CONSULTANTS’ REPORT

ASSESSMENT OF AND RECOMMENDATIONS FOR DARTMOUTH COLLEGE’S PROVISION OF REASONABLE ACCOMMODATIONS TO STUDENTS WITH DISABILITIES

October 18, 2019

Jeanne M. Kincaid, Drummond Woodsum
William Welsh, Access 4 All, LLC
EXECUTIVE SUMMARY

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Assessment of and Recommendations for Dartmouth College’s Provision of Reasonable Accommodations to Students with Disabilities

Dartmouth College, like many private institutions, has experienced a dramatic rise in the number of students who qualify for disability-based accommodations. This document summarizes the findings and recommendations of the consultants Dartmouth College retained to conduct an assessment as to how the campus provides reasonable accommodations to students with disabilities. The assessment revealed that Dartmouth’s accessibility model at the undergraduate level in effect at the time of our on-site review fell short in meeting a number of its obligations under the Americans with Disabilities Act and Rehabilitation Act of 1973. Both the number of students served and complexity of student accommodation needs contributed to these findings but were not the only reasons for the shortcomings noted. We are pleased to report that Dartmouth is implementing comprehensive systemic changes that will benefit not only students with disabilities but employees and visitors as well, thereby enhancing Dartmouth’s compliance with its legal obligations.

Our review included analyzing written materials and interviewing approximately 60 stakeholders drawn from Dartmouth’s students, alumni, staff, faculty, and administrator constituencies, generating findings and recommendations in the following key areas:

- Reorganizing the current staffing and operations of the Student Accessibility Services (SAS) office, which has primary responsibility for coordinating authorized accommodations for undergraduate students with disabilities, through reallocation of responsibilities to existing staff members, enhancements in data collection, and assessment of student needs in conjunction with faculty input about legitimate academic standards;
- Designating an ADA/504 Compliance Officer with oversight for all disability-related issues, to provide leadership in meeting Dartmouth’s legal obligations to students, faculty, staff, and visitors with disabilities and to foster effective

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1 Dartmouth engaged the services of Jeanne Kincaid and William Welsh in partial fulfillment of the institution’s obligations under the Consent Decree entered in a federal lawsuit initiated by a Dartmouth student and docketed to 1:17-cv-264-SM in the U.S. District Court of New Hampshire. The purpose and scope of the assessment was to fulfill Dartmouth’s obligation to “conduct an assessment of and make recommendations with respect to the available personnel, facilities, adaptive technologies, auxiliary aids, and other resources available to reasonably accommodate the needs of students with disabilities.”

2 We applaud Dartmouth for promptly implementing some of our recommendations before the completion of the full report. During the pendency of the assessment process, Dartmouth implemented a grievance process for students with disability-related issues. Following the retirement of the former SAS Director, Dartmouth has hired an experienced new SAS Director whose skills and collaborative nature are well-suited to addressing the challenges revealed by the assessment.

3 We also carefully reviewed this function in each of the graduate and professional schools, which is fulfilled by an individual or committee liaison.
collaboration and communication among SAS, faculty members, and students with disabilities;

- Reorienting the existing testing center toward serving the needs of students with disabilities under the supervision of SAS, a change that Dartmouth initiated even before we finalized our report;
- Redirecting academic support services, including instruction in note-taking skills and academic advising, to the Academic Skills Center;
- Centralizing all disability-related operations on campus to reinforce a team-based approach to serving students; and
- Reinstating an institution-wide task force to advise Dartmouth’s leadership on disability-based resources and concerns, including campus community members with disabilities as well as officials with responsibility for addressing disability-related needs.

We trust that the accompanying assessment and recommendations will provide a road map to guide the College in this effort. We understand that Dartmouth is presently appointing a Corrective Action Plan Committee, charged with the responsibility for developing a plan and time frames for providing appropriate accommodations for students with disabilities, taking into account the assessment and other relevant input.
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Assessment of and Recommendations for Dartmouth College’s Provision of Reasonable Accommodations to Students with Disabilities

October 18, 2019

I. INTRODUCTION

In accordance with the provisions of a Consent Decree, in particular, ¶1.2 (attached), Dartmouth College retained Drummond Woodsum to conduct a comprehensive assessment of how the campus as a whole reasonably accommodates students with disabilities. The assessment included a review of available personnel, facilities, adaptive technologies, auxiliary aids and other available resources. The Consent Decree required the reviewers to make recommendations to Dartmouth based upon the findings of the assessment.

Drummond Woodsum retained William Welsh of Access 4 All, LLC. Mr. Welsh has over 25 years of experience in managing and overseeing offices that coordinate the provision of academic adjustments and auxiliary aids and services (collectively, “reasonable accommodations” or “accommodations”) for students with disabilities. Jeanne Kincaid of Drummond Woodsum is a nationally recognized legal expert in disability law matters, particularly with respect to higher education legal obligations owed to students with disabilities.

Attorney Kincaid and Mr. Welsh (the “consultants”) prepared tools to collect information from those individuals whom the College has assigned responsibility for coordinating and implementing reasonable accommodations for all undergraduate, graduate and professional school students with disabilities. The Student Accessibility Services (“SAS”) office, which serves all undergraduate students with disabilities,¹ and each of the designated disability providers or liaisons for the graduate and professional schools (the “Schools”), completed these assessments. At the consultants’ request, SAS also provided additional written data during and

¹ SAS reports that it also serves students matriculating for the Thayer School of Engineering’s “Bachelor of Engineering” (technically a graduate degree) and “Special Community Students” (non-matriculated students who are authorized to take courses on a space-available basis). The consultants’ focus here is upon the undergraduate student experience insofar as SAS.
following a five-day on-site visit in April 2019. In addition, the consultants reviewed available information posted on Dartmouth websites to enhance their understanding of how the campus addresses the needs of students with disabilities.

One document Dartmouth provided to the consultants during the visit was particularly useful. Dartmouth created a “Working Group” charged with assessing and making recommendations for “Student Instructional Accessibility.” The Working Group issued a report dated March 29, 2019, (herein the “Accessibility Report”). The Accessibility Report dovetails well with several areas the consultants reviewed.

Prior to the on-site visit, working with campus representatives, the consultants designed a list of interest areas they deemed necessary to assess (e.g., instructional access by interviewing faculty and administrators, counseling and health services, residential life, facilities, information technology access, etc.) in order to fulfill the Consent Decree directives. The consultants interviewed every SAS professional staff member responsible for determining and/or implementing reasonable accommodations for undergraduate students with disabilities. Additionally, the consultants interviewed the other Schools’ disability liaisons serving graduate and professional students with disabilities.

While on-site, the consultants interviewed 55 College stakeholders, in addition to the plaintiff in the lawsuit that resulted in the Consent Decree and her parents. The consultants held three public forums to invite student and alumni input. Via multiple electronic communications, Dartmouth invited students to submit their input in-person, via writing or in follow-up interviews following the on-site investigation. Following the campus visit, the consultants interviewed additional campus officials and one student. The consultants reviewed a sample of 11 undergraduate student files to assess record-keeping functions, how SAS determines accommodations, how the campus implements them, and the types of services the office provides to students with disabilities.

Where applicable, the consultants reference the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act (“Section 504”). The consultants’ report focuses heavily upon the role of SAS as Dartmouth has designated this office as responsible for collecting and analyzing documentation for undergraduate students with disabilities related to determining ADA/Section 504 eligibility, the appropriate and necessary reasonable
accommodations, and much of the implementation hereof. While undergraduate students represent the vast majority of students at Dartmouth, the consultants’ report, where appropriate, incorporates an assessment of services for graduate and professional students as well.

The report reflects the consultants’ findings and recommendations following a comprehensive review. As required by the Consent Decree, Dartmouth will formulate and implement a corrective action plan with consideration of these findings and recommendations.

II. SCOPE OF REVIEW

Since the Consent Decree couches the scope of the assessment in terms of “reasonable accommodation,” it is important to define this legal obligation. Determining a student’s disability-related needs requires an individualized assessment. An institution’s legal obligation is to meet the needs of a particular student based upon the evaluation of students themselves and not on solutions that require the implementation of global remedies. The concept of reasonable accommodation may include academic adjustments, reasonable modifications to policies, practices, or procedures, and/or the provision of auxiliary aids and services that are necessary and appropriate.

SAS or the respective School liaison determines the “necessity” element by assessing how the student’s disability-based functional limitations impede their ability to access the program, activity or service at issue (in most instances, the academic component). The necessity analysis is not driven by what accommodations could be provided to ensure a student’s success. Meaningful access does not equate with the provision of interventions that maximize a student’s potential or yield a particular result, such as an “A” on an exam. Although disability providers should consider a student’s history of accommodation usage and preferences, what a student

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3 To extend inclusiveness to all members of the Dartmouth community, “they,” “them,” and “their” are used throughout this document instead of gendered pronouns.
4 34 C.F.R. § 104.44(a).
6 28 C.F.R. § 36.303; 34 C.F.R. § 104.44(d).
7 See PGA Tour, 532 U.S. at 681-82, 121 S.Ct. 1893.
requests or what a third-party evaluator may recommend, does not necessarily equate with “necessity.”

With respect to the “appropriateness” element of the reasonable accommodation analysis, whether a particular necessary accommodation is in fact appropriate may involve academic judgment.\(^8\) This is so because an accommodation is not appropriate if it would “fundamentally alter” the program, activity or service.\(^9\) Such an analysis may require academic input depending on the nature of the requested accommodation. In the academic context, neither Section 504 nor the ADA requires an institution of higher education to substantially modify its program or lower its academic standards.\(^10\) In weighing the ultimate determination of reasonableness, the courts extend deference to reasoned academic judgment absent evidence of bias.\(^11\)

Thus, an accommodation directive to a faculty member to excuse a student’s non-participation in class may not be appropriate depending on the nature of the course, even if the disability provider determines that the accommodation is necessary. Likewise, excusing spelling errors may not be appropriate for a student enrolled in a teacher education curriculum. Thus, the importance of an interactive process in determining appropriate accommodations includes not only the student and SAS or the School liaison but also the faculty.

Accordingly, accommodations that SAS or a School liaison “approves” should not interfere with a faculty member’s legitimate course expectations. For example, if a student is deaf and uses an interpreter in class, a faculty member who has never worked with an interpreter may find that it takes some getting used to, but the implementation of that auxiliary service would not result in a modification of course expectations. Similarly, a student diagnosed with a learning disability may process information more slowly than their typical peers may. Intellectually, they may be on a par with their fellow students, but their ability to read and

\(^{8}\) See 34 C.F.R. § 104.44(a).
\(^{10}\) See Davis, 442 U.S. at 410, 99 S.Ct. 2369; Wynne v. Tufts Univ. Sch. of Medicine, 932 F.2d 19, 26 (1st Cir. 1991) (en banc) (Tufts I).
\(^{11}\) See Tufts I, 932 F.2d at 25; Wynne v. Tufts Univ. Sch. of Medicine, 976 F.2d 791, 795 (1st Cir. 1992) (Tufts II); Bercovitch, 133 F.3d at 153.
process material quickly and/or engage in written expression may be sufficiently reduced by the condition as to justify according them extra time on tests.

