

# Rights and Accommodations for Percussion Students with Disabilities

By Renee E. Keller

A few years ago, when I was teaching as an adjunct music instructor at a university, a student with the need for special accommodation due to a physical disability enrolled in my course. The student was a string player pursuing a master's degree in music education and, as part of her requirements, needed to pass a percussion methods course. She also used a wheelchair. Having this student in my class helped sensitize me to the details of the Americans with Disabilities Act. This experience led me to investigate resources available to musicians with disabilities and to question why there aren't more people with physical or sensory disabilities pursuing careers in music.

Many musicians have achieved notable success in their musical careers despite significant physical or sensory disabilities. Stevie Wonder and Ray Charles are both examples of extremely talented and popular blind performers. Ludwig van Beethoven continued to compose throughout his gradual, and his eventual complete loss of hearing. Well-known percussionist Evelyn Glennie lost her hearing by the age of 12 due to nerve damage.<sup>1</sup> Itzhak Perlman, violinist and conductor, suffered polio as a child, which resulted in the paralysis of his legs.<sup>2</sup> Rick Allen, the drummer of the band Def Leppard, lost his arm in an auto accident in 1984 but, with the help of a semi-electronic drumset, continued to play with the band.<sup>3</sup>

It is an unfortunate reality that, despite the passage of the Americans with Disabilities Act, people with disabilities continue to experience discrimination and exclusion in many ways. However, the list of successful musicians and performers with physical or sensory disabilities demonstrates that many disabled people with the will and desire to learn are not precluded from mastery of a musical instrument. That notwithstanding, musicians with physical or sensory impairments who choose to pursue a professional music career remain the exception. And while a student with a disability may excel

on any one particular instrument, he or she may require special accommodation to succeed at playing different instruments as part of a university or conservatory curriculum.

## THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) was passed into law in 1990. The law "prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation."<sup>4</sup> The passage of the law was premised on the recognition that physical or mental disabilities do not diminish a person's right to participate in all aspects of society, but that, historically, individuals with disabilities have frequently been subject to discrimination, segregation, and isolation from society because of their differences. The passage of the law was, in part, intended to give legal recourse to individuals who have experienced discrimination due to a disability. This type of discrimination can include exclusion, failure of institutions to make appropriate modifications to facilities and practices, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities.<sup>5</sup>

In drafting the 1990 ADA, Congress referred to the definition of discrimination used by an earlier law, the Rehabilitation Act of 1973.<sup>6</sup> The Rehabilitation Act was enacted in 1973 and was re-codified in 1982 as 29 U.S.C.A. §794.<sup>7</sup> Section 504 of the 1973 Act prohibits employment discrimination against individuals with disabilities in the federal sector. This law applies to organizations that receive financial assistance from any federal agency. Section §794 of the re-codified act of 1982 forbids discrimination or exclusion of people with disabilities from programs, services, and benefits.

The most recent changes to the ADA came in 2008, when Congress passed the ADAAA, or the Americans with Disabilities

Act Amendment Act.<sup>8</sup> This Amendment Act resulted from concerns that the 1990 ADA definition of disability and consequent court interpretations of what constitutes a disability was too narrow, and the law was not serving those it was intended to protect. Its intention has been "To restore the intent and protections of the Americans with Disabilities Act of 1990."

## WHAT INSTITUTIONS ARE SUBJECT TO THE ADA?

The ADAAA applies to employers and public services, which include state and local governments and any departments thereof, public accommodation, commercial facilities and transportation. In regards to educational facilities, this includes institutions of public education<sup>9</sup>, private schools<sup>10</sup>, and private religious colleges or institutions if they receive any amount of federal aid from the government.<sup>11</sup>

## WHAT CONSTITUTES A DISABILITY?

The ADA does not specifically define what constitutes a disability. To qualify as a person with a disability an individual must have, "(A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such impairment; or (C) being regarded as having such impairment."<sup>12</sup> Impairments can include, but are not limited to, mobility, sensory, cognitive, or psychiatric disabilities.

## WHAT CONSTITUTES REASONABLE ACCOMMODATION?

The ADA specifies that "reasonable accommodation" must be made to enable students or employees (as the case may be) to participate in and perform essential job functions. What constitutes a reasonable accommodation can be taken on a case-by-case basis. The first requirement is that employers or administrators are required to make reasonable accommodation only for known disabilities. Because each disability is unique in how it

affects a person's life, accommodations must be made on an individual basis.

However, there are some limitations on what constitutes "reasonable accommodation." The primary reason an employer would not be required to provide a particular accommodation is if it would place "undue hardship" on the business or organization. "Undue hardship" is defined as an "action requiring significant difficulty or expense." Factors that may influence a determination of difficulty or expense include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. When working in a school environment, it is essential to identify all possible accommodations to find one suited to the size and budget of the institution.

