

Document, Document, Document:

Authorship Provenance as an Eligibility Criterion in Public Education

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Abstract

The literature on artificial intelligence detection is a literature about detectors, asking whether classifiers are accurate and whose writing they misread. Underneath that contest sits a remedy on which nearly everyone agrees. Keep your version history. Compose inside a tool that logs your process. Be able to show your work. Integrity offices, vendors, journalists, and the writers who attack detection most sharply all give the same advice, and all of them offer it as neutral prudence. This Article is about the advice.

Process-logging instruments authenticate authorship by inspecting how text entered a document. Grammarly Authorship sorts every character into a fixed taxonomy: typed by a human, generated by artificial intelligence, modified or edited with it, or pasted from a known or unknown source. There is no category for text that was spoken. Google Workspace for Education, the dominant platform in American K-12 schooling, ships no authorship tool at all; its Originality Reports check for copied text rather than machine authorship, and the record teachers actually consult is Google Docs version history, which logs a large insertion with a timestamp and supplies no label for it. Dictated text arrives as a block. It is scored as an unattributed paste, or left unlabeled for a human to interpret privately. The research program underwriting these instruments states the defect in its own vocabulary, because educational measurement researchers have built keystroke classifiers separating original composition from reproduction, and the published feature sets enumerate insertions, deletions, pauses, and pastes with dictation nowhere in the list.

An accommodation is a different process. That is what an accommodation is, and in a school the difference is legally required, individually determined, and written down by the entity that will later evaluate the work. This Article makes three claims. First, that process-based provenance measures input mechanism and reports the result as authorship, and that published demonstrations of trivial evasion establish the gap rather than suggesting it. Second, that a documentation requirement applied as a condition of academic evaluation is an eligibility criterion under 28 C.F.R. §35.130(b)(8) and must be shown necessary, which is already settled law where documentation burdens fall on disabled students. Third, that the school case is the strongest configuration of this problem anywhere in the detection literature, because the defendant is a public entity, the individualized education program closes the knowledge element, *Perez v. Sturgis Public Schools* clears exhaustion, and *Payan* preserves the one category of damages surviving *Cummings*.

Keywords: civil rights; education law; Section 504 Rehabilitation Act; ADA Title II; screen out; deliberate indifference; keystroke logging; writing assessment; academic integrity; speech-to-text; assistive technology; individualized education program.

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I. Introduction

A high school junior is told that her essay reads like it was written by a machine. She did not write it with a machine. She wrote it by talking, because talking is how she writes, and the district put that in her file two years ago after an evaluation it paid for.¹

She is offered the standard remedy.² Show your process. Turn on the tool that records how the document was built. Send the version history. She does. The version history shows four paragraphs appearing in a single insertion at 9:47 in the evening, then a fifth eleven minutes later, then a sixth. There are no keystrokes. There is no revision trail. Each block arrives whole, correct, and fast.

That record is exactly what her accommodation produces, and it is also exactly what her teacher was told to look for. Nothing in the record says which one it is, because the instrument that made it has no way to say. The instrument distinguishes typing from pasting. Her disability lives on the wrong side of that line.

This Article is not about the detector that flagged her. A substantial literature already contests detectors and its arguments are well developed: classifiers misread non-native English writers at markedly higher rates,³ and detection performance degrades when human and machine text are mixed within a single document.⁴ That literature has produced a remedy, and the remedy is where the argument here begins.

1. The obligation to identify, evaluate, and record the services a student requires is statutory. *See* 20 U.S.C. §1414(d)(1)(A)(i)(IV) (individualized education program must state the supplementary aids and services and program modifications to be provided); 34 C.F.R. §104.33 (recipients operating public elementary and secondary programs must provide a free appropriate public education to qualified handicapped persons).

2. The remedy is prescribed with striking uniformity across otherwise opposed constituencies: vendors selling the recording feature, institutions requiring it, and commentators who reject detection scoring outright. Its distributive consequences appear nowhere in that discussion.

3. Weixin Liang et al., *GPT Detectors Are Biased Against Non-Native English Writers*, 4 *Patterns* 100779 (2023), <https://doi.org/10.1016/j.patter.2023.100779>.

4. *See* Paul Deane, Mo Zhang, Jiangang Hao & Chen Li, *Using Keystroke Dynamics to Detect Nonoriginal Text*, 63 *J. Educ. Measurement* no. 1 (2025), <https://doi.org/10.1111/jedm.12431> (surveying the limits of output-based detection and proposing process data as a supplement).

The remedy is documentation. It is stated with unusual unanimity. Integrity offices tell students to preserve drafts. Vendors sell process recording on precisely this promise, offering students what one company's launch materials describe as objective backing if they are flagged after submission.⁵ Teachers are advised to consult version history.⁶ Writers who spend their public voice attacking detection turn around and tell their readers to keep receipts. The advice sounds like prudence and costs the person giving it nothing.⁷

It is not neutral. Each of these instruments authenticates authorship by inspecting the mechanical history of how text entered a document. That is a proxy. It holds for the population that types and it fails for the population that does not, and the population that does not is disproportionately disabled, because non-typing input is a large part of what disability accommodation in writing consists of.⁸

The structural claim can be put in one sentence. An accommodation is a different process. That is the definition of an accommodation, and in the school setting the difference is legally required, individually determined, and written down by the entity that will later evaluate the work. A regime that proves authorship by inspecting process penalizes the deviation the law compelled.⁹

Two further findings shape what follows. The empirical record establishes that dictation is an accommodation rather than an advantage, because speech recognition raises the essay quality

5. Grammarly, *Grammarly Launches Grammarly Authorship to Enable Transparency in Writing Assignments for the AI Age* (Aug. 2024), <https://www.grammarly.com/blog/company/grammarly-launches-grammarly-authorship/> [hereinafter Grammarly Launch].

6. Proofademic, *AI Detector for Google Classroom: Best Tools for Teachers in 2026* (Apr. 29, 2026), <https://proofademic.ai/blog/google-classroom-ai-detector/> (describing version history timestamps of large paste events as a signal teachers use, while noting it is not a detector).

7. The point is not that the advice is offered in bad faith. It is that a recommendation whose compliance cost is zero for the speaker and nonzero for a protected class is a distributive decision presented as a technical one.

8. Charles A. MacArthur, *Reflections on Research on Writing and Technology for Struggling Writers*, 24 Learning Disabilities Rsch. & Prac. 93 (2009), <https://doi.org/10.1111/j.1540-5826.2009.00283.x> (reviewing word processing, spelling checkers, word prediction, and speech recognition as transcription supports for students with learning disabilities).

9. The obligation to provide the deviation is not discretionary. See 34 C.F.R. §104.33(b)(1) (appropriate education means regular or special education and related aids and services designed to meet individual educational needs as adequately as the needs of nonhandicapped persons are met); 20 U.S.C. §1412(a)(1)(A).

of students with learning disabilities while leaving the performance of their peers unchanged, and that the speech-to-text writing process has an architecture of its own, including a correction stage that typing does not produce. And the adverse authority is real. One reported decision has rejected a disability challenge to a plagiarism determination, and one appellate decision has considered an anti-copying rule that collided with an accommodation. Part V.I states both in their strongest form and answers them on grounds the opinions themselves leave open.

Part II sets out the remedy as prescribed, the three instruments that implement it, and the research program that underwrites them, with attention to what Google Workspace for Education does and does not contain, because that is the platform most American public school students are required to use. Part III establishes what the instruments measure. The taxonomy question is dispositive and it is not a question of accuracy: Grammarly Authorship classifies correctly into a category set with no entry for spoken composition, and version history assigns no category at all, which is worse in a specific and legally significant way. Part IV develops the accommodation argument, reports the empirical record on dictation, and identifies the join that does not exist between the district's accommodation record and the district's process record. Part V runs the doctrine, which is unusually favorable here relative to every adjacent context, and reports honestly where it stops. Part VI proposes repairs. Part VII concludes.

One boundary belongs at the outset. This Article does not argue that these students are falsely accused because the instruments are inaccurate. It argues that the instruments are accurate about the wrong thing, and that improving them worsens the problem, because a more reliable instrument enforces a defective taxonomy more reliably.

II. The Remedy and Its Instruments

A. The Advice as Given

The documentation remedy circulates in three forms, usually together.

The first is preservation. Keep the drafts, the outlines, the notes, the research file, and produce the trail if the work is questioned. This is the oldest version and it predates generative artificial intelligence; it is the advice that was once given about plagiarism accusations.¹⁰

The second is process recording. Compose inside an application that logs how the document was built, so the log can be produced as evidence. This is the version vendors sell, and it is the version that has begun appearing in institutional requirements rather than merely in advice.

The third is contemporaneous disclosure. State how the work was made, in a field provided for the purpose.

Each form asks the writer to generate an artifact that vouches for the writing.¹¹ Each therefore raises a question the discourse does not ask: what does producing that artifact cost, and is the cost the same for everyone?

B. The Keystroke and Paste Log

Grammarly Authorship is the most developed implementation. It is not a classifier. It records in real time how text arrives in a document and produces a report in which the text is color coded by origin, along with a replay showing the document being constructed.¹²

The categories are fixed and enumerated. Enabled on a blank document, the tool sorts text into human-typed, generated by artificial intelligence, modified with generative artificial intelligence, pasted from a known or unknown source, and edited by Grammarly or a native spell checker.¹³ Attribution of pasted material depends on clipboard access; without it the tool still

10. Similarity-based plagiarism detection compares a submission against a corpus and reports overlap. It says nothing about process, which is why the arrival of unique machine-generated text drove the field toward behavioral evidence. *See* Deane et al., *supra* note 4.