Additionally, in particular with the provision of auxiliary aids and services (e.g., note-taking assistance), the ADA requires that the selection of how to address the need requires SAS to consider timeliness, privacy and independence of use. It is against this backdrop that the consultants have reviewed the College’s approach to the identification, coordination and implementation of reasonable accommodation to students with disabilities.

III. FINDINGS

A. Student Accessibility Services ("SAS")

1. Organization of SAS

SAS reports that during the 2018-2019 academic year, the office served approximately 559 undergraduate students out of a total undergraduate population of 4417. Accordingly, SAS serves approximately 12.7% of the undergraduate student population. In the consultants’ experience, this percentage represents a relatively high percentage for a selective school.

The SAS leadership consists of a Director and an Associate Director, both of whom conduct initial intakes and determine whether a student’s condition qualifies for accommodation (including temporary conditions/illnesses/injuries). These two individuals exclusively determine what accommodations are appropriate and necessary for each student. SAS employs six other full-time professional staff who secure, coordinate and implement accommodations. Beyond the Director and Associate Director, the other professional staff have minimal contact with students, a concern to the consultants as well as a sentiment expressed by some of the staff.

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12 See 28 C.F.R. § 36.303(c).
13 This figure is consistent with the previous year of 565 students with disabilities from an undergraduate population of 4410 students.
14 On at least two occasions, Dr. Brian Reed, the Associate Dean for Student Academic Support Services and Dean of Undergraduate Students, informed the consultants that SAS had identified 20% of the undergraduate population as eligible for accommodation. The consultants were unable to determine the origins of that figure.
15 This figure includes students with temporary impairments/injuries.
16 SAS also temporarily retained a part-time vendor who has been primarily responsible for graphic conversions and other highly technical material formatting.
addition to eight professional staff members, SAS employs three graduate students who primarily assist with document conversion.

Although the SAS leadership and other campus officials suggested that SAS is understaffed, the consultants question that assertion. In fact, the staffing levels Dartmouth has designated to serve students with disabilities is considerably higher than seen in many institutions of comparable size, even accounting for current trends in meeting the needs of students with disabilities. As is true throughout the country, the number of Dartmouth students identified as disabled continues to rise and, as this report captures, some student needs have become increasingly complex. Moreover, students have become more vocal about their disability-related needs.

The consultants suggest that the campus leadership review the organization of SAS and the various roles and responsibilities assigned to the staff. In essence, only two professionals provide case management services (the Director and Associate Director). The other professional staff are assigned specific logistical tasks related to the implementation of accommodations (note-taking, assistive technology, accessible course materials, etc.), yet they have had little to no contact with the students assigned to their areas. Consequently, Dartmouth implements accommodations in an uncoordinated fashion, undercutting the ability of students to obtain the full benefit of the proffered services.

Failing to authorize professional staff with expertise the opportunity to tailor accommodations to students throughout their enrollment based upon the accommodations’ use and effectiveness represents a substantial underutilization of existing personnel and their competencies. The existing model concentrates too much direct service in too few hands, leaving the SAS administrators little available time to provide effective staff management, conduct professional development and offer faculty support and guidance to assist them in meeting their responsibilities to students with disabilities.

Most, if not all, of the SAS staff are eager to work directly with students. Some of the staff either have the capability or could be trained to do so. Indeed, a number of staff expressed their disappointment to learn following their hire that they would have virtually no opportunity to

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17 A review of a number of Ivy League school websites whose student population is considerably larger do not appear to have staffing levels as robust as Dartmouth.
provide direct services to students with disabilities. A number of the staff expressed their view that this model did not make sense to them and some indicated that how SAS provides services varies from what they had understood at their time of hire.

Some institutions employ a review panel that includes several disability services personnel and at times outside experts (from the counseling center or medical centers when second opinions are deemed advisable) to assist in reviewing cases and making accommodation determinations. This type of system, which the Geisel School of Medicine has employed with success, has proven effective in promoting consistency as well as creating a team approach that fosters a variety of opinions and experiences to be part of the approval process. From a compliance standpoint, such an approach has proven successful in response to complaints when a campus can demonstrate that it has engaged in a deliberative decision-making process. A review panel also serves as an ongoing training tool for new staff in a field where turnover can be quite high.

The importance of cross-training became obvious when the Director announced he would be retiring, leaving one individual, the Associate Director, solely responsible for direct student case management should the Director position not be immediately filled. If the SAS leadership more effectively assigned, managed, and cross-trained the staff, the necessity of hiring of additional staff on an urgent basis might prove unnecessary. As discussed below, the consultants have noted an array of inefficiencies that if corrected would likely free up resources that could be better utilized. Additionally, based on accessibility practices at other institutions, the consultants question some of the services that SAS is providing rather than referring students to other student affairs personnel or departments.

2. Reporting Structure

Currently, SAS sits within the division of Student Affairs, a common but not universal placement in campus organizational charts. A review of how a campus responds to disability-related needs generally includes an examination of a campus’s organizational structure and reporting lines. There are typically three models across the country with respect to where an office such as SAS reports: Student Affairs, Academic Affairs, or within a diversity/inclusion department. The consultants asked numerous key stakeholders to voice their opinion as to where
Dartmouth should situate SAS within the campus organizational framework. The consultants received a variety of opinions with no clear consensus.

A benefit to structuring SAS on the academic side of the College is that its primary function (providing course accommodations) is heavily academic in nature. As discussed below, the faculty and SAS do not currently have a collaborative and effective working relationship. As such, one could see some value in revisiting where SAS should sit and to whom it should report. In other words, if Dartmouth structurally aligned SAS in Academic Affairs, the faculty might appreciate the role of SAS as a resource to the faculty, as well as to students. Additionally, numerous stakeholders expressed concern that the College’s budget cuts in Student Affairs convey a lack of commitment to support the growing number and demands of students with disabilities by limiting infrastructure and leadership support. There is at least a perception that such budget cuts do not affect departments if situated within Academic Affairs.

Conversely, the Dean of the College role, customarily filled by an academic representative, has long provided leadership to SAS along with the wide array of student support services. There is a wealth of institutional knowledge that could be lost should modification of these reporting and funding lines occur outside of Student Affairs. The consultants opine that perhaps, with new SAS leadership (the Director) and additional time devoted by the Dean of Academic Support Services and Undergraduate Students to the supervision of SAS operations, retaining SAS within Student Affairs could prove to be effective and could benefit from the Dean of the College’s academic affiliations.

Additionally, there are some models in higher education where an office such as SAS reports to the diversity and inclusion office such as Dartmouth’s Office of Institutional Diversity and Equity (IDE). A number of individuals suggested that SAS should report to IDE, while others expressed disagreement with the idea. The reasons for disagreeing with this idea were numerous. At some institutions, placing an SAS office within an IDE environment is logical given how the particular college/university may have positioned the office. However, the consultants do not believe that SAS should report to IDE given its current configuration and charge.

Overall, the consultants recommend that Dartmouth leadership devote more attention at various administrative levels to the student disability experience. The consultants suggest that
Dartmouth consider appointing an ADA/Section 504 Compliance Officer who can oversee all campus-wide disability-related needs (beyond those presented by students with disabilities) and necessary stewardship. The resulting corrective action plan could include a review and determination of where SAS should report in light of these findings. The consultants advise that the Dartmouth administration assess how it can best ensure that the implementation of reasonable accommodations recognized as a civil rights issue can be effectively accomplished.

3. **Location of SAS**

SAS staff and office spaces are divided among three locations, in three different (albeit interconnected) buildings (Baker, Berry, and Carson), on three different floors. Other than within staff members’ immediate workspaces, there is no identifiable central SAS location for students with disabilities to visit. The offices are located in shared suites, lack any SAS waiting/visiting area, and require a path of travel with significant accessibility obstacles. The consultants appreciate that space is routinely at a premium on college campuses. Nonetheless, the current configuration does not effectively serve the needs of student disabilities, both in perception and reality.

Equally important, the office space design does not lend itself to team building, efficient management and supervision by SAS administrators, and certainly may be (and reportedly has been) confusing to students seeking accommodations. With tasks compartmentalized in various locations, in the consultants’ view, SAS leadership may continue to be hampered in providing effective oversight and building a team of staff committed to a common goal. If Dartmouth relocates SAS services, planners need to consider the location’s accessible features as well as the path of travel to enable students to readily locate and navigate the office.

4. **SAS Data & Resulting Accommodation Management Systems**

Dartmouth has designated the SAS office with serving all undergraduate students with disabilities who seek academic and other accommodations (including non-matriculated students,

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18 The Consent Decree calls for the designation of a “new ADA Coordinator” but this title is already in use to describe the position responsible for oversight of employee accommodations. This fact coupled with the consultants’ observation that Dartmouth lacks a centralized position responsible for campus-wide compliance with disability commitments leads the consultants to suggest the title of “ADA/Section 504 Compliance Officer” to achieve the objectives described in the Consent Decree.
local high school students, transfer and dual degree students seeking matriculation, and students matriculating at the Thayer School of Engineering Bachelor of Engineering degree). SAS’s comprehensive self-assessment included information about the number of students receiving accommodations, their disability categories, and the types of accommodations the campus provides. However, the categories of data SAS initially reported were so broad that the consultants could not assess details pertaining to specific accommodations. For example, initially SAS did not provide data about specific types of testing accommodations. How many students did SAS approve to receive extended time? How many students did SAS approve to have their tests administered in a private room? At the consultants’ request, and following the on-site visit, SAS provided supplemental data that afforded greater insight into SAS operations.

The consultants had hoped to determine what percentage of the students who seek accommodations are granted accommodations and whether the authorized accommodations differ from what a student has sought. In short, what is the impact of the interactive process among the student, the student’s providers, faculty and SAS?

Although some faculty expressed unease as to the increasing number of students identified as having disabilities eligible for accommodation, the Director of SAS assured the consultants that he has made determinations that certain students seeking accommodation did not have a disability and therefore did not approve them for accommodations. In contrast, during her four years at Dartmouth, the Associate Director represented that she has always found students eligible who have sought accommodation. Unfortunately, the consultants were unable to identify any data-driven information from which to analyze whether the accommodations requested were granted as proposed, modified and granted or denied.

SAS staff repeatedly advised the consultants that the accommodation statistics reflected in the self-assessment (as well as the supplemental data) were unreliable due to the lack of a disability-driven database management system. The consultants concur that the failure to have

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19 In 2008, Congress amended the Americans with Disabilities Act in a manner that significantly expanded who could qualify for disability-based accommodations.

20 As discussed below, SAS lacks an intake form or portal system, which enables students to request accommodations online. Such a system likely would have enabled the consultants to conduct some analysis. A review of sample files did not yield useful information in this regard.

