



**JOSIAH MACY JR.
FOUNDATION**

Exploring the Barriers to Inclusion for Medical
Trainees with Disabilities: A Webinar Series

**Webinar #2 : Barriers and Belief Systems: Evaluating
Underperforming Trainees with Disabilities**

July 12, 2022, at 3:00 pm ET



Lisa Meeks, PhD, MA

Assistant Professor,
Department of Learning Health Sciences
Department of Family Medicine
University of Michigan Medical School
Director, DocsWithDisabilities Initiative



**Holly J. Humphrey,
MD, MACP**

President
Josiah Macy Jr. Foundation



Michael Argenyi, MD, MPH

Addiction Medicine fellow at Wake Forest
School of Medicine in North Carolina and
board-certified in Preventive Medicine



**Raymond Curry, MD, MD,
FACP, FACH**

Senior Associate Dean for Educational
Affairs, University of Illinois College of
Medicine



Webinars

Exploring the Barriers to Inclusion: A Three-Part Series

- Barriers and Belief Systems: Entering Medical Education for Learners with Disabilities (recording available)
- **Barriers and Belief Systems: Evaluating Trainees with Disabilities**
- Barriers and Belief Systems: Physicians with Disabilities in Medicine
July 26, 2022, at 3:00 pm ET



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Learning Objectives:



Describe the accommodation determination process, standard accommodations in medical training.



Describe process for evaluating underperforming trainees with disabilities.



Describe process for responding to a disability disclosure during a promotions committee review.



Information Overload



Sources Informing Webinar



When Students Fail: Remediation and Dismissal in Nursing and Medicine

11

Lisa M. Meeks, Leslie Neal-Boylan, Michelle Miller, Rahul Patwari, Patricia Lussier-Duynstee, and Raymond H. Curry

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INNOVATION REPORTS

Using a Diagnostic OSCE to Discern Deficit From Disability in Struggling Students

Patwari, Rahul MD; Ferro-Lusk, Marie MBA, MSW, LSW; Finley, Ellenkate; Meeks, Lisa M. PhD
Author Information

R. Patwari is associate dean for curriculum and associate professor of emergency medicine, Rush Medical College, Chicago, Illinois; ORCID: <https://orcid.org/0000-0001-8040-992X>.

M. Ferro-Lusk is director, Office of Student Accessibility Services, Rush University, Chicago, Illinois.

E. Finley was manager of simulation education at Rush Medical College, Chicago, Illinois, at the time of this work.

L.M. Meeks is assistant professor of family medicine, director of MDisability education, University of Michigan Medical School, Ann Arbor, Michigan; ORCID: <https://orcid.org/0000-0002-3647-3657>.



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Realizing a Diverse and Inclusive Workforce: Equal Access for Residents With Disabilities

Lisa M. Meeks, PhD, MA; Neera R. Jain, MS, CRC; Christopher Moreland, MD, MPH; Nichole Taylor, DO; Jason C. Brookman, MD; Michael Fitzsimons, MD

J Grad Med Educ 2019;11(5):488-503.

<https://doi.org/10.4300/JGME-D-19-00286.1>

- DOI: [10.1007/978-3-030-46187-4_11](https://doi.org/10.1007/978-3-030-46187-4_11)
- DOI: [10.1097/ACM.0000000000003421](https://doi.org/10.1097/ACM.0000000000003421)
- DOI: [10.4300/JGME-D-19-00286.1](https://doi.org/10.4300/JGME-D-19-00286.1)

