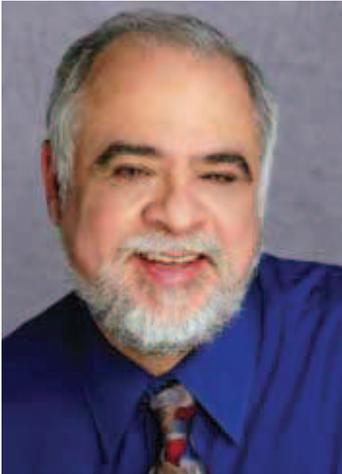


Championing Disability Rights

A chat with Paul Grossman, JD



A NATIONALLY RECOGNIZED AUTHORITY on the topic of disability and higher education, Paul Grossman, JD, has devoted his career to matters of education civil rights, ranging from school desegregation to defining an appropriate education for students with disabilities. For over twenty-five years, he served as the chief regional attorney of the San Francisco office of the US Department of Education, Office for Civil Rights (OCR). He founded the disability law course at the University of California's Hastings College of Law, where he is an adjunct professor. He regularly lectures at law schools and schools of education across the country.

During CHADD's Annual International Conference this November, Mr. Grossman will present a session entitled, "How It Goes Wrong." The OCR, he says, frequently receives complaints alleging disability discrimination against elementary and secondary students with ADHD, and the complaints often prove to be valid. Among the questions he will answer: What do school districts commonly fail to understand that frequently leads to noncompliance? What can parents and CHADD do to break this pattern?

Mr. Grossman recently became a member of CHADD's public policy committee and graciously agreed to be interviewed by *Attention*.

You've been a civil rights attorney for four decades. What drew you to work on behalf of students with disabilities?

I grew up in the civil rights era. Disability rights would not exist except for earlier advances in race, national origin, and sex discrimination law. In some instances I witnessed these advances, in other instances I contributed to them. Work on behalf of students with disabilities was one more important advance in the goal of equal educational opportunity for all individuals. Of course, I came to this form of discrimination with my own educational experiences as an individual with a disability; one who both struggled in college and later graduated near the top of his law school class.

What are the current trends in complaints to the Office for Civil Rights?

Complaints on behalf of students with ADHD in elementary and secondary school made up a big part of my complaint load at the OCR. Clearly districts and parents need more guidance in this area.

Children with disabilities are guaranteed a Free Appropriate Public Education (FAPE) under the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). But should a child be taught to his potential? What level of "educational benefit" can parents demand?

The *Rowley* case arose in connection with the education of Amy Rowley, a deaf student in the Hendrick Hudson Central School District. Amy had minimal residual hearing. She was an excellent lip reader but may have missed as much as forty percent of the instructional information due to her disability. Amy was academically successful in kindergarten but wanted, but was denied, a sign-language

interpreter for first grade. Amy's family challenged this denial all the way to the Supreme Court of the United States.

In its 1982 decision, the Supreme Court upheld denial of the interpreter, making clear that maximization of the potential of a student with a disability is not required by the IDEA. Rather, the Court called for conferring "some educational benefit" a "basic floor of opportunity" consisting of "access to specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child." This same standard applies to the FAPE requirements of Section 504.

Times change our understanding of disabilities such as deafness, and the applicable laws have changed as well.



Amy Rowley, 1982

Denying an interpreter to a student who was as deaf as Amy Rowley would probably not be tolerated by OCR under Section 504 nor the US Justice Department under Title II of the ADA, which confers some strong protections for individuals, including students with “sensory impairments,” such as persons who are deaf or hard of hearing, blind or have low vision.

For students with ADHD, it is not proper use of the *Rowley* decision by school districts that bothers me. It is the misinterpretation and misuse of *Rowley* by many school districts that disturbs me. *Rowley* was solely about what level of services is required for students with disabilities. It was not a case about when a student is entitled to an evaluation for a disability and/or who is a student with a disability. Yet *Rowley* is frequently miscast as an excuse to not evaluate students with ADHD who are barely scraping by in school. These students are required to come to the edge of complete academic failure before they receive an evaluation or 504 plan meeting. This short-sighted

thinking comes at a terrible cost. By the time the district finally agrees to an evaluation, the parents, teachers, and students are all alienated from each other and the students are no longer interested in learning. This is fair to no one.

Nor did the Court suggest no benefit or only a token benefit was a sufficient level of services for students with disabilities in elementary and secondary school. The placements of students with disabilities must be “calculated to confer some education benefit.” In my opinion, merely seating students with ADHD at the front of a class, assigning them study-buddies, and reducing their homework loads, does not meet this standard. These are not benefits; they are merely mitigating measures, maybe making school a less painful experience. They teach these students little if anything of value.

A placement to confer an educational benefit would require some form of direct, explicit instruction in the skills in which students with ADHD are deficient—such as those considered “executive functions,” like

how to begin, plan, chunk, and complete a homework assignment or research paper.

