

# WTCS Best Practices for Developing Technical Standards

The WTCS Health Sciences and Disability Services Work Group has created this document as a resource for any college staff or faculty that help students choose and enter their career pathway or work with technical standards in accordance with literature on providing equal access to educational programs for students with disabilities and federal law (Americans with Disabilities Act Amended, 2008; Section 504 Rehabilitation Act, 1974; Blacklock & Montgomery, 2016; Ailey & Marks, 2016; McKee et al., 2020; Ferro-Lusk, 2017; Meeks & Jain, 2018).

Special thanks to the members of the WTCS Health Sciences and Disability Services Work Group that created this document.

McKee et al., 2020 was the primary resource used in the 2024 update of this document. Refer to the article for more information.

For more information on this document or other issues related to Technical Standards, contact the WTCS system office staff that lead the WTCS Health Science and Disability Services Work <https://mywtcs.wtcsystem.edu/about-wtcs/staff-directory/>

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## Definitions

**Technical standards:** “refers to all non-academic admission criteria that are essential to participation in the program in question” (Section 504, 1978). In short, technical standards are what students need in order enter a program.

**Essential functions:** Is a term related to employment rather than education. It originates from the Americans with Disabilities Act (ADA), which legally defines it as the fundamental job duties that an employee must be able to perform, with or without reasonable accommodation, to be considered qualified for a position (McKee et al., 2020)

**Reasonable accommodations:** Accommodations and modifications of policies and practices intended to provide equal access for otherwise qualified students with disabilities that **do not** fundamentally alter the nature of the service, program, or activity or give rise to an undue financial or administrative hardship (ADA National Network, 2019).

**Undue hardship (burden):** "Undue hardship" means significant difficulty or expense relative to the operation of a public entity's program when considering the entire operating budget ([Searls v. John Hopkins Hospital](#), 2016) . Colleges that attempt to reject an accommodation based on undue hardship would need to demonstrate a college-wide budgetary process. According to case law, and comment from Office for Civil Rights representatives, proving undue hardship is not likely to be successful, especially at a public entity (Easton, Leiter & Mobley, 2019; [Reyazzudin v. Montgomery County, Maryland](#)). Where an accommodation would result in an undue hardship, the public entity must determine if another accommodation is available that would not result in an undue hardship (ADA II 4.3200).

**Otherwise qualified:** To be qualified, the individual with a disability must meet the essential academic and technical (technical standards) required for admission and participation in a program with or without accommodation (ADA II 2.800; 34 CFR §104.3(l)(3)).

**Core Competencies:** “...include the knowledge, skills, and abilities that a student must demonstrate in order to persist or graduate” (McKee et al., 2020).

**Interactive Process:** A process by which students and accommodations specialists work together to determine reasonable accommodations on a case-by-case basis depending on the student’s documented disability and the courses they are taking.

**Organic Technical Standards:** In the past many institutions have employed *organic technical* standards that focus on *how* a task is completed and use phrases like, students must be able to

*hear, see, speak clearly, stand, etc.* Organic standards contribute to the underrepresentation of students with disabilities in educational programs because frame the ability to meet program competencies in terms of having certain physical, cognitive, behavioral, and sensory abilities that some students may not have access to.

**Functional Technical Standards** focus on the competencies students need to possess without a focus on how they are completed. The literature suggests the following five technical standard domains:

- acquiring fundamental knowledge;
- developing communication skills;
- interpreting data;
- integrating knowledge to establish clinical judgment; and
- developing appropriate professional attitudes and behaviors

### Why Technical Standards?

Technical standards are an important tool to aid potential students in understanding non-academic program requirements and facilitate consideration of potential accommodations that may be needed. They can provide consistency and transparency to students, faculty, administrators, and staff including disability services, advisors.

*“Technical standards should not be used as a mechanism to deny the admission of persons with disabilities into programs. Instead, technical standards should be a way to conceptualize the recruitment of diverse highly qualified students.” (Ailey & Marks, 2016).*

#### *Why shift to functional technical standards?*

Bagenstons (2016) details one such case in which “Palmer College had rejected a blind applicant because he could not meet its technical standard for ‘sufficient use of vision’ to perform ‘the review of radiographs’. The (Iowa Supreme) court held that the school was required to modify that technical standard, relaying on evidence that many chiropractors are not called upon to visually interpret radiographic images in their practices and that other medical schools had successfully accommodated blind students (p.3)”.

*Discriminatory technical standard:*

*Acceptable revision of technical standard:*

*Sufficient use of **vision** to review radiographs*

*Ability to review radiographs*

#### Are technical standards required for each program?

Technical standards are a good tool to support students in all programs. Some program accreditation bodies may require technical standards. The WTCS encourages the use of best

practices to support students, including accessible technical standards, but does not require college programs to have them.