### ACCOMMODATIONS FOR PERCUSSION STUDENTS WITH DISABILITIES

Not all students with documented disabilities require accommodation for all tasks. For universities and schools, the law offers some guidelines that outline common types of accommodation. The first is the accessibility of space and manner in which the course is offered. The course must be offered in a facility that is accessible to persons with a disability. For a music student with a disability, this may include the setup of the classroom. Many band rooms use risers or have tiered floors. For students with certain physical disabilities, steps can be taken to allow the students easy access to their seat in the band or orchestra. These steps may include building ramps or reorganizing the band setup. If rehearsals or classes take place in a theater, the stage must be accessible and the backstage area free of clutter that might be dangerous and obstruct the passage of someone with a sensory or physical disability. Other modifications may include allowing flexibility for the students' arrival and departure times if they are traveling between classes.

Other requirements may include substitutions or adaptation for specific requirements of the course. For certain instruments, students with certain physical disabilities may need accommodation to reach an appropriate height to play fixed-height instruments such as marimba or xylophone. These issues can also be easily resolved with ramps and platforms. Electronic instruments, such as electronic keyboards and MalletKATs allow for greater flexibility in height adjustment and tilting than some traditional instruments.<sup>13</sup>

In certain cases, especially in percussion, the model of the instrument may also be considered when making accommodation. For example, for a student who does not have use of his or her legs, timpani pedal operation is impossible. As an alternative, there are models of timpani that use cable- or chain-drawn mechanisms that can be tuned by hand. In the event that an appropriate modification or

Disabled people with the will and desire to learn are not precluded from mastery of a musical instrument.

alternative to a specific musical instrument can't be identified, the instructor may consider substitution of specific requirements. Whatever the nature of the arrangements, alternative arrangements must provide comparable conditions to those provided for nondisabled students.<sup>14</sup>

Teachers and band directors must also keep in mind that these types of accommodation are not only required for courses offered for credit; the obligation to provide equal access to all students extends to extracurricular activities as well, such as school plays, musicals, after school band, or chorus.

### PERCUSSION ACCOMMODATIONS IN ACTION

There are several areas of percussion practice, study, and performance where many individuals are already making great strides in providing accommodation for persons with disabilities to participate. Listed below are just a few examples of ways that persons with disabilities have been participating in percussion:

1. For students at a university, percussion lessons or percussion ensemble are ideal ways to participate in music. The very nature of percussion ensemble allows for students to play a great diversity of instruments. It has become standard practice for many universities to require instructors to include disability statements on their syllabi. While the wording of the statement may vary between universities, generally the statement notifies students with disabilities that it is the university's policy to make accommodations for persons with disabilities and necessitates that process be collaborative between the instructor and the student. Instructors can create a welcoming and diverse environment for all students.

2. Drum circle events are very popular as both fun activities and as opportunities for individuals with disabilities to participate in music. Wahlbanger's Drum Circle Organization, based in Los Angeles, is one such organization that reaches out to individuals with both physical and mental disabilities. The organization provides drum circles and even adaptive drums so that all people can experience not only the inclusiveness but also the health and wellness benefits of drumming.

Likewise, the Raven Drum Foundation was created in 2001 by Def Leppard drummer Rick Allen and Lauren Monroe, an energy healer. Their mission is "to educate and empower individuals and communities in crisis through healing arts programs, drumming events, and collaborative partnerships."<sup>15</sup>

3. Several websites are dedicated to challenges faced by musicians with disabilities. Musicians with Disabilities, a website focused on musicians who have experienced disabilities, includes links to an article called "Tools Modifications Solutions Tips – Making Instruments Adaptable." Another such organization, Coalition for Disabled Musicians, Inc., was formed in 1986 as a resource for disabled musicians to connect, perform, record, problem-solve, and "promote public awareness of the disabled community as a great reservoir of talent and ability."<sup>16</sup> This website includes a link to adaptive gear, including a drum pad stand designed specifically for disabled drummers. Individual experiments with adaptive gear can also be found online. In addition to groups, individuals have also pursued ways to adapt instruments for their needs. Drummer Mike Mignogna self-published a book called *Look Ma No Feet*, in which he outlines adaptations he made for his drumset to accommodate his Cerebral Palsy.