21 The Director advised the consultants that Dartmouth has repeatedly declined to support SAS’s proposals to fund a database management system.
a system that enables the staff to collect and interpret data undercuts the manner in which SAS conducts its operations. Currently, at best, SAS can catalogue what accommodations it has offered a student, but has no capability for assessing what accommodations students actually use, presenting a challenge in assessing SAS’s effectiveness. Although the consultants appreciate that implementing a database management system comes with a cost, the present operations are inefficient. Moreover, as described below, the consultants suspect that the campus is invariably wasting considerable resources by the allocation of staff time implementing accommodations for students who may not be using them. Some of the costly and labor-intensive accommodations may not be warranted at all or some students may not require the degree of accommodation (recall the “necessity” standard described in the Introduction section) that SAS is undertaking for them (e.g., the extent of document conversion and the array of note-taking services). Campuses that have implemented a disability-based database system report the ease with which students are able to access disability services and partner with the campus in securing timely accommodations along with collecting and cataloging data to enhance operations management.

Not only is SAS unable to chronicle their operations in a reliable manner, they also have no system of checks and balances. For example, during the 2018-2019 academic year, SAS approved note-taking services for approximately 57% of the registered students. In the consultants’ experience, particularly at an elite school, this high percentage of note-taking assistance is concerning. Consistent with SAS’s narrative statements in its self-assessment and their interviews with us, the consultants find that SAS offers accommodations based upon what they believe might help the student rather than providing accommodations that are necessary to afford students with disabilities an equal opportunity to access their educational program.

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22 The SAS self-assessment reports that during the 2018-2019 academic year, the office approved 316 of the 559 registered students for note-taking assistance.

23 In its self-assessment, when asked to describe how SAS determines appropriate and necessary accommodations, SAS represented that it did not “aspire” to the concept that it should authorize reasonable accommodations based upon how “each student’s disability-related circumstances intersect with each class’s legitimate academic objectives, . . .” (a construct the consultants believe is what the ADA and Section 504 are based upon but not practical to implement) and offered additional thoughts on their philosophy:

It reinforces the notion that we should adjust for people with disabilities rather than adjust a less-than-universally-designed academic environment and pedagogy. Commonly utilized academic adjustments, services, and program modifications are all too frequently “band aids” to mitigate suboptimal design and opportunity.

This philosophy, while aspirational, presents a substantial impediment in meeting the needs of individual students and appears to have created a system of over-accommodation.
Although disability providers commonly suggest accommodations to students based upon the providers’ professional expertise, it appears that SAS has been approving note-taking accommodations to provide assistance and not necessarily access. The consultants suggest that SAS first consider referring students who heretofore have not required note-taking assistance to the Academic Skills Center (“ASC”) to attempt to acquire these skills. It is appropriate for students with disabilities to learn to manage their disabilities for success after college while receiving the support necessary to be successful in college, which are not competing goals. The fact that SAS has determined that over half the students with disabilities require note-taking assistance in order to access their education is striking. Additionally, similar to other accommodation, SAS has employed no mechanisms to determine if a student actually uses the notes -- a measure likely to determine if the accommodation even qualifies as necessary. The consultants further address note-taking services later in the report. Document conversion is another service that SAS recommends to individual students who heretofore may never have used materials in an alternate format. Again, SAS has undertaken no measures to determine if students actually use the converted materials. Nor does SAS evaluate the effectiveness of this operation. Both note-taking assistance and document conversion represent labor-intensive accommodations, particularly in the manner in which SAS provides them. In the consultants’ view, Dartmouth is expending considerable effort, as described below, with little understanding as to the extent of student usage and benefit. The consultants suggest that if Dartmouth approved the implementation of a better data management tool, SAS should be able to determine who is using the accommodations, assess accommodation effectiveness, reduce the tendency to over-accommodate students, and more effectively evaluate the necessity of some of the accommodations.

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24 The primary goal of Dartmouth College’s Academic Skills Center (ASC) is to assist students in becoming more efficient and effective learners. The Tutor Clearinghouse coordinates peer tutoring and study groups on campus, as well as a variety of other programs that aim to enrich students’ understanding of course material. Additional services provided by ASC include a variety of learning strategies and skills (e.g., note taking, test taking, time management, studying tips) and one-on-one academic coaching/advising. For further information on the ASC: https://students.dartmouth.edu/academic-skills/about/about-asc/services.

The consultants also found that SAS views its role to include advocacy. Relevant job descriptions do not include such a function. In the consultants’ experience, disability providers who see themselves as student advocates may inadvertently create a tension between the SAS office and the faculty and give students a mistaken impression. Accordingly, the consultants discourage the use of such terminology.

5. Students’ SAS Experience

The students with whom the consultants spoke nearly universally applauded the SAS leadership and their efforts to support them in their access and success at Dartmouth. Student concerns largely centered on physical accessibility, availability of other supports (e.g., Dick’s House, transportation) and some registered concerns with faculty members’ lack of understanding of their disability-related needs. Several students expressed concern that the campus does not sufficiently reach out to incoming students with disabilities so that they are aware of the availability of SAS as a resource to them.

6. “Approved” Accommodations

It appears that Dartmouth has largely delegated the full range of accommodation decision-making to SAS even when there may be justification for conferring with faculty members with respect to certain accommodations. The number of students with disabilities combined with the limitations imposed by how SAS deploys its staff members has hindered the degree to which the College can undertake a deliberative process for accommodation determinations. The current system results in SAS determining that a particular accommodation is both necessary and appropriate.²⁶

Student disability offices routinely decide what accommodations are necessary; but they cannot truly assess whether a specific accommodation is appropriate in each instance, as they cannot feasibly appreciate the objectives and expectations for every course absent faculty input. SAS’s approach is to approve the accommodations in advance and then expect the faculty to contact SAS afterwards if they have any concerns that implementing a particular accommodation

²⁶ The consultants emphasize that SAS concededly does not analyze accommodations through the prism of necessity.
is unreasonable and might fundamentally alter a legitimate course requirement.\textsuperscript{27} Suggesting that a faculty member has the authority to modify an accommodation after-the-fact may have the unintended effect of implying to a student that the faculty member is unsupportive, a concern noted by the Working Group in its Accessibility Report.\textsuperscript{28}

The operations also require that SAS’s determination remain in effect until the identification of an alternative approach. The Working Group found this form of resolution unrealistic due to the unavailability of SAS staff. The consultants recommend that the corrective action plan revisit how SAS assesses and determines appropriate and necessary accommodations. The corrective action plan should consider including faculty consultations in circumstances where an accommodation could compromise legitimate academic course expectations. The consultants appreciate that how such a system should operate at Dartmouth requires input from a variety of stakeholders with due consideration for ensuring the timely implementation of appropriate accommodations.

One model that some campuses use to convey the accommodation position of the disability services office is to “recommend” that the faculty member consider the appropriateness of the listed accommodations. This process enables the student and faculty member to engage in a discussion and fine-tune the accommodation decision based upon legitimate course expectations and pedagogical concerns. The accommodation document should include a proviso that if the student is dissatisfied with the faculty member’s position, they may engage SAS to assist them with resolving any disagreements. This method of operation has its limits as the power dynamic between students and faculty is imbalanced. Such an approach could result in inconsistent outcomes. Alternatively, Dartmouth could empower a committee that includes academic representatives to determine appropriate accommodations when there is reason to believe that they could interfere with legitimate academic expectations.

\textsuperscript{27} SAS issues a document entitled the “Services and Consent Form” (SCF) which memorializes the approved accommodations.

\textsuperscript{28} See Accessibility Report, page 4.
7. **Flexible Attendance, Extensions on Assignments and Other Accommodations that May Impact Legitimate Academic Expectations**

The one area where SAS recognizes that advance approval may not be appropriate pertains to a student’s request for flexibility in attending class, meeting assignment deadlines and class participation. Some students with physical and/or mental health challenges may make such requests. In these situations, SAS utilizes a template (called a “sporadic absence letter”). These three aforementioned accommodations (and likely others) represent examples of accommodations that may very well impinge upon legitimate course expectations. In the consultants’ view, the template language conveyed to the faculty is vague, may lead to confusion, and faculty could apply the accommodations in an arbitrary manner. Moreover, SAS has designed the letter in a manner that expressly states that a faculty failure in this regard could be “discriminatory.” The consultants opine that such terminology does not convey the partnership that a good faith interactive process should entail and does not acknowledge the need to prevent interference with core academic requirements.

The consultants appreciate that student requests for flexibility in light of their health concerns is a common request nationwide. Campuses are struggling with how to assess the need and respond in a supportive manner that does not lend itself to arbitrary decision-making and misunderstandings between students, faculty and SAS offices. This is no easy task and the consultants do not question SAS’s well-intended efforts.

According to SAS data, during the 2018-2019 academic year, it approved 100 of the 559 (nearly 18%) registered undergraduate students for flexibility in attendance/extensions on assignments; a figure that is of concern given the nature of the importance of attendance to the Dartmouth experience. The consultants suggest that the Associate Dean of Student Academic Support Services and/or the new Director review how SAS determines which students qualify for such flexibility and to ensure that the office base any such determination on applicable legal standards. In addition to who is eligible for such a letter, SAS should draft a communication respectful of both the student and faculty. Finally, the protocol SAS adopts should minimize the
risk of inconsistent and arbitrary implementation, as it appears that SAS delegates actual implementation to the faculty with little guidance.\textsuperscript{29}

In its Accessibility Report, the Working Group set forth a helpful example of the potential complexities surrounding what may appear to be a simple accommodation of extending a testing date or assignment:

[I]f an exam time or deadline for an assignment is waived for a student, then it may not be possible to incorporate feedback on that assignment into the class until the student with disabilities completes it. This is a particular problem where deadlines allow assignments to form the basis for subsequent learning.

As this example aptly demonstrates, SAS cannot assess the reasonableness of certain accommodations out of context. To invite faculty to individually navigate these waters with the student in implementing approved accommodations runs the risk of arbitrary decision-making, no matter how well intentioned the faculty efforts may be. Moreover, the U.S. Department of Education’s Office for Civil Rights (“OCR”) has frowned upon such an approach. Most conditions that may warrant these special considerations are not visible and students may be uncomfortable sharing their disability-related limitations with faculty and should never feel as if they are required to do so. Yet, unlike SAS staff, faculty may have no indication of the issues a student is facing.

The consultants recommend that Dartmouth revisit these forms of accommodation and consider adopting a different protocol. Some successful models of these types of accommodations are based upon a more interactive process involving the student, faculty (or department chair) and SAS, rather than leaving it up to faculty/student arbitration. Additionally, successful models begin with a careful analysis of when this type of accommodation is necessary. Only after discussing other effective means of accommodation first should SAS consider such flexibility. Some models use SAS as the arbiter by interacting with both faculty

\textsuperscript{29} A portion of the letter reads as follows:

xxxxx may experience sporadic, unpredictable events that may result in missing class lectures or examinations with little or no notice. Also, while in class, xxxxx may have times during which they are unable to concentrate. To the extent it does not compromise legitimate academic standards and objectives of your class, flexibility about attendance in such circumstances will be appropriate. When xxxxxxx is experiencing symptoms, flexibility may include rescheduling tests, extension of short turn-around assignments, and helping them to “catch up” with course material.
and students on a course-by-course basis to settle upon a fair, reasonable accommodation (which admittedly can be time-consuming). The final determination, which in the consultants’ view should rest with the academic-decision maker, is then memorialized in writing to minimize confusion. SAS’s current practice is not based upon these principles, resulting in the approval of accommodations that may not be necessary or appropriate, leaving the faculty confused and the students subject to negotiating a potentially difficult landscape on their own.