11. The artifact is second-order evidence. It does not show that the writing is good, or original, or the student's own thought; it shows that the writing entered the document in a manner the instrument recognizes.

12. Grammarly Launch, *supra* note 5 (describing the authoring replay, stopping points, and the color-coded report).

13. *Id.*

documents typing actions and categorizes pasted text as copied from an unknown source without attributing it further.¹⁴

Two features of that list matter. The categories are exhaustive, in the sense that every character receives one. And there is no category for text that was spoken.¹⁵

The institutional uptake converts a consumer feature into a legal problem. Independent reporting describes schools requiring an Authorship report alongside submitted work as a way of evidencing process rather than testing output, with students instructed to install the software, compose inside it, and export the timeline with the paper.¹⁶ At that point the report stops being a shield the student may pick up and becomes a condition of submission.¹⁷

C. Version History and the Platform Most Students Must Use

The second instrument governs American public education and is considerably cruder.

Google Workspace for Education includes no authorship tool. Its integrity feature is Originality Reports, which compare a submission against web sources, Google Search results, and, where the administrator has enabled school matches and the district holds the appropriate license, against prior submissions from within the school or district.¹⁸ Availability is tiered: on Education Fundamentals a teacher may enable the feature for five assignments per class, with unlimited reports requiring the Teaching and Learning upgrade or Education Plus.^{19,20}

14. Grammarly, *About Authorship*, Grammarly Support, <https://support.grammarly.com/hc/en-us/articles/29548735595405-About-Authorship> [hereinafter Grammarly Support].

15. Nor is the omission remedied by the clipboard-attribution feature, which resolves where pasted text came from rather than whether the text originated as speech. *See* Grammarly Support, *supra* note 14.

16. Leap AI, *Does Grammarly Detect AI? Authorship Feature Explained* (Apr. 16, 2026), <https://www.tryleap.ai/blog/does-grammarly-detect-ai> (reporting that some schools have begun requiring Authorship reports with submissions as a way to prove process rather than detect output).

17. The distinction is the whole of the legal question. A voluntary defense that some students cannot use is unfortunate. A required submission that some students cannot produce on equal terms is an eligibility criterion. *See infra* Part V.B.

18. Google, *Turn on Originality Reports*, Classroom Help, <https://support.google.com/edu/classroom/answer/9335816> (describing linked detected sources, flagged uncited text, and school matches).

19. *Id.*

20. The tiering has a distributive consequence of its own. Districts serving larger enrollments tend to sit on lower tiers because per-student licensing scales with headcount, so the schools with the least capacity to run the formal instrument are the schools most likely to rely on the informal one discussed in Part II.C.

Originality Reports are a plagiarism instrument. Independent assessments through mid-2026 agree that the feature does not classify machine authorship and that Google ships no student-facing detector; schools seeking that capability integrate a third-party product.²¹

What fills the gap is Google Docs version history, which stores the document's revision record including the timestamps at which large insertions occurred. Teachers use it as a process signal on the reasoning that machine output tends to arrive as a single sizable insertion close to a deadline.²²

This is the documentation remedy in its most widely deployed form. It is also the one with no taxonomy at all.²³

D. The Disclosure Field

The third instrument pairs a score with a space in which the author may explain. It appears on publishing platforms rather than in schools, and is treated here only for contrast, because it makes visible what the school instruments conceal: where an explanation is invited, silence becomes an answer, and the price of the answer differs by author. The school instruments do not invite an explanation. They generate a record and leave the inference to someone else.²⁴

E. The Research Program Behind the Remedy

The documentation remedy is not folk practice. It rests on a mature research literature, and that literature states the defect in its own vocabulary.

21. Proofademic, *supra* note 6 (Google Classroom has no built-in AI detector and relies on third-party integrations); Leap AI, *Does Google Classroom Detect AI? Originality Reports Explained* (Apr. 16, 2026), <https://www.tryleap.ai/blog/does-google-classroom-detect-ai> (originality reports compare against the web, Google Search, and school submissions, and do not analyze AI authorship).

22. Leap AI, *Google Classroom*, *supra* note 21 (describing version history as a signal teachers use rather than a detector, on the premise that AI output often arrives as a single large paste near the due date).

23. Version history was built as a collaboration and recovery feature. Its use as integrity evidence is an appropriation of a tool designed for a different purpose, which is why it carries none of the interpretive scaffolding that would make its output contestable.

24. On the compelled-disclosure dynamic that a paired score and explanation field produces for accommodated authors, and its distinction from the school configuration analyzed here, see *infra* Part IV.C.

Keystroke logging has been an established method in writing research for two decades, capturing key presses, insertions, deletions, cursor movements, and their associated timing as writers compose.²⁵ The taxonomy of actions those systems record is published, and it is a taxonomy of keyboard and mouse events: pause, insert, delete, paste, cut, replace, and line break, together with the length, location, and timestamp of each.²⁶ Speech does not appear in the list.²⁷

The same research group has extended this apparatus to the exact question this Article concerns. In 2025 researchers at Educational Testing Service published a study using keystroke dynamics to distinguish writers composing an original text from writers copying or otherwise reproducing a text written elsewhere, reporting accuracies above ninety-four percent under laboratory conditions where the nature of each session was known in advance and above eighty-nine percent under operational conditions.²⁸ The paper is explicit that the motivation is generative artificial intelligence: a machine-written essay may be unique and therefore invisible to similarity detection, so behavioral cues from the writing process are proposed to fill the gap.²⁹³⁰

The underlying finding that makes that classifier work is that original composition and transcription of non-original text produce measurably different traces. Original composition shows greater timing variability, longer pauses, shorter bursts, and more revision and deletion; transcription of text written by someone else shows steadier production with little revision and

25. Mo Zhang, Paul Deane, Andrew Hoang, Hongwen Guo & Chen Li, *Applications and Modeling of Keystroke Logs in Writing Assessments*, 44 Educ. Measurement: Issues & Prac. 5 (2025), <https://doi.org/10.1111/emip.12668>; see also Yi Cao, Jing Chen, Mo Zhang & Chen Li, *Examining the Writing Processes in Scenario-Based Assessment Using Regression Trees*, 2020 ETS Rsch. Rep. Series 1 (2020), <https://doi.org/10.1002/ets2.12301> (describing keystroke logging as nonobtrusive real-time recording of mechanical operations during composition).

26. Zhang et al., *supra* note 25 (enumerating type, length, location, and timepoint of action, with action types listed as pause, insert, delete, paste, cut, replace, and line break).

27. The omission is not a criticism of the instruments as research tools. Keystroke logging was developed to study typed composition and does so well. The defect arises on transfer, when a measure validated on typed composition is deployed as an integrity instrument against a population that does not type.

28. Deane et al., *supra* note 4.

29. *Id.*

30. The proposal is explicitly for operational assessment rather than research alone, which is what converts a laboratory finding into a deployed criterion.

brief pauses.³¹ A parallel line of work treats keystroke data as a behavioral biometric capable of identifying whether two essays were written by the same person, reporting an equal error rate of 4.7 percent on a high-stakes essay task.³²

Three observations follow, and they frame everything in Part III.

The field is building the instrument, not merely using an existing one. The documentation remedy is becoming an assessment technology with published accuracy figures, which means it will be adopted, and adopted on the strength of those figures.

The classifier's target variable is a binary: composed here, or reproduced from elsewhere. Dictated composition is composed here and arrives looking like reproduction, and no published feature set in this literature contains an input-modality variable that would separate the two.

The same literature already documents that the trace varies with the writer rather than with the honesty of the writing. Keystroke features differ by second-language proficiency and revision behavior,³³ by score and demographic group,³⁴ and by clinical condition, including post-stroke aphasia, where editing behavior and error profile diverge systematically from the unimpaired baseline.³⁵ A measure that varies with who the writer is, before any question of integrity arises, is a measure that will read protected characteristics as suspicion when it is deployed to detect suspicion.³⁶

31. *Id.* (summarizing convergent findings across Deane et al. (2018), Conijn et al. (2019), Trezise et al. (2019), and Crossley et al. (2024), the last reporting classifier precision between .953 and .987 on matched authentic and transcribed keystroke logs).

32. Ikkyu Choi, Jiangang Hao, Paul Deane & Mo Zhang, *Benchmark Keystroke Biometrics Accuracy from High-Stakes Writing Tasks*, 2021 ETS Rsch. Rep. Series 1 (2021), <https://doi.org/10.1002/ets2.12326>.

33. Khaled Barkaoui, *What and When Second-Language Learners Revise When Responding to Timed Writing Tasks on the Computer: The Roles of Task Type, Second Language Proficiency, and Keyboarding Skills*, 100 *Modern Language J.* 320 (2016), <https://doi.org/10.1111/modl.12316>.

34. Mengxiao Zhu, Mo Zhang & Paul Deane, *Analysis of Keystroke Sequences in Writing Logs*, 2019 ETS Rsch. Rep. Series 1 (2019), <https://doi.org/10.1002/ets2.12247> (comparing keystroke-derived features across score and gender groups).

35. Cecilia Johansson-Malmeling, Åsa Wengelin & Ingrid Henriksson, *Aphasia and Spelling to Dictation: Analysis of Spelling Errors and Editing*, 56 *Int'l J. Language & Comm'n Disorders* 145 (2020), <https://doi.org/10.1111/1460-6984.12591>.