Sources of Underperformance

Academic

Behavioral

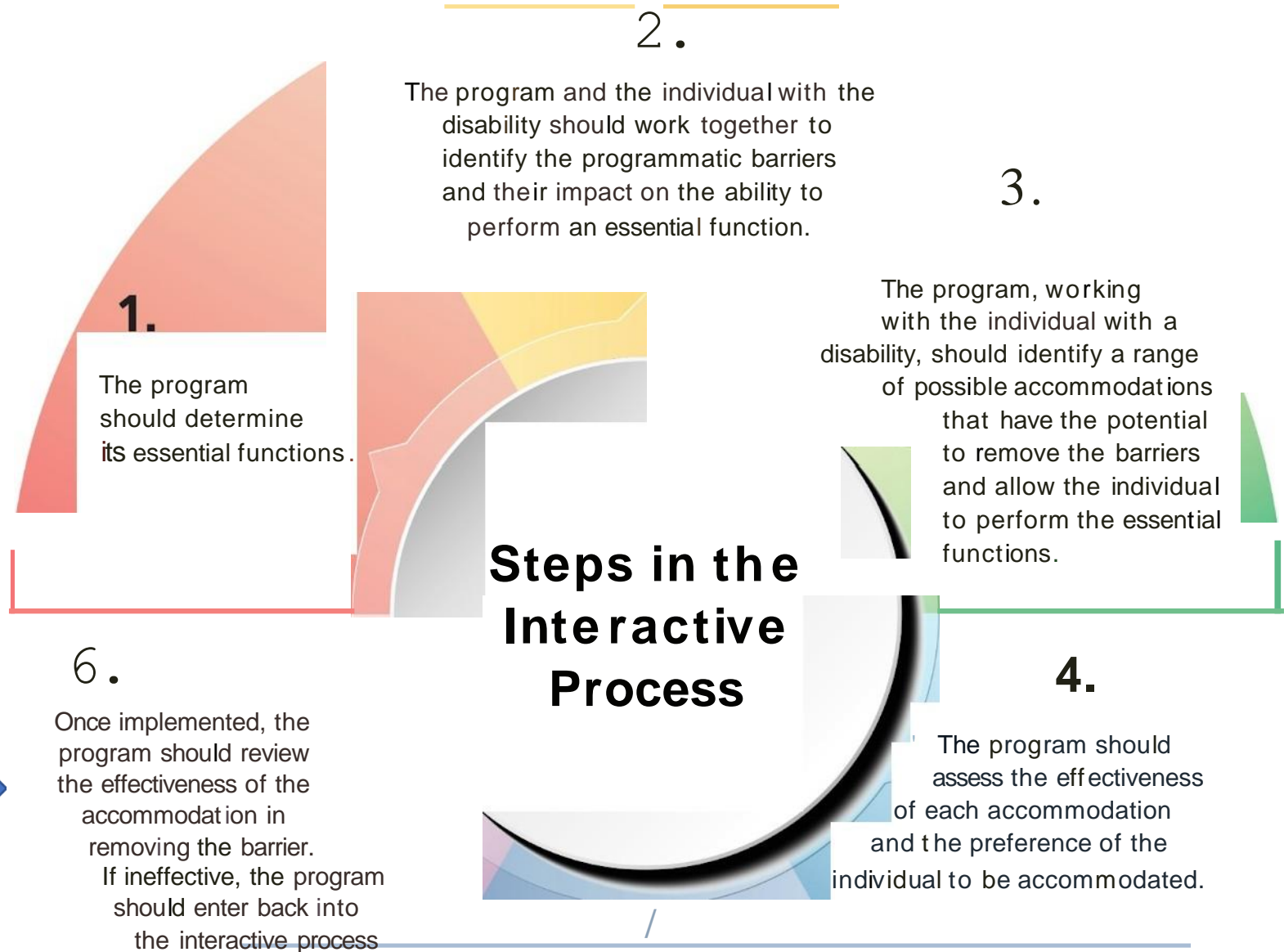
Personal

disability-related

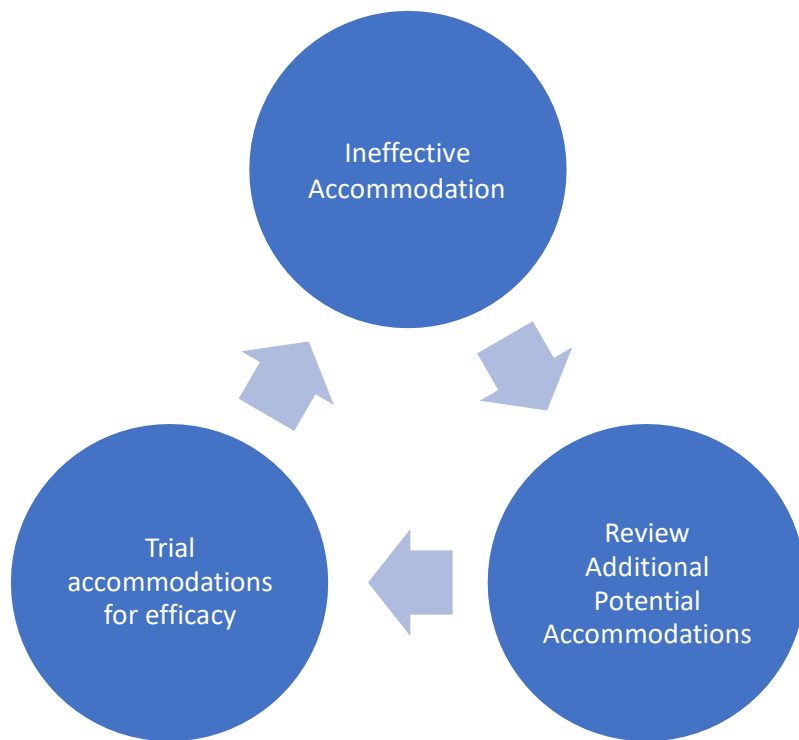
- Underperformance = Disability
- Lack of interactive process
- Empathy/Fear drives “failure to fail”

☐ **Pass**
☒ **Fail**





Cycle within a Cycle



- To what end do you engage in the cycle
 - All reasonable accommodations have been identified and exhausted
 - Or you find a reasonable accommodation

What is unreasonable?

