



SUBJECT: Reasonable Accommodation	CATEGORY: Governance – Legal Requirements	NO. G-3.5
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PREAMBLE

SIAS is committed to achieving a learning and work environment which is free of discrimination, meeting its legal obligations under Saskatchewan and Canadian law, and equitably distributing the educational and employment opportunities it makes available.

SIAS recognizes the many benefits of broadly accommodating the special needs and circumstances of its students and employees. Nothing in this policy should limit the prerogative of SIAS or agents of SIAS to facilitate accommodation not specifically required by this policy. Likewise, nothing in this policy requires SIAS to compromise its academic standards, the quality of its academic programming or the rigor of its evaluation processes.

POLICY

1. As required by Saskatchewan and Canadian law, SIAS will meet its legal duty to accommodate through the provision of reasonable accommodation to the point of undue hardship for: SIAS students, applicants for admission to SIAS academic programs or courses, SIAS employees, job applicants, volunteers and Board members who are disadvantaged by educational, employment, or governance related rules, standards, policies or practices because of their religion, creed, marital status, family status, sex (including pregnancy), sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race (or perceived race), or receipt of public assistance as identified in *The Saskatchewan Human Rights Code*.
2. SIAS will educate members of the SIAS community respecting:
 - The legal duty to accommodate;
 - The benefits of a work and learning environment in which discrimination is reduced through accommodating the work and study needs of those who might otherwise be unable to take advantage of the employment and learning opportunities SIAS provides, and
 - Their responsibilities in fulfilling the requirements of this policy.

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PROCEDURES

1. DEFINITIONS

1.1 Discrimination

Discrimination is any act, behaviour, or practice, which may be intentional or unintentional, that has the purpose or effect of imposing burdens, obligations, disadvantages, or preferences on a person or class of persons based on any of the prohibited grounds set out in *The Saskatchewan Human Rights Code*, namely religion, creed, marital status, family status, sex (including pregnancy), sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race (or perceived race) or receipt of public assistance.

1.2 Reasonable Accommodation

A reasonable accommodation is an economical, efficient and effective variation from an educational or employment rule, standard, policy or practice which enables an individual protected under *The Saskatchewan Human Rights Code* to enjoy equal opportunities with others. (See Appendix A for examples of reasonable accommodations.)

1.3 Duty to Accommodate

The duty to accommodate refers to SIAST's legal obligation in certain circumstances to address or correct situations involving discrimination by reasonably varying educational or employment rules, standards, policies or practices to avoid limiting educational or employment opportunities for individuals or groups protected under *The Saskatchewan Human Rights Code*.

The duty to accommodate is part of SIAST's larger legal duty not to discriminate.

1.4 Undue Hardship

A duty to accommodate requires accommodation only to the point of undue hardship. (See Appendix B for a further discussion of the limits on the duty to accommodate).

2. RESPONSIBILITIES

The search for a reasonable accommodation is a shared responsibility among the individual requiring accommodation, SIAST, and the union if the individual requiring accommodation is an employee.

2.1 SIAST students or applicants for admission to an academic program are responsible for:

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- a) Ensuring SIAST is aware of her or his request for accommodation by informing a counsellor in Counselling Services, Instructional & Leadership Development Centre (ILDC) or Basic Education, as applicable;
- b) Providing reasonable notice of the requirement for accommodation;
- c) Providing sufficient relevant documentation or access to relevant documentation including medical reports or other materials as necessary to verify the requirement for accommodation and identify the specific accommodation needs;
- d) Cooperating in the search for and implementation of a reasonable accommodation;
- e) Accepting an offer of reasonable accommodation when it effectively removes the negative impact of the educational or employment rule, standard, policy or practice in question (an individual requesting accommodation has a right to a reasonable accommodation, not a perfect solution); and
- f) Providing notice of any change in personal circumstance including medical prognosis which removes the need for accommodation or requires a variation to the accommodation being provided.