36. This is a distinct objection from the one raised against output classifiers, which concerns error rates on particular populations. *Cf.* Liang et al., *supra* note 3. The objection here is that the signal is valid and tracks the writer rather than the conduct.

III. What the Instruments Measure

A. *The Category That Does Not Exist*

Begin with the strongest objection to this Article, which is that these are engineering defects and better engineering will cure them.

It will not, because nothing is malfunctioning. Presented with a block of dictated text arriving whole, Grammarly Authorship correctly determines that the text was not typed and correctly determines that it was not generated inside the Grammarly editor. It then assigns the only remaining category that fits, which is pasted from an unknown source.³⁷ Every step is right. The report is accurate. It is accurate about input mechanism and is presented as evidence about authorship.

A taxonomy is a claim about what kinds of things exist. This one asserts that text is either typed by a person or moved in from somewhere else, and it was built by people for whom that exhausted the possibilities. Speech is not a case the classifier mishandles. Speech is a case the classifier was never given.³⁸

Improving the instrument therefore deepens the injury. A more reliable detector of paste events detects this student's paragraphs more reliably. Accuracy and harm move together, which is the signature of a taxonomy problem rather than a performance problem.³⁹

B. *Variance by Assistive Product as Proof*

One qualification is owed, and it strengthens the claim.

Speech-to-text products do not behave uniformly. Some stream characters into the document as the transcript resolves, and text produced that way may register as typed. Others

37. Grammarly Support, *supra* note 14 (absent clipboard access, pasted text is categorized as copied from an unknown source with no further attribution).

38. The distinction has a doctrinal analogue. A rule that misapplies to a protected class invites an accuracy defense. A rule with no category for the protected class invites the necessity inquiry, because the entity must explain why the category set it chose was required. *See* 28 C.F.R. §35.130(b)(8).

39. It follows that vendor commitments to improve accuracy are not responsive. The commitment that would be responsive is a change to the category set, which no vendor has announced.

assemble a passage and insert it as a block, and text produced that way registers as a paste. The instruments therefore return different verdicts on identical sentences composed by the identical student depending on which product she uses.

That variance is the proof. An instrument whose authorship finding turns on the internal architecture of the writer's assistive tool is not reporting on the writer. It is reporting on the tool and printing an authorship label on the result.⁴⁰

The streaming path fails as well, for its own reason. Where dictation streams into the document, the resulting trace still lacks the timing variability, long pauses, short bursts, and revision density that the published literature associates with original composition, and it resembles instead the steady low-revision profile that literature associates with transcription.⁴¹ The student who dictates is therefore anomalous whether her text streams or arrives in blocks. Only the label changes.⁴²

C. Who Chooses the Tool

The remedy that suggests itself is the violation. Telling a disabled student to switch assistive products so that a measuring instrument can read her inverts the allocation federal law sets.

In determining what auxiliary aids and services are necessary, a public entity must give primary consideration to the requests of individuals with disabilities.⁴³ The Department of Justice's commentary makes the allocation explicit: the entity honors the individual's choice unless it can demonstrate that another equally effective means exists, or that the chosen means would impose an undue burden or work a fundamental alteration.⁴⁴ Courts have enforced the principle that the entity may not simply substitute the aid it prefers for the one the individual

40. A useful test: hold the writer, the sentences, and the cognition constant and vary only the assistive product. If the authorship finding moves, the finding was never about authorship.

41. Deane et al., *supra* note 4 (original composition characterized by greater timing variability, longer pauses, shorter bursts, and higher revision; transcription by steadier production with little revision).

42. The block-insertion path yields an explicit adverse label; the streaming path yields an unlabeled anomaly in the replay. Part III.D explains why the second is the worse position to be in.

43. 28 C.F.R. §35.160(b)(2).

44. 28 C.F.R. pt. 35, app. B (reaffirming the 1991 preamble statement that the public entity shall honor the choice unless it can make that demonstration, and describing deference to the individual's request as desirable).

requires.⁴⁵ The choice sits with the student.⁴⁶ The burden of displacing it sits with the entity, and it is a burden about effectiveness, not about legibility to a compliance tool.⁴⁷

D. The Instrument With No Label

Version history is worse than the labeled instrument, and the difference is jurisprudential rather than technical.

Grammarly Authorship prints a category, and a category is an artifact. It can be pointed at, named, contested, and shown to be inapposite. A student holding a report that labels her paragraphs as pasted from an unknown source has in her hand an assertion she can answer.⁴⁸

Version history prints nothing. It shows that four hundred words entered the document at 9:47 in the evening. The conclusion forms entirely inside the head of the person reading it. There is no label, no taxonomy, no stated standard, no record of the inference, and consequently nothing to appeal. The adverse determination is made off the record and surfaces later as a grade, a conference, a referral, or a finding.

The configuration is familiar to school due process doctrine, which has long required that a student facing exclusion be told the charge and given an opportunity to respond.⁴⁹ It is equally familiar to the doctrine's limit. The Supreme Court has distinguished academic evaluations from disciplinary determinations and has held that academic judgments call for far

45. *Argenyi v. Creighton Univ.*, 703 F.3d 441, 449 (8th Cir. 2013) (a covered entity must furnish auxiliary aids sufficient to afford meaningful access, and the adequacy of the aid is measured against the individual's actual need); *Updike v. Multnomah County*, 870 F.3d 939, 951 (9th Cir. 2017) (effective communication is assessed by whether the aid provided in fact afforded the individual an equal opportunity).

46. *See also Chandler v. City of Dallas*, 2 F.3d 1385, 1393–95 (5th Cir. 1993) (an entity may not rely on generalized categories in place of individualized assessment of the person's actual capacities).

47. The fit is an extension rather than a direct application. Section 35.160 addresses auxiliary aids the entity furnishes for effective communication; a student's own assistive technology, or technology furnished under an individualized education program rather than under Subpart E, is governed by the provisions discussed in Part V. The provision is offered here for the allocation principle it states, which no adjacent provision states more clearly. On the availability of ADA effective-communication claims in schools independent of the Individuals with Disabilities Education Act, see *K.M. ex rel. Bright v. Tustin Unified Sch. Dist.*, 725 F.3d 1088, 1096–1102 (9th Cir. 2013).

48. Contestability is the practical difference between a determination that can be reviewed and one that cannot. It is also the difference between a record that survives to litigation and one that leaves no trace.

49. *Goss v. Lopez*, 419 U.S. 565, 581 (1975) (for suspensions of ten days or fewer, the student must be given notice of the charges and an opportunity to present his side of the story).

less procedural formality,⁵⁰ and for a student who has left the reach of *Goss* that deference is close to dispositive.⁵¹

That pairing produces a structural incentive worth naming. An integrity charge triggers the disciplinary track and its process. A quiet downward adjustment of a grade, or a decision not to write a recommendation, triggers the academic track and almost none. The instrument that generates the suspicion generates it in a form that fits the second track, and the student most likely to generate that pattern is the student whose accommodation produced it.⁵²

E. The Inversion

There is a published demonstration that the process log measures something other than honesty.

In November 2025 a copyright and plagiarism analyst tested Grammarly Authorship by generating text in a chatbot, moving it through an intermediate plain text editor, and pasting it from there into the document. The categorization degraded from a generative attribution to an unknown source, because the browser-based tool cannot observe activity outside the browser.⁵³ The analyst treated this as a limitation for readers of reports to keep in mind. It is more than that.

Place two students side by side. The first dictates her own sentences through the accommodation her district wrote into her plan, and her paragraphs are labeled as pasted from an unknown source. The second generates the entire paper in a chatbot and moves it through a text editor on the way in, and his paragraphs are labeled as pasted from an unknown source. Same label. One of them wrote the paper.

Add a step. The second student, knowing the mechanism, types the closing paragraphs by hand to seed the replay with a plausible construction trail. He now scores better than she does.

50. *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 86–91 (1978) (academic dismissal calls for less stringent procedural protection than disciplinary dismissal); *Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 225 (1985) (courts should show great respect for faculty professional judgment in evaluating academic performance).

51. *See Doe v. New York Univ.*, 666 F.2d 761 (2d Cir. 1981) (academic institution’s judgment about qualifications entitled to deference in a Rehabilitation Act challenge).

52. The incentive is not conscious evasion by teachers. It is that the informal channel is faster, requires no charge to be articulated, and is the channel the instrument’s output naturally feeds.

53. Jonathan Bailey, *How Grammarly Lauanders AI-Generated Content*, Plagiarism Today (Nov. 6, 2025), <https://www.plagiarismtoday.com/2025/11/06/how-grammarly-lauanders-ai-generated-content/>.

The regime does not sort honest work from dishonest work. It sorts writers who can produce a compliant process trace from writers who cannot, and the capacity to produce a compliant trace is distributed by disability.⁵⁴

This is why the argument does not depend on false positives. Assume the instruments are perfect at what they measure. The result is unchanged, because what they measure is compliance capacity.

IV. The Accommodation Is the Deviation

A. *What an Accommodation Is*

An accommodation changes how a task is performed so that the person can perform it. It does not change what is being assessed. That distinction is the architecture of educational accommodation: a student who dictates an essay is assessed on the essay, and dictation is the route by which the essay becomes possible.

