislative frameworks such as the Education Act (1996) have been used by some key stakeholders as an alternative to statutory language of the anti-discriminatory disability laws. The term ‘disability’ is replaced with the term ‘difficulty’ (e.g., ‘mental health difficulty’, ‘specific learning difficulty’, ‘hearing difficulty’, ‘visual difficulty’, etc). This paper adapts the statutory language of relevant laws and uses the term ‘disability’ as most stakeholders have done.

As these two previous tests are not discussed in detail in public domain, the focus has rather been on the discussion of the discrimination tests generally at the expense of the justification tests. These tests are generally similar across the three countries. Two major discrimination tests exist. The first test concerns the ‘less favourable treatment duty’ of universities where they are prohibited from treating disabled students less favourably on the ground of their disability. Examples of this rule include the denial of an application by a hearing disabled applicant for a mathematics course on the ground of the disability and expulsion of a medical student who had developed depression as a result of clinical training from a medical school.

The second test is concerned with the duty of universities to provide ‘reasonable adjustments’ (known as the ‘reasonable accommodations’ in the US) for disabled students to enable them to have equal access to the curriculum, admission processes and examinations on par with their non-disabled peers. It could be termed as the ‘reasonable adjustment/accommodations duty’. One example of this rule is the provision of text or electronic copies of lecture notes for visually disabled students to enable them to have access to the lectures in a personally accessible manner. The other example is the provision of the college entrance and licensing examinations such as the Law School Admission Test (LSAT) and the Scholastic Assessment Test (SAT) in an audiocassette with an ‘extended time accommodation’ for the learning disabled students (College Board, 2001).

Each of the disability laws provides a number of exemptions from these discrimination tests. One of the most important exemptions has been the requirement that disabled applicants and students should meet the key academic and professional requirements of their courses and professions. This requirement is termed as the ‘otherwise qualified individual’ test under s 504 of the Rehabilitation Act (1973) and it was followed by the ADA. The UK and Australian DDAs have also followed a similar albeit more implicit approach.

In other words, disabled applicants and students should establish that they could meet such fundamental/essential requirements with or without reasonable adjustments to the teaching and or examinations without fundamentally altering these programs (known as the ‘fundamental alteration’ defence) as established in Davis (1979). These exemptions are in line with the Courts’ traditional deference to the
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academic judgement of academic and professional programs. This 'academic deference' doctrine was affirmed in Ewing vs. University of Michigan (1985) by the Supreme Court in the US. The UK and Australian courts have followed a similar approach in cases brought up by students over time. This issue has been one of the key critical issues regarding the participation of disabled students in higher education as the programs have discretion to determine whether the adjustments requested are reasonable and whether these students are qualified to participate in the program.

The final test is concerned with the enforcement of these previous tests. In general, there are two types of remedies available for disabled applicants. The first type of remedy is the award of 'compensatory damages' including a relatively small compensation for 'injury to feelings'. The second type of remedy is the 'injunctive relief', such as the order for the reinstatement of rejected applicants or readmission of expelled students.

The UK and Australian enforcement tests adopt only the first type of enforceable remedies in cases brought by disabled university students as a general rule. In other words, a disabled applicant is only entitled to compensation in these countries. In contrast, disabled applicants are entitled to both compensatory damages (in some cases) and injunctive relief in the US. The availability or lack of these remedies is of paramount importance for key stakeholders since it provides incentives or disincentives for them (North & Weingast, 1989).

Curriculum adjustments for disabled students

This section briefly examines the practice of disability adjustments for disabled students forming the background for the following section. The brief examination of the rules under the anti-discriminatory laws in the previous section shows that there are two separate, but inter-linked, access issues. First, disabled students should have access to the programs as their non-disabled peers and this issue could be termed as 'program access'. The second issue follows from here and concerns the provision of reasonable adjustments to the teaching and examinations for these students. This second issue could be termed as 'curriculum access'. As the implementation of s 504 since the mid 1970s and the ADA since 1992 by the higher education programs in the US has shown, the issue of program access has a critical and threshold importance as curriculum access depends on program access. However, the focus of this paper is on the curriculum adjustments rather than program access.

There has been ample research and case law evidence showing that program access has not been uniform across the academic disciplines, professions, universities, the types of disabilities of students, and countries. The surveys and statistical data show that 'learning disabled (LD) students' form in general 40% of the whole disabled student population (since there has been a long standing debate on the existence of such disabilities, the alternative term used for such students is the 'students labelled as learning disabled'. Having said this, this paper adapts the legal construction and uses freely the term 'LD students' throughout the paper). This is followed by
students with chronic illnesses and injuries, which could be termed as 'medical health disabilities' by 30–35% (known in the UK as 'unseen disabilities'). The sensory disabilities such as hearing and visually disabled students and those with mental health disabilities form each a relatively small section of this population. It is also notable that generally over 10% of this population have multiple disabilities such as learning disabilities and ADHD, or 'deaf-blind' students.