4. Finally, for individuals wishing to play percussion who require special adaptive gear and tips, exploring social networking sites with likeminded individuals may yield some of the greatest results. Living My Song is a website "dedicated to exploring ways in which everyone can discover and express their own musical personality. Particular attention is paid to the special needs of people with physical or learning disabilities, but our sharing and creative approach reaches out to all."<sup>17</sup> A creative music publisher and partner to Living My Song, the Full Pitcher Music Resources provides links through their website for Music for Special Needs, which includes links and chat forums, including a number of links for specific disabilities. Another such organization, Can Do Musos, was created in March 2013 to help musicians with challenges from all over the world by providing stories, advice, and social networking.

## CONCLUSIONS

When working with or teaching an individual with a disability, open communication is crucial. Do not assume the individual needs an accommodation unless he or she requests it. However, once it is established that the individual needs accommodation to succeed at a technique or instrument, take into consideration the nature of the individual's disability and the effect that has on specific tasks he or she must complete. If solutions are not obvious or readily available, work alongside the student to find solutions.

As musicians and teachers, most of us could be doing more to engage students with disabilities in our musical ensembles. When promoting your bands, clubs, choirs, and courses, remember to include information on your posters and tell guidance counselors and advisors that your organization is ADA accessible.

## RESOURCES FOR MUSICIANS WITH DISABILITIES

The Americans with Disabilities Act Information and Technical Assistance: <http://www.ada.gov/>  
JAN (Job Accommodation Network): <http://askjan.org/links/about.htm>. JAN provides guidance on workplace accommodation and disability employment issues with information for both employees and employers. Information includes both physical and mental disabilities as well as limitations associated with specific conditions that result in common accommodation situations.  
Skolnick, Rochelle G. and AFM Symphonic Services Division Council Schuchat, Cook and Werner. "Legal Protections for Ill or Injured Musicians: the Basics of the ADA and FMLA." *International Musician* 1 Aug. 2014.  
Abramo, Joseph. "Disability in the Classroom: Current Trends and Impacts on Music Education." *Music Educators Journal* 99.1 (2012): 39–45. Web 7 Jan 2015. Abramo discusses disability rights and how they pertain to music education. He also provides a series of links and articles for music educators seeking to adapt musical instruments and make accommodation for students with disabilities.

## ENDNOTES

1. "Beat of Different Drummer." *PBS Newshour* Interview. 14 June 1999. Web 7 Jan 2015.
2. "Itzhak Perlman" *Biography*. A&E Television Networks, LLC. Web 7 Jan 2015.
3. "Rick Allen Biography." *DefLeppard.com*. Web 7 Jan 2015.
4. Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C.A. §§ 12101-12213
5. ADA, U.S.C.A. § 12101 (a) (5)
6. Rehabilitation Act of 1972, PL 93-112, 87 Stat 355 (1973)
7. Rehabilitation Act of 1973, codified as amended at 29 U.S.C. §§ 701-796 (i) (1982)
8. Rehabilitation Act of 1973, PL 93-112, 87 Stat 355 (1973) (codified as amended at 29 U.S.C. §§ 701-796 (i) (1982)

9. ADAAA, 42 U.S.C. § 12131
10. ADAAA, 42 U.S.C.A. § 12181 (6)
11. covered under section 504 of the Rehabilitation Act
12. ADA, 42 U.S.C.A. § 12102
13. The idea for this suggestion came to me while reading a blog post on the Coalition for Disabled Musicians website written by a drummer from California identified as Michael K. He writes, "When I lost the ability to play the instruments I played throughout my life due to a disease called CMT, I found I could still hold mallets. I began playing a MIDI controller called the Marimba Lumina, and later one called a MalletKAT. I mostly play them using a vibraphone sound, but like a synth, they can sound like any instrument. My tip, and this goes for electronic keyboard players too, is that you can buy what's called a bite switch to wire up to your sustain pedal port (just connect the switch to a quarter-inch plug). Oddly enough, you get them from skydiving supply stores. They use them to trigger a helmet-mounted camera. (Coalition for Disabled Musicians, Inc. Web 7 Jan 2015.)
14. 28 C.F.R. 36.309
15. The Raven Drum Foundation. Web 7 Jan. 2015.
16. Coalition for Disabled Musicians, Inc. Web 7 Jan. 2015.
17. Living My Song. Web 7 Jan. 2015.

**Dr. Renee E. Keller** is Principal Timpanist/Percussionist of the ProMusica Chamber Orchestra in Columbus, Ohio and percussionist for the Lakes Area Music Festival in Brainerd, Minn. She has previously held positions as Principal Percussionist of the Milwaukee Ballet Orchestra, percussionist with the Fort Wayne Philharmonic, and percussionist with the Civic Orchestra of Chicago. She is an adjunct instructor at Ohio State University in Lima, Bluffton University, and Ohio Northern University. Renee holds a Bachelor of Music degree from the University of Michigan, Master of Music degree from Temple University, and a Doctor of Music degree from Northwestern University. **PN**