Every accommodation in writing is therefore a departure from the default process. Extended time changes the temporal profile. Scribing changes who operates the keyboard. Speech-to-text changes the input channel. Word prediction changes the character-level trace. Text-to-speech during revision changes the revision pattern. Each alters exactly the signals a process log records, and each was selected because the default process failed the student.⁵⁵

The conclusion follows without an empirical premise. A regime that authenticates by inspecting process will produce anomalous readings for accommodated students at a rate approaching one, because anomaly relative to the default process is what an accommodation is. The instrument does not need to be biased. It needs only to work.⁵⁶

54. It is also distributed by device access, home environment, and time, which is why the same instrument raises equity questions beyond the disability claim. Those questions are outside the scope of this Article.

55. The accommodations enumerated here are ordinary rather than exotic. Each appears routinely in individualized education programs and Section 504 plans, and each is furnished precisely to change how the work gets done.

56. This is why the claim is properly pleaded as impact or as failure to implement rather than as intentional discrimination. See *Alexander v. Choate*, 469 U.S. 287, 295 (1985).

B. The Empirical Record on Dictation

The empirical record is nonetheless available, and it does two things for the argument.

First, it establishes that dictation is an accommodation rather than an advantage. In a controlled study of high school students, participants with learning disabilities produced higher quality essays using speech recognition than handwriting and made fewer errors, while no statistically significant differences among conditions appeared for students without learning disabilities.⁵⁷ A later study of middle school students reported the same asymmetry, with students who had writing fluency problems producing longer papers with fewer errors under speech recognition while average writers did not.⁵⁸ That asymmetry is the classic signature of a valid accommodation, and it answers in advance the objection that permitting dictation confers an unearned edge.⁵⁹

Second, it establishes that the speech-to-text writing process is architecturally distinct. A qualitative study of students with severe dyslexia composing with speech-to-text found no conventional spelling errors at all and instead a different error class produced by the technology: misrecognition of single words, omission of words or sentence parts, homophone substitutions, morpheme errors, and compound word errors.⁶⁰ The evaluation stage of the writing process divided into three parts, adding a correction process that exists only because dictation exists,

57. MacArthur, *supra* note 8 (reporting 87 percent recognition accuracy on unedited sentence dictation and 92 percent on edited essays, higher essay quality for students with learning disabilities under speech recognition, and no significant condition differences for students without learning disabilities; concluding that the results support dictation as a test accommodation because it removed transcription barriers without lifting non-disabled performance).

58. *Id.* (discussing Quinlan (2004)).

59. An accommodation that lifted everyone's performance equally would be a change to the construct being measured. One that lifts only the performance of the class it was designed for is removing a barrier, which is the definition of accommodation rather than advantage. *Cf. PGA Tour, Inc. v. Martin*, 532 U.S. 661, 682–90 (2001) (modification that does not alter an essential aspect of the activity is required notwithstanding institutional preference).

60. Helle Bundgaard Svendsen et al., *Technology-Based Writing: Qualitative Study of the Writing Process When Students with Dyslexia Use Speech-to-Text*, 32 *Dyslexia* no. 1 (2025), <https://doi.org/10.1002/dys.70024>.

and the participants' revision concentrated at the word and sentence level with little higher-level revision or planning.⁶¹

Read that finding against the classifier literature. The published discriminators for original composition are timing variability, long pauses, short bursts, and revision density.⁶² The dictating student produces a correction-dominated profile with little planning-stage pausing and little high-level revision.⁶³ She does not merely fail to match the original-composition profile. She matches a profile the literature has not modeled, and the nearest modeled neighbor is transcription.⁶⁴

C. The Record the District Already Wrote

Here the school setting departs sharply from every adjacent context, in the plaintiff's favor.

On a publishing platform, a disabled writer who is flagged can establish her accommodation only by disclosing it, which is the compelled-disclosure problem. In a school that problem does not arise, because the disclosure has already been made and the district holds the file.

A student receiving special education services has an individualized education program identifying the supplementary aids, services, and program modifications to be provided.⁶⁵ A student not eligible under the Individuals with Disabilities Education Act but who has a disability substantially limiting a major life activity may receive services under a Section 504 plan, which likewise records the accommodations the recipient determined necessary.⁶⁶ Either document is

61. *Id.* (identifying correction, low-level revision, and high-level revision, and concluding that the additional correction process is unique to technology-based writing).

62. Deane et al., *supra* note 4.

63. Svendsen et al., *supra* note 60.

64. The consequence for classifier design is concrete. A binary trained on composed-here versus reproduced-from-elsewhere will assign dictated composition to whichever class it most resembles in feature space, and the published feature space contains no dimension on which dictation is distinguishable from reproduction.

65. 20 U.S.C. §1414(d)(1)(A)(i)(IV).

66. 34 C.F.R. §104.33; *see also Mark H. v. Lemahieu*, 513 F.3d 922, 933–38 (9th Cir. 2008) (distinguishing the Section 504 free appropriate public education obligation from the Individuals with Disabilities Education Act standard).

authored by the district, executed by the district, and maintained by the district as an educational record.

So the input method is not unknown. It is documented, individualized, binding, and sitting in the district's own system. The student is not being asked to prove something the district does not know. She is being asked to prove something the district wrote down.⁶⁷

D. The Join

The failure is a missing connection between two systems the same entity operates.

The accommodation record lives in the special education information system. The process record lives in the productivity suite. Nothing joins them. No query runs from the version-history timeline to the student's accommodation profile before an inference is drawn. The teacher looking at a large insertion at 9:47 in the evening has, somewhere in the district's files, a document that answers the question the timeline raises, and the interface does not put it in front of her.

This reframes the legal theory. A claim that a facially neutral criterion falls harder on a protected class is a disparate impact claim and carries the burdens such claims carry. A claim that an entity reached an adverse determination about a student while ignoring an accommodation recorded in its own file, in a system it controls, is a failure to implement, and it is the configuration in which the knowledge element is not seriously contestable. The district cannot be unaware of a document it authored and is statutorily obligated to maintain and periodically revise.⁶⁸⁶⁹

67. This is what makes the school configuration structurally different from the platform configuration. On a platform, the accommodation is invisible until disclosed. In a district, the accommodation is a record the entity holds and controls.

68. Institutional knowledge is imputed from records the entity is required to keep, and a district cannot rely on its own failure to route information internally to defeat notice. *Cf. Duvall v. County of Kitsap*, 260 F.3d 1124, 1139 (9th Cir. 2001) (an entity on notice that an accommodation is required may not simply fail to act).

69. 20 U.S.C. §1414(d)(4)(A) (requiring the team to review the individualized education program periodically and revise it as appropriate).

E. The Ordinary Case Is Not the Litigated Case

A caution belongs here, because the argument would be dishonest without it.

Most instances of this harm will never produce a determination of academic dishonesty. Most will be smaller. A teacher's confidence in a student's work declines without ever being stated. A recommendation is not written. A student learns that dictating produces suspicion and begins typing badly instead of speaking well, which is abandonment of an accommodation induced by the evaluation environment rather than by any formal decision. None of that generates a record.

The pattern is documented in the adjacent surveillance context. Interviews with students who hold disability accommodations and who have taken remotely invigilated examinations describe anxiety about the interaction between monitoring and their disabilities, fear of being misrepresented by the system, and added cognitive load during the assessment itself, together with the compromises students make to avoid being flagged.⁷⁰ That literature also documents that accommodation systems already impose substantial request and implementation burdens on students before any surveillance instrument is added,⁷¹ and that degree completion rates for students with disabilities lag behind their peers.⁷² The broader critique of biometric and behavioral cheating-detection systems has made a related structural point: these systems reconstruct academic integrity as an engineering problem and export its costs onto the monitored.⁷³

70. Monika Kwapisz et al., *Surveillance and Disability in Online Proctored Exams: Student Perspectives and Design Implications*, arXiv:2511.10826 (2025), <https://doi.org/10.48550/arXiv.2511.10826>.

71. George Mamboleo, Shengli Dong & Sean Anderson, *Accommodation Experience: Challenges and Facilitators of Requesting and Implementing Accommodations Among College Students with Disabilities*, 53 J. Vocational Rehabilitation 43 (2020), <https://doi.org/10.3233/jvr-201084>.

72. Jamie M. Carroll, Evangeleen Pattison & Chandra Muller, *Barriers to Bachelor's Degree Completion Among College Students with a Disability*, 63 Socio. Persps. 809 (2020), <https://doi.org/10.1177/0731121420908896>.

73. Jo Ann Oravec, *AI, Biometric Analysis, and Emerging Cheating Detection Systems: The Engineering of Academic Integrity?*, 30 Educ. Pol'y Analysis Archives (2022), <https://doi.org/10.14507/epaa.30.5765>; see also Aditya Nigam, Rhitvik Pasricha & Tarishi Singh, *A Systematic Review on AI-Based Proctoring Systems: Past, Present and Future*, 26 Educ. & Info. Techs. 6421 (2021), <https://doi.org/10.1007/s10639-021-10597-x>.

The doctrinal analysis that follows addresses the visible cases because those are the ones that can be litigated. The distribution of harm is wider than the distribution of remedy, which is a reason to favor the structural repairs in Part VI over the litigation posture in Part V.

V. Doctrine

A. Coverage

Public school districts are public entities subject to Title II of the Americans with Disabilities Act, and districts receiving federal financial assistance are recipients subject to Section 504 of the Rehabilitation Act.⁷⁴ Coverage is not contested and is not developed further here.⁷⁵ The questions worth developing are which provision the documentation requirement violates, what the plaintiff must show, and what she can recover.