Addressing unpredictable disability-related needs in a manner that is manageable and does not result in undercutting legitimate academic expectations is an appropriate task for the corrective action plan. Asking a faculty member to address singlehandedly this need, while upholding classroom participation expectations, is not a reasonable expectation. The consultants also observe that language suggesting that a faculty member assist a student to enable them to “catch up with course material” is subject to such varying expectations as to create unintended conflicts between faculty and students.

8. **Note-taking Assistance**

The law requires that Dartmouth provide students with disabilities reasonable accommodations that are both appropriate and necessary. The consultants found that SAS operates in a manner that invites students to request more accommodations than are necessary and approves accommodations that a student has never used or requested. In general, SAS reports that it cannot identify which accommodations a student is using or an accommodation’s effectiveness. The provision of note-taking assistance perhaps provides the clearest example. SAS’s method of operation with respect to note-taking drains resources in the form of staff time and monetary expenditures absent data to support its efficacy.

According to data SAS supplied to the consultants following the on-site visit, during the 2018-2019 academic year, it approved 238 students to receive note-taking assistance in their

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30 During student meetings, one student opined that they did not believe that the faculty had a sufficient understanding about their condition and their inability to regularly attend and participate in class. The consultants appreciate the student and faculty perspectives here. At what point are the limitations of a student’s condition so great that they cannot function effectively in the course without lowering programmatic expectations? At what point might a student not be otherwise qualified for the essential rigors of a course? This factor does not appear to be included in the SAS analysis when considering such accommodations, leaving the outcome subject to negotiation between the student and implementing faculty member.
classes fulfilled by paid notetakers. As mentioned above, the consultants question how over half of Dartmouth’s undergraduate students with disabilities would require such a service in order to access their educational program. Given the considerable burdens, cost and attendant compliance concerns presented by SAS’s method of operation, the consultants have carefully examined this particular form of accommodation.

SAS’s auxiliary services assistant, who essentially serves as a note-taking coordinator, recruits, trains and assigns notetakers for each student so approved in each of the courses a student may request. The student completes an online note-taking assistance form to indicate what courses they are seeking to have notetakers assigned. The auxiliary services assistant represented, however, that there are no measures in place to determine whether a student actually uses the notes provided by paid notetakers in any particular class or at all. She also reported that she has no contact with students receiving note-taking assistance in order to determine if a paid notetaker is an accommodation that they truly require for each course.

The auxiliary services assistant represents a good example as to how SAS’s role delegation has failed to capitalize on staff members’ expertise. This professional holds a graduate certificate in assistive technology and is knowledgeable about note-taking applications and technologies that might be appropriate for students in light of their individual functional limitations and learning styles. However, SAS has failed to configure its staffing in a manner to enable her to help assess students’ individual and particular needs, including the exploration of options that might be more effective, including some that SAS does not employ at all. Although the SAS website indicates that the assistant will train students on note-taking technologies, SAS leadership has not authorized her to do so.

The growing national trend is to provide technological solutions to address note-taking demands in lieu of personal notetakers, when appropriate. A quarter-based system with the add-

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31 As noted above, SAS represented that it had approved 316 students or 57% for note-taking assistance. Of this figure, SAS approved 238 students to obtain notes generated by paid notetakers.
32 The consultants found some of the staff’s titles to be confusing and suggest that when staffing is analyzed and possibly reconfigured, that job titles reflect the actual work expected of the individuals. For example, the Dartmouth term “auxiliary services” appears to have its genesis in Section 504 and ADA regulations that use similar terminology. See Section 504: “auxiliary aids” (34 C.F.R. § 104.44(d)); Title III of the ADA: “auxiliary aids and services” (28 C.F.R. § 36.303). The consultants suspect that students find some of the position titles confusing as well.
drop course element presents particular challenges to providing reliable and timely personal note-taking assistance due to the effort that SAS must undertake to recruit and assign such individuals, which might change by the end of the add-drop period. The burden associated with the provision of quality notes generated by another person, which are compensated services, is considerable. Additionally, note-taking applications and devices empower students to take their own notes, fostering their independence. In the long run, some students with disabilities who obtain device training and support combined with note-taking skill development, all currently available through the ASC, could acquire a learning strategy that will assist them beyond Dartmouth.\footnote{According to the SAS self-assessment, few students are using technologies rather than personal note-takers. However, SAS sent data to the consultants following the on-site visit that identified 149 students authorized for smart pens and 97 students authorized to use presumptively a computer note-taking application, such as Sonocent. As discussed herein, SAS employs no method for determining whether a student is using any of these authorized accommodations.}

Finally, the consultants were surprised to learn that SAS has approved students for multiple, duplicative forms of note-taking accommodation, e.g., a paid notetaker, a live scribe pen and an internet-based note-taking application called Sonocent.\footnote{This could help explain the figures as to the number of students who SAS authorized to obtain multiple accommodations to address the same functional limitation.} Consequently, SAS may be providing a student with all three methods for each course, which illustrates a lack of analysis as to the appropriateness and necessity of the accommodation. This method of operation provides an example of over-accommodation with no mechanism to determine usage or its efficacy.

The timely provision of personal notetakers represents one of the highest compliance concerns noted by OCR. When a campus relies heavily on personal notetakers to address the note-taking need, particularly at a campus on a quarter-based system, the institution is at significant risk of failing to meet its commitment to all of these students. Such an approach could have the unintended consequence of failing to meet the accessibility needs of those students whereby personal note-taking is necessary and appropriate, while having made a commitment to those for whom note-taking is not necessary and/or appropriate, and regardless of whether note-taking is appropriate in a given course. The consultants recommend that campus leadership carefully review how SAS determines this particular accommodation and the best practices for implementation.
If Dartmouth reorganizes SAS in a manner whereby individuals with expertise regularly review student accommodations, using note-taking as an example, the consultants believe that Dartmouth would see a substantial reduction in staff time utilized in recruiting, training and assigning notetakers along with an offset in the cost of peer note-taking. Staff could meet with students to afford them training on note-taking options (including other available note-taking apps which SAS is not using), or training through the ASC; determine whether the provision of a paid notetaker is actually required for each course; and assess which method of note-taking assistance is most effective for them. The consultants suggest that the corrective action plan include recommendations for implementing enhanced systems for the note-taking accommodation process that are responsive to student needs while fostering student independence.

9. **Priority Registration**

The College’s quarter-based system presents additional challenges for some students with disabilities. The consultants understand that students may register for classes up to two days prior to the beginning of the quarter.

In the consultants’ experience, the vast majority of instances when a student would qualify for priority registration occur when the College and the student need additional lead-time for securing other accommodations. For example, in order to provide timely access to digital textbooks and other material conversion, an SAS office is apt to support an effort to arrange for a student to have priority in course selection. This accommodation in turn aids the student by increasing the likelihood for obtaining their course materials in a timely manner. The accommodation minimizes compliance risks when conversion efforts may be time-consuming. Of course, there are other instances where an SAS office approves priority registration solely for a student to receive equal access. For example, a student may have a health condition that affects their ability to engage effectively in early morning classes. Alternatively, a student uses a wheelchair and SAS and the Office of the Registrar need to ensure that the student’s course is offered in an accessible location.
Again, the number of students SAS has approved for what it calls “secured enrollment” is disproportionately high, based upon the consultants’ experience with similar institutions. SAS reported that during the 2018-2019 academic year, it had approved 230 of the 559 registered students or approximately 41% of undergraduate students with disabilities for this form of accommodation. SAS advised the consultants that students whom it had approved for note-taking assistance qualify for this accommodation (even though the numbers do not mesh). The auxiliary services assistant advised the consultants that she was unaware that students approved for note-taking assistance qualify for priority registration on that basis.

In addition to not understanding the necessity of priority registration for students who qualify for note-taking assistance, the consultants expressed concern with SAS staff that a student authorized to obtain notes would be on the same footing as a student who is blind and approved for priority registration due to the necessity of securing accessible instructional materials. In other words, given that SAS had approved over 50% of its students with disabilities for note-taking assistance, students with disabilities could be largely competing with each other for course enrollment. Additionally, SAS may be inadvertently creating a disability-based incentive for seeking note-taking assistance whereby, irrespective of the necessity or even usage of the notes, students could in theory leapfrog over other students for course enrollment. The consultants were pleased to learn that SAS has since decided to discontinue the practice of approving priority registration for students solely based on their eligibility for note-taking assistance.

The Office of the Registrar advised the consultants that it had transferred the priority registration process entirely to SAS to manage due to the increasingly burdensome demands placed upon the former. The identified burdens included the ever-increasing numbers of students determined eligible for priority registration along with what the Office of the Registrar described as SAS’s disorganized and last minute approach to submitting the requests.

The consultants find that SAS has authorized priority registration without regard to necessity. Accordingly, the consultants suggest that the Associate Dean of Student Academic

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35 The consultants remain uncertain as to what distinction, if any, SAS draws between the commonly used phrase “priority registration” versus “secured enrollment” despite efforts at seeking an explanation. The SAS terminology provides another example of phraseology that may be confusing to others, including students.
Support Services and/or the new Director review how SAS manages this accommodation and assist the office in developing a protocol that requires an analysis and justification for an accommodation that should not be widely afforded. If SAS improves its decision-making and protocols in this regard, the Office of the Registrar could resume managing this function as it has historically done.

10. *Document Conversion*

As an initial matter, some students with disabilities *require* Dartmouth to convert documents in a manner that renders the information accessible to them. The most obvious example would be for a student who is blind or has a substantial visual impairment and relies upon screen-reading software. Students with varying disorders who arrive at Dartmouth may have been trained to rely upon converted documents in light of their disability-related limitations. Other students have never used screen-reading software, but SAS has recommended it to them. The question of the necessity of such an accommodation where students have been successful without it previously cannot be ignored.

During the 2018-2019 academic year, SAS approved 82 of its 559 undergraduate students with disabilities for document conversion, or nearly 15%. SAS reports that nine students are diagnosed with visual impairments. Assuming that SAS has approved document conversion for these students, that would presumptively leave 73 students with no visual impairments authorized to receive this form of accommodation. In the consultants’ experience, that figure is again quite high for this specialized and labor-imposing intensive service.

