

Helping overcome discrimination to the best of our means!



Guide for teaching students with disabilities (SWDs)

May 2016

“One in every two people without a disability will find a job without a high school diploma; a person living with a disability has to have a college diploma to have the same odds of finding employment.”

(Ducharme and Montminy, Commission des droits de la personne et de la jeunesse, *L'accommodement des étudiants et étudiantes en situation de handicap dans les établissements d'enseignement collégial*, 2012, p.16.)



Authors: Isabelle Bouchard and Jonathan Leblanc
Proofreading and layout: Ariane Bilodeau
GUIDE FOR TEACHING STUDENTS WITH DISABILITIES

**This guide is intended for CEGEP professors
from FNEEQ-CSN affiliated unions**

FNEEQ-CSN

fneeq.qc.ca

Table of contents

Table of contents	3
Foreword	5
Introduction	6
Chapter 1 – Accommodate why?	8
1.1 Principles and aims of accommodation.....	8
1.2 Legal duty to accommodate.....	9
1.2.1 Primary and secondary education	9
Sidebar 1: What is a handicap?.....	9
1.2.2 Higher education.....	10
1.3 No place for assumptions.....	11
Sidebar 2: SWDs and success rates	11
1.4 Between equality and equity.....	12
Sidebar 3: The example of standardized language testing.....	12
1.5 The two-phased approach to accommodation	12
1.5.1 Test one: The reasonably necessary standard	13
Sidebar 4: The Meiorin ruling	13
1.5.2 Test two: Accommodation and undue hardship	13
1.5.3 The limits of accommodation.....	14
1.5.3.1 Undue hardship	14
1.5.3.2 Compliance with competencies, objectives and standards	14
Chapter 2: A shared responsibility.....	15
Sidebar 5: Division of responsibilities	15
2.1 The ministry (MEES)	15
2.2 The college	16
Sidebar 6: Responsibilities of the college according to MEES.....	16
Sidebar 7: Respect of the collective agreement versus exercise of a fundamental right	17
2.3 The teacher and the department.....	17
Work internships	18
Sidebar 8: According to the Commission	19
2.3.1 Collaborating under the collective agreement.....	19
2.3.2 Examples of undue hardship for professors.....	19
Sidebar 9: The activities professors perform in relation to SWDs	21
Sidebar 10: SWDs and the collective agreements in the primary and secondary sectors	22
2.4 The union, the CRT and the academic council	22
2.5 The student	22
2.6 Adapted Services.....	22
2.7 Institutional policy.....	23
General framework for a policy on students with disabilities.....	24
Chapter 3 – Accommodate whom?	26
3.1 The difference between a learning disability and a learning difficulty	26

3.2	Disabilities requiring special services	27
	Sidebar 11: The appeal of universal design for learning	27
3.3	SWD population breakdown in the college system.....	29
	Sidebar12: SWDs in university	30
Chapter 4 – Diagnosis.....		31
4.1	Access to diagnosis.....	31
	Sidebar 13: Who can make a diagnosis?	31
	4.1.1 Awaiting diagnosis	31
4.2	Cost	32
4.3	Confidentiality	32
4.4	Information available to teachers: diagnosis or functional limitation	34
Chapter 5 – Funding.....		36
5.1	Funding by college.....	36
5.2	Access to loans and bursaries.....	37
Appendix 1	Sidebar 9.....	38
Appendix 2	Strategic positions	43
Bibliography		52

Foreword

Students with disabilities (SWDs) have been attending CEGEPs for ages, and in steadily growing numbers, yet our collective agreement makes little or no mention of them. In the face of this void, we have taken it upon ourselves to provide teachers with some guidance on the matter, notably through this publication.

We know that having even a single SWD in a classroom can have a major impact on workload, not only in terms of the adjustments in teaching and evaluation strategies, but also of the increased support and supervision—both in and outside the classroom—that it demands. Imagine the longer-range implications as, year upon year, this population continues to climb.

Up to now, CEGEP funding for SWDs has focused solely on the support given by non-teaching resources. As essential as their role is, providing budgets for the work done by our professional and support staff colleagues alone is simply not enough.

It is important to remember that the quality of the educational relationship between teacher and student is a fundamental factor in ensuring academic success, including for students with disabilities.

The issue of SWDs in college is not a new topic of concern for FNEEQ or for the *Regroupement cégep*: our long-standing interest in the matter is reflected in the joint deliberations conducted by FNEEQ's *Comité national de rencontre* (CNR), in the countless debates within our federation bodies and, now, in this guide, which makes no claim to cover every aspect of this broad topic but seeks, instead, to serve as a central reference point for all of our reflections and deliberations on the issue.

We humbly hope this was a worthwhile endeavour and that the information and advice contained in this guide prove useful to you.

Enjoy the read!

Caroline Senneville
President, FNEEQ-CSN

Introduction

Why this guide?

Our reason for producing this guide is simple: the proportion of students with disabilities (SWDs) in the college sector is rising significantly. Many of us have concerns about this growing phenomenon and the challenges it can pose. How do we recognize these students? What do we do to support them? How do we square our usual teaching practices with our obligation to accommodate? Although a large number of guides have already been put together for teachers on the subject, none of them comes under the union “stamp,” meaning none of them looks at the emerging practices from the standpoint of either our existing collective agreement, legal opinions or the results of the joint deliberations¹ held in 2012-2013.

Our current collective agreement does not specify the role and responsibilities professors have in relation to SWDs. In fact, contrary to the collective agreements for teachers in the primary and secondary sectors, ours still does even not recognize these students as a distinct population.

Deliberations were conducted by the *Comité national de rencontre* (CNR) and wrapped up in 2013. Based on a large-scale survey of college teachers, the CNR-FNEEQ report concluded that in about 40% of the classes with a SWD presence, professors reported that this had either a significant or very significant impact on outside-class supervision and learning assessment, even where there was only one SWD in the class.²

Practices differ from one college to the next. Indeed, the report showed considerable variability in the development of adapted services among the colleges. Some CEGEPs have instituted policies in this area and some have not. Some give professors access to a student’s diagnosis, others inform them only of the functional limitations³ associated with the disability, and others, still, limit the information given to teaching staff to a code indicated on the class list. The moment at which professors are notified that they have a student with a disability in their class also varies widely. This diversity in practices can have some unfortunate results. For one, many college administrations may marginalize the role teaching staff play in conceiving and determining these practices, which can lead to an increase in workload. This can also give rise to another regrettable consequence: the possibility of inequitable treatment among the students concerned.

Another reason for this guide is the need for greater clarification and a better delimitation of the responsibilities and duties incumbent on the professor, the college, the student and Adapted Services in this regard.

It is essential that all students in the CEGEP system be given an equal opportunity to succeed. For this to be assured there needs to be a certain degree of harmonization of practices across the system, no matter the location, size or financial means of the college. But this harmonization cannot happen without the work teachers do being reflected in their labour contract.

This guide also finds its basis in the legal duty to accommodate set forth in a series of Supreme Court of Canada decisions relating to the Canadian and Quebec charters of rights and freedoms, which establish and

¹ http://cpn.gouv.qc.ca/fileadmin/documents/CPNC/07_b_Rapports_des_comites/Rapport_EBP_VersionDepotCPNC_CNR_30Avril2013.pdf

² Ibid

³ The *Office des personnes handicapées du Québec* (O.P.H.Q.) defines a limitation as a restriction or lack of capacity in carrying out certain movements, motions or activities. A functional limitation may be counterbalanced by a special devise or palliative measure that enables the individual to execute the activity differently but with the same result.

guarantee our fundamental rights under the law. In spring 2009, the Quebec *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ) set out to clarify a number of issues relating to the duty to accommodate the SWD population in CEGEPs through an integrated research, consensus-building and cooperative approach with key stakeholders.⁴

The following guide makes no attempt to address every aspect of the situation concerning students with disabilities; it is instead meant as an overview of the information we currently have at our disposal regarding the nature of the disabilities, the legal obligation to provide accommodation and the funding needed to do so. We hope it makes a worthwhile contribution.

This document is in no way the final word on the many legal issues stemming from the duty to accommodate. The legal framework provided herein is based not only on the texts of the laws themselves, but also, and more importantly, on how these texts have been interpreted by the tribunals. The development of reasonable accommodation practices will continue to evolve and, as such, influence future interpretations.

Lastly, this guide brings together a number of documents that have been presented at various *Regroupement cégep* meetings over the past few years. It also reflects the results of the many interviews we have conducted with FNEEQ members. The portions relating to the legal framework were researched and produced by the federation's advisors. We would like to take this opportunity to thank everyone who contributed to this publication.

⁴ Ducharme and Montminy, Commission des droits de la personne et de la jeunesse, *L'accommodement des étudiants et étudiantes en situation de handicap dans les établissements d'enseignement collégial*, 2012.

Chapter 1 – Accommodate why?

We, as teachers in the higher education sector, have always demanded that our expertise and autonomy be recognized. We have long called upon the colleges that employ us to acknowledge that we are experts both in our respective disciplines and in the teaching of those disciplines. It therefore seems entirely logical that not only should we be involved in the accommodation process, but that the additional work we have to do to integrate students with disabilities into the classroom should be recognized and reflected accordingly in our working conditions, in accordance with our collective bargaining right protected under freedom of association.

This first chapter seeks to shed light on accommodation in teaching based on a number of questions frequently raised by union executive committee members:

- What are the principles and aims of accommodation?
- As teachers, are we obligated to accommodate students?
- Who has ultimate responsibility for implementing accommodations?
- Can a student's academic trajectory be mapped out in advance?
- Are equality and equity compatible?
- What is a "reasonably necessary standard"?
- Does accommodation have limits?
- What boundaries should be respected in developing an institutional policy on SWD integration?

1.1 Principles and aims of accommodation

To FNEEQ members, integration of this student population centres on a humanistic approach to education that rests heavily on the principles of equality and universal access. More specifically, accommodation needs to meet the following requirements:

- promote better integration of students with various forms of disabilities into the college system, both within the regular and continuing education streams, and into society at large;
- ensure that, despite their disabilities, these students have the same opportunities to succeed as do all other students;
- ensure that the integration of these students is not done to the detriment of the rest of the college student population;
- ensure that accommodation measures do not have the effect of lowering competency achievement standards;
- ensure equitable treatment for these students across Quebec;
- ensure the delivery of quality services by qualified staff.

1.2 Legal duty to accommodate

More than just a matter of the values and principles we may support, the need to take the reality of students with disabilities into account is grounded in our legal system and the Canadian and Quebec charters of rights and freedoms.

The notion of reasonable accommodation stems from the jurisprudence in labour law and is applied more often on the basis of a disability or handicap than of any other ground, such as religion. In 1999, the Supreme Court of Canada adopted a systemic approach to dealing with cases of job discrimination by establishing the current benchmarks for accommodation.

Reasonable accommodation as a concept has evolved and its process now seeks to ensure that the right to equality without discrimination guaranteed by our charters is, in fact, made effective: in other words, that real equality among individuals exists not only “under the law” or “on paper” but is actually applied in practice. In short, it is no longer enough for our legal system to merely proclaim equality and prohibit discrimination on the basis of prejudice or stereotypes, it must:

act and take all necessary measures to ensure that members of groups that have historically been subject to discrimination enjoy the same possibilities and opportunities as everyone else.

The same benchmarks the Supreme Court set for labour law apply to the education sector, whatever the level.

1.2.1 Primary and secondary education

In Quebec, the obligation of non-discrimination is set out in Article 10 of the Charter of Human Rights and Freedoms:

“Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.”

Sidebar 1: What is a handicap?

Are we always required to accommodate a student with a disability?

Under the law, the right to non-discrimination on the basis of disability extends to a real or perceived handicap. The Supreme Court of Canada ruled that protection from discrimination is aimed at stopping the exclusion of individuals from our society, notably on the basis of prejudice. Our obligation to accommodate is therefore not restricted solely to students with a “real” handicap, according to the Supreme Court:

“The Charter does not define the ground “handicap,” and the word’s ordinary meaning is not clear from the various dictionary definitions. Given its quasi-constitutional nature, the Charter must be interpreted in light of both its context and its objectives. The rules of interpretation do not support the argument that the word “handicap” means a physical or mental anomaly that necessarily results in functional limitations. A liberal and purposive interpretation and a contextual approach support a broad definition of the word “handicap”, which does not necessitate the presence of functional limitations and which recognizes the subjective component of any discrimination based on this ground.