B. The Documentation Requirement as Eligibility Criterion

The most direct provision is the screen-out rule. A public entity shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity, unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.⁷⁶

The proposition that documentation requirements imposed on disabled students are eligibility criteria within the meaning of the ADA and Section 504 is not novel. It was decided nearly three decades ago. In *Guckenberger v. Boston University*, the court considered a university policy requiring students seeking accommodation for a learning disability to be evaluated by a professional holding specified credentials, to produce testing conducted within the preceding

74. 42 U.S.C. §§12131–12134; 29 U.S.C. §794. On the constitutional validity of Title II's abrogation of sovereign immunity as applied to fundamental rights, see *Tennessee v. Lane*, 541 U.S. 509, 533–34 (2004).

75. On the integration and meaningful-participation principles animating both statutes, see *Olmstead v. L.C.*, 527 U.S. 581, 597–603 (1999).

76. 28 C.F.R. §35.130(b)(8).

three years, and to supply intelligence testing in addition to the standard diagnostic battery. The court held that these were eligibility criteria within the meaning of the statutes because they were the policies by which the institution judged which students were eligible for services and tailored the accommodations it provided.⁷⁷

The court then applied the necessity standard and the university lost most of it. The three-year retesting requirement failed because the evidence showed no demonstrable change in a specific learning disorder such as dyslexia after age eighteen, no peer-reviewed literature supporting a need for current evaluations in the post-secondary environment, and no other institution in the United States or Canada requiring retesting after that age.⁷⁸ The requirement that evaluators hold a doctorate failed as to specific learning disorders because the university did not demonstrate that an evaluator with a master's degree and appropriate training could not perform the assessment adequately, and the court found the policy unnecessarily screened out students evaluated by adequately trained professionals.⁷⁹ The same requirement survived as to attention deficit conditions, where the university did carry its burden, on evidence that those conditions are frequently accompanied by co-existing physical and psychological conditions, are commonly medicated, and change over adolescence and early adulthood.⁸⁰

That split matters more than the holdings taken separately. *Guckenberger* demonstrates that the necessity inquiry is real, evidence-bound, and winnable by an institution that has actually done the work. Boston University prevailed exactly where it had a scientific record and lost everywhere it did not. A district asked today why its process-documentation requirement is

77. *Guckenberger v. Boston Univ.*, 974 F. Supp. 106 (D. Mass. 1997) (holding that the university's testing, currency, and evaluator-credential requirements were eligibility criteria under the ADA and Section 504).

78. *Id.* (finding the retesting requirement, as initially written, not shown necessary for students diagnosed with specific learning disorders).

79. *Id.* (holding that by precluding evaluations by persons with master's degrees, the policy unnecessarily screened out or tended to screen out some students with specific learning disorders).

80. *Id.*

necessary to the provision of the educational program has no equivalent record, because none has been assembled.⁸¹

Three features of the regulatory text carry the rest of the argument.

The provision reaches criteria that tend to screen out, so a plaintiff need not show that a particular student was excluded in order to challenge the criterion. Where the criterion is a process trace and the class is defined by process deviation, the tendency is structural.

The provision places the necessity showing on the entity. A district requiring an authorship report, or treating version history as evidence of integrity, must be prepared to show the requirement is necessary. That showing is not obviously easy, given that the same district assesses the same competencies through supervised writing, conferencing, oral defense, and portfolio review with no process trace at all.

The provision speaks of full and equal enjoyment of the service, program, or activity, which locates the injury correctly. The harm is participation in the academic program on unequal terms, with an evidentiary burden attached to one class of students and not another.

A second regulatory provision supplies an alternative route that does not depend on characterizing the requirement as a criterion at all. A public entity may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability.⁸² District courts have recognized methods-of-administration claims as distinct causes of action rather than as a restatement of the general prohibition.⁸³ Where a district has adopted no formal documentation requirement and teachers simply consult version history as a matter of practice, the methods-of-administration provision fits the facts better than the eligibility-criteria

81. The absence is not evidence of bad faith. Districts adopt platform features as they ship, and the feature arrived without a necessity assessment attached because no regulator has asked for one.

82. 28 C.F.R. §35.130(b)(3)(i).

83. *Price v. Shibinette*, 2021 DNH 179 (D.N.H. 2021) (collecting authority recognizing methods-of-administration claims as distinct causes of action); *Cota v. Maxwell-Jolly*, 688 F. Supp. 2d 980, 993–95 (N.D. Cal. 2010) (rejecting the argument that the provision merely restates the general prohibition).

provision does, because there is no criterion to point at and there is unmistakably a method of administration.⁸⁴

C. Reasoned Deliberation and the Limits of Academic Deference

An institution defending an academic requirement will invoke deference, and deference is real. Courts do not substitute their judgment for genuine academic determinations.⁸⁵

Deference is nonetheless conditioned on deliberation. Under the standard developed in the *Wynne* litigation, an institution meets its duty of seeking reasonable accommodation only if it can show that the relevant officials considered alternative means, their feasibility, cost, and effect on the academic program, and reached a rationally justifiable conclusion that the available alternative would lower academic standards or require substantial program alteration.⁸⁶ The determination must be a reasoned, professional academic judgment rather than a mere assertion.⁸⁷

Guckenberger shows what failure of that duty looks like. The court found that the university's refusal to modify degree requirements was motivated in substantial part by uninformed stereotypes held by senior administrators, who characterized students with learning disabilities through a fictional archetype and described evaluators as overdiagnosing the condition, and it held that the institution had not met its duty of considering alternative means and reaching a rationally justifiable conclusion.⁸⁸

Applied here, the deliberation inquiry has a clean subject. A district that adopts a process-documentation requirement can be asked what it considered. Whether anyone examined

84. Cf. *Bragdon v. Abbott*, 524 U.S. 624, 649–55 (1998) (the assessment of risk or need must rest on the objective evidence available, not on the covered entity's good-faith belief).

85. *Ewing*, 474 U.S. at 225; *Se. Cmty. Coll. v. Davis*, 442 U.S. 397, 413 (1979) (Section 504 does not compel an institution to disregard the disabilities of handicapped individuals or to make substantial modifications to accommodate them).

86. *Wynne v. Tufts Univ. Sch. of Med.*, 932 F.2d 19, 26 (1st Cir. 1991) (en banc); *Wynne v. Tufts Univ. Sch. of Med.*, 976 F.2d 791, 795 (1st Cir. 1992) (applying the standard on remand); see also *Zukle v. Regents of the Univ. of Cal.*, 166 F.3d 1041, 1047–48 (9th Cir. 1999) (adopting the *Wynne* standard).

87. *Wynne*, 932 F.2d at 26.

88. *Guckenberger*, 974 F. Supp. 106 (finding the refusal motivated in substantial part by uninformed stereotypes and holding the university failed to demonstrate it met its duty of seeking appropriate reasonable accommodations).

the effect on students using assistive input. Whether anyone asked the vendor what the taxonomy contains. Whether anyone tested the requirement against a dictating student before deployment. Where those questions have no answers, deference has nothing to attach to, because deference protects academic judgment and no academic judgment was made.⁸⁹

D. Meaningful Access and Impact Within the Class

Where the claim is framed as impact rather than as failure to implement, two doctrinal points are needed.

Alexander v. Choate held that Section 504 reaches at least some conduct discriminatory in effect rather than motive, reasoning that much of the harm to disabled people results from thoughtlessness and indifference rather than animus, and framing the entitlement as meaningful access to the benefit offered.⁹⁰ That framing fits closely. No one designing a paste-event log intended to disadvantage students who dictate. The category was not thought of, which is the condition *Choate* names.⁹¹

Courts have applied the meaningful access principle to facially neutral policies whose burden falls on a protected class through mechanism rather than intent.⁹²

Alexander v. Sandoval eliminated the private right of action to enforce disparate impact regulations issued under Title VI.⁹³ The Ninth Circuit has held that *Sandoval* does not foreclose private disparate impact claims under Title II and Section 504, on the ground that the statutory texts differ from Title VI in the respects that mattered.⁹⁴ The comparator is the non-disabled

89. See *Wynne*, 932 F.2d at 26 (the institution's conclusion must be a reasoned professional academic judgment rather than a mere assertion); *Bird v. Lewis & Clark Coll.*, 303 F.3d 1015, 1020–21 (9th Cir. 2002) (institutional judgment is assessed against what the institution actually did).

90. *Alexander v. Choate*, 469 U.S. 287, 295–97, 301 (1985).

91. *Choate* declined to hold that all disparate-impact claims are cognizable under Section 504 and reserved the outer boundary, so the meaningful-access formulation rather than a general impact theory is the safer frame. *Choate*, 469 U.S. at 299.

92. *Crowder v. Kitagawa*, 81 F.3d 1480, 1483–85 (9th Cir. 1996) (facially neutral quarantine requirement burdened visually impaired travelers who relied on guide dogs, stating a Title II claim); *Henrietta D. v. Bloomberg*, 331 F.3d 261, 273–77 (2d Cir. 2003) (meaningful access analysis applied to the administration of a benefits program).

93. *Alexander v. Sandoval*, 532 U.S. 275, 293 (2001).

94. *Payan v. L.A. Cmty. Coll. Dist.*, 11 F.4th 729, 740 (9th Cir. 2021).

student subject to the same requirement, and the differential is the evidentiary cost of satisfying it.⁹⁵

E. Deliberate Indifference, and Why It Is Available Here

Compensatory damages under Title II and Section 504 require a showing beyond the violation. The circuits that have addressed the question require deliberate indifference, understood as knowledge that a harm to a federally protected right is substantially likely together with a failure to act upon that likelihood.⁹⁶

Deliberate indifference is ordinarily the hardest element for a disability plaintiff, because knowledge must be established against an institution that will say it did not know. In this configuration it is the easiest, for the reason developed in Part IV.D. The knowledge is documentary. The district identified the student, evaluated her, wrote the accommodation into a plan, and is required to review and revise that plan. An adverse academic determination premised on a process pattern that the district's own accommodation produces is a failure to act on information the district already holds about a student it has already identified as disabled.