The case law and research evidence also shows that the participation of LD students as well as students with HIV and mental health disabilities has formed the major focus of the debate on the access to the higher education by disabled students since 1980s (Doe, 1999). It is notable that all these groups of students have a stigma attached to their impairments. The debate for these groups particularly focuses on program access. For LD students, curriculum access also emerges as a critical issue once they are accepted into the programs.

Various surveys show that the participation rate in professional programs (e.g., medicine, teaching, nursing and social work) has been lower than the national participation rates (Mandinach et al., 2002).

Once students are accepted into programs, curriculum access becomes a critical issue. The key issue is whether disabled students could have access to the curriculum and whether they could respond to the curriculum once they participate in the program. The curriculum access could also be distinguished between 'classroom (teaching) access' and 'examination (academic assessment) access'. Since the 'high-stake examinations' determine the class of the degrees and whether students could have proper access to employment and professions, examinations emerge as a more critical issue for all stakeholders. It is therefore not surprising that the law has developed regarding the assessment access rather than the solely classroom access since the 1970s (Doe, 1999).

Classroom and assessment access could be further thought of in terms of reasonable adjustments that could be made for a particular type of disability based on the individual circumstances of disabled students. The first types of adjustments are concerned with access to the curriculum and could be termed as 'presentation adjustments'. This refers to the format of the curriculum presented to the student. It could be in a paper text format, signed language format, audio format, script format, or electronic format depending on the preferred 'learning modality' of a particular student. The second type of adjustments is concerned with the format of the response made by the student. It could be in a similar format as the presentation adjustments and could be termed as 'response adjustments'.

The third type of adjustments concerns the timing of access to the curriculum and is much more related to the examination and course work adjustments and could be termed 'timing adjustments'. The most known adjustment under this heading is the 'extended time' adjustment for examinations (College Board, 2001). A survey of the Scholastic Aptitude Test (SAT) showed that 90% of the extended time adjustment recipients were the LD examinees (Mandinach et al., 2002). These students are normally allowed a 'time and a half' accommodation on an individual basis based on a detailed diagnostic documentation (Breznitz, 2003). Since some of the exams are
very long, such extensions generally require multiple sessions and or frequent breaks. The use of alternative response and presentation formats during examinations requires the extension of time compared to regular paper format as the reading and response rates of the examinees fall in such cases.

The fourth type of adjustments concerns the settings of the exams, lectures or work placements. As in the case of examinations, it would not be practical to undertake examinations in the normal examination room as the adjustments often require the use of readers, scribes and text to speech computer programs, which would distract other non-disabled examinees. Such exams are delivered at separate exam rooms and they could be termed as ‘setting adjustments’.

Stakeholders’ perspectives

This section presents a review of the findings of the research on the teaching and learning of disabled students from the perspectives of four key stakeholders: disabled students, higher education programs, academic staff, and non-disabled peers. It complements the section on the perspectives of the policy-makers presented as policy foundations. All 15 studies were published in 2003 reflecting on the most current experiences of the stakeholders.

Disabled students

Disabled students are the second key stakeholders following the policy-makers. Their attitudes and experiences regarding curriculum adjustments in general are important.

In such a study, Olney and Brockelman (2003) examined the disability disclosure by the LD and other disabled university students in the US. Students valued their own experiences of disability as the attitudes of their fellow students and lecturers affected their decision as to whether to disclose their disability. In a similar study, disabled students in the US experienced identity confusion where they were neither disabled nor non-disabled and depended on the perceptions of others (Bentley-Towlin, 2003). They negotiated their identities where they used disability adjustments to varying degrees.

Riddick (2003) extended these studies to LD students and recent graduates of teacher education programs in Scotland. She found that students developed a number of effective coping strategies and they had greater empathy and understanding of the learning difficulties of their pupils. They did not disclose their disability, as they were anxious about the adverse effects of such disclosure.

These studies highlight the dilemmas faced by disabled students who sought adjustments to participate in the curriculum and the resulting implications for other stakeholders. The case law confirms that students have concerns about the adverse implications for program access and future employment access. They also have concerns about the stigmatizing nature of the disclosure as such disclosure means the
acceptance of the label of ‘disabled’. However, the case law also shows the adverse implications for students if they do not receive adjustments in their learning and examinations (Doe, 1999). In practice, this would mean that a LD student would not be able to obtain the lecture notes in an alternative format. However, more importantly, they would not be able to request adjustments for their high-stake examinations, such as final year exams, leading to their expulsion in some cases.