“The ground “handicap” must not be confined within a narrow definition that leaves no room for

flexibility. Instead, courts should adopt a multidimensional approach that considers the socio-political dimension of “handicap”. The emphasis is on human dignity, respect and the right to equality rather than merely on the biomedical condition. A handicap may be real or perceived, and a person may have no limitations in everyday activities other than those created by prejudice and stereotypes. Courts will, therefore, have to consider not only an individual’s biomedical condition, but also the circumstances in which a distinction is made. A “handicap” may exist even without proof of physical limitations or other ailments. The emphasis is on the effects of the distinction, exclusion or preference rather than the precise cause or origin of the handicap.”⁵

As far as we know, this aspect of student rights has not come up in any of our colleges, so it is impossible as of yet to determine its potential impact on teaching. Theoretically, however, a college could be forced to address this issue if confronted with a situation where the presence of a handicap can be reasonably deduced.

The obligation of non-discrimination is considered to be breached when:

1. There is a distinction, exclusion or preference made;
2. based on one of the stipulated grounds (sex, colour, handicap, etc.);
3. that has the effect of impeding the full and equal exercise of a right provided for under the Charter.

The Supreme Court defines discrimination that infringes the right to equality as follows:

“[...] Discrimination is a distinction which, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, has an effect which imposes disadvantages not imposed upon others or which withholds or limits access to advantages available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association with a group will rarely escape the charge of discrimination, while those based on an individual's merits and capacities will rarely be so classed.”⁶

At the primary and secondary levels, there can be no ambiguity as to the duty to accommodate since the right to “public education” is explicitly recognized as an economic and social right under the Charter:

40. Every person has a right, to the extent and according to the standards provided for by law, to free public education.

1.2.2 Higher education

Yet the Charter contains no similar provision for higher education. It is therefore on the basis of everyone’s right to not be discriminated against in a juridical act (such as a contract) that the student’s right to be treated without discrimination in college admission and attendance is established:

12. No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.

It follows that if discrimination is prohibited at the time of making the juridical act (in this case, the formal contract signed between the College and the student respecting the provision of education), it is no more allowable for discrimination to take place once that juridical act is in effect. If it were, this obligation would be easy enough to get around and the protection would be nothing more than illusory. Indeed, granting access

⁵ <http://scc-csc.lexum.com/scc-csc/scc-csc/fr/item/1789/index.do>

⁶ *Andrews v. Law Society of British Columbia*, [1989] 1 R.C.S. 174-175, EYB 1989-66977.

to higher education than not allowing full exercise of the right conferred by the juridical act would constitute an indirect breach of that act.

1.3 No place for assumptions

In any case of reasonable accommodation, it is essential to keep in mind that what is at issue is a basic human right, namely the right to equality. As the CDPDJ states, “the courts have long ruled that every person must be assessed according to his or her own personal abilities rather than to presumed group characteristics. This assessment must be objective and focus on real capabilities. A school’s belief that a student might not have the necessary abilities to complete a study program cannot serve as grounds for rejecting an accommodation request. The student’s abilities must be fully assessed before arriving at any such conclusion.”⁷

Sidebar 2: SWDs and success rates

Students with disabilities achieve a higher academic average (66.02%) in their first semester of college than do other students (62.34%). The graduation rate for SWDs enrolled in pre-university programs is 55%, compared to 54.5% for other students, while those in technical programs graduate in 53% of cases versus 51.7% for others. (FECQ, 2011, p. 97).

In other words, neither a college nor a professor can presuppose the success or failure of a SWD without the risk of subjecting that student to discrimination, which would be an infringement of the Charter of Human Rights and Freedoms. This can sometimes conflict with our professional concern for protecting students from unnecessary frustration and failure. In these cases, colleges should make psychological and guidance services available to facilitate decision-making.

⁷ Ducharme and Montminy, Commission des droits de la personne et de la jeunesse, *L’accommodement des étudiants et étudiantes en situation de handicap dans les établissements d’enseignement collégial*, 2012, P.39.

Helping overcome discrimination to the best of our means!

There are plenty of accounts and testimonials out there about students with disabilities who have proven the naysayers wrong by developing certain skills or finding employment in their field. It is important to remember that not all students go to college for the sole purpose of getting a job; some are there to take advantage of the free access to knowledge, others to develop a sense of self or for the social aspect. A distinction needs to be made between academic achievement and educational success. The former centres more on the attainment of competencies and is simpler to measure, whereas the latter is qualitative and based on a more humanistic approach to education. FNEEQ believes a balance must be struck between the two, as it submits in its report *La réussite...quelle réussite?*⁸

1.4 Between equality and equity

The purpose of accommodation is to give students with disabilities an equal opportunity to succeed. Just as corrective eyewear can level the chances for someone with myopia, the same principle applies to a student with a disability. The most important thing is not the accommodation measure itself, but the ability of that measure to achieve the desired outcome: **to eliminate discrimination.**

However, providing services above and beyond what is needed to achieve this equality among students can shatter the principle of equity and be seen as preferential treatment. It would be like taking the person who is already wearing corrective eyewear for myopia and leading them by the hand.

Sidebar 3: The example of standardized language testing

“This is current logic in granting accommodation measures to special needs’ students submitting to Quebec’s French competency test. All students, without exception, have to pass this standardized test to receive their college diploma. No accommodation measure can be granted to a SWD without his or her college first submitting a formal request, accompanied by an assessment from a qualified professional (physician, neuropsychologist, psychologist, psycho-educator, special educator, speech therapist, etc.), to the Ministry of Education, Recreation and Sports at least 30 days prior to the examination date. The ministry reviews the request, paying particular attention to the report by the professional documenting how the student’s disability affects his or her ability to perform the test. Based on the individual needs identified in that report, MELS decides whether or not to allow accommodation measures to be offered to the student.”⁹

In short, accommodation seeks to ensure that everything that can reasonably be done to protect someone’s right to equality is done, without compromising the standards of education.¹⁰ But while it is true that a college must take every necessary measure to accommodate a student, it can in no way guarantee the outcome of those efforts. An accommodated student is still subject to the same possibility of failure as any other student if he or she does not satisfy the requirements of the course.

As much for regular students as for those with a disability, FNEEQ believes that teachers are responsible for the means of academic achievement—not the ends.

1.5 The two-phased approach to accommodation

⁸ http://www.fneeq.qc.ca/fr/fneeq/instances/Conseils_fxdxraux/CF2011-06-1-2-3/2011-10-26-Reussite-scolaire-CES-Final.pdf

⁹ Ducharme and Montminy, Commission des droits de la personne et de la jeunesse, *L’accommodement des étudiants et étudiantes en situation de handicap dans les établissements d’enseignement collégial*, 2012, P.176

¹⁰ Anne Pineau, *Le Bulletin*, Services juridiques CSN, June 2007.

1.5.1 Test one: The reasonably necessary standard

The accommodation process first involves determining if a standard is justified in relation to its purpose. In this step, the key question is whether or not the standard is “reasonably necessary” to achieve the objective being sought. Our basic human rights laws have been put in place to ensure that no person is excluded from society on the basis of prejudice or stereotypes. This is one of the paramount aims of our system of human rights and freedoms, and equality ranks among those rights at the very top of the list. In that sense, setting a standard that goes above and beyond what is “necessary” to achieve a purpose would have the effect of excluding those who might otherwise be able to adequately meet the demands by opening the door to the influences of prejudice and stereotypes. In higher education, this would apply to the standards governing admission criteria, competencies, competency criteria, learning activities, and so on.

Sidebar 4: The Meiorin ruling

The principle of the reasonably necessary standard is well illustrated in the Supreme Court decision on the Meiorin case.

Following three years of satisfactory performance, Tawney Meiorin, a British Columbia forest firefighter, was called to take a fitness test to measure her aerobic capacity against a pre-set standard. Her employer, in good faith, invoked safety as the ground for these new fitness requirements. The test was developed in response to a coroner’s inquest report that contained two key recommendations: 1. Testing the physical fitness of firefighters was essential to ensuring their safety; 2. The tests used to measure this fitness should be validated based on a scientific assessment of the physiological demands of the job.

After four failed attempts to meet the aerobic standard, Ms. Meiorin was fired from her job. However, the methodology used to develop the test was found to be deficient. Relying on empirical data, the researchers had used the average performance of the firefighters evaluated, without distinguishing between men and women, to establish the minimum standard for employment.

This test was subsequently shown to be discriminatory in that the aerobic capacity required was above what most women are capable of attaining. Moreover, at no time did test developers seek to determine what was aerobically necessary to perform the work, opting instead to focus on the average physical characteristics of those already doing the job, who, in most cases, were men.

The Supreme Court ruling implicitly raises the following question: how can we achieve real equality and fight discrimination if we base our standards on the characteristics of the very group in relation to which this discrimination is occurring, a group that is not itself victim of discrimination?

1.5.2 Test two: Accommodation and undue hardship

The above test can already limit the number of situations necessitating reasonable accommodation. Indeed, setting necessary standards that are objective may mean adjusting these standards to the limitations of certain people or groups. But since accommodation requires a customized approach, specific cases may demand more individualized action. A student has the right to a personalized review of his or her file to ensure that reasonable accommodation measures have been implemented, provided this does not cause undue hardship to the college or its professors. Some of the factors that may be taken into account in determining undue hardship include unreasonable costs associated with a request—based on the premise that some costs are entirely reasonable—, the impact on the safety of persons in the college, the reality of the physical space and course times, the availability of material and physical resources, compliance with Quebec’s College Education Regulations (RREC), the impact on other students and teachers and the absence of mitigating measures to satisfy the standard. It is not enough simply to maintain that accommodation is

impossible; it must be shown that an assessment has been done, that the findings are supported by fact and that all possible solutions have been considered.

The duty to adopt a case-by-case approach runs counter to the use of pre-set charts of reasonable accommodations established on the basis of diagnosed functional limitations. While these can help inform the decision, the juridical requirement is that each measure is validated as the appropriate one for accommodating the student in question.

1.5.3 The limits of accommodation

1.5.3.1 Undue hardship

An individual does not have an absolute right to all forms, or to any one particular form, of accommodation. Two guiding factors must be considered in the accommodation process. First, the student must cooperate in the process and cannot refuse any reasonable accommodation that meets his or her needs. Second, the planned measures cannot be unreasonable or impossible to put in practice. In sum, the duty to accommodate ends where undue hardship begins. In the following chapter we will take a look at some examples or cases of undue hardship in college teaching.

1.5.3.2 Compliance with competencies, objectives and standards

Colleges have a duty to accommodate students with disabilities. However, they also have a responsibility to respect the competencies established by the ministry for each of the programs they offer. As such, no accommodation can change a program competency; only the ministry has that authority to do that, as it does, for example, in adjusting the competencies required for the provincial standardized French test. Therefore, any measure approved by a college or its Adapted Services must not have the effect of modifying a ministerial competency. If any competency is found to be discriminatory, it has to be revised by the ministry and applied for all students in the program across the CEGEP system.

The situation is different when it comes to locally-set evaluation and learning activities. Using the reasonable accommodation test, the professor and department have to be able to show that the learning and assessment activities, as well as the rules surrounding them, are reasonably related to the competency being sought and that it is impossible, barring undue hardship, to accommodate a student in the learning or assessment of this competency. A common example of this would be when the time allocated for an exam is an essential factor in measuring attainment of the competencies being evaluated.

It must be kept in mind that the duty to accommodate is a responsibility that involves the means, not the ends. As with all students, SWDs have a right to services, but this right does not guarantee them a passing grade.

A little later on, we will look at the importance of making the distinction between an accommodation's educational value (does it help compensate for some of the student's handicap?) and the means at our disposal for implementing that accommodation.