That is the center of gravity. The claim is not that the tools are inaccurate, and not only that the burden is unequal. It is that the entity drawing the inference wrote the document that explains the pattern.⁹⁷

The obvious rejoinder is that a failure to connect two databases is negligence, and that the standard is a stringent one requiring more.⁹⁸ The rejoinder has force against a claim framed as a design complaint about software. It has considerably less force against the case actually posed

95. Where a plaintiff prefers to avoid the impact framing entirely, the failure-to-implement theory developed in Part IV.E is available and does not depend on *Payan*'s resolution of *Sandoval*.

96. *Duvall v. County of Kitsap*, 260 F.3d 1124, 1138–39 (9th Cir. 2001); *Liese v. Indian River Cnty. Hosp. Dist.*, 701 F.3d 334, 344 (11th Cir. 2012); *S.H. ex rel. Durrell v. Lower Merion Sch. Dist.*, 729 F.3d 248, 263 (3d Cir. 2013); *Sheely v. MRI Radiology Network, P.A.*, 505 F.3d 1173, 1192–93 (11th Cir. 2007); *Ferguson v. City of Phoenix*, 157 F.3d 668, 674 (9th Cir. 1998).

97. Deliberate indifference does not require animus or ill will; it requires knowledge and a failure to act. *Duvall*, 260 F.3d at 1138–39.

98. Courts describe the standard as stringent and distinguish it from mere negligence. See *M.P.G. v. Antioch Unified Sch. Dist.*, No. 3:23-cv-01167 (N.D. Cal. Sept. 5, 2023) (describing the *Duvall* standard as stringent).

here, which is not that the district failed to build an integration but that a specific official, holding a specific student's plan, drew an adverse conclusion the plan answered. Deliberate indifference is assessed against an official with authority to address the discrimination and institute corrective measures who has actual knowledge and fails to respond adequately.⁹⁹ A teacher who has read a student's accommodation plan and then treats the accommodation's signature as evidence of dishonesty satisfies both elements without any inference about institutional architecture.

F. Exhaustion

A claim brought on behalf of a student with an individualized education program will meet an argument that administrative procedures under the Individuals with Disabilities Education Act must be exhausted first.¹⁰⁰

Two decisions answer it. *Fry v. Napoleon Community Schools* held that exhaustion is required only where the gravamen of the complaint is the denial of a free appropriate public education, and supplied diagnostic questions for identifying when it is not, including whether the same claim could be brought against a public facility that is not a school and whether an adult at the school could press essentially the same grievance.¹⁰¹ *Perez v. Sturgis Public Schools* then held that the exhaustion provision does not bar a suit seeking relief the Act does not provide, and compensatory damages are such relief.¹⁰²

Both point the same way. A claim that a district applied an authorship verification practice screening out students who dictate is not a claim that the educational program was substantively inadequate under *Rowley* and *Endrew F.*¹⁰³ It is a claim about the terms on which

99. *Liese*, 701 F.3d at 349–50; *see also Welch v. City of Hartselle*, 423 F. Supp. 3d 1277 (N.D. Ala. 2019) (applying the authority-plus-actual-knowledge formulation).

100. 20 U.S.C. §1415(l).

101. *Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154, 165–71 (2017).

102. *Perez v. Sturgis Pub. Schs.*, 598 U.S. 142, 147–51 (2023).

103. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 200–04 (1982); *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399–403 (2017).

the student participates in a program whose adequacy is not at issue, and the relief sought is unavailable administratively.¹⁰⁴

G. Damages After Cummings

Cummings v. Premier Rehab Keller, P.L.L.C. held that emotional distress damages are unavailable in private actions under Spending Clause antidiscrimination statutes, reasoning from the contract analogy *Barnes v. Gorman* had used to define the remedies a funding recipient accepts.¹⁰⁵ That removes the category of damages a wrongly accused student would most naturally claim.

The Ninth Circuit has since extended *Cummings* to Title II while expressly preserving compensatory damages for lost educational opportunities as economic rather than emotional harm.¹⁰⁶

The pleading consequence is direct and should be adopted at the outset rather than defended later. Concede emotional distress. Plead lost educational opportunities with specificity: the course not completed, the credit not earned, the grade point average consequence, the honors placement forfeited, the transcript notation, the admission foreclosed, the scholarship conditioned on a standard the student no longer meets. Each is an economic loss with a documentary trail, and each is a consequence academic integrity determinations actually produce.¹⁰⁷

H. The Adverse Authority, Answered

Two decisions sit close enough to these facts that a claim built on this theory will meet them, and a third line of authority threatens the impact framing. Each is stated here in its strongest form before it is answered.

104. *Cf. Doe ex rel. Doe v. Bd. of Educ. of Tullahoma City Schs.*, 9 F.3d 455, 459–60 (6th Cir. 1993) (distinguishing claims about the adequacy of the educational program from claims about discriminatory treatment).

105. *Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 219–30 (2022); *Barnes v. Gorman*, 536 U.S. 181, 185–89 (2002).

106. *Payan v. L.A. Cmty. Coll. Dist.*, 169 F.4th 971, 977–79 (9th Cir. 2026) (holding at 977 that emotional distress damages are barred and preserving at 978–79 recovery for lost educational opportunities).

107. The economic character of these losses is what survives *Cummings*. A plaintiff who leads with distress invites the defense that removes the case; a plaintiff who leads with the transcript does not. *See Payan*, 169 F.4th at 978–79.

1. *The Plagiarism Finding Case*

Morales v. New York is the nearest adverse decision. A student alleged that handwriting accommodated his disability while typing aggravated it, received a failing grade for plagiarism, and sued under Title II. The court dismissed, holding that the plagiarism grade could not be shown to be a pretext for a discriminatorily motivated grade, that academic determinations are presumptively valid, and that the plaintiff had not alleged that similarly situated non-disabled students were treated differently.¹⁰⁸ Stated at its strongest, *Morales* says that a disabled student who is found to have committed an integrity violation cannot convert an academic determination into a civil rights claim by pointing at his accommodation.

Four distinctions answer it, and none of them requires the case to be wrong.

The damages standard applied in *Morales* is the stricter one. The court required a showing that the violation was motivated by discriminatory animus or ill will stemming from the plaintiff's disability.¹⁰⁹ That is a materially higher bar than the deliberate indifference standard applied in the Third, Ninth, and Eleventh Circuits, which requires knowledge and a failure to act rather than animus.¹¹⁰ The forum choice is therefore load-bearing, and a claim of this kind should be brought where deliberate indifference governs.

The theory pleaded in *Morales* was pretext. The plaintiff argued that the stated ground for the grade concealed a discriminatory motive, which is an intentional discrimination theory and requires proof of what the decisionmaker was thinking. The theory advanced in this Article requires nothing about the decisionmaker's state of mind. It asks whether a criterion or method of administration tends to screen out a class, and whether the entity can show necessity.¹¹¹

The comparator objection has an answer this record supplies. *Morales* faulted the plaintiff for not alleging differential treatment of similarly situated non-disabled students. The

108. *Morales v. New York*, 22 F. Supp. 3d 256 (S.D.N.Y. 2014).

109. *Id.*

110. *Duvall v. County of Kitsap*, 260 F.3d 1124, 1138–39 (9th Cir. 2001); *Liese v. Indian River Cnty. Hosp. Dist.*, 701 F.3d 334, 344 (11th Cir. 2012); *S.H. ex rel. Durrell v. Lower Merion Sch. Dist.*, 729 F.3d 248, 263 (3d Cir. 2013).

111. 28 C.F.R. §§35.130(b)(3)(i), (b)(8).

comparison here is not between students accused of dishonesty. It is between the evidentiary cost of clearing suspicion for a student who types and for a student who dictates, and that differential is established by the instrument's own taxonomy rather than by anecdote.

Finally, and most directly, the opinion does not reach this question. *Morales* does not address process-based authorship evidence as a means of establishing or disproving originality, and it does not address what assistive technology requires of an evaluating institution.¹¹² It was also a case against a university rather than a school district holding an individualized education program, so the accommodation record that carries the knowledge element here was not in the case.

2. *The Anti-Copying Rule Case*

Castelino v. Rose-Hulman Institute of Technology presents the collision more squarely. A professor who had permitted typed notes during examinations changed the rule to require handwritten notes after discovering that students were cutting and pasting course slides. A student with a disability who used typed notes was found to have committed academic misconduct, was suspended, and was denied readmission. The Seventh Circuit affirmed summary judgment for the institution.¹¹³

The structural resemblance is exact: an integrity rule adopted for anti-copying reasons, colliding with an accommodation that produces the very artifact the rule was written against. If *Castelino* decided that collision, this Article's theory has a serious problem.

It did not. The ADA claims failed on the statute of limitations, because the misconduct findings predated the two-year Indiana personal injury period borrowed for ADA claims.¹¹⁴ The remaining holdings rest on deference to academic judgment on readmission and on Indiana

112. The scope limitation is express on the face of the analysis: the opinion resolves academic deference, Title III's inapplicability to public entities, and Eleventh Amendment immunity, and does not take up either question. *Morales*, 22 F. Supp. 3d 256.