2.2 SIAST employees, job applicants, volunteers or board members requesting reasonable accommodation are responsible for:

- a) Ensuring SIAST is aware of her or his request for accommodation by informing a consultant in Human Resources;
- b) Providing reasonable notice of the requirement for accommodation;
- c) Providing sufficient relevant documentation or access to relevant documentation including medical reports or other materials as necessary to verify the requirement for accommodation and identify the specific accommodation needs;
- d) Cooperating in the search for and implementation of a reasonable accommodation;
- e) Accepting an offer of reasonable accommodation when it effectively removes the negative impact of the educational or employment rule, standard, policy or practice in question (an individual requesting accommodation has a right to a reasonable accommodation, not a perfect solution); and
- f) Providing notice of any change in personal circumstances including medical prognosis which removes the need for accommodation or requires a variation to the accommodation being provided.

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2.3 Program heads, directors, deans, continuing education consultants, and senior administrators are responsible for:

- a) Informing themselves and their students, staff and instructors of the provisions of this policy and its related procedures.
- b) Referring individuals requesting reasonable accommodation to Human Resources or a counsellor as appropriate;
- c) Collaborating with Human Resources or the appropriate counsellor in the search for and implementation of reasonable accommodations;
- d) Implementing required accommodations within their portfolios in a timely fashion; or
- e) Referring requests for reasonable accommodation which exceed the capabilities or resources of their portfolio, or which appear to create undue hardship, to their supervisor who will attempt to implement a reasonable accommodation and/or refer the matter to the associate vice-president, student affairs when the request for accommodation has been made by a student or applicant for admission to an academic program or course, or the associate vice-president, human resources when the request has been made by an employee, job applicant, volunteer or board member.

2.4 Counsellors and consultants in Human Resources are responsible for:

- a) Referring individuals to other SIAST offices and services when those offices or services are best able to respond in a timely and appropriate manner to the request for accommodation, or
- b) Obtaining from the individual requesting accommodation sufficient relevant documentation or access to relevant documentation including medical prognosis reports or other materials as necessary to verify the requirement for accommodation and identify the specific accommodation needs;
- c) Ensuring any medical reports obtained as a result of a request for reasonable accommodation are managed in a strictly confidential manner, used only for the purpose of the accommodation request and maintained in accordance with the requirements of the *The Local Authority Freedom of Information and Protection of Privacy Act*;
- d) Developing a plan for providing reasonable accommodation based on the relevant documentation and coordinating the implementation of the plan with relevant instructors, program heads, directors, deans, senior administrators and the individual requesting accommodation;

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- e) Keeping clear written records of the request for accommodation, the options for accommodation considered, the reasonable accommodation or accommodations offered, the response of the individual requesting reasonable accommodation to these offers, the date on which the need for accommodation was identified, the date on which the accommodation was implemented and details of any follow up, and
- f) Referring requests for reasonable accommodation which appear to create undue hardship for SIAST or for which no plan for accommodation is being implemented in a timely fashion to the associate vice-president, student affairs when the request has been made by a student or applicant for admission to an academic program or course, or the associate vice-president, human resources when the request has been made by an employee, job applicant, volunteer or board member.

See Appendix C, Accommodation Process for additional guidance respecting best practice procedures for responding to requests for accommodation.

See Appendix D, Services for Students with Disability Procedures for further clarification of the role of disability counsellors in Counselling Services in the accommodation of students with disabilities.

2.5 The associate vice-president, student affairs and the associate vice-president, human resources are responsible for:

- a) Assessing, in a timely manner, requests referred to their offices under 2.3 e) or 2.4 f) to determine whether SIAST will:
 - refuse the request for accommodation, or
 - refer the request back to the individual requesting accommodation, the relevant program head, director, dean or senior administrator and the counsellor or human resources consultant for implementation of a reasonable accommodation;
- b) Providing additional information or resources as may be required to ensure the implementation of a reasonable accommodation; or
- c) Informing the individual requesting accommodation in writing of their decision that SIAST will refuse their request.

2.6 Unions

SIAST recognizes the role of the union in the cooperative search for and implementation of a reasonable accommodation for an employee, and in assisting an employee to accept an offer of reasonable accommodation when it effectively removes the negative impact of the employment rule, standard, policy or practice in question.