Chapter 2: A shared responsibility

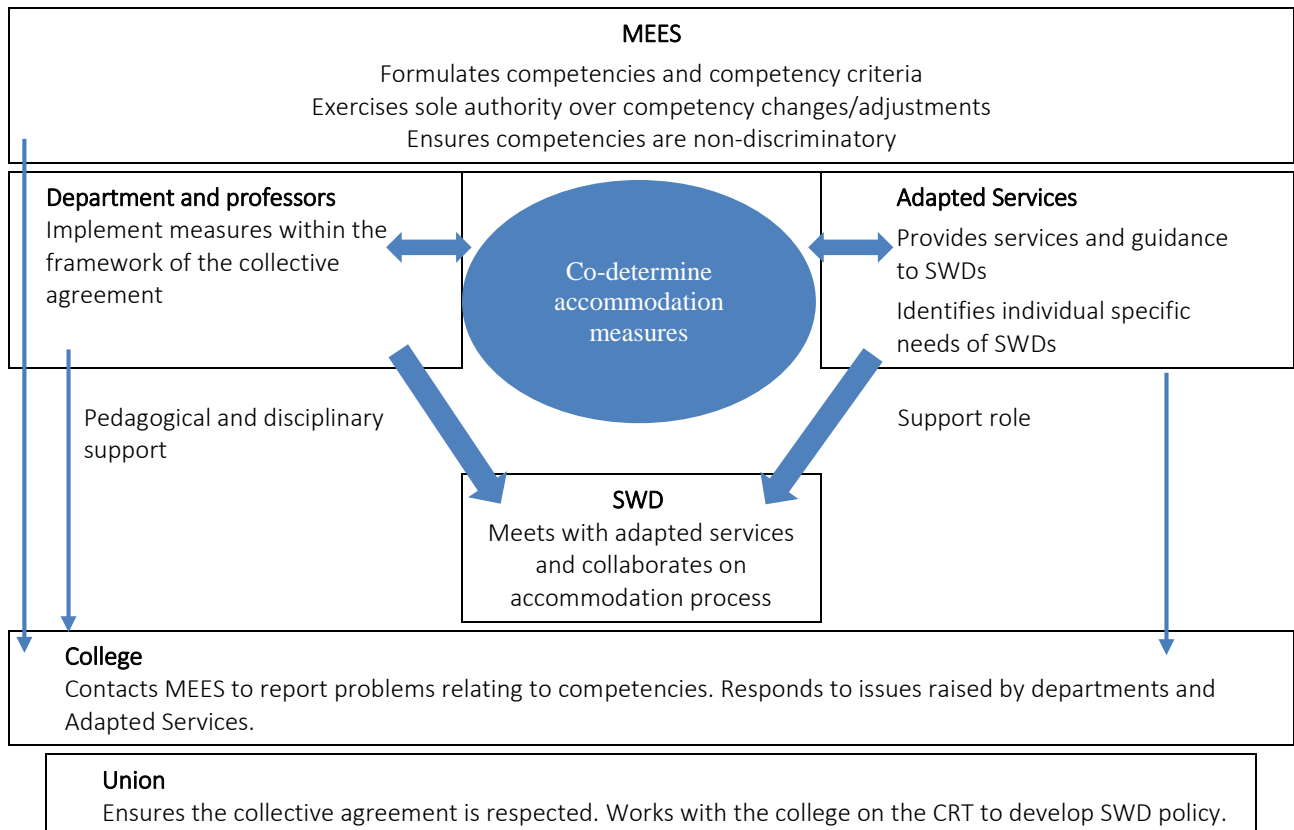
In a concrete sense, reasonable accommodation at the college level requires the involvement of various parties according to their respective areas of responsibility. Thus, the Ministry of Education and Higher Education (MEES), the college and its Adapted Services, the professor and the department involved all have a distinct role to play in the process. This section does not purport to cover all of the roles of each of these stakeholders and is therefore non-exhaustive. Later, we will take a closer look at the responsibilities of students, as the “beneficiaries” of accommodation, along with those of Adapted Services, which play a relatively new role in the process.

This chapter also seeks to answer the following questions:

- What should be each stakeholder’s role and responsibilities?
- Do departments have to be consulted in setting accommodation measures to mitigate a handicap and act on cases of discrimination?
- What impacts do SWDs in the classroom have on teaching load?
- Does our collective agreement address the issue of SWDs?
- Do SWDs have the right to take part in internships?
- What is undue hardship?

Sidebar 5: Division of responsibilities

The following flowchart illustrates the main links that can govern relations among the various stakeholders.



2.1 The ministry (MEES)

The Ministry of Education and Higher Education (MEES) plays a key role in developing the standards for each program, particularly when it comes to establishing the competencies. In our view, the ministry also has a duty to ensure that these program competencies do not discriminate.

MEES has the additional and equally important responsibility of ensuring that colleges have the material and human resources needed to perform the work arising from their duty to accommodate.

2.2 The college

Colleges are required to take the realities of students with disabilities into consideration in their decision-making and intervention. They must ensure that, among other things, the physical layout of their facilities meets the various needs of SWDs.

MEES is not the only one with a role to play in establishing standards. At all stages of the program development process, deliberations can be held at the local college level to determine whether the standards selected are “reasonably necessary.”

Beyond program development, colleges must also see to it that their duty to accommodate is taken into account when applying their admission standards. According to the Meiorin decision, these standards have to make certain the student satisfies the reasonably necessary requirements for the program in order to benefit from the accommodations needed to pursue his or her studies. For programs that require academic prerequisites for admission, it is unlikely that any changes will need to be made to the standards.

Colleges must also take the necessary steps to receive SWDs and to lay the framework for the coordination and collaboration of the different players who, by virtue of their respective responsibilities, need to be involved.

Lastly, it is important to remember that the primary responsibility for accommodating a student rests with the legal entity—in this case the

college—that is providing the service the student is legally entitled to receive without discrimination. It is therefore the college that enters into a juridical contract with the student upon admission, and it is the college that is subsequently responsible for putting the appropriate measures in place to fulfil its obligations and mobilize the necessary parties.

Sidebar 6: Responsibilities of the college according to MEES

“...there is no formal obligation for colleges to apply the recommendations of the authorized professionals. Colleges take many factors into account in determining the accommodation measures to be implemented. They consider recommendations made by professionals, just as they do other determining factors such as your program, the resources available, the regulations in effect, etc.”¹¹

Let us reiterate that this is about respecting a student’s fundamental right. But could the defence of that right be used to justify a violation of the terms of our collective agreement? The answer to that is a definite no. It is a recognized principle in labour law that an employer (i.e. the college) is required to respect the contractual obligations it has engaged with all parties, even where those obligations seem contradictory.

¹¹ Online on the MEES Website under *Étudiants au collégial : accompagnement et soutien des étudiants* : <http://www.education.gouv.qc.ca/en/colleges/etudiants-au-collegial/accompagnement-et-soutien-des-etudiants/etudiants-en-situation-de-handicap/responsabilites/>.

Sidebar 7: Respect of the collective agreement versus exercise of a fundamental right

Our collective agreement comes into play at various stages of the accommodation process.

First, it is important to note that the provisions of our collective agreement are entirely compatible with the ability of our colleges to fulfil their obligations. These clauses must therefore be fully respected and the union should have no reason to negotiate any adjustments. There is never any excuse, for example, for pushing departmental responsibilities aside under the guise of accommodating a student.

Second, the tribunals recognize third-party impact as a relevant factor in deciding if an accommodation is reasonable. Indeed, colleges have the responsibility to balance the different obligations they have. If a request for accommodation is going to affect the working conditions of professors to the degree that it causes undue hardship, the college has to take this into account and try to do everything it can to fulfil the duties it has toward its teaching staff. We do not have to accept the unacceptable in the name of the exercise of a fundamental right.

Things can get a little murky when it comes to accommodating a student with a disability. A measure can seem completely reasonable from a pedagogical standpoint in the eyes of the student being accommodated yet appear quite the opposite from the vantage point of the professor and our working conditions.

The only way a college can modify anything in our collective agreement, even within the context of reasonable accommodation, is by sitting down to negotiate with our legal representatives, namely FNEEQ. An agreement would then have to be reached on the provincial level between FNEEQ and the *Comité patronal de négociation des collèges* (CPNC) to reflect this new reality. The college also has to negotiate with the union whenever a particular case of accommodation is going to have an impact on our working conditions.

2.3 The teacher and the department

Professors in a department are responsible for submitting recommendations to their college and its academic board (*commission des études*) on ways to improve the quality of education in their discipline. This can serve as an opportunity to raise particular thoughts or ideas regarding SWDs.

When preparing their course outlines, they can also see to it that the reality of SWDs is taken into account by including information on the availability of such resources as support services, for example.

Departmental teachers have a normative role to play, as well, when it comes to exercising the prerogative powers vested in them by the collective agreement, notably in terms of choosing assessment methods. They must give considerable thought, based on the accommodations granted, to the kinds of exercises and questions that should

be used to verify attainment of a given competency.

The department, for its part, gets involved in the selection and organization of work internships. This is a responsibility it shares with the college, the student and the internship environment.

Our collective agreement does not preclude accommodation activities from affecting other areas of the teaching workload, such as supervision and support for SWDs.

While the formula used for calculating the individual teaching load (CI) in our current collective agreement does not account for the impact of these students on workload, a 2013 survey by the CNR found that in about 40% of the classes with SWDs, teachers reported a significant or very significant impact both on outside-class support and assessment, even where there was only one SWD in the class.

According to applicable laws and the principles of equality and access to higher education to which we subscribe, we believe professors must be involved, both personally and departmentally, in determining a reasonable accommodation. It is the professor who teaches the course, and it is the professor who develops the teaching methods, prepares the lectures, prepares the assignments and tests, supports and supervises the students and corrects and grades their work. This does not change simply because we are dealing with a student who has a disability.

Work internships

Another key issue that often comes up is the integration of SWDs in work internships. To address this, let us refer to the *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ), which recognizes the matter as a shared responsibility. Here are the five factors governing work internships:

1. The tribunals recognize that educational establishments have a duty to accommodate a student doing a work internship within the framework of his or her study program (*Hickey v. Everest Colleges Canada*, 2009 HRTO 796 (CanLII), par. 34).
2. The internship environment is also bound by the duty to accommodate; any refusal to do so would be seen as discriminatory.
3. SWDs are required to disclose their disability or functional limitation to the internship environment in order to benefit from accommodation. A college is prohibited from disclosing this information, except in cases of emergency (Access to Information Act, Art. 59 (4) and Art. 59.1), nor may an internship environment solicit any such information from a college unless the nature of the work to be performed so demands (as per Article 5 of the Charter protecting the student's right to privacy).
4. Any infringement of the student's right to accommodation on the grounds of safety must be based on a real rather than perceived risk of serious or excessive danger (*Central Okanagan School District No. 23 v. Renaud*, note 124, p. 20).
5. The burden of proof for demonstrating the student represents a real risk rests on the party alleging it as grounds for refusing to accommodate (*Brown v. Trebas Institute Ontario Inc.*, 2008 HRTO 10 CanLII).

The CDPDJ also stresses the importance that colleges encourage students to disclose their disabilities or functional limitations to the internship environment in order to then be able to request accommodations (e.g. recourse to help from a work colleague). The teacher in charge of the internship must also receive the necessary support and resources.

Sidebar 8: According to the Commission

“The school’s duty to accommodate in this regard requires that it take every reasonable measure to promote the successful completion of the internship for the student with the disability. Informing the workplace of the accommodation measures the student needs and why prior to the internship can help reduce any prejudice that may arise in the workplace in relation to certain disabilities or functional limitations.”¹²

2.3.1 Collaborating under the collective agreement

According to the rules of civil liability, a college can be held responsible for the actions of its professors.¹³ While the arbitral case law allows no precise determination of the sanctions that might be imposed on a teacher whose action or inaction results in the breach of a college’s duty toward a student, it is possible to foresee that, under certain specific circumstances, a disciplinary measure taken against a professor could be upheld in grievance arbitration. In the event of a dispute, it is wise to keep in mind the golden rule in labour law concerning any management directive: **barring exception**, the employee must always “obey first, complain later.”