The level of support that goes into this operation, strictly in terms of SAS labor, is substantial. In addition to three graduate students and a part-time vendor who provides graphic conversions, SAS employs three full time “assistive technology assistants” along with a manager who oversees this operation.\(^{36}\) In light of the number of students SAS has authorized to obtain this service (82), this significant labor allocation appears disproportionate compared to those employees (the Director and Associate Director) who work directly with students and provide

\(^{36}\) The consultants understand that the assistive technology specialists perform other tasks, such as assistance with classroom setup and quality of remotely provided real time captioning services to students who are deaf or hard of hearing. However, these numbers are small by comparison to the document conversion figures.
case management (559). Notably, during the final quarter of 2019, only ten students of those approved actually signed up for document conversion.\(^{37}\)

Document conversion can be a highly labor-intensive operation. If an assigned textbook is available in an already converted state, such as through Bookshare\(^ {38}\) or AccessText,\(^ {39}\) the obligation may be easily fulfilled. However, many textbooks are not readily available and publishers often do not provide accessible e-versions for campus use. When that is the case, SAS is obligated to convert the textbook themselves.

In addition to textbooks, other instructional materials may require conversion, such as course outlines, syllabi, PowerPoint presentations, etc. Unless SAS has previously converted these materials, each of these documents would require conversion. Again, Dartmouth’s quarter system presents an additional complicating factor relative to timely conversion. The add-drop period represents another challenge to SAS’s operations and the affected students.

In order for this process to work effectively, under the best of circumstances, faculty play a critical role. Without access to a course syllabus, SAS’s ability to provide timely access to instructional materials is compromised, placing a student in a disadvantaged state from the outset of the course and imposing additional labor burdens on SAS. SAS reported inconsistencies with how responsive faculty are in working with the office to secure the information needed to undertake this responsibility. Dartmouth uses the Canvas Learning Management System with embedded features that assist SAS in meeting its commitment to students such as the ability to post syllabi, course materials, course expectations and course schedules. Again, faculty play an important role in posting the materials in advance and permitting SAS staff to access the course site with materials. Offering systematic educational opportunities to faculty on student disability responsibilities could help faculty appreciate the importance of timely material access.

In addition to the inconsistencies in faculty responsiveness, the consultants noted considerable inefficiencies with how SAS manages its document conversion operations. Some of these inefficiencies, and frankly wasted resources, begin with the approval process. It is unclear whether and to what extent 73 students with no visual impairment require and are

\(^{37}\) This data point appears reliable as it was provided by one of the SAS employees responsible for document conversion.

\(^{38}\) See \url{https://www.bookshare.org/cms/}.

\(^{39}\) See \url{https://www.accesstext.org/home}.
actually using alternate formatted instructional materials since SAS does not track students’ use of approved accommodations. Moreover, given the quarter system, SAS advised the consultants that they use the very limited time between the terms to attempt to track down the textbooks and other materials that a student may use if they remain in the course following the add-drop period based upon their status as “approved” to receive materials in an alternate format.

If the textbook is not available in a converted form, SAS begins the conversion process for all of the 82 approved students, having no idea whether this effort has any value because SAS lacks any system for determining which of the 82 students will actually request, let alone use, alternately formatted materials. Even with the students who actually request document conversion, SAS employees working in the document conversion area advised that they have no means to check whether or not a student is utilizing the materials that they are converting. The consultants surmise that merely tracking such use could significantly reduce the amount of effort that SAS currently allocates to this form of accommodation. Upon evidence of nonuse, SAS could engage with such students to determine whether such a service is warranted.

The consultants also explored the degree to which SAS assistive technology assistants are converting the materials. Many students who do not have visual impairments typically only need an electronic or PDF version of their materials, rather than a fully converted document that SAS provides to all students. It appears that SAS does not take an individualized approach to match the degree of conversion to the particular student’s needs. The result is that the 82 students who are approved for document conversion will obtain the same degree of conversion, regardless of necessity; an outcome that is inefficient and most likely wasteful.

Nearly everyone involved in document conversion advised the consultants that they were unaware of any methods SAS utilizes to determine the level of document conversion a particular student requires. The staff represented that they simply convert all documents according to their guidelines regardless of whether or not the student requires that level of conversion. Absent student interaction, the consultants agree, the assistive technology specialists would likely be foreclosed from assessing the degree of conversion appropriate for each student.

The consultants believe that if the assistive technology specialists consulted directly with the students, the specialists could readily determine the appropriate level of document conversion necessary to match the student’s learning style, rather than converting all documents using the
quite time consuming and redundant method SAS currently deploys. In addition, if staff involved in assistive technology and document conversion participated in the accommodation determination process, appropriate individualized determinations based upon student need (and usage) would likely follow. The approach the consultants suggest is consistent with best practices in the field of disability service providers.

As mentioned previously, a database system and a method for tracking whether or not students actually make use of their converted documents each quarter would reduce inefficiencies and costs. Moreover, if SAS employed a more effective and efficient manner for assessing the use of this accommodation, then SAS could reduce their staffing in the document conversion and assistive technology areas and utilize these highly qualified staff in other areas such as case management.

11. Temporary Conditions/Injuries/Illnesses

Dartmouth, like many other institutions, has delegated responsibility to SAS to address the needs of students who, during their enrollment, injure themselves or otherwise may have a health condition expected to be temporary in nature. According to the SAS self-assessment and SAS leadership interviews, on average, SAS annually serves approximately 70 such students. The number of students SAS supports in this vein is considerable and presents a staffing concern. The document that SAS transmits to faculty on behalf of students with temporary conditions is the same as that of students with disabling conditions that may entitle them to reasonable accommodations. This practice may confuse faculty and students alike that students with temporary conditions automatically qualify as legally disabled and are entitled to reasonable accommodations, which may not be the case.\footnote{Some temporary conditions could be disabling under the ADA and the Rehabilitation Act, but their severity would have to rise to the level of substantially limiting a major life activity. SAS conducts no such analysis. For example, OCR upheld a university determination that a student who broke her ankle, requiring surgery and an anticipated recovery of three months did not qualify as an individual with a disability pursuant to the Rehabilitation Act or the ADA. \textit{See University of Wisconsin – River Falls}, No. 05-11-2024 (OCR 04/19/11).}

In its self-assessment, SAS opines that students who fall into this category may essentially be more disadvantaged by their situation as they have no history of impairment, and as a result lack the coping strategies that other students with chronic or long-term conditions have developed over time. Although the consultants do not dispute this general viewpoint, it is
certainly not a universal observation and question the advisability of making such a broad pronouncement. The consultants suggest that Dartmouth evaluate whether it is in the best interests of the College, as well as students with disabilities, that SAS provide the same level of accommodation and protection, without analysis, as students with chronic long-term conditions to whom Dartmouth unquestionably must provide reasonable accommodations.

The consultants express concern that SAS is depleting resources that it should be allocating to work that falls more squarely within the scope of its responsibilities. Dartmouth should consider assessing whether temporary conditions are best handled by SAS or should be overseen by another office, with SAS serving as a resource.

12. Academic Coaching

SAS provides “academic coaching” to some students. The Director represented that during the 2018-2019 academic year, SAS provided this service to 22 students principally by the Associate Director. The consultants reviewed the file of a student who received such services. SAS offered her one hour of such coaching every week (either two half hours or a single one-hour session). Assuming the service is one hour per week per student, over half of the Associate Director’s time could be spent on this support service.

From interviews and a file review, it appears that this service combines academic advising, time management and personal coaching. Such coaching is not required as a reasonable accommodation under Section 504 or the ADA. Assisting a student with how best to organize their time and approach academic goal completion constitutes a personal service, specifically excluded as a legally required auxiliary aid or service under these laws.

SAS staff repeatedly advised the consultants that they do not have sufficient time to meet with and assist faculty in working with students with disabilities, in particular high needs students, such as those with visual impairments. The consultants are concerned that the hours committed to this personal service could be better spent fulfilling other important obligations and initiatives such as faculty consultation.

41 The consultants found no data addressing “academic coaching” in the SAS self-assessment or in a spreadsheet of accommodations by type that the Director provided to the consultants subsequent to the campus visit. However, it is possible that the service is embedded within a category that is not self-evident.

42 See 34 C.F.R. § 104.44(d)(2) (Section 504); 28 C.F.R. § 36.306 (Title III of the ADA).
The consultants are mindful that students with disabilities may benefit from personal advising, consulting and coaching, as other students may. Importantly, this service is available to any student through the ASC. If the campus-wide need is sufficiently great, ASC could recruit an individual with particular expertise in working with students with disabilities. SAS could also provide training to the ASC that addresses how best to work with students who have certain types of learning and social communication styles.

13. **LD Screening**

The SAS self-assessment mentions that SAS conducts limited learning disability (“LD”) screening. SAS advised the consultants that it performs this service (which is not a legally required reasonable accommodation) to help students who may be struggling assess whether an underlying processing disorder could be affecting their performance. If the results indicate that a learning disability could be present, the student might decide at that point to undergo more comprehensive testing to rule it in or out. SAS attested that the LD screening results are insufficient by themselves to warrant disability-based accommodations.

Following the consultants’ on-site visit to Dartmouth, SAS forwarded a detailed spreadsheet of accommodations. That document indicates that during the 2018-2019 academic year, SAS conducted 13 LD screenings.

The consultants appreciate that SAS would like to help students who may be struggling understand if a possible disability may be contributing to their performance concerns. The consultants did not delve into the screening tool used and express no opinion as to its validity. As noted above, such a service does not qualify as a legally required reasonable accommodation. Postsecondary institutions have no legal obligation to administer assessments to determine if a student may have an ADA/Section 504 qualifying condition. Similar to SAS’s academic coaching, the consultants express concern that disability-based screening takes resources away from professional staff time that could be devoted to meeting the needs of students who are entitled to accommodations.

Screening of this sort, although well intended and presumptively of value to students, raises other concerns that Dartmouth may wish to consider. A screening conveys that some professionals, who presumptively are not qualified to diagnose learning disabilities, are administering an instrument the results of which a student might rely upon.
Additionally, the campus may wish to consider the potential of a perceived conflict of interest in that the student could view SAS staff as being inclined to find their screening data as more accurate than a comprehensive assessment conducted by an independent source. The consultants are not suggesting that a student’s claims or perceptions would have merit; but one reason that many campuses refrain from conducting screening (beyond lack of resources) is to enable the SAS office to remain neutral.

14. SAS is Hesitant to Place Expectations on Students

The consultants appreciate that a student may become disabled at any time. It is also not uncommon for some students to delay seeking or notifying faculty of approved accommodations until they are in crisis. It appears to the consultants that SAS does not require students to comply with reasonable deadlines for requesting accommodations, a position that OCR has consistently supported. By way of example, one of the SAS staff advised that they had to locate seven note-takers three days prior to the end of classes. In the consultants’ experience, a reasonable response would be to agree to implement the accommodation the following quarter.

The Accessibility Report reinforces the consultants’ perceptions of SAS’s reluctance to place reasonable expectations on students. It notes that faculty expressed concern that they are called upon “often at the last minute” to implement testing accommodations.43

In the consultants’ experience, disability services offices and testing centers employ reasonable parameters for managing accommodations and faculty may as well. Testing centers, in particular, typically must impose timelines to operate in a manner that does not interfere with other students’ testing commitments. The administration of other accommodations often includes more flexibility, but SAS should not hesitate to establish systems of operation that they expect students to generally follow.

