



UNIVERSITY  
OF WOLLONGONG  
AUSTRALIA

University of Wollongong  
**Research Online**

---

Deputy Vice-Chancellor (Academic) - Papers

Deputy Vice-Chancellor (Academic)

---

2000

# Academic Standards versus Disability Rights

Richard Gosden

*University of Wollongong*, [gosden@uow.edu.au](mailto:gosden@uow.edu.au)

Gregory R. Hampton

*University of Wollongong*, [gregh@uow.edu.au](mailto:gregh@uow.edu.au)

---

## Publication Details

Gosden, R. & Hampton, G. R. (2000). Academic Standards versus Disability Rights. *ultiBASE Journal*,

Research Online is the open access institutional repository for the University of Wollongong. For further information contact the UOW Library:  
[research-pubs@uow.edu.au](mailto:research-pubs@uow.edu.au)

---

# Academic Standards versus Disability Rights

## **Abstract**

A simmering controversy has been running in the United States since 1995 over the perceived conflict between the maintenance of academic standards and the rights of disabled university students. Recent developments are set to raise the same issue in Australian universities. The first of these developments is the shift in the emphasis of academic standards with the implementation of the Generic Skills Assessment (GSA) program. The second is the release of draft disability standards for education to streamline enforcement of the Commonwealth's Disability Discrimination Act (DDA). The DDA protects disabled people against discrimination in education. Amongst the many types of disabled people protected are those who are unable to read, write or communicate effectively because of learning disabilities; and others who are unable to concentrate and pay attention properly because of mental disorders like attention deficit disorder. Hitherto, universities have found ways to comply with the DDA without compromising academic standards by providing these types of disabled students with accommodations that take the form of alternative methods of examination, extra exam time, technological assistance, scribes, readers, etc. However, the GSA has been designed for standardised implementation and doesn't allow for this type of flexibility. Further, generic skills testing specifically discriminates against students with learning disabilities and some mental disorders because it is the inability to master particular types of generic skills that defines these types of disabilities. The conclusion is that if discrimination is to be avoided either the GSA must be adapted to suit the needs of disabled students or universities must consider ways to foster the capacity of students with disabilities to develop and utilise generic skills in an independent manner.

## **Keywords**

rights, disability, standards, versus, academic

## **Disciplines**

Arts and Humanities | Social and Behavioral Sciences

## **Publication Details**

Gosden, R. & Hampton, G. R. (2000). Academic Standards versus Disability Rights. *ultiBASE Journal*,



**December 2000 Edition**

## **Academic Standards Versus Disability Rights**

**Author:** Richard Gosden and Greg Hampton

**University of Wollongong**

**Keywords:** University of Wollongong, disability rights, Disability Discrimination Act, disabled student, academic standards, generic skills assessment.

**Article style and source:** Peer Reviewed. Original ultiBASE publication.

---

### **Contents**

- Abstract
  - Introduction
  - The Disability Discrimination Act
  - Anti-Discrimination Laws and Academic Standards
  - The Rise of the Generic Skills Movement
  - Draft Disability Standards for Education
  - Learning Disorders, ADHD and Generic Skills
  - Conclusion
  - Bibliography
- 

### **Abstract**

**A simmering controversy has been running in the United states since 1995 over the perceived conflict between the maintenance of academic standards and the rights of disabled university students. Recent developments are set to raise the same issue in Australian universities. The first of these developments is the shift in the emphasis of academic standards with the implementation of the Generic Skills Assessment (GSA) program. The second is the release of draft disability standards for education**

**to streamline enforcement of the Commonwealth's Disability Discrimination Act (DDA).**

**The DDA protects disabled people against discrimination in education. Amongst the many types of disabled people protected are those who are unable to read, write or communicate effectively because of learning disabilities; and others who are unable to concentrate and pay attention properly because of mental disorders like attention deficit disorder. Hitherto, universities have found ways to comply with the DDA without compromising academic standards by providing these types of disabled students with accommodations that take the form of alternative methods of examination, extra exam time, technological assistance, scribes, readers, etc. However, the GSA has been designed for standardised implementation and doesn't allow for this type of flexibility. Further, generic skills testing specifically discriminates against students with learning disabilities and some mental disorders because it is the inability to master particular types of generic skills that defines these types of disabilities.**

**The conclusion is that if discrimination is to be avoided either the GSA must be adapted to suit the needs of disabled students or universities must consider ways to foster the capacity of students with disabilities to develop and utilise generic skills in an independent manner. [top](#)**

## **Introduction**

In 1995 the Provost (now President) of Boston University in the United States, Jon Westling, embarked on a very politically incorrect campaign that eventually landed him in court [Kalb, 1997: 64]. The campaign involved focussing public attention on the question of whether academic standards are compromised by the special accommodations universities are required to make for some people with disabilities [Shapiro, 1997: 6].

Westling's campaign wasn't focussed on the accommodations universities make for students with physical disabilities. He was mainly concerned about disabilities that are directly related to the transmission of knowledge. The disabilities Westling had in mind were learning disabilities and mental disorders which he thought interfered with independent learning.