For this reason, it is important to understand the determinants of the academic performance of disabled students. In such a study, Heiman and Precel (2003) determined the determinants of LD students in Israel compared to their non-disabled peers. They found that students did not differ in their GPA and number of courses taken. However, disabled students reported more difficulties in humanities and social sciences compared to their peers. These students devised unusual strategies and preferred additional oral explanations or visual explanations. They also had difficulty in concentrating during examinations and were concerned about time limits. They experienced stress and anxiety during examinations. The key insight from this study is the importance of the delivery of the curriculum in ‘modalities’ preferred by disabled students. For example, the LD and visually disabled students may prefer aural learning modes compared to written modes.

Richardson and Wydell (2003) discussed the representation and academic performance of reading disabled undergraduate students (known also as ‘students with dyslexia’) using a database of all students in higher education in the UK during the 1995–1996 academic year. The age, gender, ethnicity, entrance qualifications, the level of study and mode, and subject of study affected their representation. The first year withdrawal rate and the completion rate were worse in relation to their non-disabled peers. However, it was possible to improve their completion rate with adequate adjustments and support. Similarly, they had poorer graduation classifications although 40% of them obtained first-class or upper-second class honours. This study highlights the importance of the studies using the statistical data using the whole population of disabled students to evaluate the effectiveness of the adjustments at the macro scale.

As the delivery of the curriculum increasingly shifts from traditional forms to electronic forms, the access to the electronic curriculum and examinations has progressively become an important access issue. Fichten et al. (2003) carried out extensive studies of such access for different Canadian disabled student groups and emphasized the importance of an individual approach to meeting their needs and the importance of the policy-making and funding in this area.

It is important that students document their disability according to the policies of their institutions. This is particularly important for the LD students, as there has been persistent significant scepticism about the existence of the LD and its adverse impact on curriculum access requiring, for example, extended time adjustments as noted above. Breznitz (2003) examined the speed of phonological and orthographic processing as factors in dyslexia using a sample of 20 reading disabled university students and 20 peers in Israel. There were significant group differences on the phonological tasks. Speed of processing during phonological judgement tasks was
significantly prolonged among the dyslexic readers compared with their peers. The gap score between speed of processing on the phonological and orthographic tasks was larger among the dyslexic readers. He argued that slow phonological processing might slow down reading rate and might impair effectiveness of word reading. This study, thus, provides psychometric support for the provision of extended time accommodations for such students.

Service providers

The service providers in the higher education programs and the programs themselves are the third key stakeholders as they facilitate the provision of adjustments for disabled students and set out institutional policies. It is therefore important to examine their perspectives on the participation of disabled students. Daniels (2003) examined the provision of the specialist services for disabled students in 16 community colleges in Maryland, (US), in compliance with the Association of Higher Education and Disability (AHEAD) disability service standards. Colleges were providing some standardized services relating to academic adjustments, teaching interventions, counseling and advocacy, consultation/collaboration/advising, policies and procedures, organization of services, and program development and evaluation. Such studies provide empirical evidence about the level of specialist support provided by the programs, showing the degree of compliance with the disability laws.

As the academic staff members are often advised by the university administrators and the specialist disability officers, the staff development of such officers are also important in helping the academic staff in making curriculum adjustments for disabled students. Aborn (2003) examined the perceptions of the disability service administrators and other administrators in California community colleges. She found that they needed training on disability specific curriculum adjustments and the ADA. They felt training resources such as faculty guides and accessible web sites guides would be helpful in disseminating policies and procedures. She urged further training and resources for administrators.

As the mobility of students increases across the frontiers, both program and curriculum access have become critical issues for disabled students studying abroad. McLean et al. (2003) discussed the service provision for the foreign disabled students studying in Australia. They argued that the cultural factors accounted for the differences in the service provision compared to other countries.

Staff

The academic staff (faculty) are the fourth key stakeholders. It is particularly important to examine the determinants of their attitudes towards making adjustments for disabled students. It is similarly important to determine the extent of the provision for staff/academic development.
Foss (2003) examined the attitudes and practices of academic staff in Occupational Therapy for making adjustments to the teaching and examinations for their LD students. She found that they were willing to make the examination adjustments of extended time and settings. However, they were less willing to provide alternate types or formats of exams such as oral or tape recorded exams, and the use of adaptive learning technologies. Academic staff allowed their students to tape record classes, and supplied copies of lecture outlines and PowerPoint presentations. They were less willing to provide individual assistance on written papers, and were the least willing to provide alternate coursework formats. Staff felt strongly that these students should be admitted to therapy programs and that adjustments to academic programs should be made. They also felt that teaching and examination adjustments were fair to non-disabled students.