#### How can a college use technical standards effectively as a tool?

Students should have access to the technical standards of their programs of interest prior to admittance so that reasonable accommodations can be determined and arranged. This requires recruitment, career services, advising, administration and faculty to have access to the standards, be knowledgeable of the accommodations request process, and provide this information to the student.

Technical standards should be readily available to all prospective and current students (for example, on program webpages, in program handbooks, in orientation materials, etc.) as a starting place to critical conversations about program requirements, the accommodations process, and accessibility resources available to students.

### Potential Legal Considerations

#### Americans with Disabilities Act (1990)

The ADA Regulations indicate that a public school “shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered” (42 U.S.C. § 12182(b)(2)(A)(i); 28 CFR § 36.301(a)).

When an institution denies a student entry to a program due to applying technical standards that do not align with the core competencies of the program or program accrediting body they may be in violation of this section of the ADA (McKee et al., 2020).

#### Office for Civil Rights (OCR) Complaint

If technical standards are written in a way that may be perceived as discriminatory against students belonging to communities protected by federal law, students may choose to file a complaint with the Office for Civil Rights (OCR) (Bagenstos, 2016; Lipton, 2017). OCR complaints are sent to college leadership for resolution. Academic faculty and staff, disability services, and legal will be required to produce documentation supporting their interactive process for providing or denying reasonable accommodations (U.S. Department of Education, 2018). As noted in case law, it is necessary for colleges to demonstrate how they have followed a clear college process when responding to OCR complaints (Colker & Grossman, 2014; Lipton, 2017).

Due to the above potential legal implications colleges are recommended to:

- Create technical standards free of discriminatory language (template below)
- Develop a process for regular review and update (ex: part of curriculum review)
- Share technical standards with students early in their educational journey

Ensure faculty and staff are informed about program technical standards and how to use them with students

Make accommodation process and resources readily available to students, faculty, and staff

#### Off-site Educational Partners (clinical, practicum, externship sites, etc.)

It is the responsibility of the college to provide each student with an equal opportunity to an off-campus site that does not discriminate against students based on protected class. Sharing technical standards with off-site partners helps clarify the college's legal responsibility to ensure equal access for all students.

Specifically, the law indicates that,

- A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service (28 CFR 35.130(b)).
- A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, and education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons (34 CFR 104.43).

## Technical Standards Template

### **[College Name and Program Title] Technical Standards**

**Purpose:** The purpose of this document is to clearly communicate the non-academic admission criteria that are essential to participation in the program.

**Accommodations:** Candidates with disabilities are encouraged to contact [*disability office contact information*] early in the application process to begin a confidential conversation about what accommodations they may need to meet these standards. Accommodations available at the college setting may not be available in other settings required for program completion (clinical training sites, national licensing review boards, etc.).

\*College program leaders are encouraged to edit the language below to fit your program.

\*\* Colleges may also choose to have a legal representative to review technical standards

| Domain<br>(adapted<br>from Mckee<br>et al., 2020)                        | Standard<br>The student should demonstrate:                                                                                                                                                                | Program Specific Examples<br>(Not exhaustive)                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Domain<br>name should<br>describe a<br>large<br>category of<br>standards | Standards should focus on the non-academic abilities and skills students must possess to participate in the program. They should not include skills or abilities students will learn while in the program. | <ul style="list-style-type: none"><li>• Examples should include specific things students will need to do in the program. They should describe what must be done instead of how.</li><li>• I.e: Distinguish subtle vibrations through the skin (i.e., assess a pulse), identify the slight difference in surface characteristics (i.e., feel a raised rash), and detect temperature (i.e., skin, liquids, environment).</li></ul> |

### Nursing Program Example Technical Standards

| Domain<br>(adapted<br>from Mckee<br>et al., 2020) | Standard<br>The student should demonstrate:                                                                                                                                                                         | Program Specific Examples<br>(Not exhaustive)                                                                                                                                                             |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Acquiring<br>fundamental<br>knowledge             | <ul style="list-style-type: none"><li>• Ability to learn through a variety of modalities</li><li>• Ability to prepare and present reports and presentations</li><li>• Ability to use computer technology.</li></ul> | <ul style="list-style-type: none"><li>• Learn through classroom instruction; laboratory instruction, physical demonstrations, small-group, team, collaborative activities and individual study.</li></ul> |