15. Length of Accommodation Agreements

Postsecondary institutions have no legal obligation to review accommodations each quarter or annually. Practices in the field vary considerably. Here, however, given the lack of a database and systems to determine the use and effectiveness of accommodations, the consultants suggest that SAS discontinue its frequent practice of issuing long-term accommodation

43 See Accessibility Report, page 3.
memoranda. A number of the accommodations SAS has approved – which students ultimately may not use or need – impose considerable costs. Spending time at least annually with every registered student versus providing personal coaching to a select few is likely a better use of staff time. As mentioned in several sections of this report, if SAS reconfigures the roles of its professional staff members in a manner that enables them to provide case management services to students, the consultants believe that the accommodation process is likely to become more efficient and beneficial to students.

16. Forms

SAS acknowledges the necessity of revising its forms, some of which no longer reflect best practices and applicable legal standards. Should the campus support a disability-based data management system, some of these forms may not be needed at all. However, the consultants were particularly concerned that SAS uses no intake form, which naturally would be useful for ensuring that those charged with meeting with students and determining their eligibility for accommodation and what those accommodations might be do so with more consistency. If the College supports delegating case management services beyond the leadership team, such a form will become even more critical.

The report previously addressed concerns about how the campus is addressing flexibility of attendance and assignments. Accordingly, the consultants encourage SAS to revise the “sporadic absence” form. Finally, in light of the consultants’ overall concerns regarding accommodation determinations, Dartmouth may wish to review and consider revising the Services and Consent Form.

17. Websites

The consultants found the SAS website to be welcoming to students with disabilities. However, the content requires updating, an observation supported by SAS. For example, SAS reported and the consultants’ independent review confirmed, that students are required to submit documentation to establish their eligibility for accommodation. However, the SAS website contains no documentation guidelines in terms of time frames or the substance of documentation, which would be particularly useful for incoming students, as well as SAS and faculty members.
Given the number of students SAS serves, the consultants were surprised that Dartmouth has yet to move to an online portal that allows students to register online for services, upload documentation, and request specific accommodations such as note-taking, test accommodations, assistive technology, document conversion etc. Unless it is behind a firewall, the consultants could not identify any elements on the SAS public-facing website that would allow students to utilize technology to obtain these services from SAS. At a time when students utilize many technologies to interact, the consultants believe that SAS would be more welcoming and attuned to student methods of interaction – as well as efficient and timely in its review and approval of accommodations – if it moved to online management systems to the degree possible. The consultants recommend that such a system be made available to Dartmouth’s other schools as well.

Additionally, the consultants recommend that the review of the SAS Website be done in synchrony with a review of the IDE website to ensure alignment of policies and processes, intentional assignment of roles and duties and overall compliance with the ADA.\(^4\)

18. The Service and Support Animal Policy

Dartmouth has assigned SAS the responsibility of determining whether a student’s condition requires accessible housing features. One of the most frequent requests campuses are negotiating is a student’s request for permission to have an assistance animal in residence as a reasonable accommodation. The College’s service and support animal policy combines the concepts of an ADA service dog with a Fair Housing Act assistance animal under one rubric entitled “support animals,” although the ADA and FHA differ strikingly in their scope of coverage and requirements for documentation. The consultants suggest that the resulting policy is internally inconsistent and would likely be confusing to students as well as campus officials who may be called upon to interpret it.

Two students who use service animals shared their experience that students authorized to have emotional support animals in residence have taken their dogs onto other parts of campus.

\(^4\) With the exception of the Geisel School of Medicine’s website, the consultants generally found Dartmouth’s other School-based websites lacking in terms of disability-related information. The SAS website includes a useful link identifying each of the School’s disability liaisons. However, other than the Geisel School of Medicine, none of the other websites has any degree of a disability presence, which the consultants believe should be addressed.
These students expressed their view that the emotional support dogs were insufficiently trained and have crossed boundaries with their service dogs. The consultants appreciate that determining whether an individual with a dog on campus has a pet, a service dog, or is taking an assistance dog approved only in housing throughout the campus is difficult to monitor and to enforce noncompliance. However, one consideration could be to encourage service dog owners to partner with security personnel and others if they believe infractions are occurring.

B. Assessment Resource Services

Dartmouth is to be applauded for recognizing that a system that largely relies upon faculty to arrange rooms and ensure that students’ testing accommodations are provided with fidelity is simply untenable. Following two pilot studies, Dartmouth created Assessment Resource Services (ARS) to assist faculty with managing testing accommodations. Notably, the title of the operation gives no indication that the center is designed primarily to ensure that students with disabilities receive appropriate testing accommodations. Some version of the title “Testing Center” creates greater campus transparency. Its utility is not limited to students with disabilities (consider use of athletes and artists who may have off-campus events that interfere with test schedules, students who require testing accommodations related to religious observations, etc.), and it does not result in labeling those who use its services.

According to the data provided by SAS, during the 2018-2019 academic year, 408 of the 559 or 73% of undergraduate students with disabilities qualify for testing accommodations involving extended time. According to the Accessibility Report, over a five-year period through 2018, the campus has seen an 82% growth in approved testing accommodations (from 245 to 447).\(^{45}\) However, the report does not indicate the type of testing accommodations reflected by the numbers. Typical accommodations are extended time for taking a test and for some students, a reduced-distraction environment.\(^{46}\) However, according to SAS’s self-assessment, during the

\(^{45}\) Unlike the SAS self-assessment in which SAS reported that the data is unreliable, the Accessibility Report includes quantitative data with no suggestion that any of it is unreliable. The individuals responsible for developing a corrective action plan that will flow from the consultants’ findings should be mindful of the validity of the underlying data shared with the consultants and which they have taken at face value.

\(^{46}\) Testing accommodations at Dartmouth have also taken on a greater level of complexity, including requests for triple time, special lighting, exams spaced out among other exams together with a common refrain from faculty that
2018-2019 academic year, the office approved 81 students (presumptively of the 408 students eligible for extended time testing)\(^{47}\) or approximately 20%, to have their tests administered in a “private room (alone for exams).” The Working Group conducted a faculty survey that included information pertaining to testing accommodations. Of the faculty who responded, approximately 5% of the students actually requested a “private room” to take their tests.

Whatever figure is deemed to be more accurate, even with the launch of the ARS, the consultants believe that Dartmouth is not in a position to honor a student’s choice here, simply because such locations do not exist in sufficient numbers to support all student requests. In the consultants’ experience, few students “require” a private room for testing, and certainly not 20% of the student population deemed eligible for testing accommodations. Indisputably, managing testing accommodations has resulted in significant discord at Dartmouth. The consultants recommend that, with the assistance of the Associate Dean of Student Academic Support Services, SAS revisit how these determinations are made with the goal of better managing this particular accommodation.

Dartmouth recognizes the growing burden on faculty for finding compliant testing environments. Faculty consistently conveyed their frustration with how testing accommodations have been managed. To this end, in an effort to assess the need and how to address the accommodation implementation options, the College conducted two pilot programs. The Accessibility Report focuses heavily on testing accommodations, including how faculty have been using the ARS.

The findings of the Working Group are consistent with reports from faculty and deans with whom the consultants met: that reliance upon individual faculty to arrange and implement testing accommodations has become increasingly burdensome. In fact, to the extent that students are taking their exams in professors’ offices and hallways, Dartmouth may not be implementing the testing accommodations consistently with what SAS may have approved for a particular student and/or in compliance with applicable privacy law requirements.

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\(^{47}\) Again, SAS’s lack of a disability-based management system required the consultants to make some assumptions. It is possible that some students who SAS approved for a private testing room did not also receive extended time. However, 73% of the students qualify for extended time on tests.
Dartmouth hired an employee (the Assessment Resource Coordinator) to oversee the ARS that officially launched in the fall of 2018. During student meetings, most students in attendance were unaware of the center’s existence. The consultants could find nothing on Dartmouth’s website about it (confirmed by the Coordinator). The Coordinator agrees that changing the title of the ARS and otherwise increasing its visibility would be beneficial to students.

The ARS consists of 16 rooms located in the lower level of Carson Hall. According to the Accessibility Report, the ARS is capable of providing testing accommodations for up to 66 individuals at one time.

The consultants recognize that the ARS is in its infancy and its permanent location has yet to be established. As such, it has no budget and only one staff member. The Coordinator does not have any scheduling software, impeding her ability to effectively manage the space. Moreover, it is not fully furnished, which theoretically means it cannot be fully utilized for this reason alone.

The consultants toured the ARS testing rooms and were impressed with how the space had been furnished and arranged, despite the lack of budget. Its capacity could be expanded at a relatively low cost by additional furniture that serves the needs of test taking students with accommodations. The consultants agree with others within the campus leadership that ARS has true potential, for students and faculty. The Coordinator has invested considerable effort in studying various ways other campuses operate such centers and has been at Dartmouth long enough to have formed observations as to how best to operate the center. Nonetheless, the consultants were concerned that a more efficient and effective system for managing testing accommodations has not been put in place. Here again, the lack of an effective database management system has already affected the Coordinator’s ability to arrange scheduling. The current practice entails the Coordinator identifying the largest classes and identifying which students SAS has approved to receive testing accommodations. The Coordinator reaches out to the faculty and invites them to request ARS support. Once again, since Dartmouth employs no system of tracking which students use testing accommodations, the Coordinator has found this approach to be cumbersome resulting in efficient use of the testing resources. The Coordinator believes, and the consultants’ experience supports, that testing center operations often work more
efficiently when students are expected to initiate the request – an arrangement that is also consistent with the law governing postsecondary students’ responsibilities around seeking accommodations.

Other improvements warrant consideration, particularly ensuring physical access to the testing space and accessible restrooms, which are currently available only in a locked secured area for students utilizing the testing center. The consultants are concerned that philosophical differences about the ARS’s purpose and therefore which students should be served and where the center should report can bog down and undercut a rather exciting and promising initiative. The consultants appreciate that a testing center that could serve an array of student testing needs beyond students with disabilities could be quite useful. For example, a college-wide testing center could accommodate athletes, support a student’s religious observations, respond to students’ unpredictable absences (e.g., death/illness of a family member). However, at the present time, Dartmouth has been unable to sufficiently address the obligations the campus has created with respect to the significant population of students SAS has determined are eligible for testing accommodations.

Here, the consultants suggest that universal design principles not be the guiding philosophy at this time. The consultants opine that the direction on how to operate the ARS, which does not permit the Coordinator to work directly with the students and that limiting operations to mid-terms and finals has resulted in an underutilization of this resource. A significant barrier to making use of the center are its hours of operation, as faculty often have tests during the evening and on weekends when the center currently is not open. The consultants encourage Dartmouth to prioritize compliance with accessibility obligations based on the requirements of civil rights laws and to revisit a campus-wide testing center for other purposes in the future.

