

The importance of process and the issue of fundamental alteration

CHRIS DALLAGER, DIRECTOR, DISABILITY RESOURCE CENTER AND ACCESS
MISSISSIPPI STATE UNIVERSITY

Individualized Interaction

OCR No. 10-
16-2203

Engage in an individualized, interactive process with each student request for accommodations and avoid blanket statements or policies regarding accommodations

Students left to Negotiate with Faculty

OCR No. 01-16-2113

The student must not be put in the place of requesting their accommodation more than once.

The student must not be left to negotiate their accommodation with faculty.

OCR Letter to Simmons College OCR
Case Number 01-16-2113 (August 2017)

Decision by Knowledgeable Group

OCR No. 01-16-2120; 03-14-2248

The decision of whether an accommodation may fundamentally alter an essential course/program objective must be made by a group of knowledgeable and trained individuals at the college within the program and the disability services office

Careful and Rational Review

OCR No. 01- 16-2120

The group pursues a thoughtful,
careful, rational review of the
course/program essential objectives
and requirements



Consider a series of alternatives and modifications that do not fundamentally alter the course/program even if it is not the accommodation originally requested

Consider Alternatives that do not Fundamentally Alter the
Course or Program [OCR No. 01-16-2120](#)

CR Letter to
University of North
Carolina, Greensboro
(UNC) OCR Case
Number 11-17-2001
(April 2017)

Essential Course Objectives

Essential Objectives are the core learning outcomes (such as skills, knowledge, or licensure requirements) that all students must demonstrate, with or without accommodations, which are part of the interconnected curriculum of the degree or academic program.

Established essential objectives and requirements:

Clearly articulate the overall purpose of the course/program

Identify required mastery of specific skills, knowledge, principles, and concepts

Convey the framework used to set academic and program standards

Ensure a fair deliberation with qualified campus professionals when determining if a requested accommodation would be a fundamental alteration

A blue ballpoint pen with a silver tip is positioned diagonally on a document. The document features a bar chart with several blue bars of varying heights. The background is a light blue color with a subtle grid pattern.

Determining Essential Course Objectives

Consider the following questions:

1. What fundamental course objective does this accommodation alter?
2. What practical function does this fundamental objective serve in the academic program?
3. Review documentation of the fundamental course objective (e.g. syllabus, professional association certification requirement, technical standard, etc.)
4. How does the requested accommodation alter this fundamental course objective?
5. Has this accommodation been approved to students without disabilities or for any other situation or reason in your class in the current semester or in the past? If so, Why?
6. Is there any alternate way the student could demonstrate competence without undermining the essential course objectives? For example, an alternate accommodation that would not alter the essential objective of the course/program.

Essential Requirements and Fundamental Alteration

OCR Letter to George Mason University

OCR Case No. 11-16-2083 (September 26, 2016)

Fundamental Alteration

A "fundamental alteration" is a change that is so significant that it alters the essential nature of a course or a program of instruction.

a fundamental alteration may be:

- Removing or waiving acquisition of a skill that is considered essential
- Removing or Waiving acquisition of a skill that is directly related to the health and safety of others
- Lowering an academic standard

A fundamental alteration is not:

- Mere reliance upon tradition or existing rules may not be a sufficient justification for refusing to implement a requested accommodation. (See PGA v. Martin, S.Ct. 2001)
- A pretext (excuse) for discrimination
- The absence of diligent consideration of the question including consulting with other faculty, teaching institutions or licensing agencies
- A failure to consider the impact of technological advances (e.g., changes in stethoscopes)

Fundamental Alteration (2)

OCR Section 504 regulation 104.44(a)-(b) - college programs focused on attaining licensing, a fundamental alteration includes excusing or waiving requirements directly related to licensing requirements

- generally, a fundamental alteration will not entail accommodation of completion to degree requirements or “adaptation of the manner in which specific courses are conducted”

This likely means that the school doesn’t have to waive any core or essential course or skill acquisition requirements e.g., acquiring a second language in an international business degree program

- School doesn’t have to convert an interactive class or a team class to a passive lecture class; or a traditional college-level class to one for persons with impaired intellectual skills e.g., substituting didactic credits for clinical credits in an MSW program

- Brick and mortar to on-line/on-line to brick and mortar

Fundamental Alteration and Process Consideration



WYNNE V. TUFTS UNIVERSITY
MEDICAL CENTER I AND II

Thank You

Contact Information:

Chris Dallager

Cell: 612-913-8299

Office: 662-325-7924

cjd474@msstate.edu