| Domain<br>(adapted<br>from Mckee<br>et al., 2020) | Standard<br>The student should demonstrate:                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Program Specific Examples<br>(Not exhaustive)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Developing<br>communication<br>skills             | <ul style="list-style-type: none"> <li>• Interpersonal skills to accurately evaluate patient conditions and responses and enable effective caregiving of patients.</li> <li>• Ability to clearly and accurately record information and accurately interpret patients' verbal and nonverbal communication.</li> <li>• Effective communication, participation, and collaboration with all members of a multidisciplinary health care team, patients, and those supporting patients, in person and in writing.</li> </ul> | <ul style="list-style-type: none"> <li>• ability to interact and support clients during times of stress and emotional upset</li> <li>• ability to cope with strong emotions and physical outbursts of clients while remaining in a reasonable state of calm</li> <li>• ability to focus attention on client needs despite interruptions and multiple demands</li> <li>• ability to apply knowledge gained in the classroom to establish appropriate relationships with clients, families, and coworkers</li> <li>• ability to interact as a member of the healthcare team</li> <li>• ability to respect diversity in culture, religion, sexual orientation, marital status, socio-economic status, and abilities/disabilities.</li> </ul> |
| Interpreting<br>data                              | <ul style="list-style-type: none"> <li>• Interpret and synthesize information both in person and via remote technology.</li> <li>• Interpret causal connections and make accurate, fact-based conclusions based on available data and information.</li> <li>• Formulate a hypothesis and investigate the potential answers and outcomes; and reach appropriate and accurate conclusions.</li> <li>• Correctly interpret diagnostic representations of patients' physiologic data.</li> </ul>                           | <ul style="list-style-type: none"> <li>• Understand information presented verbally, in writing, and/or through charts and graphs</li> <li>• Interpret data derived from various diagnostic tools.</li> <li>• Distinguish between different colors to interpret data (labs, skin assessment, etc.)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                              |

| Domain<br>(adapted<br>from Mckee<br>et al., 2020)                       | Standard<br>The student should demonstrate:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Program Specific Examples<br>(Not exhaustive)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Integrating<br>knowledge to<br>establish<br>professional<br>judgment    | <ul style="list-style-type: none"> <li>• Conduct routine physical examinations and diagnostic maneuvers to form an accurate and comprehensive assessment of relevant patient health, behavioral, and medical information.</li> <li>• Provide or direct general care and emergency treatment for patients and respond to emergency situations in a timely manner.</li> <li>• Maintain patient confidentiality</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>• Follow lab protocols</li> <li>• Prioritize patient needs (determine when a situation is emergent, urgent, or routine).</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Developing<br>appropriate<br>professional<br>attitudes and<br>behaviors | <ul style="list-style-type: none"> <li>• Exercise good judgment; promptly complete all responsibilities attendant to the diagnosis and care of patients; and develop mature, sensitive, and effective relationships with patients.</li> <li>• Ability to effectively handle and manage heavy workloads, function effectively under stress, adapt to changing environments, display flexibility, and learn to function in the face of uncertainties.</li> <li>• Exhibit personal accountability, compassion, integrity, concern for others, and interpersonal skills including the ability to accept and apply feedback and to respect boundaries and care for all individuals in a respectful and effective manner regardless of gender identity, age, race, sexual orientation, religion, disability, or any other protected status.</li> <li>• The ability to function within, the legal and ethical aspects of the program and maintain and display ethical and moral behavior</li> </ul> | <ul style="list-style-type: none"> <li>• Use resources to manage stress and mental health</li> <li>• Establish a professional working rapport with staff as well as patients</li> <li>• Exhibit positive interpersonal skills in patient, staff and faculty interactions</li> <li>• Demonstrate appropriate impulse control and professional level of maturity.</li> <li>• Demonstrate calm and effective behavior and responses, especially during emergency situations</li> <li>• Demonstrate the capability to adhere to all ethical and legal standards.</li> <li>• Uphold patient confidentiality while exercising ethical judgement.</li> <li>• Present a well-groomed, tidy appearance, and uphold standards of cleanliness and personal grooming consistent with close personal contact.</li> <li>• Adhere to attendance, dress code, and personal hygiene policies or protocols</li> </ul> |