But it is also important to remember that collaborating does not mean ignoring the terms of our collective agreement, allowing that others be permitted to do our job or submitting to teaching or assessment methods we consider deficient.

2.3.2 Examples of undue hardship for professors

There is no way of compiling a comprehensive list of what might constitute undue hardship. The legal duties requiring a case-by-case analysis make it impossible to establish hypothetical guidelines. However, some examples can help illustrate our point and show how colleges have to reconcile their obligations.

¹² Ducharme and Montminy, Commission des droits de la personne et de la jeunesse, *L’accommodement des étudiants et étudiantes en situation de handicap dans les établissements d’enseignement collégial*, 2012, p. 163.

¹³ Civil Code of Québec, Art. 1463.

Scenario 1: Producing course notes and making them available

A professor receives a directive from the college to produce written course notes because a hearing-impaired student in his class is unable to follow the sign language translation of the lectures and take notes at the same time.

Must the professor comply with this request?

In Clause 8-4.01 of our collective agreement, there is no provision under any of the teaching load types that a professor is required to prepare course notes, much less that these must be done in such a way as to benefit a third party, in this case the student. What the collective agreement does stipulate is that it is the function of the department to apply the teaching methods (Clause 4-1.05).

The accommodation the college is offering is clearly reasonable under the circumstances. From a teaching standpoint, is it both feasible and sensible that the student should have access to good course notes. But the way the accommodation is being implemented has an impact on the professor: it changes the rules of the game and creates an obligation (writing up course notes) that he doesn't have, likely making his workload heavier than it would otherwise be. Moreover, there are other ways of ensuring the student has access to written course notes that do comply with the collective agreement, such as, **for example**, making a formal arrangement with a classmate to take legible notes and share them with the student (this is already being done in some colleges).

But if the professor were to agree to produce the written course notes, should he be compensated accordingly, given that he is not obligated to do so under the collective agreement? This would have to be negotiated between the union and the college.

And if the professor already has the written course notes, should he make them available? This, in our opinion, would not be an unreasonable request under the circumstances but would be up to the professor.

Scenario 2: Giving a makeup class

A student misses a class or has trouble understanding some of the material covered due to a disability. The college instructs the professor to offer a makeup class.

Must the teacher comply with this request?

The possibility of re-taking a class could be a reasonable accommodation for a student. The cost of doing this for the college is minimal compared to the potential beneficial effect it can have on the student and on his or her academic career path. The fact that colleges receive funding to support SWDs (see Chapter 5) is an argument in favour of this.

But for the professor, does "collaborating" mean having to agree to make up a class without any additional form of compensation? The collective agreement does not provide for the repeat delivery of a class based on the needs of students. For that, we need to refer to the formula for calculating individual teaching load (CI), which, in determining weekly student periods (PES), factors in the number of teaching hours allocated for a course, the number of students registered and the number of weeks of course delivery. But if the teaching load is calculated on the basis of a three-hour course given to 25 students over a 15-week period, how exactly does a makeup class factor in? Clearly, this constitutes an additional load.

Here again, if the accommodation is reasonable for the student, the college has to sit down with the union to find a way to balance the duties it has toward the student with those it has toward the professor.

Scenario 3: A teaching load of 24 SWDs

A professor realizes after receiving her class lists for the semester that one of her classes includes over 20 students with various diagnosed disabilities, and with them comes an array of different accommodation measures. Is this an unreasonable workload? Will she be able to provide adequate support and supervision to each of these students? Is there a risk that some of the accommodation measures might conflict with others and that she won't be able to implement them all?

This situation is similar to that of the professor who has between five and eight SWDs in each class, which is not at all uncommon in the general education sector. As such, the same reasoning has to apply. A joint survey conducted by the CNR concluded that the presence of one SWD in the classroom does not necessarily affect the teaching workload. Yet that same report found that having even one student with a serious disorder in a class can have a major impact on the load. The study also revealed that once there are more than seven SWDs in a class, that impact is systematically higher, creating a workload that is substantially heavier for those professors than for others. Should the college try to find ways of dividing SWDs differently among the classes? Should it see to it that students with conflicting accommodation measures are not put in the same class? Obviously, the college must recognize the need for additional compensation for this professor.

Scenario 4: Pre-correcting work

Adapted Services prescribes that a student with a disability can have his work pre-corrected before it is officially submitted to the professor for grading. This is an increasingly common form of accommodation. Is the professor required to do this?

It goes without saying that pre-correction can be a valid way to compensate for a disability. But does the professor have to be the one to do it? Keep in mind that there is an alternative: the college can hire a student tutor to do the pre-correction, with agreement from the union. Where this is impossible, the matter has to be negotiated with the union.

Scenario 5: Giving a sight-reading lessons to a visually impaired student

A music teacher has to give a sight-reading lesson to a student with a visual impairment. Is this an unreasonable task under the collective agreement?

First of all, if the college admits the student to its music program, it is required to make the courses in the program available to her and to offer accommodation measures to compensate for her disability. That said, it is clear that determining teaching strategies and evaluation methods for this student is beyond the professor's usual scope. This situation is therefore the equivalent of an entirely new course preparation. Accordingly, negotiations should be held in the labour relations committee (CRT) to recognize and compensate the additional work required of the professor.

Sidebar 9: The activities professors perform in relation to SWDs

This table, which is featured in **Appendix 1**, is an excerpt of a working document prepared by a parity committee consisting of representatives of the CPNC and labour federations (FNEEQ and FEC). It outlines, first generally then by category of disability, the different teaching activities that are or that can be performed by professors to support SWDs.

Sidebar 10: SWDs and the collective agreements in the primary and secondary sectors

The collective agreements in force for primary and secondary school teachers are much more explicit than ours in dealing with the issue of SWDs in the classroom. Admittedly, the number of cases at those levels is probably far higher and their demands far greater than in the CEGEPs. Nevertheless, it is interesting to note that these agreements set out average and maximum numbers of students with difficulties per class. Compensatory measures are also provided in cases where those ratios are exceeded. However, the annual compensation to which a teacher is entitled is limited to:

- \$1,752 for the 1st student exceeding the number;
- \$1,190 for the 2nd student exceeding the number;
- \$2,628 for each additional student exceeding the number.

2.4 The union, the CRT and the academic council

The role of the local union is to see to it that the collective agreement is being respected in this area with regard to rights. Its role is also to bring all matters pertaining to its members' working conditions to the attention of the CRT. Since institutional policies concerning SWDs affect these working conditions, they cannot avoid coming under the scrutiny of the CRT. It is important to remember that these institutional policies **cannot** supersede the provisions of the collective agreement. Based on that agreement, such policies constitute a factor that must be "taken into consideration."

It is also crucial that teaching-related matters stemming from the integration of the SWD population are dealt with by the academic board.

It is our opinion that every college needs to work with its unions to set up a body for overseeing departmental complaints relating to the implementation of accommodation measures, and that this body should not include the involvement of Adapted Services.

2.5 The student

We, of course, recognize and advocate the importance of integrating persons with disabilities into all spheres of society. But that integration also entails certain responsibilities on the part of the individual concerned. Based on the relevant jurisprudence, a student with a disability has a duty to participate, to the extent that he or she is able, in the determination of accommodation measures in collaboration with the other parties involved.

As such, we believe it is the responsibility of SWDs to meet with Adapted Services in order to receive the information and services to which they are entitled. We also urge these students to sit down with their professors to talk about their condition, come to a suitable arrangement and engage actively in the accommodation process.

2.6 Adapted Services

It is difficult to comment on the role that should be played by a service given to SWDs by employees in a different job class without putting ourselves in a potential position of interference. This difficulty is further compounded by the fact that adapted services vary from one college to the next, that they do not all enjoy the same level of resources and that, in many cases, the resources they do have are plainly insufficient. In its report, the CNR

found that professors who had SWDs in their class were largely satisfied with the services provided.

However, there remains some confusion surrounding our respective roles. The main functions of Adapted Services should centre on determining the particular individual needs of the students. As such, these services must first identify the specific needs and requirements of each student who comes to them and subsequently propose accommodations. As this work must be done in collaboration with teachers, these proposed accommodations can then be discussed at the departmental level.

In our view, Adapted Services must also encourage psychological support for students who may, for various reasons, be at risk of dropping out of college.

2.7 Institutional policy

It is becoming increasingly common for colleges to implement their own institutional policies regarding students with disabilities. It is FNEEQ's position that no such policy may be instituted without prior negotiation, first between teachers and their unions, then between the unions and the college. **In the absence of any such negotiation or in the event where a college were to unilaterally impose a policy of this nature, necessary action may be taken.** Following is a general framework for implementing such a policy along with the relevant issues and considerations.

General framework for a policy on students with disabilities

Policy	Issues/considerations
General and legislative context	<ul style="list-style-type: none"> - Student's right to education - College's duty to accommodate - Compliance with collective agreement - Must not increase teaching load without resources
Main principles and objectives	<ul style="list-style-type: none"> - No discrimination or privilege - Equity - Must not alter competencies
<p>Model:</p> <ul style="list-style-type: none"> ➤ Organizational structure <ul style="list-style-type: none"> - Academic Board, Adapted Services, school organization service, departments, professors, students, etc. ➤ Stakeholder roles and responsibilities <ul style="list-style-type: none"> - College - Student - Adapted Services - Adapted Services professionals as well as personal academic counsellors and academic advisors - Support staff - Department - Teaching personnel - Other ➤ Policies governing main principles <ul style="list-style-type: none"> - Policy implementation and compliance mechanism ➤ Consultation mechanism for addressing needs, problems or conflicts associated with the policies or their implementation 	<ul style="list-style-type: none"> - Defines coordination of action among the different services and departments - Academic board and Student Services - Clearly delineates each stakeholder's role and responsibilities - Responsibilities and duties of the college and student for academic success - The professor does not take the place of the professional, nor vice versa - Respect for departmental autonomy and functions - Respect for the scope of the teaching profession - Must not increase teaching load without resources - Ensure a mechanism for addressing problems that includes union input
<p>Intervention framework</p> <ul style="list-style-type: none"> ➤ Eligibility for adapted services <ul style="list-style-type: none"> - With diagnosis or diagnosis pending - Without diagnosis if services were received at the secondary level (recommendation of the CDPDJ) ➤ General rules respecting accommodation ➤ Proposed intervention plan, service plan and accommodations <ul style="list-style-type: none"> - Depending on the method of disclosure the student has chosen - Depending on when that disclosure takes place (prior to or during the semester) ➤ Consultation mechanism for addressing problems or conflicts associated with the accommodations proposed 	<ul style="list-style-type: none"> - Whom does it involve? - The professor must be informed of the student's functional limitations - Accommodations adapted to the disability (supported by research) - Experiments must be supervised - The accommodations must not change the competencies, performance criteria or nature of the evaluations - Ensure a forum for discussion on problems associated with the accommodations that includes union input
Documentation and training	<ul style="list-style-type: none"> - Access to voluntary training - Availability and accessibility of relevant documentation

Summary of chapters 1 and 2

These first two chapters have allowed us to shed light on the legal questions surrounding the inclusion of SWDs in our classrooms. It is clear that, as professors, we have a duty to **help in accommodating these students, within the limits of our collective agreement**, since the measures being proposed have the potential to offset the effects of their disability. However, given that our colleges are the ones legally responsible for ensuring equality of opportunity, it is up to them to give us the means we need to carry out these accommodations when what is being asked of us largely exceeds the bounds of our labour contract.

Accommodation is about leveling the playing field for students with disabilities so they can have the same opportunity to succeed. To refuse to accommodate a student would be to subject that person to discrimination. That said, the obligation to provide accommodation is not a guarantee of a passing grade.

Chapter 3 – Accommodate whom?

Chapter 3 – Accommodate whom?