Of course, CHADD has a role to play here. CHADD needs to continue to educate parents on the rights of their children, but equally important, CHADD needs to support and collect science-based information on what placements actually help students with ADHD. I do not presume that most elementary and secondary schools fail to serve our students out of malice. Lack of insight into ADHD and lack understanding of what works are more likely the causes of poor services for our children.

How do rights and services differ between elementary/secondary school and college? What rights do college students have?

Elementary or secondary students with disabilities are entitled to identification and evaluation at the district’s expense. If they cannot be educated effectively in the regular program of instruction, they are entitled to a special education curriculum and other programs designed to meet their unique educational needs. In the event of misconduct, they are entitled to a manifestation hearing. College and university students are treated as adults. In nearly all instances, it is not a college’s duty to advise students who experience serious academic difficulties to get an evaluation for possible disabilities. Postsecondary students are responsible for their own identification and evaluation. They should come to college with their evaluation in hand. If they get into trouble and have not had an evaluation or registered with the office of disability services, they should take it upon themselves to do so promptly. In my experience, most disability services personnel are highly committed to the success of students with disabilities. Though most DSS offices do not conduct evaluations, these offices can be very helpful in advising the student where to get one.

Through “auxiliary aids” and “academic adjustments,” students with disabilities are entitled to effective access to the existing curriculum but not to a separate or special program. In the case of misconduct, they are entitled to equal treatment under the college’s code of conduct and the same level of due process accorded to all other students. The degree to which disability is a defense to discipline for misconduct is very limited.

Ironically, many students with ADHD will

**GRADES 6-12
SUCCESS**
WITH
**COMPLEX
LEARNING
DISABILITIES**



“Brehm has helped me become more aware. I’ve gotten to know myself, my learning disabilities and my processing issues. If I have a problem, I now feel comfortable talking with someone about it. After making so many friends here, it’s the first time in my life that I feel that I’m not alone.”

- Anna



Brehm School is a unique family style boarding school for students with complex learning disabilities, grades 6-12. Brehm is a forerunner in serving students with dyslexia, ADD/ADHD, auditory processing disorders, NVLD, aspergers and language-based learning disabilities. Brehm students go on to college, find fulfilling careers and become successful entrepreneurs.

The one of a kind Brehm experience offers:

- A fully accredited high school
- A unique holistic program (Fulfilling our students academic, social and emotional needs)
- 4:1 student-to-teacher ratio
- Individualized academic curriculum
- 4 full-time Speech Language Pathologists
- Team recreational programs and sports
- 24/7 Health Services
- Supervised dorm living
- Exciting Summer Program

Brehm has joined forces with The Arrowsmith Program:

Brehm has forged a powerful partnership with the Arrowsmith Program to become an even more powerful force for positive change in the lives of students with complex learning disabilities and differences. The Arrowsmith Program focuses on strengthening the underlying weak cognitive area, thereby improving the ability of that area to contribute to the learning activity. It addresses the root cause of the learning disability. Brehm will offer Arrowsmith Program classes to selected students beginning this fall.

Call Brehm today: **618.457.0371**

Empowering students grades 6 through 12 with complex learning disabilities to recognize and achieve their full potential.

Brehm School 1245 E. Grand Avenue Carbondale, IL 62901 www.Brehm.org

© Brehm Preparatory School, 501(c)(3) not-for-profit. Brehm admits students without regard to race, creed, sex or national or ethnic origin.





If a college student intends to receive accommodations like alternate media and extra time on tests in a distraction-free environment, the student should disclose his or her disability and associated functional limitations very promptly following notice of admission.

find life in college better than in high school. Test accommodations, like extra time and a distraction-free environment, are easier to get and more reliably provided. Use of adaptive technology is more likely to be accepted, even encouraged. Alternate media is more likely to be provided by colleges and universities than by elementary and secondary schools.

Colleges may not make pre-admission inquiries into whether applicants have a disability. But what about the disclosing provision of accommodations for student achievement tests?

Students will not get standardized admissions test accommodations

without providing reliable, professional documentation of their disabilities. However, the standardized testing agencies should not be sharing information with colleges and universities, and in my experience, they comply with this requirement. For many years, however, these agencies did report when students were receiving testing accommodations. Scores were often accompanied by an asterisk denoting nonstandard testing conditions. This practice is no longer widely followed, and where it still exists it is under challenge in court. I would never advise a student to avoid seeking accommodations on admissions exams for fear it would reveal that they are individuals with disabilities.

Summit Teen Travel

For the special child ages 15 – 20 with social, attention or learning disorders

In addition to our Summer Camp in Honesdale, PA, Summit Camp sponsors Travel Programs. Our trips are of two and three week duration to locations across North America, Europe and Israel.

In 2013 we travelled to Alaska, Washington, DC to Orlando and Spain and Morocco. The over 100 travelers had a wonderful time and learned many skills.