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**APPENDIX A
EXAMPLES OF REASONABLE ACCOMMODATION**

Reasonable accommodation is very situation specific. What is required to reasonably accommodate students, applicants for admission to SIAST academic programs or courses, SIAST employees, job applicants, volunteer staff and board members will depend on the specific and particular needs of the individual requiring accommodation; the nature of the study or work involved; the equipment or facilities required to accomplish the learning or work; what is required to create equal or near equal opportunity; the most economical, efficient and effective variation to the rule, standard, policy, or practice which is creating the discrimination; and the impact on operations and other people of the various possible accommodations available.

Reasonable accommodation includes, but is not limited to:

- Adapting the physical environment to the needs of the individual including the acquisition or modification of facilities, equipment or devices or the provision of human support such as qualified readers or interpreters.
- Varying academic rules or program requirements, not to compromise academic standards but to allow a student to demonstrate he or she has met those standards when physical or other limitations prevent them from doing so in the usual manner. For example, permitting a student with a physical disability additional time to complete an exam when that student's disability impacts his or her ability to write as quickly as other students, or making alternative arrangements for a student to demonstrate required competencies when work or exams must be missed by reason of religious observance.
- Modifying job duties to remove non-essential tasks, re-bundling duties among a group of employees who perform similar functions to allow a disabled employee to continue to work without further injury, or re-assigning a recently disabled employee to a vacant position, the duties of which are consistent with her or his disability.
- Permitting the use of approved paid leave and/or unpaid leave to allow an individual the time required to recover from a disabling condition.
- Changing work schedules to allow individuals to participate in the rites associated with their faith.
- Providing reasonable retraining to allow an individual to take on related work.
- Providing alternate exam writing facilities to students with learning or physical disabilities which require them to use special equipment or which limit their ability to concentrate or focus.

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Reasonable Accommodation does not include:

- Modifying academic program or admission requirements such that the integrity or the educational standards of SIAST and its credentials would be compromised.
- Creating a position that did not previously exist for an employee who has been rendered incapable of performing the essential functions of his or her own job or any other available position.
- Retaining an employee incapable of performing work to acceptable levels.
- Shifting the essential functions of a position to another employee and leaving the affected employee to perform non-essential functions with limited business or productive value.

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**APPENDIX B
LIMITS ON THE DUTY TO ACCOMMODATE**

There are three broad limits on the duty to accommodate.

1. Educational or employment related rules, standards, policies or practices which create disadvantage do not always give rise to a duty to accommodate. In some limited circumstances this type of discrimination can be defended as “reasonable and justifiable in the circumstances” and no accommodation will be required. When the essential tasks of a job require an incumbent to operate equipment requiring vision correctible to 20/20, it may not be necessary to accommodate an applicant whose vision cannot be corrected to this level. Likewise requiring students to demonstrate they can communicate in English at a level sufficient to succeed in a program may adversely impact students newly arrived immigrants from countries where English is not widely used. The requirement may nevertheless be reasonable and justifiable in any program in which instruction and testing is carried out in English.

2. A reasonable accommodation is an accommodation which economically, efficiently and effectively eliminates or very nearly eliminates the adverse impact and provides equal opportunity. For example a deaf employee requiring interpretive services need not be provided with an interpreter for his or her entire work day but only for that portion of his or her duties which require face to face communication with others. Likewise, changing the pre-scheduled date of a class to accommodate a religious observance for one student is not reasonable when that student can catch up by spending 15 minutes with the instructor or another student outside of class. An individual requiring accommodation should not expect or demand either a perfect solution or a solution which provides an advantage over others.

3. The duty to accommodate extends only to the point of undue hardship. Undue hardship has been interpreted to mean undue expense or excessive disruption of or interference with the business or operations of the employer or educational institution.

When assessing undue hardship courts in Canada consider the following factors:

- Financial costs.

- Business or institutional convenience and efficiency.

- Disruption of a collective agreement. An employer and union cannot contract out of human rights legislation; and therefore, no collective agreement can absolve the parties of the duty to accommodate, but a collective agreement can be relevant in assessing the degree of hardship caused by interfering in its terms.