113. *Castelino v. Rose-Hulman Inst. of Tech.*, 999 F.3d 1031 (7th Cir. 2021).

114. *Id.* (applying Ind. Code §34-11-2-4(a) and holding the 2013 and 2014 misconduct findings time-barred).

contract law governing student-institution disputes.¹¹⁵ The opinion expressly does not decide whether an anti-copying rationale for a rule creates a higher burden for a student seeking a disability accommodation.¹¹⁶ It is a limitations decision wearing a merits decision's clothing, and the merits question remains open in that circuit.

3. *The Sandoval Problem*

The impact framing carries genuine risk, and it should be conceded rather than argued around.

Payan's holding that *Sandoval* does not foreclose private disparate impact claims under Title II and Section 504 is not uniformly held.¹¹⁷ The Third Circuit has held that implementing regulations which do not themselves articulate personal rights are not privately enforceable, reasoning that regulations may construe rights the statute creates but may not create them.¹¹⁸ The Sixth Circuit has permitted private enforcement where the regulation authoritatively construes the statutory prohibition rather than adding to it.¹¹⁹ A plaintiff outside the Ninth Circuit cannot assume the question is settled, and *Payan* itself carries a cautionary citator signal reflecting that disagreement.

Three responses, in order of strength.

The screen-out provision is best framed as construing rather than supplementing. Section 35.130(b)(8) does not invent a prohibition; it specifies what it means to exclude a person from participation by reason of disability, which is the statutory prohibition itself.¹²⁰ That framing satisfies the Sixth Circuit's test and does not depend on *Payan*.

115. *Id.* (holding the readmission assessment to be expert academic judgment warranting deference, and that deviations from institutional policy alone do not establish breach).

116. That question is identified in the opinion's own scope as unaddressed. *Castelino*, 999 F.3d 1031. The case was also brought under Title III against a private institution, so neither Title II's regulatory provisions nor Section 504's obligations on a recipient school district were before the court.

117. *Payan v. L.A. Cmty. Coll. Dist.*, 11 F.4th 729, 740 (9th Cir. 2021).

118. *Three Rivers Ctr. for Indep. Living, Inc. v. Hous. Auth. of Pittsburgh*, 382 F.3d 412 (3d Cir. 2004).

119. *Ability Ctr. of Greater Toledo v. City of Sandusky*, 385 F.3d 901 (6th Cir. 2004).

120. 42 U.S.C. §12132. On the construing-versus-creating distinction as the operative test, see *Ability Ctr.*, 385 F.3d 901.

The failure-to-implement theory does not require the impact framing at all. Where a district reaches an adverse determination while ignoring an accommodation recorded in its own file, the claim is that the entity denied meaningful access to a student it had already identified, which is squarely within *Choate* and does not turn on the availability of a regulatory impact cause of action.¹²¹

The reasonable modification obligation is statutory in origin and is not vulnerable on this ground.¹²²

4. Deference, Alteration, and Privacy

Three shorter objections deserve answers on the record.

Deference. The institution will say that evaluating the authenticity of student work is a core academic judgment entitled to respect.¹²³ It is, and that is not the end of it. Deference attaches to judgment that was exercised. Where the institution cannot show that it considered alternative means and reached a rationally justifiable conclusion, there is no professional judgment for a court to defer to.¹²⁴

Fundamental alteration. The institution will say that verifying authorship is essential and that excusing one class of students from verification alters the program.¹²⁵ The repairs proposed in Part VI ask for no exemption from verification. They ask that the record be annotated with information the district already holds before an inference is drawn. A modification that leaves the essential requirement intact is required notwithstanding institutional preference.¹²⁶ The empirical

121. *Alexander v. Choate*, 469 U.S. 287, 301 (1985); *see also Mark H. v. Lemahieu*, 513 F.3d 922, 938 (9th Cir. 2008) (a public entity may be liable in damages under Section 504 where it intentionally or with deliberate indifference fails to provide meaningful access or reasonable accommodation).

122. 42 U.S.C. §12131(2) (defining qualified individual by reference to reasonable modifications to rules, policies, or practices); 28 C.F.R. §35.130(b)(7)(i).

123. *Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 225 (1985); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 86–91 (1978).

124. *Wynne v. Tufts Univ. Sch. of Med.*, 932 F.2d 19, 26 (1st Cir. 1991) (en banc); *Guckenberger v. Boston Univ.*, 974 F. Supp. 106 (D. Mass. 1997).

125. *Se. Cmty. Coll. v. Davis*, 442 U.S. 397, 413 (1979).

126. *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 682–90 (2001).

record independently forecloses the construct-change version of the objection, since dictation raises the performance of students with learning disabilities without raising that of their peers.¹²⁷

Privacy. The institution will say that student privacy law prevents the join. It does not. FERPA permits disclosure of personally identifiable information from an education record, without consent, to other school officials within the agency, and teachers are named expressly, where the agency has determined they have legitimate educational interests.¹²⁸ A teacher evaluating a student's submission has a legitimate educational interest in the accommodations that student's plan provides. The agency must use reasonable methods to limit access to records in which the official has such an interest,¹²⁹ which is a design constraint on the join rather than a prohibition of it: the annotation need disclose only the input method relevant to reading the log, not the diagnosis or the balance of the plan.

I. What the Doctrine Does Not Reach

Three gaps should be stated plainly rather than discovered later.

The first is procedural. Section 504's implementing regulations require recipients to adopt grievance procedures incorporating appropriate due process standards, but at least one court has held that no private right of action exists to enforce that regulatory requirement.¹³⁰ The version-history problem in Part III.D is a problem about an unrecorded determination, and the provision most directly addressed to unrecorded determinations may not be privately enforceable.

The second is evidentiary. Nothing in current law entitles a student to notice that a process record was consulted, to the record itself, or to a statement of the inference drawn from

127. MacArthur, *supra* note 8.

128. 34 C.F.R. §99.31(a)(1)(i)(A).

129. 34 C.F.R. §99.31(a)(1)(ii).

130. *Guckenberger*, 974 F. Supp. 106 (holding that no private cause of action exists to enforce the grievance-procedure provision at 34 C.F.R. §104.7, notwithstanding the strength of the plaintiffs' argument on the merits).

it. A plaintiff will often be litigating about a decision she cannot document because the decision was never written down.¹³¹

The third is scope. Most of the students harmed here are not the students who will sue, as Part IV.F concedes. Litigation reaches the visible tail of this distribution. It does not reach the ordinary case.

VI. Repairs

Four repairs are available without legislation, ordered by how little they ask.

The join. Any system that surfaces a process record to an evaluator should first consult the district's accommodation record and annotate the display accordingly. If the student's plan records speech-to-text, the timeline should say so before the evaluator forms a view. This asks for no new data, no new policy, and no disclosure by the student. It asks two systems the same district already operates to speak to each other, and it is the single highest-value change described in this Article.¹³²

The necessity review. Before adopting a process-documentation requirement as a condition of submission, a district should conduct and record the necessity assessment that §35.130(b)(8) already requires, including whether the same integrity interest is served by supervised writing, conferencing, or oral defense. The obligation exists now. What is missing is the practice of performing it before deployment rather than after a complaint, which is precisely the deliberation that *Wynne* and *Guckenberger* make the price of deference.¹³³

The category. Vendors of process-recording products should add input-method categories to the taxonomy, including dictated and assistive-input, and should decline to render any authorship characterization for text whose input method the instrument cannot determine. An

131. Discovery may reach the platform record itself, since version history persists, but it will not reach the inference, which was never externalized.

132. It also avoids the disclosure problem entirely. The student is asked for nothing, discloses nothing, and need not know the annotation exists.

133. A district that performs and records the assessment is in a substantially better position even if it adopts the requirement, because the deference inquiry then has a record to attach to. *See Wynne*, 932 F.2d at 26.

honest instrument reports what it observed and stops. The current design reports what it observed and then places it in a category carrying an implication the observation does not support. Researchers building keystroke-based classifiers of non-original text should treat input modality as a covariate rather than as noise, and should report performance separately for assistive-input writers before those classifiers reach operational assessment.¹³⁴

The default. Where the input method is unknown, the correct institutional rule is that no inference is drawn. This inverts current practice, which treats an unattributed insertion as warranting scrutiny. A rule drawing no inference from an unlabeled block costs a district very little, because a district with an actual integrity concern retains every other tool it has, and it removes the entire class of harm described here at a stroke. The rule has the further advantage of being auditable. A district can state it, publish it, and be held to it, which none of the current informal practice permits.

One repair is unavailable without legislation and is named for completeness. A student should be entitled to notice that a process record was consulted in an evaluation of her work, to a copy of the record, and to a statement of what was concluded from it. Given the gap identified in Part V.H, that entitlement will have to be created rather than found.

VII. Conclusion

The detection literature has spent three years arguing about instruments and has produced one point of consensus: keep the receipts. That consensus is where the harm now lives, and it has been invisible because it wears the costume of prudence.

Documentation regimes authenticate writing by inspecting the process that produced it. Accommodation changes the process that produces it. That is not a coincidence and it is not a defect in any particular product. It is what happens when a proxy built from the default case

134. The existing literature already reports subgroup variation by proficiency, demographic group, and clinical condition. *See* Barkaoui, *supra* note 33; Zhu et al., *supra* note 34; Johansson-Malmeling et al., *supra* note 35. Adding input modality is an extension of established practice rather than a new methodological demand.

is applied to a population defined by departure from the default case, and it will recur in every instrument built on the same premise for as long as the premise goes unexamined.