To illustrate his case Westling invented a student he called "somnolent Samantha" [Lawrence et al, 1999: 292]. Throughout his campaign he pretended Samantha was a real student. In Westling's imagination Samantha had an unspecified psychological condition that caused her to fall asleep during lectures and then, as was her right under law, demand special accommodations from the university to compensate for her inability to keep up with her workload. Westling's point was that Samantha's inability to learn independently, and her need for special assistance, meant that she could not be measured against core academic standards with other students. The question his campaign posed was whether students like Samantha and students with other disabilities that rendered them unable to

read, write or communicate effectively — compromised academic standards when his university graduated them.

Westling was determined to find out what others thought. To force the issue he ordered a review of his university's procedures for registering, and making accommodations for, students with learning disabilities and mental disorders. He personally reviewed the files of these students and, after finding anomalies, put new procedures in place. This caused a great deal of dismay to many of the university's disabled students and to their relatives and support groups and soon led to a legal showdown [Siegel, 1999: 304].

In 1997 a group of students with attention deficit disorders and learning disabilities brought a class action to court against Boston University under the Americans with Disabilities Act [Sparks et al, 1999: 284]. The case was not finally decided until the following year and the outcome was equivocal, with both sides claiming victory. The court found that the students had been unlawfully disadvantaged in the way Westling's reforms had been put into practice, and the university was ordered to pay some of them small amounts of compensation. Westling was also severely criticised by the judge for inventing the crude stereotype of Samantha to illustrate his argument. But the court also found that the reforms themselves were lawful and that the university had generally acted within its rights to protect the integrity of its academic standards. The result was a stalemate and in the United States the issue of academic standards versus disability rights is still awaiting a more definitive resolution [Shalit, 1997: 16-23].

Meanwhile, events in Australia are moving in ways that are set to raise the same issue here. Two competing higher education imperatives are on a collision course. The first of these imperatives has arisen from the growing demand by employers that universities add measurable quality to students by enhancing their generic skills. In response to this demand the first round of the Graduate Skills Assessment (GSA) program commenced in October 2000. The GSA promises to position generic skills at the centre of academic standards in Australian universities.

The second imperative, set to collide with the GSA, and to raise the issue of academic standards versus disability rights, has arisen from a need to clarify measures contained in the Disability Discrimination Act (DDA). Education standards to complement the DDA have recently been drafted with the aim of eliminating "discrimination in education against students with a disability to the greatest extent possible" [Seymour et al, 2000]. It is some of the specifications in these draft Disability Standards for Education, as they relate to students with learning disabilities and mental disorders, that are set to collide with the generic skills imperative. But the plotting of this collision course requires some background explanation. [top](#)

## **The Disability Discrimination Act**

The Disability Discrimination Act (DDA) is Commonwealth legislation passed by the Parliament in 1992. It came into effect on 1 March 1993. The principle objectives of the DDA are to eliminate discrimination against people with disabilities in the areas of, "(i)

work, accommodation, education, access to premises, clubs and sport; and (ii) the provision of goods, facilities, services and land; and (iii) existing laws; and (iv) the administration of Commonwealth laws and programs" [Commonwealth of Australia, 1992].

The means of accomplishing these objectives is by providing disabled people with the opportunity of legal redress through lodging complaints with the Human Rights and Equal Opportunity Commission (HREOC). The definitions of both discrimination and disability are widely drawn and by outlawing harassment and victimisation of people with disabilities the legislation is intended to transfer power to disabled people, and to provide them with a more level playing field.

In order to define the meaning of disability the DDA specifies that, "disability", in relation to a person, means:

- (a) total or partial loss of the person's bodily or mental functions; or
- (b) total or partial loss of a part of the body; or
- (c) the presence in the body of organisms causing disease or illness; or
- (d) the presence in the body of organisms capable of causing disease or illness; or
- (e) the malfunction, malformation or disfigurement of a part of the person's body; or
- (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour;

and includes a disability that:

- (h) presently exists; or
- (i) previously existed but no longer exists; or
- (j) may exist in the future; or
- (k) is imputed to a person [Commonwealth of Australia, 1992].

The forms of disability that are of particular interest to people concerned about the maintenance of academic standards are those specified in (f) and (g). We will analyse these more fully further on.

The DDA outlaws both direct and indirect forms of discrimination. Direct discrimination involves treating a disabled person less favourably. Indirect discrimination occurs when a disabled person is required unnecessarily to comply with rules and conditions. In regard to the provision of tertiary education an example of direct discrimination would be to deny a disabled person the opportunity to enrol at university because of his or her disability. Indirect discrimination is more subtle, as is its definition. The wide scope for varying interpretations of indirect discrimination give rise to much of the anxiety generated by disability rights in universities.