- The effect or impact on the rights, health, safety or morale of others.

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- Interchangeability of the work force or facilities. For example; is it possible to reassign duties between employees to accommodate a physical limitation or adjust working schedules to avoid requiring employees to work on religious celebrations while still requiring them to work the required work hours, or is it possible to move an employee from one facility to another or from one area within a facility to another such that their duties are effectively modified in a way which respects their need for accommodation? In these examples the question is not whether it is inconvenient to make the alternate arrangements, but rather whether such alternate arrangements can reasonably be made. Denying someone the opportunity to work because making alternate arrangements is inconvenient is not acceptable to the courts.
- Size and resources of the overall institution.

Demonstrating undue hardship is not easy. Courts make their assessments at the organizational rather than the department or unit level. For example, when they assess an argument for undue hardship based on financial considerations, they will look at the organization's overall resources and not just the resources available to the unit in which the accommodation may be required. For this reason it is imperative that individuals authorized to implement reasonable accommodations at SIAST consult with Human Resources or Student Services before concluding that an accommodation will result in undue hardship.

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APPENDIX C ACCOMMODATION PROCESS

This appendix sets out best practice procedures for individuals who are attempting to implement reasonable accommodations at SIAST, including human resource consultants and counsellors.

Reasonable Accommodation of Students online training is also available at

<http://programs.siastr.sk.ca/vc/ReasonableAccommodations/content>

1. Identify if and how the individual is being disadvantaged.

Try to simply state the adverse impact and the rule, standard, policy or practice which is causing the disadvantage.

For example, class registration has been scheduled on an important religious holiday for two students and we require all students to register on the same day or a job applicant with a hearing disability may be disadvantaged because he may not hear all of the questions from a four-person interview panel and our policies require multi-person interviews.

2. Consider whether the circumstance gives rise to a duty to accommodate.

Is the need for accommodation related in some way to the individual's religion, creed, marital status, family status, sex (including pregnancy), sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, or receipt of public assistance?

If disadvantage is occurring but it is not related to any of these grounds, there is no legal duty to accommodate although there may still be benefits to accommodating in terms of fairness, morale and loyalty.

In the examples given in Step #1 above, the need for accommodation with respect to class registrations is related to religion. The need for accommodation in the interview scenario is based on disability. Both of these are protected grounds in *The Saskatchewan Human Rights Code* and accommodations will be required.

3. Consider whether you require further information or verification, and how that information or verification might be provided.

Consider whether you have adequate information to verify the need for an accommodation and have knowledge of the specific needs of the individual or individuals.

Verifying the need for an accommodation is a way of doing due diligence to ensure accommodations are given only when necessary and providing assurance to all those

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who must abide by the rule, standard, policy or practice. Knowing the specific needs of the individual will help to frame a reasonable accommodation.

For the two students in the first example, it would be helpful to have something in writing from a religious leader within their faith group which sets out the importance of the religious holiday, if it is not already known, and the limitations the holiday imposes on members of the faith. In the case of the person with the hearing limitation in the second example, it would be helpful to have verification of the limitation from a medical person and some information about whether the person lip reads or uses sign language.

If you feel you require additional information, ask the person requesting the accommodation to provide what you need. He or she is responsible for providing the needed documentation or access to the needed documentation.

4. Consider how the person could be reasonably accommodated.

In consultation with the person requesting accommodation, identify and review reasonable options for meeting his or her special needs. Remember, the duty to accommodate requires the provision of equal opportunity, not advantage. In framing accommodation options many people tend to propose accommodations which exceed the needs of the individual. The individual requiring accommodation to participate in the job interview may not need interpretation services or a smaller interview panel. It may be enough to assure him or her that someone on the panel will direct the discussion so he or she always knows who is going to ask the next question.

5. Consider whether the accommodation might result in undue hardship.

If the accommodation seems to exceed the resources available, appears to be excessively disruptive of operations, would conflict or impinge on the terms of a collective agreement, or in the case of a student requesting accommodation would undermine the qualifications, program requirements or performance standards for an academic program, you may be dealing with a request which will create undue hardship.

