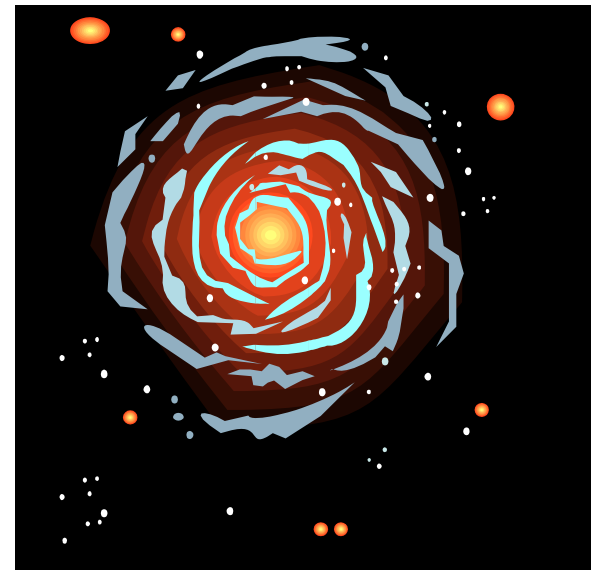


Once upon a time (1990 to be exact), in a galaxy far, far away (Washington, DC), the Americans with Disabilities Act, the first civil rights legislation written to protect individuals with disabilities was born.....



*Over time, as this law matured,
the Supreme Court made several
decisions that interpreted the
INTENT of the law....*

Arline v Nassau County

Price v. National Board of Med. Examiners

Sutton v. United Airlines

Wong v. Regents of University of California

Toyota Motor Manufacturing v. Williams



Unfortunately, it was not how the creators of the ADA imagined.....and the ADA lost its strength as civil rights legislation.



*So, this hearty group of legislators (led by Senator Tom Harkin) went back to the “Hill” to invoke the right verbiage to strengthen the ADA and **RESTORE** it to its original form.*



As of January 1, 2009, the ADA Amendments Act of 2008 goes into effect and will change how society sees and accommodates an individual's disability.

This law broadens the scope of who is protected, and lowers the threshold of what constitutes a disability. It serves to protect more individuals.

| ADA – 1990 | ADA Restoration 2008 |
|--|---|
| Emphasis on <u>documentation</u> of disability – first step is that one needs to demonstrate that one has a disability | Emphasis on type of accommodation requested or if discrimination has occurred |
| Major Life activities mentioned: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping walking standing, lifting, bending, speaking, breathing, learning, reading communicating and working | Keep all the old ones, but add concentrating and thinking (those were implied in the previous, but are more explicit now) Also, includes list of bodily functions, including explicit reference to immune deficiencies |
| Uses the pieces of the Rehab Act, Section 504 to define disability | CHANGES the definition of the Rehab Act to match the ADA |
| Did not spell out what constituted a diagnosis, encouraged employers and higher ed. institutions to create guidelines for assessment, diagnoses, etc | Still does not spell out what is required, but truly the emphasis is on the self disclosure and request for accommodation , not on the exact verification of the disability |
| | Look at chronic conditions that are episodic, or have remissions – look at conditions in acute episodes (depression, cancer, fibromyalgia) |
| Focus on clinical recommendation of providers as to how to support the disability | Focus on observable, functional limitation, and how self-reported disabilities are expressed/supported to an ADA or DR coordinator |

In a valiant display of bipartisanship, both sides of the House and Senate approved the restored legislation, and Senator Harkin rode off into the sunset (back to Iowa), secure in



knowing that the rights of individuals with disabilities (clinically documented and otherwise) would be protected.

Our story does not end here.....

Implications for CCC:

- ❖ *More employees requesting reasonable accommodations to perform their job duties (perhaps in the absence of clinical documentation)*
- ❖ *More students requesting reasonable accommodations to access the goods/services/programs of CCC (perhaps in the absence of clinical documentation)*
- ❖ *More room for subjective decisions and knee-jerk responses*
- ❖ *Instructors may feel like programs are lacking integrity due to so many accommodations*

What should we do?

- ❖ *Review and if needed, modify the accommodation request process for both staff and students*
- ❖ *Create a rubric for determining accommodations to take the guess work out of things*
- ❖ *Eliminate the terms “unfair advantage” and “preferential treatment” from our vocabulary and accept that it is the law*
- ❖ *Work to make our environment more accommodating for all students so that these formal requests are not as needed (UNIVERSAL DESIGN)*
- ❖ *All requests for DR accommodations will continue to come from the DR office- instructors and staff are not responsible for determining accommodations!!*