To avoid indirect discrimination universities are required to provide disabled students with special accommodations, so long as the requests do not "impose unjustifiable hardship" [Commonwealth of Australia, 1992] on the university. These accommodations allow disabled students to participate fully in the activities of the university and ensure that they are not disadvantaged by their disability. Examples of commonly granted accommodations that relate to academic standards include; the use of various technologies to circumvent reading and writing problems, extra time for exams, alternative forms of exam assessment, the provision of notetakers and readers and extra tutorial support. [top](#)

### **Anti-Discrimination Laws and Academic Standards**

Academic standards are directly linked to the concept of anti-discrimination because the whole purpose in measuring students against academic standards is to discriminate. The enforcement of academic standards is intended to discriminate in favour of bright, hardworking, attentive, skilful, knowledgeable, motivated and even respectful students and to discriminate against dull, lazy, inattentive, unskilful, ignorant, unmotivated and, perhaps sometimes, disrespectful students. Most educators believe that academic standards are necessary to goad students into striving to acquire the desired qualities.

On the surface the intrinsic goals of academic standards and anti-discrimination legislation might seem to be opposed to one another. While one is specifically intended to discriminate by separating good students from bad students, the other is intended to eliminate discrimination against specified classes of people. But there is no anti-discrimination legislation that specifically protects bad students against discrimination and so there is no reason to believe that the application of academic standards will necessarily clash with anti-discrimination laws like the DDA.

When disabled students require universities to provide special accommodations it is only so they can compete with non-disabled students on a level playing field. Disabled students are fully expected, and indeed themselves expect, to be subjected to the same measurement against academic standards as non-disabled students. The argument implicit in the DDA is that students with disabilities need special accommodations simply to

bring them up to the starting line. There is no suggestion in the DDA itself, or the abundant literature that describes and analyses it, that disabled students might avoid the kind of discrimination that is intrinsic to the application of academic standards. But the GSA is a new addition to the traditional suite of academic standards applied by Australian universities and there are certain classes of disabled students who will not be able to avoid its particular form of discrimination. [top](#)

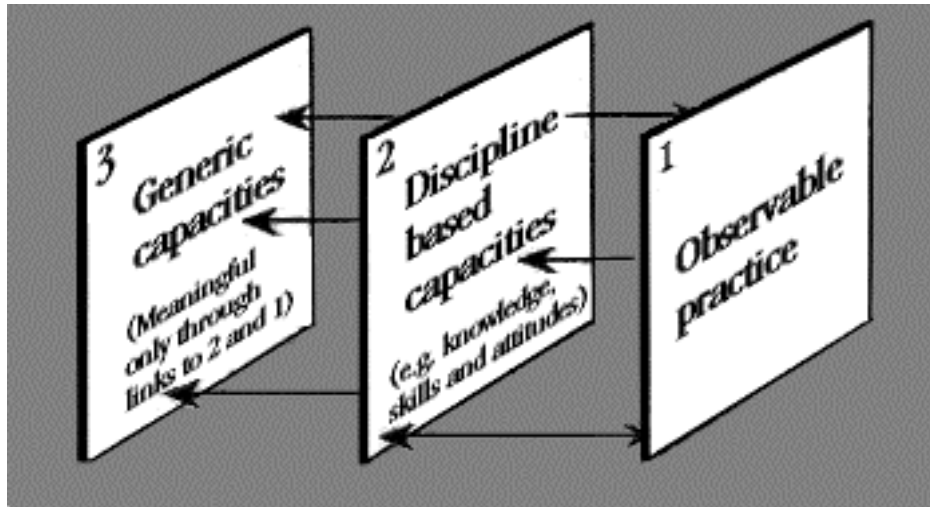
### **The Rise of the Generic Skills Movement**

During the 1990s a perception developed amongst employers, particularly in English-speaking countries, that graduates were seeking entry into the workforce without having mastered some of the basic skills thought to be essential in business. Employers in the United States, Britain and Australia were all saying much the same thing: they wanted graduates to be flexible so they could retrain and be adaptable to rapidly evolving business environments. According to employers the key to workforce adaptability is to enhance the "generic" or "graduate" skills of students, before they enter the workforce [Scrimshaw, 1999: 32].

Mastery of generic skills is increasingly expected in both high school and university graduates. In high school graduates the essential generic skills are reading writing and basic mathematics. The generic skills required of university graduates are usually more sophisticated applications of these basics most particularly in the areas of critical thinking, writing and communication.

In a 1993 Australian Commonwealth Government report on the problems of developing a competency-based approach to education Bowden and Masters analysed the relationship of generic skills to other competencies acquired by university students. They argued that university disciplines teach students to develop competencies on three different levels. The first level is "observable practice". This is the skill of being able to carry out a specific practical task. The second level is "discipline based capacities". These are the theory, knowledge and appropriate attitudes in regard to the practice of a particular discipline. The third level is "generic capacities" which include "oral and written communication skills, ability to work as a member of a team, and skills of analysis and problem solving" [Bowden et al, 1993: 172].





Adapted from: John A Bowden and Geoffrey N Masters, Implications for Higher Education of a Competency-Based Approach to Education and Training, Department of Employment, Education and Training, Australian Government Publishing Service, Canberra, 1993, p. 156.

The report found that employers were generally satisfied with the way in which universities were developing level 1 and 2 competencies in students. But the report also observed that "[e]mployers tend to focus on the need for improved generic skills related to the work environment" [Bowden et al, 1993: 32].