C. The Academic Skills Center (“ASC”)

As noted above, the ASC is available to all undergraduate students, including students with disabilities. Many of the services provided by ASC reflect skill development needs which some students with disabilities are lacking such as time management, note-taking, reading rate, examination preparation, managing stress, keeping motivated, academic advising and tutoring. As noted above, SAS’s academic coaching appears to address some of the same skills ASC
affords any student. At the outset, Dartmouth should undertake measures to avoid duplication of efforts. Additionally, the consultants recommend that all such skill development be provided within the context of ASC operations and not parsed out to SAS. Cross training on technologies would be beneficial. For example, the campus could consider devoting resources to train appropriate ASC personnel on technologies, such as Sonocent and Live Scribe pens: those individuals in turn could train students with disabilities as well as other students.

D. SAS & Faculty Relationships

The consultants reviewed a sample syllabus statement addressing students with disabilities.48 The statement is clear and inviting to students who believe they may require course accommodations. The consultants recommend that Dartmouth promote wide use of such a statement (or a similar one) to encourage students to register with SAS early in the semester.

1. Access to Course Syllabi

As mentioned above, a faculty member’s course syllabus serves an important function in addressing the needs of students who require material conversion or other accommodations, such as captioning of a video used in the course for a student who has hearing loss. Providing educational opportunities to the faculty could highlight the importance of identifying instructional materials that will be used and authorize SAS staff to acquire those materials as early as possible.

2. Quality of Scanned Materials

A student provided a copy of a professor’s scanned articles. It offered a good illustration of how important proper scanning can be for a student who relies upon a screen reader for access. Portions of the article were off the page and much of it was blurry. Again, devoting resources to faculty development would help faculty appreciate the critical role they play in ensuring that students with disabilities obtain instructional materials in an accessible format, either directly from the faculty member or transmitted to SAS in a manner that is timely and with a quality that enables the office to scan it into a screen readable format.49

48 The sample statement is posted on SAS’s website, under the menu item labeled “Faculty/Staff.” Available at: https://students.dartmouth.edu/student-accessibility/faculty-staff/working-students/syllabus-statement

49 In some cases, conversion will be particularly difficult when using materials that may have been created long ago.
3. **Insufficient Educational Opportunities**

After interviewing students, faculty, administration and SAS staff, the consultants conclude that at the current time, there appears to be a deep divide and lack of trust between some faculty (in significant numbers) and the SAS office. Dartmouth as a whole has not displayed a level of commitment to providing sufficient consultation and educational opportunities to the faculty that the consultants believe is necessary to promote the student experience, help faculty appreciate roles and responsibilities, and partner with SAS for the betterment of students with disabilities. The growing number of students who identify as disabled and who are seeking testing accommodations has pushed the faculty to the limits of their abilities, in the consultants’ view, to properly manage the testing accommodation process well. The addition of the ARS can provide significant assistance, but cannot address all of the need.

An important role that SAS should play is in ongoing professional development of the faculty to enhance their knowledge of SAS policies and processes and to promote the development and implementation of accessible instructional design. The consultants recommend that these opportunities address Dartmouth’s legal obligations that directly implicate how faculty, staff and administrators work with students with disabilities. In particular, it is critical that faculty understand that accommodations that the College has deemed to be reasonable and necessary must be implemented – and conversely, that their input is valuable to inform which accommodations are in fact reasonable.

In addition, such faculty educational and consultation is not simply an SAS issue. The consultants encourage Dartmouth to provide faculty with the tools and support to enable them to instruct such students in an equally accessible manner. Existing staff members within Educational Technologies are well versed in accessible course design. Additionally, the Dartmouth Center for Advancement of Learning (DCAL) provides professional development for faculty on a number of topics including improving their teaching skills to reach students with disabilities. In other words, Dartmouth has a level of expertise in this area that if properly utilized could prove valuable in improving the quality of the instruction that students with disabilities receive.
In the consultants’ view, it appears that some of the issues expressed by SAS and others reflect a lack of knowledge by faculty and instructors as to how to work with students with disabilities more than an outright refusal to do so. It appears that Dartmouth has largely left this “professional development” to the individual faculty member, which seemed to be the case in several incidents described to the consultants. If Dartmouth reconfigures SAS in a manner where SAS professional staff devoted more time to outreach and consultation, these components could work together more productively.

The Consent Decree requires Dartmouth to develop and implement a mandatory training program to be called “The Mannella Protocol.” The consultants recommend that Dartmouth consider developing models for faculty and staff development where members of SAS work in collaboration with Educational Technologies, DCAL and School Deans to develop enhanced faculty and staff resources, in-service, and knowledge-based activities. The professional development could target course design, how to work with students diagnosed with various disabilities and ways to partner with SAS in providing timely and accessible course materials. Several colleges such as Yale\(^{50}\) and Penn State\(^{51}\) have developed a liaison model where faculty members or instructional designers are designated within the School to support other faculty members in making their courses accessible. It would be useful if the Deans supported this professional development for faculty and instructors. The Consent Decree requires that the Deans play a critical role in ensuring that faculty implement accommodations that have been identified as reasonable.

E. **Universal Design**

SAS operations and how they integrate with the campus at large are heavily influenced by the concept of “universal design for learning” (UDL).\(^{52}\) Simply put, UDL seeks to design instruction and evaluation of students in a manner that benefits all students, rather than focusing on individualized accommodations. In theory, if UDL were fully implemented, an SAS office might not be necessary. It is an admirable but aspirational goal.

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\(^{50}\) See [https://poorvucenter.yale.edu/technology/accessibility-services/course-accessibility-support-contacts](https://poorvucenter.yale.edu/technology/accessibility-services/course-accessibility-support-contacts)

\(^{51}\) See [https://accessibility.psu.edu/training/](https://accessibility.psu.edu/training/)

The consultants are quite familiar with UDL theory and support a campus’s commitment to advancing these principles. Nonetheless, UDL is not required by applicable law and SAS’s interpretation of UDL principles, as noted above, has led to the inefficient and ineffective deployment of resources, shortchanging necessary monitoring of accommodations’ use and effectiveness, communications and consultation.

SAS’s commitment to UDL concepts, in the consultants view, has resulted in unreasonable accommodation determinations in some instances. In its self-assessment, SAS asserts that its accommodation determinations should not be based upon a student’s disability-based needs. Rather, SAS identifies appropriate and necessary accommodations based upon UDL principles. The consultants recommend that Dartmouth reassess the application of UDL principles in determining appropriate and necessary accommodations.

F. Graduate and Professional Schools

Each of the graduate and professional schools has a designated official responsible for working within their respective Schools to address student disability-related needs. Compared with the other Schools, the Geisel School of Medicine has a much deeper involvement with significant staff commitment but also a greater number of students identified as having a disability. No students who identified that they were enrolled in any of these Schools attended the open forums or contacted the consultants to discuss their experiences or concerns. Each disability liaison reported that they believed that the system addressed student needs quite well. The consultants’ findings are consistent with the Working Group’s Accessibility Report that reinforced this representation.

All School liaisons expressed their gratitude for the assistance that SAS has readily provided to them. The model that Dartmouth uses is not an uncommon one, although the consultants recommend that the College consider having SAS collect and analyze student documentation along with assessing a student’s functional limitations rather than leaving that with the liaisons who may not have sufficient expertise in interpreting such information, with the exception of the Geisel School of Medicine. Accommodation determinations and implementation would remain with the School liaisons.
G. Information, Technology and Consulting

The consultants met with two instructional designers who work closely with faculty and students to enhance instructional access for all students. These designers are keenly aware of some of the challenges that undergraduate students with disabilities enrolled at Dartmouth encounter given the curricular expectations and the range of instructional methodologies the faculty may employ. Their goal is to assist faculty with the planning and design of their courses, promoting universal design concepts to enhance the learning for all students and reduce the need for personalized disability-based accommodations. They partner with classroom technology specialists to embed the design with available technologies within a classroom. Dartmouth also has a license agreement with SensusAccess.\(^53\) This software works with document conversion to make documents more accessible. However, it does have its limitations. As mentioned above, the consultants recommend that the corrective action plan address how to increase collaboration among Educational Technologies, DCAL, SAS and the Deans to improve the accessibility of courses and offer faculty ongoing educational opportunities.

Additionally, the consultants recommend that Dartmouth investigate how it can promote the assignment of smart technology classrooms for students who may require specialized accommodations to reduce the need for extensive accommodation and foster student independence. The consultants understand that classrooms equipped with such technology are currently few in number.

H. Web Accessibility

Dartmouth made web accessibility a priority a number of years ago. At one point, an IT specialist had responsibility for this effort. That individual is no longer at the College. The consultants were unable to identify a single individual or office with oversight responsibility for web accessibility, recognizing that multiple individuals and offices currently troubleshoot and provide training. However, Dartmouth advised that IT has a working group that convenes regularly to address web accessibility.

Access to information presents one of the greatest barriers for a range of individuals with disabilities, including the public and employees. Even though the current federal administration

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\(^{53}\) See [https://www.sensusaccess.com/](https://www.sensusaccess.com/)
has disbanded proposed rulemaking efforts, private litigation and claims filed with OCR continue to ensue, leaving campuses that fail to devote sufficient attention and resources to these measures vulnerable. Most importantly, the consultants suggest that the College devote adequate resources to this initiative to ensure that Dartmouth students with disabilities are not hampered due to a lack of access. With the rapid advancement of technologies and purchasing of same, the consultants recommend that the corrective action plan target elements of Dartmouth’s infrastructure that can join forces to stay abreast of accessible information. The consultants further recommend that the campus adopt a procurement protocol (if it has not done so already) to reduce the likelihood of the purchase of inaccessible technologies.

I. Physical Accessibility

1. Facilities

Physical barriers that impede or block access represent a concern raised by many constituents with whom the consultants spoke: students, faculty, administrators and staff charged with managing events in which students participate or attend. In addition to individuals using wheelchairs and other mobility devices, some individuals with visual impairments or health impairments may encounter barriers that warrant consideration, consistent with the College’s mission of inclusiveness.

In the past, Dartmouth convened an ADA committee with one of its charges to address the physical accessibility of the campus. The consultants recommend that the College consider reinstating such a committee, which had been disbanded.

The consultants understand that a capital campaign is underway and that Dartmouth has slated three historic buildings for major renovations with physical accessibility barrier removal being a top priority. These halls are: Dartmouth, Thornton and Reed.

Although Dartmouth did not charge the consultants with conducting any type of physical barrier removal assessment, the consultants wanted to bring a number of concerns raised by various stakeholders to Dartmouth’s attention:

- Inadequate signage to accessible entries and paths of travel
- Faculty offices located on upper floors with no elevator access
- No accessible restrooms at the Hopkins Center for the Arts
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- Elevator issues with the Collis Center for Student Involvement and Sanborn House
- Insufficient number and array of accessible housing units
- Lack of an accessible restroom at ARS
- Door handles into Wilder Hall and on the second floor of Carpenter Hall outside of the
elevator are inaccessible (recommended by a student in a report written in 2019)

2. Snow Removal

Some students expressed dissatisfaction with the College’s efforts to stay ahead of snow
removal. Unquestionably, snow accumulation on walkways, parking locations and ramps
presents significant accessibility barriers for students who have vision and/or mobility
impairments. The consultants understand that Dartmouth’s efforts are complicated by the fact
that some of the sidewalks are owned and managed by the Town of Hanover, which therefore
has responsibility for maintaining the sidewalks; a point that students and others with disabilities
may not appreciate.