Remember that demonstrating undue hardship is not easy for an organization of SIAST's size and overall resources. See Appendix B, Limits on the duty to accommodate for more information on undue hardship.

6. Implement the reasonable accommodation.

Communicate the details of the accommodation to those with a need to know. Ensure the individual being accommodated knows his or her responsibilities with respect to the implementation.

7. Follow up where appropriate.

If the accommodation is of an ongoing nature, consider implementing a time frame for

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reviewing the situation to ensure it is working. When reviewing the situation, ensure it is working for the person requiring accommodation but also for those providing the accommodation.

8. Document the accommodation.

Keep clear written records of:

- The request for accommodation.
- The documentation obtained, if any.
- The options for accommodation which were considered.
- The form of accommodation offered.
- The response of the person requiring accommodation.
- The date the accommodation was provided.
- Any follow up.

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**APPENDIX D
SERVICES FOR STUDENTS WITH DISABILITIES PROCEDURES**

1. Introduction

SIAST, in accordance with the Saskatchewan Human Rights Commission guidelines, seeks to assure enrolment and graduation of persons with disabilities. Special measures intended to increase opportunities and support include allocation of reserved program seats to persons with disabilities; identification and provision of accommodations to assist individuals in overcoming barriers that might prevent successful completion of their studies; and provision of staff dedicated to assist persons with disabilities during the application stage and while registered in a program of studies.

The following procedures and guidelines balance the applicant’s right to participate in post-secondary education with SIAST’s ability to accommodate them through the provision of reasonable learning accommodations and services.

2. Seat Allocation

SIAST seeks to ensure access to post-secondary education for all qualified individuals. Seat allocation for persons of targeted groups underrepresented in the workforce is one measure taken by SIAST to maintain a proportion of students which approximates levels within the adult population of Saskatchewan. A designated number of spaces are allocated in programs to applicants with disabilities.

Deans’ council considers recommendations from the Advisory Committee on Education Equity with respect to the seat allocation percentages for targeted groups. Equity seat allocation processes are described in the *Equity Seat Allocation Guideline* document. Equity seats are minimum goals. Seat allocation is NOT restricted to equity percentages.

3. Admission Guidelines

Prospective students with disabilities anticipating assistance during their program of studies will need to disclose that they have a disability at the time of application.

Students may have the following permanent disabilities:

- Physical/Medical (including FASD, brain injury, and chronic health conditions)
- Visual and hearing loss
- Learning Disabilities
- Psychiatric (including attention deficit disorder)

Applicants that disclose disabilities will be asked to contact the counsellor responsible for disability services to:

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- Verify the disability;
- Determine eligibility for allocation of a program seat reserved for applicants with permanent disabilities;
- Identify academic accommodations and assistive technology requirements as required; and
- Confirm any intention to access funding or grants to pay for academic accommodations or assistive technology requirements. The counsellor can assist with this process.

Applicants with a verified disability must meet either the regular or special admission requirements of the program to which they are applying. Applicants who have declared on their application that they have a disability are advised to make contact with the counselling office at least four months prior to the program start date to ensure that appropriate accommodations and funding sources can be explored. Failure to make early contact may result in accommodations being delayed or unavailable.

4. Why should an applicant disclose their disability?

Students should consider registering with the counsellor responsible for disability services even if they intend to complete the program without assistance. When the going gets tough and a student is under stress he/she may need to access contingency plans that have been developed ahead of time through the counselling office. This is particularly important for students with disabilities who may be susceptible to fluctuations in their health.

All consultations with a counsellor are confidential. Documents will be kept on file for use only by the staff of the office responsible for disability services. They will not be shared with instructors or anyone else without the written permission of the student.

Students are not obliged to disclose their disability to an instructor, only to inform them of the required accommodation.

Receiving accommodations is the right of a student with a verified disability. Accommodations don't provide an unfair advantage over other students, they are provided to make the learning environment more equitable. All students are evaluated using the same standards.

SIAST is under no obligation to provide accommodations when the student has ignored their responsibility to disclose a disability during the application and admission process. However, some accommodations may be obtainable by students with a verified disability after enrolment subject to the availability of resources and funding.