There is a version of this problem that the law already solved once. In 1997 a university was told that its documentation requirements for disabled students were eligibility criteria, that necessity was its burden to prove, and that deference is earned by deliberation rather than asserted. Nothing about a keystroke log changes that analysis. The only thing that has changed is that the documentation requirement is now generated automatically, applied to everyone, and defended by nobody, because nobody has been asked.

The student in the opening pages of this Article is not asking for exemption from academic integrity. She is asking that the district read its own file before reaching a conclusion the file already answers. The remarkable feature of this problem is how little it would take to fix, and how completely no one has looked.

References

- Ability Center of Greater Toledo v. City of Sandusky, 385 F.3d 901 (6th Cir. 2004).
- Castelino v. Rose-Hulman Institute of Technology, 999 F.3d 1031 (7th Cir. 2021).
- Cota v. Maxwell-Jolly, 688 F. Supp. 2d 980 (N.D. Cal. 2010).
- Family Educational Rights and Privacy Act regulations, 34 C.F.R. §99.31.
- M.P.G. v. Antioch Unified School District, No. 3:23-cv-01167 (N.D. Cal. Sept. 5, 2023).
- Morales v. New York, 22 F. Supp. 3d 256 (S.D.N.Y. 2014).
- PGA Tour, Inc. v. Martin, 532 U.S. 661 (2001).
- Price v. Shibinette, 2021 DNH 179 (D.N.H. 2021).
- Three Rivers Center for Independent Living, Inc. v. Housing Authority of the City of Pittsburgh, 382 F.3d 412 (3d Cir. 2004).
- Welch v. City of Hartselle, 423 F. Supp. 3d 1277 (N.D. Ala. 2019).
- Alexander v. Choate, 469 U.S. 287 (1985).
- Alexander v. Sandoval, 532 U.S. 275 (2001).
- Americans with Disabilities Act of 1990, 42 U.S.C. §§12101–12213.
- Argenyi v. Creighton University, 703 F.3d 441 (8th Cir. 2013).
- Bailey, J. (2025, November 6). *How Grammarly launders AI-generated content*. Plagiarism Today. <https://www.plagiarismtoday.com/2025/11/06/how-grammarly-launders-ai-generated-content/>.
- Barkaoui, K. (2016). What and when second-language learners revise when responding to timed writing tasks on the computer. *Modern Language Journal*, 100, 320. <https://doi.org/10.1111/modl.12316>.
- Barnes v. Gorman, 536 U.S. 181 (2002).
- Board of Curators of the University of Missouri v. Horowitz, 435 U.S. 78 (1978).
- Board of Education v. Rowley, 458 U.S. 176 (1982).
- Cao, Y., Chen, J., Zhang, M., & Li, C. (2020). Examining the writing processes in scenario-based assessment using regression trees. *ETS Research Report Series*, 2020, 1. <https://doi.org/10.1002/ets2.12301>.
- Carroll, J. M., Pattison, E., & Muller, C. (2020). Barriers to bachelor's degree completion among college students with a disability. *Sociological Perspectives*, 63, 809. <https://doi.org/10.1177/0731121420908896>.

- Choi, I., Hao, J., Deane, P., & Zhang, M. (2021). Benchmark keystroke biometrics accuracy from high-stakes writing tasks. *ETS Research Report Series*, 2021, 1. <https://doi.org/10.1002/ets2.12326>.
- Crowder v. Kitagawa, 81 F.3d 1480 (9th Cir. 1996).
- Cummings v. Premier Rehab Keller, P.L.L.C., 596 U.S. 212 (2022).
- Deane, P., Zhang, M., Hao, J., & Li, C. (2025). Using keystroke dynamics to detect nonoriginal text. *Journal of Educational Measurement*, 63(1). <https://doi.org/10.1111/jedm.12431>.
- Doe v. New York University, 666 F.2d 761 (2d Cir. 1981).
- Duvall v. County of Kitsap, 260 F.3d 1124 (9th Cir. 2001).
- Endrew F. v. Douglas County School District RE-1, 580 U.S. 386 (2017).
- Ferguson v. City of Phoenix, 157 F.3d 668 (9th Cir. 1998).
- Fry v. Napoleon Community Schools, 580 U.S. 154 (2017).
- Google. (n.d.). *Turn on originality reports*. Classroom Help. <https://support.google.com/edu/classroom/answer/9335816>.
- Goss v. Lopez, 419 U.S. 565 (1975).
- Grammarly. (2024, August). *Grammarly launches Grammarly Authorship to enable transparency in writing assignments for the AI age*. <https://www.grammarly.com/blog/company/grammarly-launches-grammarly-authorship/>.
- Grammarly. (n.d.). *About Authorship*. Grammarly Support. <https://support.grammarly.com/hc/en-us/articles/29548735595405-About-Authorship>.
- Guckenberger v. Boston University, 974 F. Supp. 106 (D. Mass. 1997).
- Henrietta D. v. Bloomberg, 331 F.3d 261 (2d Cir. 2003).
- Individuals with Disabilities Education Act, 20 U.S.C. §§1400–1482.
- Johansson-Malmeling, C., Wengelin, Å., & Henriksson, I. (2020). Aphasia and spelling to dictation. *International Journal of Language & Communication Disorders*, 56, 145. <https://doi.org/10.1111/1460-6984.12591>.
- K.M. ex rel. Bright v. Tustin Unified School District, 725 F.3d 1088 (9th Cir. 2013).
- Kwapisz, M., Ackerman, Y., Nguyen, J., et al. (2025). *Surveillance and disability in online proctored exams*. arXiv:2511.10826. <https://doi.org/10.48550/arXiv.2511.10826>.
- Leap AI. (2026, April 16). *Does Google Classroom detect AI? Originality reports explained*. <https://www.tryleap.ai/blog/does-google-classroom-detect-ai>.
- Leap AI. (2026, April 16). *Does Grammarly detect AI? Authorship feature explained*. <https://www.tryleap.ai/blog/does-grammarly-detect-ai>.

- Liang, W., Yuksekgonul, M., Mao, Y., Wu, E., & Zou, J. (2023). GPT detectors are biased against non-native English writers. *Patterns*, 4, 100779. <https://doi.org/10.1016/j.patter.2023.100779>.
- Liese v. Indian River County Hospital District, 701 F.3d 334 (11th Cir. 2012).
- MacArthur, C. A. (2009). Reflections on research on writing and technology for struggling writers. *Learning Disabilities Research & Practice*, 24, 93. <https://doi.org/10.1111/j.1540-5826.2009.00283.x>.
- Mamboleo, G., Dong, S., & Anderson, S. (2020). Accommodation experience. *Journal of Vocational Rehabilitation*, 53, 43. <https://doi.org/10.3233/jvr-201084>.
- Mark H. v. Lemahieu, 513 F.3d 922 (9th Cir. 2008).
- Nigam, A., Pasricha, R., & Singh, T. (2021). A systematic review on AI-based proctoring systems. *Education and Information Technologies*, 26, 6421. <https://doi.org/10.1007/s10639-021-10597-x>.
- Nondiscrimination on the Basis of Disability in State and Local Government Services, 28 C.F.R. §§35.130, 35.160, pt. 35 app. B.
- Olmstead v. L.C., 527 U.S. 581 (1999).
- Oravec, J. A. (2022). AI, biometric analysis, and emerging cheating detection systems. *Education Policy Analysis Archives*, 30. <https://doi.org/10.14507/epaa.30.5765>.
- Payan v. Los Angeles Community College District, 11 F.4th 729 (9th Cir. 2021).
- Payan v. Los Angeles Community College District, 169 F.4th 971 (9th Cir. 2026).
- Perez v. Sturgis Public Schools, 598 U.S. 142 (2023).
- Proofademic. (2026, April 29). *AI detector for Google Classroom*. <https://proofademic.ai/blog/google-classroom-ai-detector/>.
- Regents of the University of Michigan v. Ewing, 474 U.S. 214 (1985).
- S.H. ex rel. Durrell v. Lower Merion School District, 729 F.3d 248 (3d Cir. 2013).
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.
- Sheely v. MRI Radiology Network, P.A., 505 F.3d 1173 (11th Cir. 2007).
- Southeastern Community College v. Davis, 442 U.S. 397 (1979).
- Svendsen, H. B., Gøttsche, N. B., Dolmer, G., Bäck, G. A., Svensson, I., & Mossige, M. (2025). Technology-based writing: Qualitative study of the writing process when students with dyslexia use speech-to-text. *Dyslexia*, 32(1). <https://doi.org/10.1002/dys.70024>.
- Tennessee v. Lane, 541 U.S. 509 (2004).
- U.S. Department of Education. *Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance*, 34 C.F.R. §§104.7, 104.33.

Updike v. Multnomah County, 870 F.3d 939 (9th Cir. 2017).

Wynne v. Tufts University School of Medicine, 932 F.2d 19 (1st Cir. 1991) (en banc).

Wynne v. Tufts University School of Medicine, 976 F.2d 791 (1st Cir. 1992).

Zhang, M., Deane, P., Hoang, A., Guo, H., & Li, C. (2025). Applications and modeling of keystroke logs in writing assessments. *Educational Measurement: Issues and Practice*, 44, 5. <https://doi.org/10.1111/emip.12668>.

Zhu, M., Zhang, M., & Deane, P. (2019). Analysis of keystroke sequences in writing logs. *ETS Research Report Series*, 2019, 1. <https://doi.org/10.1002/ets2.12247>.

Zukle v. Regents of the University of California, 166 F.3d 1041 (9th Cir. 1999).

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