The Australian government has responded to this type of pressure from employers in a number of ways. In December 1999 the Minister for Education, Training and Youth Affairs launched a quality assurance program in education. The cornerstone of the program is the newly established Australian University Quality Agency which will conduct audits of university education [Commonwealth of Australia, Sept 2000]. Another key development is the launching of the Graduate Skills Assessment (GSA) program with the first round of testing in October 2000.

The GSA is a three hour test of generic skills. One of the aims of the GSA is to enable universities to assess the development of students' generic skills over the duration of their course through assessment at the beginning and end of their bachelors degree.

In the initial round four skills were tested. The Written Communication test requires students to write a "brief report and an argumentative essay. The criteria for assessment are language and expression, and organisation and thought" [Murdoch University, Sept. 2000]. One hour is allotted to this part of the GSA.

The further two hours are allotted for the other three parts, which involve selecting multiple choice answers. The Critical Thinking component asks the student to "comprehend, analyse and evaluate statements and passages presenting different viewpoints. This component seeks to measure the ability to apply critical thinking skills to text based information" [Murdoch University, Sept. 2000].

The Problem Solving part tests the ability to "apply problem-solving strategies to a range of problems presented in brief scenarios of varying levels of complexity" [Murdoch University, Sept. 2000]. The final component, Interpersonal Understandings, assesses the "ability to understand the features of interpersonal relationships which enable people to live and work together" [Murdoch University, Sept. 2000].

The Department of Education, Training and Youth Affairs states that, "[t]he aims of the GSA are to enable students to verify their academic claims for acceptance into further study courses; assist graduates to obtain employment and measure 'value-adding' by universities (i.e. through the testing of students on entry and upon graduation)" [Commonwealth of Australia, Sept. 2000]. There seems to be little doubt that the government intends to position the cultivation of generic skills as a central part of tertiary education.

The lurch in the emphasis of tertiary education towards the generic skills of level three competencies is set to cause new problems for a large fraction of students with disabilities. The students most likely to be effected are those with learning disabilities and mental disorders.

The logic of providing accommodations for disabled students, while simultaneously expecting them to be measured against the same academic standards as non-disabled students, assumes academic standards are based on a two-level model of tertiary competencies. The underlying assumption of the current arrangements for students with disabilities is that although they might not be able to access knowledge in the same ways as other students, they can still acquire the necessary knowledge and skills to prove their level 1 and 2 competencies.

Disabled students sometimes use a wide variety of alternative learning methods to acquire the skills and knowledge necessary for level 1 and 2 competencies. However, for many disabled people, the generic skills of level 3 competencies are the very skills which, in absence, define their disabilities. The positioning of generic skills at the centre of academic standards is something for which the disability rights movement seems totally unprepared.

The accommodations usually provided for disabled students for level 1 and 2 competencies are difficult to implement for the assessment of level 3 competencies through use of the GSA. The Australian Council for Educational Research (ACER), the organisation which administers the GSA, has not yet formulated guidelines for administration of the test to students with disabilities. The advice so far has been that universities can provide the accommodation that is usually provided to students with disabilities in the administration of general examinations. [1] Simple accommodation such as rest breaks and extra time for completing the test may be relatively easy to implement. However, such accommodation detracts from the standardisation of the test, which makes it problematic for resultant scores to be included in aggregated statistics. The methodological difficulties created by non-standard testing conditions will prevent data obtained under these circumstances from being included in university summary

'scores' and comparison of individual student scores with university cohorts and national samples. The ACER may be prepared to allow random alterations to the administration of the test however the GSA is a standardised test and the accommodation of disabilities into level 3 skills assessments is problematic for both the ACER and students with disabilities.

The provision of readers and scribes further limits the administration of the GSA as a standardised test. On the one hand the visually impaired or learning disabled student may be disadvantaged by a written and multiple choice test; on the other the standardisation of the test and provision of a comparative score is compromised by such accommodation. The provision of alternative assessments, which is available within level 2, discipline based assessment may involve, for example, the substitution of oral or written tasks in place of multiple choice test formats [Mungovan et al, 1999: 57]. It is difficult to envisage how the provision of this type of alternative assessments or the omission of some sub tests because of a student's particular learning disability could be made feasible for the GSA. The GSA report for such students would have to be denoted as a testing with accommodations and this defeats the purpose of the test to provide comparative skills assessment.

The emphasis on generic skills in the assessment of academic standards within and between students and universities is problematic in the case of students with disabilities. The provision of accommodation and the implications for the GSA testing system have not been considered and the resolution of these difficulties seems improbable without significantly compromising the original aims of the GSA. There may be irreconcilable differences between academic standards as defined by generic skills and the provision of disability accommodation. [top](#)

### **Draft Disability Standards for Education**

Section 31 of the Disability Discrimination Act (DDA) makes provision for the Commonwealth Attorney-General to develop a system of standards to assist in the administration of the DDA. These standards are to apply in all the areas of service delivery where discrimination is to be eliminated. One of these service areas is the education sector.