For Summer 2014, Summit Teen Travel is expanding its Program Options to eight adventures.

First session will choose from three weeks of travel to Israel, the British Isles and the Southwest United States. Session two will offer two programs of two weeks duration to the Northeast and Canada, and from Philadelphia to Williamsburg. The third session trips of three weeks each include the Great Cities of Europe - Paris, Milan, Florence, Venice and Rome. The second trip is to Costa Rica. The third will be to Israel for those who missed out on the first session. In all locations we will visit the major sites, the Theme Parks and Beaches.

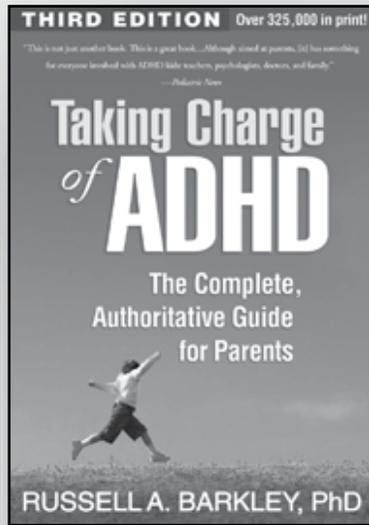
At Summit Teen Travel, we practice a philosophy that says all age appropriate youngsters should and can have the same experiences as their siblings. With the professionalism of an experienced staff of counselors, guides and medical personnel and a uniquely designed itinerary Summit Travel accomplishes this.

Everyone within the community is welcome and encouraged to participate.

Check out our itineraries through our website at www.summitcamp.com and press **TRAVEL**. Or contact our Travel Director at 973.732.3230 or travel@summitcamp.com.

Summit Teen Travel is a department of Summit Camp located in Honesdale, PA.

Learn how to manage your child's ADHD with Russell Barkley's bestselling parent guide



2013, Paperback, 364 Pages
ISBN 1-978-4625-0789-4, \$19.95

www.guilford.com/p/barkley

GP GUILFORD PRESS

**READ
A FREE
SAMPLE
CHAPTER**

Join us for an Open House at Landmark College

- Learn about our new **B.A. in Liberal Studies** — and other degree options
- Sit in on a student panel
- Meet with faculty and staff
- Take a student-led campus tour
- Learn about admissions and financial aid

Register Today!

Online: landmark.edu/openhouse
Email: admissions@landmark.edu
Phone: 802-387-6718



The College of Choice for Students Who Learn Differently
Putney, Vermont



Ask About Our New Graduate Certificate for Educators!

ASK THE EXPERT

When should a college student disclose his or her disability to the school?

If a student intends to receive accommodations like alternate media and extra time on tests in a distraction-free environment, the student should disclose his or her disability and associated functional limitations very promptly following notice of admission. If a student does not plan on receiving any accommodations, generally, the student should not disclose the disability.

What kinds of accommodations can be expected and provided in college?

Students with disabilities are entitled to academic adjustments and auxiliary aids, but only to the extent that they do not entail a fundamental alteration in the nature of the academic program, an undue burden on the college, a lowering of essential academic standards or represent a direct threat to the health and safety of others. Most accommodations sought by students with ADHD will not implicate a fundamental alteration or undue burden.

For students with ADHD, test accommodation (extended time in a distraction-free environment) is the most frequent form of accommodation. Students with ADHD also may receive limited extensions on weekly or daily assignments, but only to the extent that such extensions do not impair the continuity of the course.

Students with ADHD may also be able to use adaptive technology (such as voice to print programs) and alternate media (such as materials that are compatible with text to voice programs).

Students with ADHD are entitled to tutoring but only to the extent such tutoring is generally available to nondisabled students.

Students with ADHD may be able to make use of a personal assistant or coach, but not at the college's expense. Moreover, the assistant or coach may not be employed to accomplish essential course requirements for the student. The student must be able to complete his or her own essential work.

What should students with disabilities do to prepare for college, to make sure they have the help they need from Day One?

- Learn to advocate for himself or herself
- Become facile with adaptive technology
- Have an up-to-date evaluation which the student understands

You have commented, "The disability community must see to it that universal design, as opposed to narrow accommodation, becomes the route to our inclusion in the academic world."

Could you expand on this?

We are classified and labeled as individuals with disabilities only because we must accomplish some tasks in a unique or nonstandard manner. If every student could take exams with word limits rather than time limits, in a distraction-free environment; if every professor posted his or her notes or PowerPoint outlines on the web for all his or her students; and, if every textbook was produced by publishers in multiple e-formats—there would be no need for labels, evaluations, accommodation plans, etc. Disability services offices could devote themselves to improving the quality of instruction on campus by developing and distributing universal design best practices to the faculty and every student, with or without disabilities, would have a more accessible education. These are practices I strive for in my own law school classes. They are not burdensome. ☺