In the first chapter, we talked about the duty to accommodate without getting into who these students in need of accommodation are and how many of them are in our classes. This section takes a closer look at the student population that has been known at certain times throughout the years as students with so-called “emerging disabilities,” “special needs students” and “students with learning difficulties.” We have decided to settle on the term recommended by the CDPDJ: students with disabilities.

3.1 The difference between a learning disability and a learning difficulty ¹⁴

It is important to properly understand the distinction between learning disability and learning difficulty.

A **learning disability** is a lifelong condition that generally results from a neurological impairment. There is no cure for learning disabilities. They can normally be diagnosed by a speech therapist, special educator or neuropsychologist using standardized testing.

A **learning difficulty** is an often transitory condition that can be overcome. There are many causes for these difficulties, and rarely are they neurological. These may include financial problems, poor working habits or even lack of motivation.¹⁵ College teaching teams have developed a number of strategies to support the academic achievement of students both with and without disabilities.

¹⁴ *Étudiantes et étudiants ayant des besoins spécifiques*, submitted to the Regroupement cégep September 8-9, 2011.

¹⁵ Mireille DUBOS and Julie ROBERGE, *Trouble d'apprentissage : pour comprendre et intervenir au cégep*. Centre collégial de développement de matériel didactique.

3.2 Disabilities requiring special services¹⁶

Sidebar 11: The appeal of universal design for learning

What is UDL?

Universal design is a concept that originated in the United States following the return home of large numbers of veterans who had been left severely disabled by World War II and the Korean War. To help these Americans reintegrate society, officials began looking for ways to improve mobility and access through the development of technical aids and amenities. This gave rise to the universal design movement in architecture, an approach to building design that takes the needs of people with disabilities into account through the use of such elements as, for example, automatic doors, pictograms or gentle-slope access ramps. These features are designed for the disabled but can be of use to a wider public.

Universal design for learning (UDL) essentially takes the same principles of organization in the built world and applies them to education. It consists of designing curriculum in such a way that promotes learning among SWDs yet benefits all students. Unlike the individualized approach to accommodation—which UDL proponents say is doomed to failure because it demands too many resources—universal design is a solution not only for SWDs but for other populations that traditionally face discrimination, like students whose mother tongue is neither French nor English, immigrant students, gifted and challenged learners and students experiencing temporary difficulties.

UDL is intended to be a transversal approach; it centres on the premise that there is more than one type of learner and recognizes the variability in ways of learning. Its advocates see a certain incongruity between the purposes and methods of conventional learning assessment and propose that students be given the choice among a broader range of methods for evaluating a given competency. This, in their view, creates a more sustainable framework by giving students greater autonomy, which reduces their recourse to adapted services and saves institutions money. UDL also submits that the onus is not on the student to adapt to the environment, but on the environment to adapt to the student. In other words, it is not the student who is disabled, but the environment that is maladapted.

To some UDL proponents, the approach can be as simple as offering all students the option of written or audio course notes, a choice in the form of assignments to be done and more time for completing tests in class. Others see it as a wider educational framework that calls for the use of a multitude of adapted teaching strategies in everything from course outline preparation to course delivery.

There are two main inter-level research groups currently working to implement the UDL approach in CEGEPs: the *Centre de recherche pour l'inclusion scolaire et professionnelle des étudiants en situation de handicap* (CRISPESH) and Universal Design for Learning – Faculty Research, a group associated with McGill University

¹⁶ *La présence de la population étudiante ayant des besoins particuliers (PEBP) et son impact sur la charge d'enseignement*, CNR, April 2013, p.33.

Helping overcome discrimination to the best of our means!

Below is an overview of disabilities drawn from a working document prepared by a joint committee of CPNC and labour federation (FNEEQ and FEC) representatives mandated to study the situation concerning students with special needs or disabilities and its impact on teaching workload.

These summary descriptions are intended to shed light on the different kinds of symptoms or functional limitations that may be exhibited by the students with special needs or students with disabilities in our classrooms.

Diagnosis ¹⁷ nature of the impairment	Description of the disability and its associated manifestations and/or functional limitations
Hearing impairment • hearing loss or deafness	The student with a hearing disability may suffer from a degree of impairment ranging from mild hearing loss, where sound amplification devices may be useful, to total deafness, where the use of such devices is completely ineffectual. The presence in the classroom of one or more sign language interpreters may be needed.
Visual impairment • vision loss or blindness	The student with a visual disability is one who, notwithstanding the use of appropriate corrective eyewear, continues to experience difficulty with reading, writing or mobility resulting from this impairment. The student who is severely sight impaired or blind may require the use of technological aids for reading and writing and of a cane, Mira dog or GPS to move from place to place.
Motor or physical impairment • cerebral palsy, quadriplegia, dysgraphia, etc.	The student with a motor or physical disability is one whose neuromotor function reveals one or more neural, muscular or musculoskeletal impairments that can cause difficulties with mobility, motricity and communication, among other things.
Organic impairment • cancer, diabetes, ulcerative colitis, Crohn's disease, asthma, etc.	The student with an organic disorder has been medically diagnosed with one or more impairments to any of the major organ systems of the body (respiratory, circulatory, digestive, nervous, muscular, etc.), which can result, as a side effect of treatment or medication, in increased fatigue, lower physical tolerance or frequent absences.
Neurological impairment (PDD) • Pervasive developmental disorders (PDD): high-functioning autism, Asperger syndrome, pervasive developmental disorders not otherwise specified	Pervasive developmental disorders (PDD) usually include three common types of characteristics: 1. difficulty in using and understanding verbal and non-verbal language; 2. difficulty relating to people; 3. difficulty with changes in routine, and repetitive body movements. These characteristics can vary significantly in both intensity and expression from one person to the next.
Neurological impairment (other than PDD) • Brain injuries (mild,	– The student with a traumatic brain injury (TBI) is one who has suffered a serious enough impact to the cranium to cause brain damage. A TBI can be mild, moderate or severe and lead to cognitive, physical, sensory and mood

¹⁷ Appendix A of the CNR report. This is a **working document** prepared by a joint committee of CPNC and labour federation (FNEEQ and FEC) representatives mandated to study the situation concerning students with special needs or disabilities and its impact on teaching workload. Its purpose is to outline the different symptoms or functional limitations students with special needs may have in connection with various disabilities. Not all of the lists presented here are exhaustive.

Diagnosis ¹⁷ nature of the impairment	Description of the disability and its associated manifestations and/or functional limitations
moderate, severe), epilepsy, dysphasia, dyspraxia (movement), specific memory disorders, etc.	disorders. Normally, a mild brain trauma will leave little permanent cognitive damage, whereas moderate and severe TBIs are more likely to result in lasting cognitive, affective and behavioural difficulties. – A student with epilepsy may be subject to sudden brief seizures that can vary in nature and intensity.
Learning disorders (LD) • Dyslexia, dysgraphia, dyscalculia	Learning disorders refer specifically to disorders involving reading (dyslexia), writing (dysgraphia), and mathematics (dyscalculia).
Attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD)	An attention deficit disorder with or without hyperactivity is a neurological condition that causes difficulties with inhibitory control over thoughts (lack of concentration), actions (fidgeting) and behaviours (impulsiveness). It also affects executive functions like organization, time and schedule management and planning.
Mental health disorder • Panic disorder, mood disorder, anxiety disorder, schizophrenia, borderline personality disorder, etc.	A mental health disorder can reveal itself in the form of a change in attitude or in such behaviours as absenteeism, late submission of work, disorganization, tiredness, disinterest, inconsistency, inability to concentrate and problems with short-term memory. Students who suffer from a mental illness are usually more susceptible to stress.

3.3 SWD population breakdown in the college system

According to figures presented at the 2013 Summit on Higher Education by MESRST, the number of students with disabilities in the CEGEP system **grew by 285%** between 2007 and 2011, up from 1,542 to 5,042—or from 0.9% to 3% of the total college student population.

By fall 2012, SOCRATE¹⁸ data showed that the number had further climbed to about 7,500 students, for a 385% increase over 2007 levels. Over a five-year period, the SWD population had nearly quintupled. Estimates for 2013-2014 were that 19,992 students with disabilities would be enrolled in Quebec CEGEPs, accounting for about 12% of the college student population.

The information provided by MESRST to the Summit also revealed that the SWDs now being admitted to college require an increasing amount of support.

Based on the responses to an online survey of colleges conducted by the *Comité national de rencontre* (CNR) in 2012, the population of students with disabilities in the college system in fall 2011 broke down as follows:

- 33% with a learning disability;
- 30.7% with ADD or ADHD;
- 10.2% with a mental health disorder;
- 4.7% with a pervasive developmental disorder (PDD);
- 8.3% with a neurological impairment other than a PDD;
- 13% with a hearing, visual, motor or organic impairment.

¹⁸ SOCRATE is a student data management system put in place by the ministry and used by colleges to record their student enrolment levels.

Helping overcome discrimination to the best of our means!

The fight against prejudice toward persons with disabilities, which led to the integration of disabled students in primary and secondary schools through accommodations to support their academic success, is a determining factor of their increased presence in higher education.

Sidebar12: SWDs in university

The number of students with disabilities in university has also risen significantly, up from 2,360 in 2005 to 9,189 in 2014 (AQISESH, 2014).

Chapter 4 – Diagnosis

In addition to ensuring the inalienable right to equality, the duty to accommodate highlights another equally important right: the right to privacy. The matter of diagnosis raises a number of important issues, notably with respect to access, cost and, of course, confidentiality.

4.1 Access to diagnosis

Access to diagnosis varies considerably from one college and from one region to the next. In some areas, the availability of the professional resources certified to make these diagnoses is insufficient or simply non-existent. Moreover, there is no standardized process for conducting a diagnosis among the various professionals certified to do so. These issues pose problems of inequity and can infringe on a SWD's right to equality.

This is why we believe in the necessity of creating external assessment centres that can ensure students access to multidisciplinary teams of professionals qualified to make a diagnosis. Standardizing the assessment process would help guarantee equitable treatment across the CEGEP network, and providing quicker turnaround would promote better integration of these students, thereby improving their rate of academic success.

Rather than repeating the heavy diagnostic process for students already diagnosed at the primary or secondary level, colleges could rely instead on a functional assessment that would be regularly updated to reflect any changes in their needs. This approach would be particularly appropriate for certain student populations, notably those with a learning disability. According to the CDPDJ, a student is not required to submit a new diagnosis if it can be shown that he or she received special-needs services in the past. The Commission ruled that, in such a case, the refusal

by the school to provide these services would be “*prima facie* evidence of discrimination” against that student.¹⁹

It is also important to note that mental health disorders typically develop in early adulthood. It is therefore often during the college years that the process of diagnosing such a disorder is initiated. This is why it is especially important that students suffering from mental health disorders receive a timely diagnosis so they are able to benefit from accommodation.

Sidebar 13: Who can make a diagnosis?

According to MEES, the following professionals are certified to make a diagnosis or diagnostic assessment in their respective areas of expertise:

- physicians
- psychologists
- speech therapists
- optometrists
- audiologists
- guidance councillors with the necessary certification from their professional order
- nurses with the experience and training required under the bylaws of their professional order

4.1.1 Awaiting diagnosis

When diagnosis is pending, it is essential that Adapted Services and professors remain in close contact so the latter can have a better understanding of the situation affecting particular students in their class.

Resources can be mobilized to screen for difficulties and support the success of these

¹⁹ Ducharme and Montminy, Commission des droits de la personne et de la jeunesse, *L'accommodement des étudiants et étudiantes en situation de handicap dans les établissements d'enseignement collégial*, 2012, p.21.

students. Internally, the different academic support centres can be called upon to play a more significant role. Externally, the college's Adapted Services can also network with other associative or community resources that may have expertise in the matter and can assist the college in its actions.

It is important to make a distinction between the diagnosis, on the one hand, and the needs assessment, on the other. While these are both elements used in determining the services that will be made available to the student, they each occur at a different stage of the process. Pending a diagnosis, the needs assessment relies on tangible and practical considerations that serve in identifying the measures should be temporarily put in place to address the student's needs (without there being any funding allocated on the basis of the student's specific needs). The diagnosis then confirms, clarifies or complements the observations outlined in the needs assessment and allows the necessary funding to be allocated to implement the accommodations required.