Responsibility for formulating disability standards for education was delegated to the Department of Education, Training and Youth Affairs where it is being handled by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). The composition of MCEETYA includes all Commonwealth, State and Territory Ministers responsible for education and training. In 1995 MCEETYA convened the Taskforce on the Disability Discrimination Act - Education Standards (DDA) to draw up draft Standards. Various stake-holders in the areas of government, education and disabilities are represented on the Taskforce. The universities are represented by the Australian Vice-Chancellors' Committee while disability organisations are represented through a specially convened organisation of peak disability groups called the DDA Standards Project.

The draft Disability Standards for Education were negotiated by the members of the Taskforce over a number of years and finally presented to MCEETYA in March 2000. "At the 11th MCEETYA meeting in March 2000 Council agreed to the further development and implementation of a consultation process with key stakeholders and to use the draft Standards as the basis of this consultation. [MCEETYA, March 2000]. MCEETYA asked the Taskforce to report on the outcomes of the consultations by the end of October 2000.

The purpose of disability standards is to streamline the enforcement of the anti-discrimination measures specified in the DDA. Without them enforcement of the DDA is a piecemeal affair relying on individual complaints that are costly and time-consuming to both complainants and defendants. Standards have been devised as an efficiency measure and once they are in place non-compliance with a DDA Standard will be unlawful.

So, if an organisation or individual breaches the DDA Standard they are acting unlawfully. Once a complaint has been lodged it is a much simpler process to determine an outcome. There is no conciliation or mediation process and all parties should have a much clearer idea from the outset of the likely outcome [MCEETYA, Aug 1997].

On the surface it seems that the concept of disability standards is meant to make life easier for people with disabilities. But there is a flip-side to the way these Standards can work. From the outset there was no prescribed form that the Standards should take. They could be "technical or descriptive, detailed or general, flexible or prescriptive" [Taskforce on Disability Discrimination Act Education Standards, July 1997] and, although non-compliance is unlawful, Guidance Notes appended to the draft Standards clearly spell out that "if a person acts in accordance with the Standards, they comply with the DDA" [Draft Disability Standards for Education, March 2000]. This means that the Standards can work against tertiary students with disabilities if there are specifications that allow universities to avoid making accommodations in certain circumstances. There are some specifications that bear directly on the issue of disability rights versus academic standards.

Subsection 7.2 of the draft Disability Standards is headed "Obligations of education providers". In part it specifies that,

Providers have an obligation to make reasonable adjustments necessary to ensure that students with disabilities are afforded substantive equality in opportunities to participate in learning experiences and complete assessment and certification requirements [Draft Disability Standards for Education, March 2000] .

In regard to academic standards this clearly specifies that a university is expected to make reasonable adjustments to student assessment procedures to accommodate people with disabilities. This point is further clarified in the next subsection of the Standards.

Measures which would enable curriculum and course development, delivery modes, accreditation and assessment requirements to not discriminate against students with disabilities, include the following:

\* assessment procedures and methodologies are adapted to enable students with disabilities to demonstrate the knowledge, skills or competencies being assessed [Draft Disability Standards for Education, March 2000].

But wedged between these specifications for accommodations in assessment procedures is another paragraph which swings the pendulum in the opposite direction. This specification appears to give universities the right to resist making any accommodations that compromise academic standards.

In making any adjustments to courses and curricula, accreditation authorities and education providers are fully entitled to maintain the academic requirements of the course. For example, in providing for students with disabilities, an institution will continue to ensure the integrity of its courses and assessment requirements and processes, so that those on whom it confers an award can hold themselves out as having the appropriate knowledge, experience and expertise implicit in the holding of that particular award [Draft Disability Standards for Education, March 2000].

Before the recent positioning of generic skills as an essential component of academic standards, universities and the disability rights movement had a tacit understanding about how to interpret this kind of contradiction. Academic standards were maintained by testing students with disabilities, along with non-disabled students, for their level 1 practical skills and their level 2 theoretical knowledge of a discipline. If some disabled students needed accommodations in examination procedures because they had learning disabilities or mental disorders this was not a problem so long as they could demonstrate they had acquired the necessary disciplinary skills. But the establishment of quality assurance measures for universities, and the use of generic skills testing as a means of determining a university's value adding achievement, has probably changed all that. [top](#)

### **Learning Disorders, ADHD and Generic Skills**

There are two paragraphs in the DDA's definition of disability that bear directly on testing students for their generic skills. The first is:

(f) a disorder or malfunction that results in the person learning differently from a person without the malfunction;

Although the wording of (f) is somewhat curious, in that it defines disability in terms of "learning differently" rather than "learning difficulty" or "learning deficit", it is generally assumed by disability experts to refer to a category of disability called "learning disabilities" [Mungovan et al, 1999 : 7].

The term learning disabilities is confusing and the definition is variable [Stanovich, 1999: 350]. But there are a number of generally agreed upon parameters. These define a student who has an average, or above average, IQ for his or her grade level but whose academic achievement in any key area like reading, writing or mathematics is significantly below the level expected of him or her, at the same grade. In lay terms it defines a relatively bright student who can't grasp one, or more, of the fundamentals skills of academic learning.