| Domain<br>(adapted<br>from Mckee<br>et al., 2020) | Standard<br>The student should demonstrate:                                                                                                                                                                                                                                                                                                                                                                      | Program Specific Examples<br>(Not exhaustive)                                                                                                                                                                                                                                                                                                                                                                            |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Safety Skills                                     | <ul style="list-style-type: none"> <li>• Apply knowledge, skills, and experience to provide a safe work environment</li> <li>• Meet applicable safety standards for the environment and follow universal precaution procedures.</li> </ul>                                                                                                                                                                       | <ul style="list-style-type: none"> <li>• demonstrate adherence to safety guidelines and regulations</li> <li>• recognize potentially hazardous conditions and take appropriate actions</li> <li>• operate equipment, adhering to safety standards</li> <li>• identify and resolve unsafe situations</li> <li>• follow emergency procedures</li> </ul>                                                                    |
| Physical Skills                                   | <ul style="list-style-type: none"> <li>• fine motor ability for data collection/assessment and to promote a safe care environment</li> <li>• gross motor ability for data collection/assessment and to promote a safe care environment stamina sufficient to maintain physical activity for a period of a typical clinical shift</li> <li>• Evaluate changes in smell, temperature, color, appearance</li> </ul> | <ul style="list-style-type: none"> <li>• Provide care within a confined sterile workspace for multiple hours.</li> <li>• Move self and patient throughout the patient's room, workspaces, and treatment areas.</li> <li>• Operate tools that require squeezing, pinching, and pressing motions.</li> <li>• Transport a patient from a chair to a bed</li> <li>• Work in environments with varied temperatures</li> </ul> |

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## Court Cases Ruled in Favor of Student

*Featherstone v. Pacific Northwest University of Health Sciences* ([Lipton, 2017](#))

A recent case that illustrates the importance of considering technological advances when determining whether students are otherwise qualified is *Featherstone v. Pacific Northwest University of Health Sciences* (No. 1:CV-14-3084-SMJ [E.D. Wash. 2014]). In this case, Zachary Featherstone, who was deaf and unable to lip-read in educational settings, was initially accepted into the osteopathic medicine program at Pacific Northwest University (PNWU).<sup>30</sup> The university then requested that Featherstone postpone matriculation for a year to allow it to obtain disability services to assist him. Featherstone agreed to the postponement and PNWU subsequently withdrew Featherstone's application, citing concerns for patient safety in clinical settings, compromised educational experiences for Featherstone's classmates, and the university's anticipation that Featherstone would be unable to meet time requirements during performance examinations.<sup>31</sup>

Featherstone responded by filing suit in Federal District Court where he sought to obtain a preliminary injunction to require PNWU to allow him to matriculate with his class. Featherstone's suit included allegations that PNWU violated Title III of the ADA, Section 504 of the Rehabilitation Act, Washington's Law Against Discrimination, and nondiscrimination-based claims of breach of contract and promissory estoppel.<sup>31</sup>

The accommodations that Featherstone had requested of PNWU included interpreters for clinical settings and captioning services for classroom environments.<sup>31</sup> While there is certainly a cost associated with the provision of such services, the regulations implementing Title III of the ADA specifically prohibit a person with a disability from being excluded because of the absence of auxiliary aids and services. Examples of the auxiliary aids and services set forth in the regulation include both "qualified interpreters" and numerous types of captioning services.<sup>31</sup> The Federal District Court noted that it was quite common for these services to be provided in educational environments and that Featherstone could produce evidence that he was otherwise qualified with reasonable accommodations.<sup>31</sup>

Once Featherstone met his burden of showing that he was otherwise qualified with reasonable accommodations, PNWU attempted to argue that the accommodations would require a fundamental alteration in their program, be cost prohibitive, and risk patient safety. The Federal District Court determined that the provision of an interpreter would only amount to a communication aid and that since Featherstone would still have to complete laboratory sessions, communicate with patients (through an interpreter), and finish the clinical portions of the program, the provision of an interpreter would not fundamentally alter the program. The court also found PNWU's claim of limited resources was unsubstantiated as sworn declarations were submitted indicating that interpreting services could be available by the beginning of the school term.<sup>31</sup>

Lastly, the Federal District Court noted that any facility where Featherstone might need to treat a patient would also be required to have sign language interpreting available for patients who might need the service, thereby attenuating the risk of patient harm due to Featherstone's disability. The court ruled that PNWU failed to establish that it was likely to succeed in proving that the provision of an interpreter and closed captioning would fundamentally alter the educational environment or impose an undue burden on PNWU and ordered PNWU to "immediately re-enroll Featherstone into its 2014-15 class at the College of Osteopathic Medicine."<sup>31</sup>

The decision in Featherstone is starkly different from the one reached by the US Supreme Court in the 1979 case involving Southeastern Community College and demonstrates how the law changes along with societal norms, resources, and technology. The case law is surprisingly sparse and few cases address the issue of the provision of technology in the educational setting. This may be attributable to institutions' compliance with the regulations and to the early involvement of informed disability attorneys who promptly negotiate resolutions in these matters without the need for court intervention. Either way, schools of pharmacy must make themselves aware of the current technology available when making determinations concerning an applicant's ability to meet technical standards. Because the Featherstone case was a US

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District Court case, any precedential value it has is limited to the Eastern District of Washington State and would not be binding even on that court. However, the opinion is well based in existing law and should be persuasive to other courts addressing this issue