The formula for funding these services does not account for students showing more than one disability (comorbidity). A student in this position is required to submit a single diagnosis for only one of these disabilities, generally the one that covers the widest spectrum of his or her limitations. In the absence of a diagnosis of the other disabilities, the student's functional assessment allows his or her other limitations to be taken into account, although not for funding purposes.

4.2 Cost

The high cost of obtaining a diagnosis can be a major obstacle for students with fewer financial means. This creates discrimination in terms of equal opportunity, a situation further compounded by the fact that this cost is excluded from the list of eligible expenses under student financial aid.

As mentioned above, we propose that external assessment centres be created to help standardize

and accelerate diagnosis and the evaluation of educational needs. It is also our position that the student should not have to pay the cost of obtaining a diagnosis.

4.3 Confidentiality

The issue of confidentiality is a complex one. Students have the right to insist that their file be kept confidential.

When a student is called upon to collaborate in the accommodation process, he or she is normally required to provide the information needed to ensure its successful implementation. But the difficulty in securing a diagnosis sometimes means that students seeking accommodation are genuinely unable to name their disability because they have not yet been formally diagnosed.

The situation can also be tricky to manage when a teacher is aware of a student's disability but is prohibited from disclosing it to the rest of the class. Many students may be unwilling to have this information shared due to prevailing prejudice or out of fear that classmates may not understand the notion of equity and mistake accommodation for preferential treatment.

The presence of SWDs therefore requires careful consideration of the fundamental right not only to equality without discrimination, but also to privacy.

The Quebec Charter of Human Rights and Freedoms guarantees protection of the right to privacy. Added to this are specific acts designed to safeguard the personal information collected by corporate bodies or individuals relating to another person.

To properly understand the scope of these laws, it is important to be aware that their founding principles are anchored in the primacy of protecting "nominative" information, meaning any personal information that may make it possible to identify a particular individual. Accordingly, the applicable laws limit the personal information that

can be collected to only that which is reasonable and necessary for the object of the organization, in this case the college.

On the basis of this principle of privacy protection, a college is only permitted to disclose personal information under one of two conditions: First, if the student to whom the information relates gives his or her consent; or second, if the disclosure of such information is necessary (essential or indispensable), within the context of the college's mission, to the performance of the functions of the person to whom the information is being disclosed.

So what information are we entitled to know when it comes to a case of reasonable accommodation? Essentially, the issue boils down to having the information we need to be able to carry out our responsibilities in relation to the student with the disability.

First off, it seems entirely reasonable that college administrations should be asked to obtain the necessary consent from SWDs seeking accommodation to have their personal information disclosed to the professors concerned. This would have the undeniable effect of clarifying the situation, **given that a person, or a legal guardian in the case of a minor, may legally consent to the disclosure of their personal information.**

In accordance with applicable laws, the college should also inform the student of the possibility of such a disclosure and of the identity of the groups of individuals that may receive the information within the context of the accommodation process for the purpose of fulfilling their functions.

There are so many exceptions to the legislation respecting access to information and privacy that it is always best to forward any request for information about a student from a source other than Adapted Services to the college.

4.4 Information available to teachers: diagnosis or functional limitation

It is important to understand the difference between the concepts of diagnosis and functional limitation.

Generally speaking, diagnosis is the “identification of the nature of an illness or other problem by examination of the symptoms.”²⁰ It is the process that culminates in the naming of the illness, affliction or disorder that is found.

The functional limitation, for its part, refers to the impact a disability has on the student’s ability to function. Here it should be mentioned that even a perceived limitation associated with a student by the college is subject to the same right of accommodation.

Based on the above, it can be concluded that a student’s diagnosis (or medical file more generally) is not essential to the performance of our teaching functions. Most professors are not health professionals and the diagnosis will give them little if any information of use in teaching or dealing with the student with the disability. This is all the more true in that a given disability, especially one involving a pervasive developmental disorder, mental illness or learning disorder, can present itself differently in one person to the next. Relying on the diagnosis could therefore result in the functional limitations normally associated with a disability being incorrectly attributed to a student who does not have them.

The nature of a student’s functional limitations as well as medical opinions on the appropriateness of certain accommodation measures may be disclosed under certain circumstances.

First, it is entirely reasonable that a department should know the functional limitations of the students in its courses so that it can discharge its responsibilities in determining the teaching and evaluation methods, for example. However, not

every member of the department necessarily needs to know the identity of these SWDs. Indeed, this information is of little relevance to a professor called upon to render an opinion on an accommodation measure being proposed to address a given functional limitation.

But it is a completely different matter when it comes to a professor who is required to interact directly, either through teaching or departmental coordination, with the student. It is difficult if not impossible to imagine how this professor could develop and implement appropriate accommodation measures without knowing who is in need of them and why. Remember that it is the responsibility of the professor—not of the academic advisor, special educator or personal academic counsellor—to teach the class and make all teaching-related decisions. Consider, for instance, the case of a student who has a mental health disorder that, according to medical experts, can influence how he or she reacts to certain behaviours or comments. If the professor is unaware of the disability’s effect on interpersonal relations and communication, this could give rise to a tense situation between the student and teacher and, for example, trigger an “outburst” that would only further ostracize the student from the rest of the class. It is also fair to assume the lack of disclosure in this case could cause longer-term negative impacts for the student given that the professor, in all good faith but without any awareness of the student’s limitations, would be unable to act in accordance with a plan that is right for the circumstances.

Departmental coordinators, whose responsibilities include processing student requests submitted to the department, should also have access to this information.

It is clear that, in both cases, the professor and the departmental coordinator need to know the nature of the functional limitations and the identity of the student in order to properly discharge their responsibilities.

²⁰ <http://www.oxforddictionaries.com/definition/english/diagnosis>

It goes without saying that the individual who receives this personal information is also responsible for ensuring its protection.

When to inform

Too often, teachers are advised late in the game that there will be students with disabilities in their classes. It is not uncommon for a professor to be given this information only after he or she has completed the long-term preparation for the course and planned out the teaching strategies and assessment exercises—sometimes even after the course outline has been presented to the class. It is our view that where the special needs of a student require that a professor review this preparation, the college must provide the necessary resources to that end. We also believe that, in a more general sense, colleges need to inform professors at the earliest possible stage whenever SWDs are registered in any of their courses so they can plan the lessons accordingly to ensure these students can benefit. Consideration also has to be given to the fact that some course preparations are more demanding than others. The professor who is going to have to prepare sight reading lessons for a visually-impaired student in a music class would obviously need to know this information as early on as possible.

Information flow between secondary and CEGEP

Mechanisms for information-sharing between the secondary and college levels are virtually non-existent. There are a number of reasons for this:

Few areas of convergence

Better linkages need to be put in place between the two levels to ensure a more effective follow-through in service for students with disabilities and to reduce the service wait times once they get to college. This could involve setting up an information-sharing mechanism that **respects all of the conditions outlined above**. Another mechanism would also be needed to help process this information received from the school boards and adapt it to the new educational context.

Service continuity

It is important to underscore that the CDPDJ recommends continuity in service between the different levels of education. In other words, a student who benefited from accommodations in high school, whether based on a firm diagnosis or not, should be entitled to receive the same services in college, provided he or she can supply evidence of that prior service.

Chapter 5 – Funding

Chapter 5 – Funding

Funding for SWDs is probably one of the biggest determinants of how they integrate into college life. We already touched on this matter briefly in relation to the issue of access to diagnosis. This chapter takes a more detailed look at the funding formula used to determine how much a college is allocated for SWDs and the rules governing student loans and bursaries.

5.1 Funding by college

Funding for the SWD population in the CEGEP sector does not follow the same principles as the ones used for the primary and secondary levels, where the allocation is based on type of disability.

For colleges, specific funding for students with disabilities is provided for in Appendix SO24 of the *Régime budgétaire et financier des cégeps*, which sets an allowance of \$664 per student per semester.

The sum of \$14,464,200 is budgeted to provide for the SWD population across the entire CEGEP system. This is a fixed amount that is apportioned according to the needs of student population, the staff and the institution.^{21,22} A global budget envelope of \$9,985,200 is set aside to support service development and delivery in the CEGEPs.

A total of \$5,353,600 is provided as base funding to be shared among the colleges. Of this amount, \$3,714,400 is earmarked for the 2013-2014 academic year to facilitate the hiring of professional and support staff. The base funding allocated to each CEGEP is calculated on the basis of total student population (“gross PES” in regular education for t-2 (two previous academic years), divided by 44):

- Colleges with 1 to 2,000 students: \$57,100
- Colleges with 2,001 to 3,000 students: \$89,200
- Colleges with 3,001 to 4,000 students: \$114,100
- Colleges with 4,001 to 5,000 students: \$146,200
- Colleges with 5,001 to 6,000 students: \$171,200
- Colleges with 6001+ students: \$196,100

The sum of \$4,631,600 is shared among the institutions in proportion to the number of SWDs registered for t-2 as recorded in the SOCRATE system.

An overall budget of \$4,479,000 is also allocated for the college integration support centres (CCSI) and the services they provide to the colleges in their regions.

At the conclusion of the Summit on Higher Education, MESRST announced an additional \$5 million in funding for students with disabilities. All indications are that this amount either has been or will be invested in adapted services.

Moreover, in our last round of collective bargaining we succeeded in securing \$10 million in new teaching resources for measures to improve the academic achievement of students with special needs or disabilities for fiscal years 2015-2016 through 2019-2020.

²¹ Appendix 024

²² <http://www.mesrst.gouv.qc.ca/personnel-de-college/regles-budgetaires-et-reddition-de-comptes/regime-budgetaire-des-cegeps/les-documents-et-les-annexes/>

We will need to determine locally how these new funds will be spent and work to ensure this budget allocation is maintained beyond the year 2020. Appendix 2 of this guide lays the groundwork for that process.

5.2 Access to loans and bursaries

Where eligible, some students are able to benefit from loans and bursaries that take account of their disability. But it is important to note that, as the CDPDJ charges, the criteria used in determining functional limitations under Quebec's *Regulation respecting financial assistance for education expenses* are very restrictive.

The financial assistance program for SWDs includes two components: one covering major functional disabilities (physical and persistent)²³ and, the other, serious physical or mental health disorders (episodic).²⁴ In both cases, students may qualify for financial assistance even if they are only enrolled in part-time studies. Under the first component, the entire amount is awarded in the form of a bursary and eligibility covers the full period; under the second, the assistance is granted in the form of a loan and a bursary and half the number of months of part-time studies are taken into account in establishing the period of eligibility.

Funding according to needs:

FNEEQ believes there is a serious requirement for more special-needs funding. Our joint surveys of professors reveal that notwithstanding the professionalism and dedication of the Adapted Services staff, the service supply in our colleges is simply insufficient to meet the demand. Many respondents recommend that the number of specialized resources should be increased in CEGEPs to both improve access to services for the SWD population and allow for the creation of consulting services for teaching staff and departments.

Teachers are also given insufficient resources to reflect all of the additional work they do to support students with disabilities, and we see this every day. Integrating these students is essential, but it cannot be fully achieved without the investment of additional funding to meet the educational, intellectual and cognitive needs of this population.

²³ <http://www.mesrs.gouv.qc.ca/en/aide-financiere-aux-etudes/loans-and-bursaries-program/serious-health-problem/major-functional-disability/>

²⁴ <http://www.mesrs.gouv.qc.ca/en/aide-financiere-aux-etudes/loans-and-bursaries-program/serious-health-problem/serious-physical-or-mental-health-disorder/>

Appendix 1 Sidebar 9

The activities professors perform in relation to students with disabilities

Following are the activities typically carried out by a professor who has a student in class with special needs requiring accommodation (mitigative) measures based on information from Adapted Services:

Interaction with Adapted Services:

- Reviewing the information provided by Adapted Services for each student in the class with special needs: the characteristics and manifestation of the functional limitations and, where applicable, the effects of any treatment and medication as well as the accommodations required and their impact on learning;
 - Consulting with Adapted Services, as needed, on the information provided and on the appropriate ways of intervening (relevance and feasibility), including in case of emergency;
 - As needed, requesting additional information from Adapted Services during the course of the semester (before or after course delivery) regarding the student's limitation and appropriate ways of proceeding based on the nature of the disability – ensuring follow-up.
-
- Responding the information requests from Adapted Services throughout the semester;
 - Referring students who may be in need of assistance to Adapted Services for screening.