The consensus hypothesis for explaining the aetiology of learning disorders assumes some type of underlying neuropsychological impairment as the cause. But there is no consistent evidence supporting this hypothesis to assist with diagnosis. As a result there is endless debate on how to properly diagnose the condition and particularly how to differentiate students with learning disabilities from non-disabled students who also have problems with reading, writing or mathematics. Most of this debate centres on which psychometric tests to use in diagnosis and where to position the threshold of a learning disability on a continuum with normality. "Estimates of the prevalence of Learning Disorders range from 2% to 10% depending on the nature of the ascertainment and the definitions applied" [American Psychiatric Association, 1994: 47].

The second part of the DDA description of disability relevant to generic skills testing is:

(g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour;

There are a surprising number and variety of complaints that might qualify a person as disabled under this definition. Essentially it requires a diagnosis of a mental disorder. In English-speaking countries the principal tool used for diagnosing mental disorders is the fourth edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV).

DSM-IV attempts to classify all types of mental functioning that deviate from normal. Codes and descriptions are supplied for a total of 390 separate mental disorders. They range in scope from "Disorders Usually First Diagnosed in Infancy, Childhood or Adolescence" like the learning disorders — 315.00 Reading Disorder, 315.1 Mathematics Disorder and 315.2 Disorder of Written Expression — and the disruptive behaviour disorder — 313.81 Oppositional Defiant Disorder — through to a whole range of adult forms of deviancy including substance abuse of various kinds, sexual dysfunctions, personality disorders and psychoses. A recent reviewer, prompted by the width of its scope, observed that, "According to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, (popularly known as DSM-IV), human life is a form of mental illness" [Davis, 1997: 61].

Notwithstanding the many jibes that are directed at the scope of DSM-IV a person who is diagnosed by an appropriately qualified professional — normally a psychiatrist or

psychologist — with any disorder listed in DSM-IV, will probably be regarded as disabled for the purposes of the DDA.

Of particular interest in regard to disability rights in education, especially generic skills testing, is the diagnosis of Attention-Deficit Disorder/Hyperactivity Disorder (ADHD). "The essential feature of Attention-Deficit/Hyperactivity Disorder is a persistent pattern of inattention and/or hyperactivity-impulsivity that is more frequent and severe than is typically observed in individuals at a comparable level of development" [American Psychiatric Association, 1994: 78].

The diagnostic instructions for determining the presence of the Attention Deficit part of the condition require the identification of six or more of the following symptoms of inattention:

- (a) often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities
- (b) often has difficulty sustaining attention in tasks or play activities
- (c) often does not seem to listen when spoken to directly
- (d) often does not follow through on instructions and fails to finish schoolwork, chores or duties in the workplace (not due to oppositional behaviour or failure to understand instructions)
- (e) often has difficulty organising tasks and activities
- (f) often avoids, dislikes or is reluctant to engage in tasks that require sustained mental effort (such as schoolwork or homework)
- (g) often loses things necessary for tasks or activities (e.g. toys, school assignments, pencils, books, or tools)
- (h) is often easily distracted by extraneous stimuli
- (i) is often forgetful in daily activities [American Psychiatric Association, 1994: 84].

ADHD is usually first diagnosed when students are in elementary school and the condition remains fairly stable until adolescence. "In most individuals the symptoms attenuate in late adolescence and adulthood, although a minority experience the full complement of symptoms of Attention-Deficit/Hyperactivity Disorder into mid-adulthood" [American Psychiatric Association, 1994: 82].

There are no specific physical features associated with ADHD nor are there any definitive laboratory tests which can be used for diagnosis. This means that a

diagnostician has to make a subjective determination as to whether a student has a sufficient number of the required symptoms. One of the problems with diagnosis is that most students experience the symptoms to some degree and so separating ADHD sufferers from others involves setting thresholds of severity for behaviours that are very difficult to measure. About 3%-5% of school-age children are estimated to have ADHD but "data on the prevalence in adolescence is limited" [American Psychiatric Association, 1994: 82]..

In regard to the problem of academic standards versus disability rights there are two factors that need to be taken into consideration. The first is that once a student has been diagnosed with a learning disorder, or another DSM-IV mental disorder like ADHD, by an appropriately qualified professional, the student has the same rights to protection against discrimination under the DDA as any other disabled person. The second is that generic skills testing is specifically intended to discriminate against students with poorly developed skills in reading, writing and the application of focussed attention. [top](#)

## **Conclusion**

Australian universities have managed to adapt fairly well to the requirements of the DDA since it came into force in 1993. Although there may have been some consternation from time to time that academic standards were compromised in specific cases no leading academics have so far thought it necessary to mount the type of rollback campaign that Jon Westling attempted at Boston University. But with the introduction of the GSA, and the drafting of Disability Standards for Education, the millennial year has brought two new imperatives into play that threaten to clash and disrupt the harmony.

It is not at all clear how universities should accommodate students with learning disabilities and mental disorders in relation to the GSA. The initial run of the GSA in October 2000 was open to all graduating students who volunteered to sit for it. But the voluntary basis is unlikely to remain for long. The GSA is intended to provide the government with quality assurance comparisons between universities and in future it is highly likely that some kind of coercion will be used to ensure students participate. At the very least employers will want to compare the GSA results of competing job applicants. Students who do not complete the GSA will probably be disadvantaged in the graduate employment marketplace.