Vetted Accommodations in UME/GME

| UME | GME |
|--|--|
| No overnight call/no switching shifts from day/night | Same, depending on size and service of residency |
| Protected time for medical appointments (weekly) | Protected time for medical appointments (weekly) |
| Decompressing clinical curriculum | Extending residency (Depending on size/service) |
| Sign Language Interpreter/Captioning | Sign Language Interpreter/Captioning |
| Dragon Dictate on Systems or Accessible WOW | Dragon Dictate on Systems or Accessible WOW |
| Additional time on exams | Additional time on in-service exams |
| Evaluation in simulation lab/practice in simulation | |

ROOT CAUSE ANALYSIS



To determine trainees needs:

Remediation

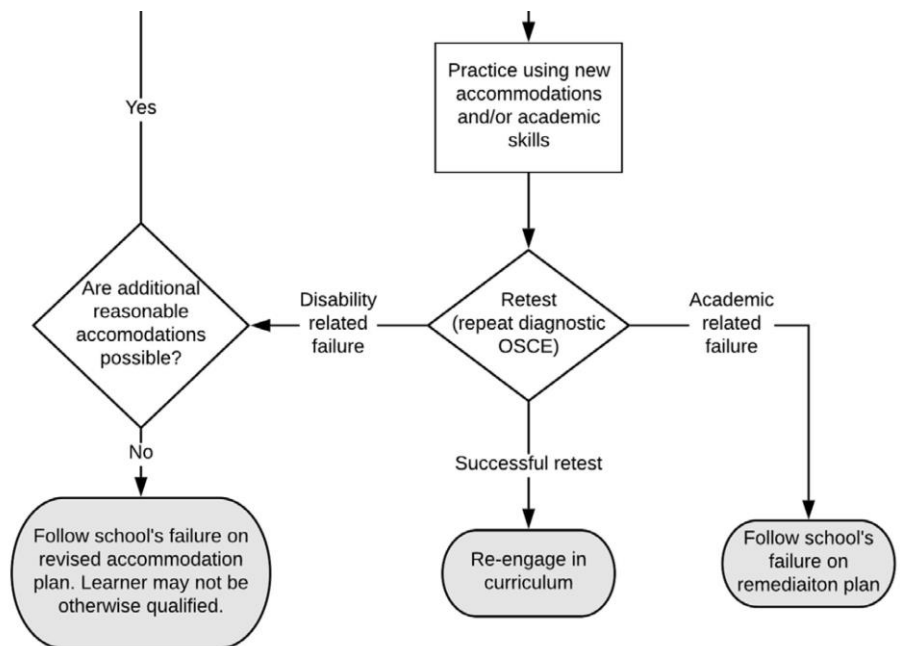
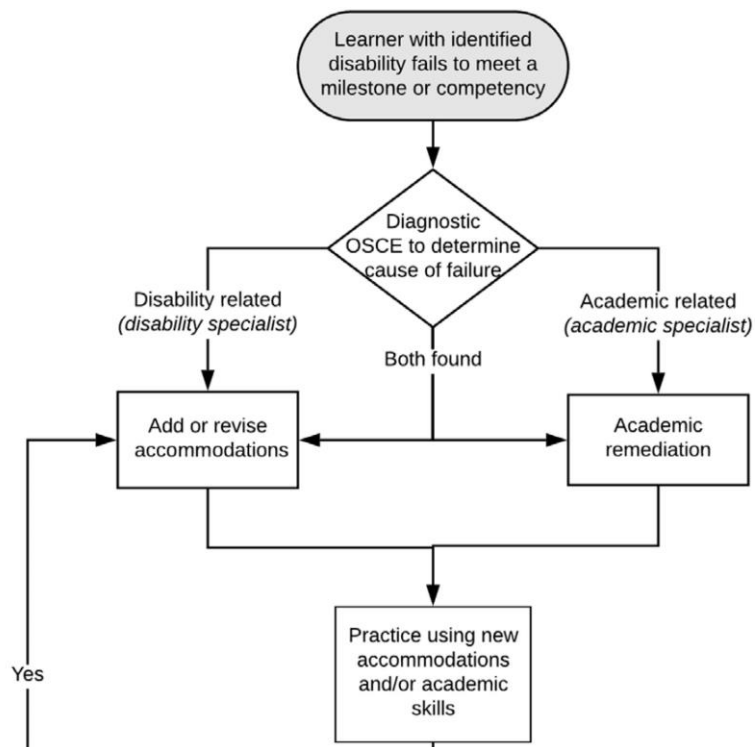
Revision of accommodations

*Referral to appropriate counseling,
disability or learning services*

Probation

Dismissal

Diagnostic OSCE (Patwari, et al.)