Emergency response plan: learning one's role in the college's emergency response plan and executing that role, as needed; learning about any special measures to be taken in the case of a motor, physical or neurological disability (e.g.: epilepsy).

Planning and organization of pedagogical activities (teaching and learning):

- Determining the impacts the necessary accommodations will have on learning, course functioning and the response from other students in the class;
- *Adapting pedagogical strategies* (teaching and learning) to account for the accommodations requested by Adapted Services; regulating action (*reflective practice*).

Outings: based on the nature of the disability, taking appropriate measures (such as requesting the assistance of Adapted Services) to accommodate for the student's functional limitations on class outings.

Indirect internship supervision (outside the college, including abroad): keeping regularly informed of (monitoring) the progress of the internship being carried out by the student with a functional limitation.

Foreign internships (teacher-accompanied groups): taking appropriate measures to account for the special needs of the student with the disability.

Class management: maintaining a climate conducive to learning while the class is in session by managing situations in which other students may react to the presence of a student with functional limitations.

Outside-class support:

- As needed, meeting with the student at the beginning of the semester to discuss mutual expectations concerning the application of accommodations in relation to the course requirements laid out in the course outline;
- As needed, requesting additional information from Adapted Services during the course of the semester regarding the student's limitation and appropriate ways for handling meetings with the student.

Learning assessment – Tests and assignments:

Where appropriate, adapting the conditions for test-taking to the student's needs and limitations, for example by:

- Providing a copy of the test in advance so it can be administered in another form;
 - Adjusting the duration and location of the exam; giving clear instructions to invigilators (use of calculators or software, possibility of leaving the examination room, etc.) and advising Adapted Services of these;
 - As required, making sure additional details or instructions are given to the student taking an exam in an adapted room.
-
- Taking part, as needed, in consultation activities with other teachers who have students with functional limitations in their class and with staff from Adapted Services (work team).

Hearing impairment: hearing loss or deafness

In the case of a student with a hearing impairment, the adapted services or accommodations include:

Planning and organization of pedagogical activities (teaching and learning):

- At the start of the semester, meeting with the sign language interpreter to determine how things are going to work, especially during lectures;
- Planning additional lighting in a classroom where dimness affects the hard-of-hearing or deaf student's ability to see optimally;
- Reserving a specific spot in the classroom or laboratory (often at the front) for the hearing-impaired student and the interpreter;
- Proposing the terms and adjustment measures for the delivery of oral presentations;
- During educational outings, reserving a specific spot for the hearing-impaired student and interpreter (on the bus, in a theatre, etc.);
- Producing and providing to Adapted Services in advance, as per the agreed timetable, all course materials (detailed PowerPoint presentations and course notes) needed by the interpreter; supplying, as required, a glossary of terms or specialized documents;
- Using subtitled videos wherever possible.

Course delivery:

- Adjusting course delivery to the needs of interpretation, for example by taking more frequent pauses (for signing);
- Wearing an FM device (voice amplifier);
- Facing the class when speaking (for lip reading and facial expression);
- Speaking more slowly and loudly;
- Using as many visual aids as possible.

Managing the class to maintain a climate conducive to learning (during class sessions):

- Clarifying the rules governing discussions within the classroom;
- Intervening, as needed, to ensure the student with the hearing impairment is able to follow the discussions in class (avoid rackets);
- Encouraging communication between the hearing-impaired student and classmates and, in group assignments, paying close attention to the dynamics of the team in which the student is a member.

Visual impairment: vision loss or blindness

In the case of a student with a visual impairment, the adapted services or accommodations include:

Helping overcome discrimination to the best of our means!

Planning and organization of pedagogical activities (teaching and learning):

- Submitting class materials, course notes, course outlines and tests in advance, as per the agreed timetable, for conversion into braille or another alternate medium;
- Providing for particular material requirements, such as adequate lighting or adapted pedagogical materials like subtitled videos, wider-spaced texts and course notes or point-form tests, to accommodate the functional limitations of the visually-impaired student;
- Planning for, with the help of Adapted Services, ad hoc laboratory assistance for practical work and experiments;
- Where the visually-impaired student requires an assistant in class, meeting (teaming up) with this person at the start of the semester, in view of his or her role in the teacher-student relationship and of the importance of being able to properly assess learning, to establish the operating methods and his or her function during course delivery (example: physical education - swimming).

Managing the class to maintain a climate conducive to learning (during class sessions):

- Where the visually-impaired student requires a MIRA guide dog in class, managing any potential impacts on the other students (explaining the situation, reconfiguring the class to accommodate for fears or allergies, etc.);
- Presenting all information and explanations verbally (in a clear and detailed manner).

Outside-class support:

- In meetings with the student, providing all information and explanations verbally (in a clear and detailed manner).

Motor or physical impairment: cerebral palsy, quadriplegia, dysgraphia, etc.

In the case of a student with a motor or physical impairment, the adapted services or accommodations include:

Planning and organization of pedagogical activities (teaching and learning):

- Accessibility of teaching sites: taking into account the accessibility of all teaching locations for the class, including those outside the classroom, and, where needed, consulting with Adapted Services for solutions;
- Adaptability of pedagogical activities: verifying that the physical layout for planned pedagogical activities such as outings, outside internships and laboratories is adapted to the needs of the student and, where it isn't, planning alternate activities;
- Where the motor-impaired student requires an assistant in class, meeting (teaming up) with this person at the start of the semester, in view of his or her role in the teacher-student relationship and of the importance of being able to properly assess learning, to establish the operating methods and his or her function during oral presentations, assignments and tests;
- Where applicable, planning a dedicated area for the student, particularly in the case of laboratories, to ensure safety;
- Planning for ad hoc laboratory assistance for practical work and experiments.

During course delivery:

- As needed, meeting (teaming up) with the assistant during the course of the semester to make any adjustments needed in course delivery.

Outside-class support:

- As needed, meeting (teaming up) with the assistant during the course of the semester to make any adjustments needed in learning and evaluation support (for example: production of individual assignments, group work, tests, etc.).

Organic impairment: cancer, diabetes, ulcerative colitis, Crohn's disease, asthma, etc.

In the case of a student with an organic impairment, the adapted services or accommodations include:

Knowing one's role in the emergency protocol established by Adapted Services.

Outside-class support:

An organic deficiency often necessitates frequent absences from school that can have an impact on learning and evaluation exercises (tests, assignments, oral presentations, team work, etc). During the course of the semester this requires:

- For short-term absences, taking stock of what was missed and proposing as well as having the student agree to alternate measures to replace the exercises missed in class, such as supplemental readings, special assignments, the provision of annotated course notes, etc.;
- For longer-term absences, taking stock of what was missed and proposing as well as having the student agree to special remedial and evaluation measures.

Neurological impairment: Pervasive developmental disorders (PDD): high-functioning autism, Asperger syndrome, pervasive developmental disorders not otherwise specified

In the case of a student with a neurological impairment, the adapted services or accommodations include:

Planning and organization of pedagogical activities (teaching and learning): For students with a PDD:

- To help alleviate the student's anxiety in response to changes in routine in the classroom, taking measures to inform him or her in advance of how the class will proceed and of any changes that could arise. For example:
 - For each session, preparing a document to give to the student at the beginning of the class outlining the instructions for any assignments or readings, the due dates for course assignments, the dates of upcoming tests or outings, etc.;
 - Giving the student the course notes in advance;
 - Preparing and giving student a document at the beginning of each class explaining how that class will proceed.
- If an incident interferes with the class, revising the curriculum for following weeks;
- Reviewing the organization of pedagogical activities, notably class sessions during which group work is planned;
- In special cases, planning a learning evaluation exercise that is based on individual rather than group work for the student with a neurological impairment;
- Where the student with the disability has a special educator, meeting with this individual at the beginning of the semester to agree on the methods of operation and on his or her role in and outside the class.

Managing the class to maintain a climate conducive to learning (during class sessions):

- Managing one's own trepidation about having a student with a neurological impairment in the class (unpredictability, outbursts, disorganization, irritating or repetitive behaviours, etc.);
- Reserving a specific spot for the student in the classroom or laboratory (often at the front);
- Due to the considerable difficulty students with PDD have working in groups, setting rules for the work and rules for participation, where necessary;
- Explaining allegory and metaphors and paying close attention to the fact that information, notes and instructions may be taken literally;
- Where necessary, stepping in to remind the student of expected conduct and finding ways to keep the attention of a student with difficulty concentrating;
- Applying the emergency protocol and seeking the assistance of Adapted Services, where necessary;
- Referring a student in a state of crisis to Adapted Services;
- As required, taking measures to regain control of the class following a disruption.

Outside-class support:

- Meeting frequently with the student, on a regular basis, to answer questions and ensure that mutual expectations are being met, including in terms of classroom behaviour.
-

Helping overcome discrimination to the best of our means!

Neurological impairment – other than PDD: Brain injuries (mild, moderate, severe), epilepsy, dysphasia, dyspraxia (movement), etc. In the case of a student with a neurological impairment, the adapted services or accommodations include:

Planning and organization of pedagogical activities (teaching and learning):

- If an incident interferes with the class, revising the curriculum for following weeks.

Managing the class to maintain a climate conducive to learning (during class sessions):

- Managing one's own trepidation about having a student with a neurological impairment in the class, especially in the event of a crisis (e.g. epileptic seizure);
- Reserving a specific spot for the student in the classroom or laboratory (often at the front);
- Where needed, intervening to keep the attention of a student with difficulty concentrating;
- As required, taking measures to regain control of the class following a disruption;
- Applying the emergency protocol and seeking the assistance of Adapted Services, where necessary;
- Referring a student in a state of crisis to Adapted Services.

Outside-class support:

- As needed, meeting with the neurologically-impaired student during the course of the semester to review learning and propose and agree to specific remedial measures.

Learning disorders (LD): Dyslexia, dysgraphia, dyscalculia

Attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD)

In the case of a student with a learning disorder or an attention deficit disorder with or without hyperactivity, the adapted services or accommodations include:

Planning and organization of pedagogical activities (teaching and learning):

- Adapting the pedagogical activities by, for example:
 - preparing instructions for each class specifying the assignments and readings, due dates for course assignments, dates of upcoming tests and outings, etc.;
 - preparing a document explaining how the class is going to proceed, etc.;
- Whenever possible, drafting tests in point form instead of using long descriptive texts;
- Ensuring course notes are widely-spaced and easy to read;
- When giving instructions for assignments and tests, outlining the tasks to be performed in as much detail as possible;
- Whenever possible, giving the student the course notes in advance (ADHD);
- Indicating the assignments and tests in which the student can use alternate media (*software, computer*).

Managing the class to maintain a climate conducive to learning (during class sessions):

- For each session of the class, giving the student a handout with the instructions for the session and how it is going to proceed;
- Reserving a specific spot for the student in the classroom or laboratory (often at the front);
- Finding ways to hold the student's attention during course delivery.

Appendix 2

Strategic positions

Students With Disabilities (SWD) Strategic Positions

1. Negotiation demands and orientations

Demands

- (2.1) Add teaching resources to account for specific pedagogical activities required for students with disabilities (SWD/SNS).
- (2.2) Ensure that professors are advised prior to the start of the semester, or as early as possible, of the functional limitations of SWD/SNS enrolled in their class and see to it that departments agree on reasonable accommodation measures.
- (2.3) Establish a provincial inter-category parity committee to monitor the situation of SWD/SNS and formulate recommendations.