We have suggested that the difficulties of accommodating disabilities in the administration of the GSA may require non-standard administration of the test or a qualified report on performance to be provided for students with disabilities. These accommodations may disadvantage such students in the graduate employment market. Employers are obliged to make disability accommodations in the workplace however a qualified or truncated GSA assessment may prejudice disabled graduates' employment opportunities.

Comprehensive validity studies for the GSA have not been completed by ACER who report that it will take years for this work to be completed [ACER, August 2000]. Part of



the planned validation studies will involve assessing correlations between "TERs (Tertiary Education Ranks), other generic skills test results and student self-assessments" [ACER, August 2000]. It is therefore not known whether the GSA will be of any use to employers in assessing whether a particular graduate will be comparatively more generically skilled in the workplace. Until properly conducted validity studies are completed it remains questionable as to whether a set of multiple choice tests and an assessment of two short samples of writing are a socially useful method of assessing generic skill development.

Considering the difficulties of accommodating disabilities and establishing validity for the GSA it is prudent for universities to consider whether there are more effective ways of assessing generic skill development. Curriculum based assignment assessment methods provide an alternative which could have more validity than a truncated three hour test. The assessment of critical thinking, problem solving and team based interpersonal skills within assignments, that are directly relevant to a professional field, over a period of three or four years is likely to provide a more comprehensive base for generic skill evaluation. Over the last ten years Australian universities have been engaged in extensive analysis of whether their curricula provide training in generic skills. Recent work has focussed on developing comprehensive inventories of how particular generic skills are developed within particular assessment strategies across all subjects and levels of study within a curriculum [Palmer et al, 1999]. This process of 'self-accreditation' for generic skill development may not readily provide a means of inter-university comparison however it is potentially a more valid method of assessing generic skill development within a particular professional context. This method of skill assessment will also be more amenable to the accommodation of disabilities, albeit at the expense of standardisation, but with some similarity to how disabilities might be accommodated in the workplace.

If the GSA continues to be promoted by the Federal Government as the means by which Australian universities should evaluate generic skill development, universities will need to consider fostering the capacity of students with disabilities to develop and utilise generic skills in an independent manner. This will require an increased emphasis on developing students' capacity to learn and perform independently within the limitations of their disabilities. University disability services will need to provide students with a competent assessment of how they can develop such skills throughout their tertiary study through specialised skill development or the use of assistive technology. In recent years, assistive technology development has provided extensive opportunity for students to develop independent learning skills which are transferable to the workplace. In addition to the provision of relevant equipment, universities need to develop appropriate training programs which enable students to develop independence in the use of such technology [Allan, 2000]. Developments in training programs for students with specific reading disabilities indicate that such disabilities are not intractable and that students can significantly enhance their capacity to read independently [Graininger, 1997]. Training in tertiary literacy, as required for the genres of different disciplines, can be adapted to suit the learning needs of students with particular disabilities [2].

The related issues of independent learning and generic skills development do not figure prominently in the current policies and practices of most university disability programs. The emphasis on disability rights may actually detract from such an approach as it encourages students to focus on what they are entitled to rather than what they can aspire to. The right of students to be provided with access to university facilities and information systems (print or computer based) is not questioned. However, an emphasis on educational and professional development for students with disabilities may prove more advantageous to students in the long term as it would enhance capacities for lifelong learning and pathways to graduate employment. Such a program at the tertiary level would be greatly facilitated if the development of independent approaches to learning (for example, being competent in the use of assistive technology) was considered an essential component of basic literacy for students with disabilities within primary and secondary education. Students making the transition from such an educational culture to the tertiary context would be better prepared to tackle the task of becoming tertiary literate and generically skilled without the hindrance of having to master basic literacy skills. Students with disabilities would then be in a better position to participate in the GSA or other forms of assessment which graduates seeking employment are subjected to. [top](#)

#### **Footnotes:**

1 ACER, email correspondence with Greg Hampton, October, 2000.

2 'Disability Services', University of Wollongong

---

#### **Bibliography**

Allan, Trevor, Using voice recognition software for examinations, The Australian National University, 2000.

American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders, fourth edition, American Psychiatric Association, Washington, 1994.

Australian Council for Educational Research (ACER), Graduate Skills Assessment Test Development: Progress Report Summary, August 2000.

'Background Material for the Disability Sector on the MCEETYA Discussion Paper', Disability Discrimination Act Standards Project, August 97, available on-line at, <http://www.ozemail.com.au/~ddasp/DDAStandards2doc6.htm>

Bowden, John A., and Masters, Geoffrey N., Implications for Higher Education of a Competency-Based Approach to Education and Training, Department of Employment, Education and Training, Australian Government Publishing Service, Canberra, 1993.