SAS provides facilities with a list of students whose disabilities warrant special attention
for winter weather conditions. The College takes extra care with snow removal for these
students; but given the Town’s responsibility for snow removal and the unpredictable nature of
winter weather, Dartmouth may not be reasonably able to provide snow removal at all times.

J. Dick’s House

The medical and psychological services that Dick’s House provides are an important
element of student life for students with disabilities. Students did not raise concerns in terms of
reasonable accommodation issues. However, a number of students were quite vocal about the
services, and in general, the amount of access. Dissatisfaction with the hours of operation and
the scope of services represented a common refrain. The acuteness of the situation to some of
the students dovetailed with Dartmouth’s location and the lack of transportation access to
services off-campus.

Students voiced concerns about Dartmouth’s imposition of involuntary leave status on
students with psychiatric disorders. However, the consultants’ interview with the Director did
not align with what the consultants understood to be the students’ objections. According to the
Director, Dartmouth has rarely imposed an involuntary leave of absence. The Undergraduate
Case Manager who works extensively with students in distress confirmed that the College seldom imposes an involuntary leave of absence on students. The consultants understand that Dartmouth is in the process of revising its involuntary leave of absence procedures.

The consultants applaud the efforts that Dartmouth has undertaken to seek donor support to provide additional mental health services to the student population. As Dartmouth likely appreciates, student interest in mental health services is quite high and ensuring that students have a mechanism to voice their concerns is important.

K. Transportation

A number of students expressed their frustration with a lack of public transportation. Some students’ health conditions, in particular, require them to leave the campus for medical appointments, to secure medications, etc. They believe that the campus is insufficiently responsive to their disability-related needs. During the course of the review, the consultants did not find that Dartmouth failed to meet its legal obligations in this regard. Neither the ADA nor Section 504 compels the campus to provide transportation services as a reasonable accommodation.

L. Grievance Procedures

Dartmouth has adopted a student grievance procedure\(^{54}\) consistent with the obligations imposed by Section 504.\(^{55}\) Currently, IDE coordinates the campus’s response to such grievances. Should the College adopt the consultants’ recommendation to create a Section 504/ADA Compliance Officer position as set forth in the Reporting Structure section of this report, the consultants suggest that Dartmouth consider relocating the responsibility for this process with that individual (or elsewhere) to maintain consistency with the recommendation for grievance processes for faculty and staff. Such an alignment should provide improved subject matter expertise and efficiency, while ensuring that no real or perceived conflicts of interest exist.

\(^{54}\) Available at: https://www.dartmouth.edu/~ide/policies/studentgrievanceprocess2019.pdf. Drummond Woodsum played a role in the development of these procedures. It is anticipated that further review of where the grievance process should be located will be undertaken as part of the corrective action plan.

\(^{55}\) See 34 C.F.R. § 104.7(b). Title III of the ADA imposes no similar obligation.
M. Other Areas Assessed

As noted above, the consultants attempted to assess all areas where students with disabilities interface with College programs, activities and services. The areas noted above presented the best opportunity for comment. The consultants did not observe particular concerns pertaining to student athletes with disabilities or students with disabilities as observers to athletic events. Like many campuses today, Dartmouth has committed resources to student athletes and concussive injuries: prevention and treatment. As noted above, a student with a concussive injury may be eligible for supports based on a temporary condition.

Concern was raised that resources are devoted to varsity sports and not club sports. The consultants do not see this as a legal (compliance) issue as opposed to a matter of policy and available resources.

In terms of dining services, one student conveyed dissatisfaction with how the College manages student dietary restrictions. In a follow up interview with the Food Service Director, along with a review of the pertinent website, the consultants concluded that the College has sufficiently addressed disability-related dining needs. In general, dining services manages a student’s dietary restrictions on an individualized basis and is typically able to address most requests, whether or not related to a disability. Dining services represented that their limited engagement with SAS generally relates to other factors such as special seating due to mobility impairments or other non-dietary disability-related matters that it has readily implemented.

IV. SUMMARY OF RECOMMENDATIONS

Throughout the report, and in accordance with the Consent Decree, the consultants have identified a number of recommendations to share with the individuals assigned responsibility for designing and implementing a corrective action plan. The following list of recommendations is consistent with those previously identified in the report. The consultants have organized the recommendations into categories. The consultants suggest that it is best that the corrective action plan designers determine the feasibility of the recommendations and the resources that the campus should devote to implementing those the group deems to be the most important, with the
understanding that the Consent Decree requires Dartmouth to implement a number of these recommendations.

1. **SAS and ARS operations, authority, and infrastructure:**
   a. Relocate and centralize all SAS operations in an accessible location.
   b. Reorganize SAS’s operations and authority:
      i. Assign SAS responsibility for ARS reporting, supervision, and oversight. Rename ARS, increase its online profile, and ensure its accessibility, to communicate its focus on testing services for students with disabilities. Authorize ARS to schedule testing accommodations directly with students, and extend hours of operations to evenings and weekends.
      ii. Assess whether SAS should report through an area apart from Student Affairs and whether the allocation of responsibility between SAS and the disability liaisons in the graduate and professional schools should be shifted.
      iii. Reallocate support for students with temporary impairments that are not disabilities to another division within Student Affairs.
      iv. Redirect academic coaching of students with disabilities to ASC.
      v. Cease conducting LD screenings.
   c. Authorize SAS to purchase a user-friendly data management system, including an online portal, to track and coordinate all Dartmouth student accommodations, and to implement an effective document conversion system tailored to students who need and use the service.
   d. Provide necessary training to SAS staff members to enable them to perform case management functions. Revise staff titles and position descriptions to convey position functions clearly.
   e. Shift responsibilities (and modify position descriptions as necessary) for the Director and Associate Director from direct service to focus on leadership and management of the office and campus-wide outreach and professional development.

2. **Partnership between SAS and faculty:**
   a. Create effective partnership and communications mechanisms between/among SAS, faculty, and the Office of the Registrar to communicate reasonable procedures to students seeking accommodations or adjustments and to identify and deliver reasonable accommodations and adjustments that do not interfere with core academic requirements.
   b. Provide systematic professional development opportunities to new and existing faculty in partnership with SAS, DCAL, and instructional designers, addressing the rights and responsibilities of students and faculty, and the respective roles of SAS and disability liaisons.
3. Policies, procedures, and forms:
   a. Designate an appropriately-trained ADA/Section 504 Compliance Officer position to address grievances and to coordinate institutional compliance efforts relating to disability.
   b. Develop and post online a step-by-step protocol which outlines the respective roles and responsibilities of students, faculty, SAS, the ADA/Section 504 Compliance Officer, Dartmouth administration, and others as appropriate in requesting, documenting, determining, and providing reasonable accommodations or adjustments, including the legal standard for such accommodations or adjustments, and annual review to determine whether accommodations or adjustments continue to be necessary and appropriate.
   c. Formalize the authority of school deans to ensure that faculty will provide accommodations and adjustments that SAS has determined to be reasonable in partnership with faculty.
   d. Revise intake forms and frequently-used forms to ensure clarity and compliance with applicable law.

4. Communications:
   a. Enhance the web presence of SAS and disability liaisons, place all forms related to accommodations/adjustments online, and develop web pages related to facility accessibility.

5. Assessment:
   a. Reinstate the disability-based task force to guide Dartmouth in evaluating the effectiveness of current accessibility initiatives and developing new initiatives and improvements.
   b. Implement annual student, faculty, and staff surveys to assess the effectiveness of accessibility processes.

V. CONCLUSION

The consultants commend Dartmouth for requesting a candid and thorough assessment of how the campus as a whole provides reasonable accommodations to its growing population of students with disabilities. Students, faculty, staff and administrators provided the consultants with useful information to guide the review and analysis, for which the consultants are grateful. An assessment of this type can only be as accurate as the data that the various stakeholders are willing to provide. Nearly everyone with whom the consultants spoke identified areas where Dartmouth could make improvements.

The consultants’ overall assessment is that Dartmouth’s model for addressing the educational access needs of students with disabilities has not sufficiently adapted with the
growth in the population the College is serving and the students’ increasingly complex needs. While Dartmouth’s aspiration to adhere to universal design standards is commendable, it has led to the provision of accommodations that are not necessary or appropriate under applicable legal standards. The consultants are optimistic that the College can and will take this opportunity to revisit its practices and make the changes that they believe are important to enhance the student experience. The consultants are eager to work with the campus to help develop remedial plans for addressing these identified concerns.
CONSENT DECREE

The parties have agreed that it is in their best interest to resolve this lawsuit on mutually agreeable terms, which are set forth in a Confidential Settlement Agreement, and have agreed to the entry of this Consent Decree as an Order of the Court.

1. Remedial steps

1.2 Dartmouth will retain a knowledgeable external consultant to perform or assist Dartmouth in performing the following tasks:

- Conduct an assessment of and make recommendations with respect to the available personnel, facilities, adaptive technologies, auxiliary aids, and other resources available to reasonably accommodate the needs of students with disabilities.

- Develop a corrective action plan for adequately providing accommodations for students with disabilities, taking into account the assessment and other relevant input, which will include specific time frames for implementation.

- Develop and implement new policies and procedures, including:

  o Designating a new ADA/504 Coordinator with appropriate training and clarification of his/her role.

  o Developing a step-by-step protocol which outlines the respective roles and responsibilities of students, faculty, SAS, the ADA/504 Coordinator, Dartmouth administration and others as appropriate in requesting, determining, and providing reasonable accommodations or adjustments,
including the legal standard for such accommodations or adjustments.

- Formalizing the authority of school deans to ensure that faculty will provide accommodations that have been identified as reasonable.

- Adopting new grievance procedures for addressing alleged failures to provide reasonable accommodations or other disability discrimination.

- Develop and implement a mandatory training program for faculty and staff concerning accommodations or adjustments for students with disabilities, to be called “The Mannella Protocol.”

1.2 The consultant will be charged with seeking input from the Plaintiffs and other Dartmouth students and alumni with disabilities in preparing the assessment and recommendations. Dartmouth will solicit input from the Plaintiffs and other members of the Dartmouth community in preparing the corrective action plan.

1.3 The final versions of the assessment and the corrective action plan will be made publicly available.

1.4 Dartmouth will designate an “institutional owner” for driving, monitoring, and reporting on compliance with the foregoing terms.

2. Enforcement

2.1 If either party believes in good faith that the other is in material breach of this Agreement, the parties agree to confer in good faith in an effort to informally resolve the matter.

2.2 If the parties are unable to resolve the matter, they promptly will return to mediation in an effort to resolve the matter, in which event Dartmouth will pay the mediator’s fees and expenses incurred in connection with the mediation.

2.3 If the parties are unable to resolve the matter in mediation, a party may sue for breach of this Agreement, in which event the Court shall have the power to award specific performance as the sole remedy for any such breach.
SO ORDERED:

United States District Judge for the District of New Hampshire