Considerations

Whereas:

- The number of SWDs is already very high and is expected to nearly double over the next five years;
- the CNR survey was unable to pinpoint a factor to serve in establishing a basis for the eventual allocation of the resources;
- the term "SWD" covers a very wide spectrum of conditions (ranging from a severe mental disorder to a physical disability to a mild attention deficit) and, as such, the impact on workload for teachers also varies widely, notably with regard to support and supervision, assessment and the additional work resulting from students absences;
- the heaviest cases (mental illnesses, serious behavioural problems) are usually not known or diagnosed in advance.

Strategic orientation adopted following union consultation

- That a new budget envelope for Type 1 teaching duties be allocated among the colleges according to need and used for locally-determined purposes. (2.1)

2. Context – Outcome of the 2015 collective bargaining process

2.1 A cumulative budget of \$10M (125 FTEs) per year for five years (until 2020) to be reserved exclusively for teaching resources:

- announced November 29, 2015, confirmed in a letter by the Deputy Minister of Education and granted during the negotiations;
- available beginning in 2015-2016 for the duration of the collective agreement;
- noted in a specific paragraph of Appendix S024 (college accessibility for persons with a disability, Aboriginal peoples, members of cultural communities and persons enrolled in a sports education program);
- allocated in \$ based on the proportion of SWDs enrolled in each college in T-2 and converted into FTEs at the local college level.

2.2 Creation of a consultation forum composed of MEESR and labour federation (FNEEQ and FEC) representatives to track the additional SWD resources.

- 2.3 Establishment of a provincial inter-category parity committee on SWD.
- 2.4 Determination of SWD budget needs during the last two rounds of collective bargaining.
- 2.5 Finding: the budget is insufficient to meet the needs; choices will have to be made.
- 2.6 Use of the resources: provincial orientation, local allocation.

3. Main findings of the joint CNR report on SNS¹ (April 2013)

- 3.1 Results from a survey of 748 professors with a total of 1,454 classes.
- 3.2 Presence of SWDs in class has varying impacts on teacher workload.
- 3.3 Not all teaching duties are affected equally.
 - o According to the study, the two areas where professors most often report a significant or very significant impact on workload are support and supervision, and assessment.
 - 97% of the professors were required to meet regularly with the SWDs in their class to answer questions;
 - 31% did so three times or less during the semester;
 - 33% did so four to five times during the semester;
 - 36% did so weekly or bi-weekly.
 - Outside-class support was also significantly or very significantly affected in 38% of the classes;
 - 92% of the professors had to adjust testing conditions, for example by modifying the time allocation or location of exams;
 - 63% did so three times or less during the semester;
 - 32% did so four to five times during the semester;
 - 5% did so weekly or bi-weekly.
 - Professors also reported a significant or very significant impact on assignment and test evaluation in 40% of the classes.
- 3.4 The survey showed that the presence of SWDs in a classroom does influence workload, particularly in terms of outside-class support and learning assessment, but it was unable to conclude that the nature of the disability is of lesser or greater importance than the number of SWDs in a class.
 - o Having one student with multiple functional limitations in a class can be just as demanding as having several students with the same group of limitations all in one class. More than just the number of SWDs, it is the sum of their functional limitations and of the sometimes conflicting accommodation measures that have to be put in place that is at the root of the “significant” or “very significant” impact on workload.

¹ Special needs students (SNS): former designation used for students with disabilities (SWD)

4. General principles of accommodation (Union guide, *Regroupement* meeting, March 2016)

- Integration of the SWD population centres on a humanistic approach to education that rests heavily on the principles of equality, universal access and non-discrimination. These laudable principles are applied through the means accommodation.
- Inclusion of these students is also based on a conception of learning that balances academic achievement with educational success. Here, it is important to remember that we are responsible for ensuring the means, not the ends.

Human rights and freedoms

- The Canadian and Quebec charters of rights and freedoms provide that everyone has the right to be free from discrimination based on sex, race or handicap among other things.
 - Under the Quebec Charter of Human Rights and Freedoms, discrimination occurs where:
 1. a distinction resulting in exclusion or preference is made;
 2. based on one of the stipulated grounds (sex, colour, handicap, etc.);
 3. that has the effect of impeding the full and equal exercise of a right provided for under the Charter (in the case of CEGEPs: access to services ordinarily offered to the public in a juridical act).
- The notion of reasonable accommodation originated within the context of labour relations and developed in response to cases involving charges of job discrimination.
 - In 1999, the Supreme Court of Canada, in its Meiorin decision, set out a systemic approach to addressing discrimination whereby:
 - a job standard must be established according to what is reasonable to its purpose and necessary to achieving that purpose in order to avoid discriminatory effects;
 - **every person is entitled to an individual assessment** to see if accommodation measures can be put in place to offset any discriminatory effects that may impede his or her right to equality.
 - To decide if an accommodation is reasonable, various factors must be weighed to determine that the measures proposed do not cause undue hardship (for example: excessive cost, major impact on the rights of a third party, danger to self or to the accommodated person, etc.).

Responsibility

- Responsibilities are shared as follows:
 - normative (program competencies): only MERST may intervene;
 - normative and practical: the college sets its standards for admission and provides adapted facilities;
 - normative and practical: the department determines the specific teaching methods and oversees their application.

- The college has a legal obligation to accommodate students with a disability. As such, it is the one with the primary responsibility for ensuring accommodation is offered:
 - the college can therefore require that its employees, namely professors, take part in the accommodation process;
 - professors are experts both in their discipline and in the teaching of that discipline (as recognized under Type 1 teaching duties). Accordingly, they must be at the centre of the accommodation process, and this process must respect their professional autonomy;
 - accommodation cannot supersede the terms of the collective agreement: where a situation is not provided for, such as, for example, when a makeup class must be given outside of hours to accommodate a student, this has to be negotiated between the college and the union.

5. Main objective

Allocating the resources to reflect the support and supervision duties (types 1 and 2) professors are already performing without compensation to foster the success of SWDs.

- The impacts of SWDs on workload are greater than the budget allocated; choices therefore have to be made.

6. Proposed orientation and steps for allocation of these resources

As the reality is different in every college, it may not be possible to apply the allocation the same way across the board.

- 6.1 Aiming for a first apportionment in fall 2016.
- 6.2 Aiming for relatively stable allocation over four years.
- 6.3 Using the budget in its entirety.
- 6.4 Favouring releases versus piecemeal allocation.
- 6.5 Using these releases for disciplinary support and supervision (rather than evaluation or course preparation) activities under types 1 and 2 teaching duties as a measure for promoting SWD achievement (as opposed to the activities supporting the academic achievement of all students).
- 6.6 Entering these FTEs in resource allocation plans.
- 6.7 Obtaining the necessary non-nominal data (in percentage and absolute numbers) on:
 - the distribution of SNS-SWD per discipline for the previous year;
 - the total PES per discipline for the previous year.
- 6.8 Apportioning the resources according to the following guidelines:
 - collectively rather than individually (avoiding case-by-case, alternation or individual project approaches);
 - by discipline (rather than by program or department);
 - to disciplines where there is a higher likelihood of a heavier collective workload.
 - owing to budget insufficiency, choices will have to be made that reflect the varied distribution of SWDs among the disciplines:

SWD – Strategic positions

- Approaches rejected:
 - random distribution or apportionment based on merit, alternation or the law of the jungle...;
 - apportionment based on disciplinary discretion;
 - proportional distribution with a minimum per discipline based on:
 - total PES or PES by FTE: these do not factor in the variability in number of SWDs in a discipline;
 - number of SWDs per FTE: this information is readily accessible and may be a good indicator but does not factor in the number of student periods.
- Approaches adopted:
 - proportional distribution with a minimum per discipline based on:
 - PES-SWD (favours the largest raw number but excludes small disciplines with a high percentage of SWDs);
 - Percentage of PES-SWD (favours the disciplines where fewer professors are teaching a larger number of SWDs).
 - Accordingly, supporting a method of apportionment that takes into account:
 - the highest number of PES-SWD (the disciplines in general education, among others), and;
 - the highest percentage of PES-SWD (other disciplines);
 - with a minimum value of 0.20 FTE.
 - possibility of accounting for other factors, such as the SWD graduation rate per program, for example.

6.9 Suggested measures, to be determined by departments/program committees:

- doubling up professors for laboratories, assignment periods or practical work, with a quota on the number of hours to be spent by a professor on release for this purpose (in-class support and supervision);
- release from teaching a class due to a very high PES-SWD factor for student support and supervision;
- creation of another class when possible (course delivery);
- overtime for outside-class disciplinary support reserved for SWDs. If through support centres, separate tracking with a quota of number of hours.
- Measures to be avoided:
 - use of **pivot professors**, research projects, transfers to student tutors, piecemeal allocation, activities related to program revision.

6.10 Discussion and presentation of options in general assembly and/or labour council meetings:

- discussion on the assumptions and principles retained;
- determination of criteria for local apportionment;
- selection of disciplines to receive the funds;
- access to the budget starting in the fall 2016 semester;

SWD – Strategic positions

- determination of one or more monitoring mechanisms;
 - identification of the activities that will no longer be performed due to budget shortfalls;
 - mobilization activities, as needed;
 - etc.
- 6.11 Process for establishing an SWD agreement in the CRT (to be validated with your union advisor).
- This agreement could include:
 - a method for tracking these FTEs by creating an SWD column in the resource allocation plan as well as in the statement the use (8-5.10) and in the report on the use (8-5.11) of teaching resources;
 - the conversion from \$ to FTEs;
 - a qualitative activity report in the department's annual report;
 - guarantees that these FTEs will not be used to finance already existing SWD activities and are to be added to existing tasks supporting SWD success;
 - a calendar providing for, among other things, a review of the agreement.
- 6.12 Sharing the results of this process with the other *Regroupement* unions.
- Setting up a communication mechanism like "Google Groups."
- 6.13 Ensuring adequate monitoring by providing *Regroupement cégep* coordinators with the details needed to inform the work of the Forum committee, such as:
- a form that departments and disciplines send to their union twice a year indicating the teaching activities performed on a "volunteer" basis for SWDs along with the activities that could not be performed due to insufficient resources;
 - a list of the measures adopted, in which disciplines, etc.;
 - the PES-SWD breakdown by discipline.
- 6.14 Presentation to the academic board.

Bibliography

FNEEQ CEGEP teachers' collective agreement:

http://www.fneeq.qc.ca/en/cegep/convention/Archive-2010-2015/2010-2015_Collective_Agreement_FNEEQ_CPNC.pdf

CSQ primary and secondary teachers' collective agreement:

http://fse.qc.net/fileadmin/Vos_droits/Conventions/Convention_nationale/Entente_nationale_2010-2015.pdf

FNEEQ-CPNC Comité national de rencontre (CNR), *La présence de la population étudiante ayant des besoins particuliers (PEBP) et son impact sur la charge d'enseignement*, April 2013

http://cpn.gouv.qc.ca/fileadmin/documents/CPNC/07_b_Rapports_des_comites/Rapport_EBP_CPNC_CNR_30Avril2013.pdf

DUCHARME, Daniel and Karina Montminy, *L'accommodement des étudiants et étudiantes en situation de handicap dans les établissements d'enseignement collégial*, Commission des droits de la personne et de la jeunesse, March 2012

http://www.cdpcj.qc.ca/publications/accommodement_handicap_collegial.pdf

TREMBLAY, Anne-Sophie, *Perceptions de professeurs du niveau collégial des élèves ayant une déficience intellectuelle, une déficience physique ou un trouble de santé mentale ainsi que de leur sentiment de compétence à enseigner et à intervenir auprès de ces élèves*, Université du Québec à Trois-Rivières, August 2014

FNEEQ School and Society Committee, *La réussite... quelle réussite?*, June 2011

http://www.fneeq.qc.ca/fr/fneeq/instances/Conseils_fxdxraux/CF2011-06-1-2-3/2011-10-26-Reussite-scolaire-CES-Final.pdf

Philion R., Bourassa M., Lanaris C. and Pautel, C., *Guide de référence sur les mesures d'accommodements pouvant être offertes aux étudiants en situation de handicap en contexte universitaire*, 2016

<http://uqo.ca/docs/9752>