Commonwealth of Australia, Disability Discrimination Act 1992 (DDA), Section 3, available on-line at, [http://www.austlii.edu.au/au//legis/cth/consol\\_act/dda1992264/s3.html](http://www.austlii.edu.au/au//legis/cth/consol_act/dda1992264/s3.html)

\_\_\_\_\_ Section 4, available on-line at, [http://www.austlii.edu.au/au//legis/cth/consol\\_act/dda1992264/s4.html](http://www.austlii.edu.au/au//legis/cth/consol_act/dda1992264/s4.html)

\_\_\_\_\_ Section 22(4), available on-line at, [http://www.austlii.edu.au/au//legis/cth/consol\\_act/dda1992264/s22.html](http://www.austlii.edu.au/au//legis/cth/consol_act/dda1992264/s22.html)

Davis, L. J., 'Diagnostic and Statistical Manual of Mental Disorders, 4th ed.', Harper's Magazine, Vol. 294, No. 1761, 1997.

Department of Education, Training and Youth Affairs, '7. Legal implications of the Standards', Guidance Notes, attached to Draft Disability Standards for Education, March 2000, available on-line at, <http://www.ozemail.com.au/~ddasp/DDAStandards2doc1.htm>

Disability Services', University of Wollongong, available on-line at, <http://www.uow.edu.au/student/services/disabl.html>

'Discussion Paper on Disability Standards in Education', Taskforce on Disability Discrimination Act Education Standards, July 1997, available on-line at, <http://www.detya.gov.au/iae/analysis/dis.htm>

Elswit, Lawrence S., Geetter, Erika, and Goldberg, Judith A., 'Between Passion and Policy: Litigating the Guckenberger Case', Journal of Learning Disabilities, Vol. 32, I. 4, July 1999.

'Graduate Skills Assessment (GSA)', Teaching and Learning Centre, Murdoch University, September 2000, available on-line at, <http://cleo.murdoch.edu.au/evaluation/gsa/gsa.html>

Grainger, Jessica, Children's behaviour, attention and reading problems : strategies for school based interventions, Australian Council for Educational Research, Camberwell, Vic., 1997.

'Higher Education Report for the 2000 to 2002 Triennium', Department of Education, Training and Youth Affairs, Commonwealth of Australia, September 2000, available on-line at, [http://www.detya.gov.au/highered/he\\_report/2000\\_2002/html/2\\_1.htm](http://www.detya.gov.au/highered/he_report/2000_2002/html/2_1.htm)

Kalb, Claudia, 'A struggle by degrees: although it was unheard of 20 years ago, many learning-disabled students now go to college. But how much special help can they expect on campus?', Newsweek, Vol. 130, No. 17, 27 October 1997.

Mungovan, A., Allan, T., England, H., and Hollit, J., Opening All Options: A Resource to Assist Students with Learning Disabilities in Tertiary Education, Universities Disabilities Co-operative Project (NSW), Sydney, 1999.

Palmer, G., Moore, J., Mitchell, A., Milne, C., and Percy, A., 'Attributes of a University of Wollongong Graduate mapping project', Educational Strategies Development Fund application, University of Wollongong Faculty of Commerce, 1999.

Scrimshaw, Jim, 'A job's a job even though it may not be for life', Times Educational Supplement, 5 February 1999.

Seymour, Sandi, and Smith, Graham, 'Position Paper on Draft Disability Standards For Education', DDA Standards Project, 2000, available on-line at, [http://www.ozemail.com.au/~ddasp/Position%20Paper.htm#\\_Toc490455600](http://www.ozemail.com.au/~ddasp/Position%20Paper.htm#_Toc490455600)

Shalit, Ruth, 'Defining disability down: why Johnny can't read, write, or sit still', The New Republic, Vol. 217, No. 8, 25 August 1997.

Shapiro, Joseph P., 'Asleep at the wheel', U.S. News & World Report, Vol. 123, No. 8, 1 September 1997.

Siegel, Linda S., 'Issues in the Definition and Diagnosis of Learning Disabilities: A Perspective on Guckenberger v. Boston University', Journal of Learning Disabilities, Vol. 32, I. 4, July 1999.

Sparks, Richard L., and Ganschow, Leonore, 'The Boston University Lawsuit: Introduction to the Special Series', Journal of Learning Disabilities, Vol. 32, I. 14, July 1999.

Stanovich, Keith E., 'The Sociopsychometrics of Learning Disabilities', Journal of Learning Disabilities, Vol. 32, I. 4, July 1999.

'Taskforce on the Disability Discrimination Act - Education Standards (DDA)', Ministerial Council on Education, Employment and Youth Affairs (MCEETYA), available on-line at, <http://www.curriculum.edu.au/mceetya/taskfrce/task2212.htm> [top](#)

---

Copyright © Richard Gosden and Greg Hampton, 2000. For uses other than personal research or study, as permitted under the Copyright Laws of your country, permission must be negotiated with the author. Any further publication permitted by the author must include full acknowledgement of first publication in ultiBASE (<http://ultibase.rmit.edu.au>). Please contact the [Editor](#) of ultiBASE for assistance with acknowledgement of subsequent publication.

---

Document URL: <http://ultibase.rmit.edu.au/Articles/dec00/gosden1.htm>