5. What documentation needs to be submitted?

Applicants with disabilities are expected to supply documentation from an appropriate

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medical professional such as a physician, psychiatrist or audiologist. Documentation would take the form of a recent medical diagnosis and letter describing the impact the individual's disability will have on their ability to learn or perform the tasks required of the program.

In the case of a learning disability the required documentation would be a recent psycho-educational assessment from a qualified practitioner.

Students accepted into a SIAST program and intending to apply for study grants or EAPD funding would be required to submit similar supporting medical documentation to the appropriate organization.

6. What if a student is diagnosed with a disability after they have been accepted as a student?

Situations will arise where students begin their program of studies but are unaware that they have a disability.

A student may be diagnosed with disabilities by an external professional after enrolment into a program. In such circumstances the counsellor for student disabilities will explore appropriate accommodations subject to available resources and funding.

The counsellor responsible for disability services will ensure that when students are diagnosed with disabilities or self-identify after enrolment, notification of their disability status is forwarded to registration services for updating of student records on Banner.

7. Can SIAST refuse admission to an applicant who has documented disabilities?

SIAST will attempt to make accommodations to assist students with disabilities in their educational pursuits though some programs may include requirements which cannot be achieved by some students.

There may be some instances where it is necessary to decline admission to a student that has declared a permanent disability. Some programs may include requirements which cannot be achieved by some students; others may require modifications for individual students to enable the student to participate fully and equally. SIAST has the right to maintain the academic integrity of its programs and to ensure modifications will not compromise that integrity.

The counsellor may refer the student to the program for advice as to whether or not the student can be accommodated without compromising the academic integrity of the program.

8. Accommodations for Students with Disabilities

An accommodation is anything that is put in place to support a student with a disability.

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Accommodations are based on the specific disability. The counsellor will use documentation submitted by the appropriate professional and, in consultation with the applicant, determine how the disability effects learning and what accommodations are required as a result.

Meeting the needs of students with disabilities is a shared responsibility of students, instructors, staff and administration.

Types of accommodations may include:

- Individual tutoring
- Extra time, quiet space, and a reader or scribe for exams
- Reduced course load
- Peer note-taker
- Alternate format course materials
- Assistive technology
- Ergonomic chairs and other equipment

9. Available Sources of Funding

Students with disabilities have access to the same kinds of financial assistance as do other SIAST students. Additional grants may be available to students with disabilities to cover tutoring and other learning supports. The student should contact the designated counsellor at their nearest SIAST campus for advice and assistance in applying for special grants.

- If eligible for a student loan, the student can apply for a Canada Study Grant for learning supports and a Canada Access Grant to reduce your loan repayment. The Canada Access Grant is not available if a disability is declared after the student loan is negotiated.
- If a sponsoring agency is covering student tuition and/or living costs, the agency may provide additional funding to cover learning supports. Examples of sponsoring agencies include First Nations, Gabriel Dumont Institute, Training and Employment, Workers' Compensation, SGI and so on.

10. Role of the Counsellor responsible for disability services

The counsellor provides the following support to students with disabilities:

- assistance for prospective students on program choice and career goals
- assistance with the admission process and in being prepared for their program of studies
- assistance communicating with instructors, program head, funding sources and other service providers
- coordination of educational support services and accommodations

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- liaison with sponsoring agencies
- liaison with the program if minor physical changes to the training space are required
- development of strategies and study skills to assist the student while enrolled
- development of self-advocacy skills
- assistance with the development of contingency plans

SIAST provides staff on each campus who have expertise to engage in both diagnostic and prescriptive assistance to students with learning disabilities.

11. Role of the Instructor

It is important to note that instructors and staff are under no obligation to provide accommodations to a student unless the student has a verified disability. If a student presents documentation on his or her disability to an instructor and/or requests accommodations based solely on an external assessment, the student should be referred to the counsellor for disability services.

Instructors are expected to participate in discussions with the counsellor about accommodations that are required for a student and/or to ensure that accommodations approved by the counsellor for disability services are provided.

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