OSCE Sim Lab Benefits

Controls the trainee's environment

Gathers trainee input (in-vivo)

Determines disability-related barriers

Allows quickly implementation of new accommodations

Immediate testing of accommodation efficacy.



Positive Process

Meets Legal obligation

Trainee centered and trainee informed

Builds Trust

Informed Decision Making





Benefits



Zero Hour Disclosure

Definition:

- Disclosure of a disability by a trainee when they discover they are at risk of dismissal, failing out of a program or not having their contract renewed.

Two common scenarios:

- Disability unknown before underperformance
- Pre-existing disability and trainee **chose** NOT to disclose

Drivers of Zero Hour Disclosures

Unknown Disability, although trainee was displaying deficits consistent with a disability all along.

Trainee disclosed to individual teaching faculty rather than through the prescribed channels of disclosure.

Nondisclosure was driven by gaps in the way they communicate disability accommodation processes to their trainees.

Promotions
Committees
Should
AVOID:

Armchair diagnosing

Allowing empathy to
guide decision making

“Predicting” ability to
complete the program


Programs responsibilities?

Reasonably accommodate trainee upon disclosure of disability

Chenari v. George Washington University in 2017 (Summary judgement to school)

The Court cited the efforts of the university to inform students of their right to accommodations, in keeping with best practices for disability inclusion in the health sciences. Specifically, the University performed the following actions:

1. The disability resource professional (DRP) addressed all first-year students and informed them that “if they have a disability and need to request an accommodation, it is the student’s responsibility to go to [the office] to pursue that matter.”
2. The program included disability-related information in the “First Year Survival Guide” for medical students.
3. The Office of Disability Support Services maintained a website that walked students through the process for obtaining reasonable accommodation. The website included specific instructions about how students with ADHD could obtain accommodations.



Doe v. Board of Regents of the University of Nebraska




A medical student was dismissed for academic deficiencies;

First disclosed his diagnosis of depressive disorder during his **appeal of the dismissal**

Claimed he had not understood his rights under the ADA

The Supreme Court of Nebraska held that the University was not required to consider his late disclosure, as the ADA does not require “clairvoyance” on the part of schools.

The Court noted that when a university provides designated channels for reporting a disability and requesting accommodations, the school cannot be held liable when the trainee fails to avail himself of those channels.

A large orange shape on the left side of the slide, consisting of a rectangle with a quarter-circle cutout on its right side.

Zimmeck v. Marshall University Board of Governors

Medical student did not disclose her depression and request accommodations until after she had been warned several times and then dismissed for unprofessional conduct.

The Court found for the University holding that the ADA does not require a school to reconsider or excuse performance that is only later claimed to be due to a disability.

A close-up photograph of a hand holding a pink marker, writing the word "Why?" in white chalk on a dark, textured chalkboard. The word is written in a casual, cursive script. The hand is positioned at the bottom right of the frame, with the marker tip just finishing the question mark.

Why?

Reasons for Non-Disclosure

- Implicit or Explicit Negative Messaging about Disability
- Bias in the system
- Fear



Safety Nets in Medical Training

- Rapid pace that is unforgiving
- Employ screening programs that are designed for early detection/intervention
- Temporary Accommodations



Law does not prohibit consideration

No legal obligation to ignore requests for reconsideration

- Where information about how to disclose disability was not readily available
- When a trainee has a newly diagnosed disability.