Rao (2003) examined the attitudes of 245 academic staff and their willingness to make adjustments for disabled university students using the 'Attitudes toward Disabled Persons Scale'. She found that they had generally a positive attitude. Gender and personal contact improved their attitudes but did not affect their willingness to make adjustments. Departmental affiliation affected their attitudes as those in education or health had more positive attitudes. Their knowledge of s 504 affected their attitudes and their willingness to make adjustments although the majority of them had no such knowledge. There was no correlation between attitudes and making adjustments. She urged training on their obligations and legal mandates.

The findings of these two studies are generally reflective of similar studies published previously. These findings are also reflective of case law where some type of adjustments are not considered as reasonable by the programs on the ground that doing so would lower the academic standards (Davis, 1979). In essence, such studies provide further empirical support for the discretion of the academic staff to determine the reasonableness of the requested adjustments as their duties to make accommodations are not absolute under the disability laws as outlined above.

**Non-disabled students**

The non-disabled students are the fifth key stakeholders. It is important to examine the determinants of their attitudes towards adjustments made by academic staff for disabled peers as their attitudes have important implications for the integration of disabled students. Unfortunately, there has been no such study published in 2003. This highlights the lack of recognition for the role played by these students.

In the absence of direct empirical evidence, it is important to assess the attitudes of students towards disabled people in general. Such studies usually use a widely accepted psychometric instrument to measure the level and determinants of such attitudes. Thomas et al. (2003) investigated the psychometric properties of the 'Interaction with Disabled Persons Scale' (IDP) using a sample of 358 university students. They found that social discomfort, empathy, and fear of having the disability affected their attitudes towards disabled people. These factors were a
function of the self-esteem, amount of prior contact experience with, and the
closeness of relationships with disabled people.

It is also important to assess the effect of the type of disability on the attitudes of
non-disabled students. These studies generally provide further empirical evidence
that the type of disability, as a function of the degree of stigma attached to these
disabilities, affects their attitudes in general.

Gouvier et al. (2003) examined the attitudes of 295 university students in business
towards the employment of disabled people with a mental health disability,
developmental disability (known as ‘learning difficulty’ or ‘intellectual disability’ in
some countries and academic disciplines), head injury, and back injury. They found
that students’ attitudes were dependent on the type of the applicants’ disability. There
was evidence for the stereotyping and discrimination of the disabled applicants.

The findings of these two studies generally reflect the findings of previous research
on the attitudes of non-disabled students towards disabled students. Thus, it is
important to develop student development programs to improve the attitudes of non-
disabled students towards their non-disabled peers.

As these studies found that the contact with disabled people might affect positively
non-disabled students’ attitudes, it is important to study the effect of such contacts
with disabled students and disabled staff (both academic and professional).

Laubscher and Powell (2003) explored their experiences, as professors who teach
about difference and are themselves considered ‘different’ or ‘other’ on the grounds
of race and disability. They argued that they were not just teaching an academic
course but were also articulating their experience and self. They assessed the costs
and benefits to lecturers marked as other who sought to facilitate students’ self-
exploration, growth, and commitment to equity.

Conclusion

As the number of disabled students in higher education has increased in recent years,
teaching them in compliance with the public policies while maintaining academic
and professional standards has become a crucial academic and policy issue. Their
access has been facilitated in part by the anti-discrimination laws worldwide,
influenced by the introduction of s 504 and then by the ADA.

The access of disabled students to programs and to the curriculum in higher
education, ‘program and curriculum access’, are two separate but interlinked
features of such policies. This paper, focusing on curriculum access, reviewed the
key features of the key four anti-discrimination laws and outlined the practice on key
adjustments to the curriculum for these students made by academic staff. It then
outlined and discussed the current practice on curriculum adjustments, reviewing
the selected research studies published in 2003.

The curriculum adjustments as discussed include four types of adjustments:
presentation format, response format, timing and setting. The research on the
curriculum adjustments reviewed in this paper, building on the previous three decade
long research, has implications for academic staff in higher education and for the future research agenda.

The research priorities for the next three decades could be set out as: the attitudes of disabled students, attitudes of academic and other staff towards curriculum adjustments, effect of adjustments on the academic performance of disabled students, and finally the attitudes of non-disabled students. Adjustments to learning technologies and examinations merit particular attention.

Thus, this paper locates a crucial role for academic staff in facilitating curriculum access for disabled students, as the policy-makers have entrusted them with discretion to determine the reasonableness of disability adjustments and to decide whether they would make such adjustments (North & Weingast, 1989).

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