In reviewing cases of underperformance, serious attention should be given to:

- The messaging and culture around being a trainee with a disability
- Poor messaging and misinformation



Secondary Analysis

Ensure

- Ensure the student had equal access to the curriculum

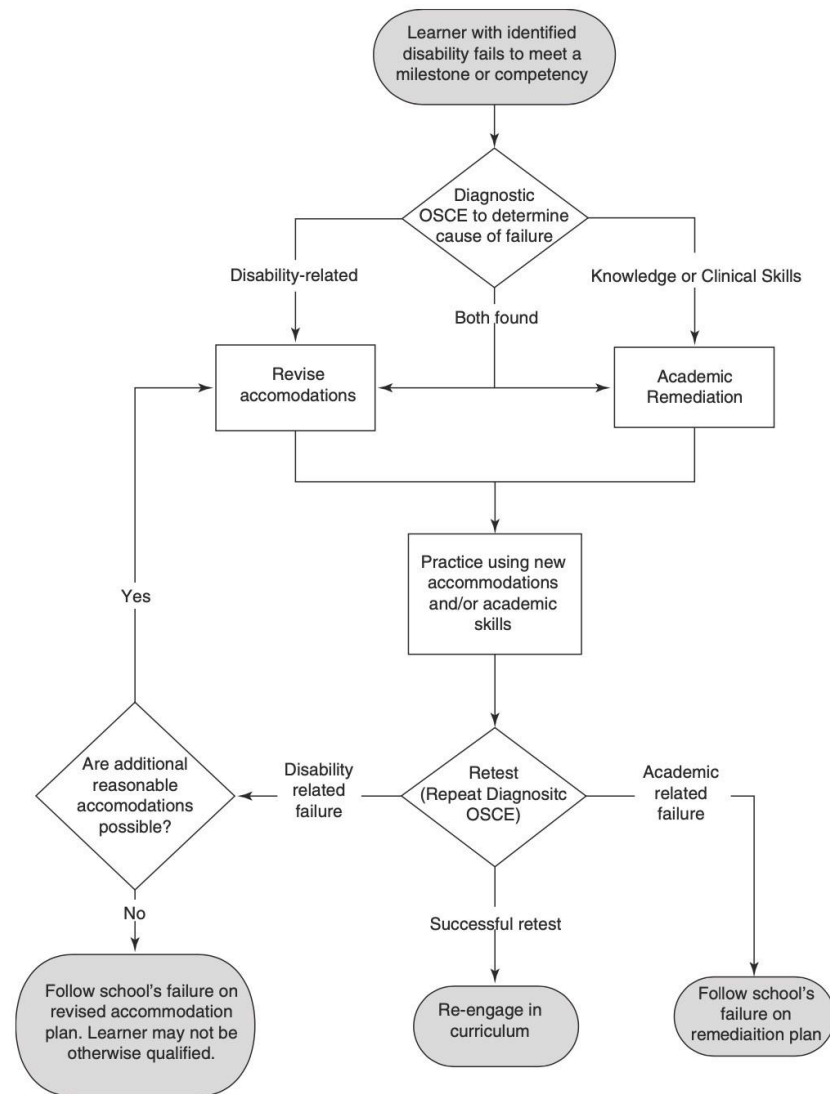
Liaise

- Liaise with the DRPs to determine whether existing accommodations are truly reducing barriers

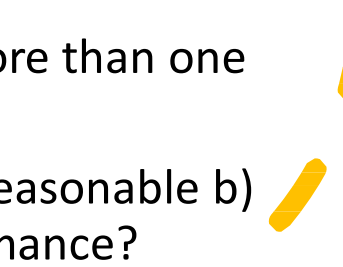
Engage

- Engage in the Diagnostic Model of Remediation for Trainees with Disabilities

Academic Deficit vs. Disability-Related Barrier



When there is a newly diagnosed or acquired disability

- Engage in an interactive process to determine what/if any accommodations might be reasonable.
 - Is it reasonable to conclude that the disability and functional limitations negatively affected the trainees' performance?
 - Is there a reason to conclude that reasonable accommodations may reduce the barriers to learning for the trainee?
 - Is the level of competency and knowledge sufficient to progress in program or would potential deficits or gaps in learning cause disruptions in future assessments? Consider remediating more than one test or course.
 - Does the trainee have a plan that is a) reasonable b) actionable and likely to improve performance?
- 

When there is a history of disability prior to entering the program

- Did the trainee request accommodations? If no, why not? Was this poor professional judgment, fear of stigma, or lack of access of information about how to disclose and request accommodations?
- Is this a potential professionalism issue, does the student have good insight and self-regulation?
- Is it reasonable to conclude that the disability and functional limitations affected the trainees' performance?
- Is there a reason or evidence to conclude that the assigned accommodations removed the barriers to the trainees' ability to perform?
- Does the trainee have a plan that is a) reasonable b) actionable and 3) likely to improve performance?

Meaningful Inclusion

- Goes beyond legal requirements
- Ensures a welcoming environment
- Maintains clear and transparent policies about disability disclosure





Questions & Responses

Please use the Q & A function to ask questions

<https://macyfoundation.org/publications/conference-summary-eliminating-bias-discrimination>