

Legal superpowers

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Disclaimer: I am not a lawyer or a disability rights expert, and I am not offering legal advice. I'm just a psychology professor offering one possible strategy that neurominorities could use to stand up for our free speech rights at American universities.

In an earlier article for Quillette.com ('The neurodiversity case for free speech'), I outlined how campus speech codes discriminate against people who show various forms of 'neurodiversity' such as Asperger's syndrome, bipolar disorder, or ADHD. I promised a follow-up article on how neurodivergent people might be able to use the Americans with Disabilities Act (ADA) of 1990 to fight these discriminatory speech codes at U.S. universities.

This is that follow-up article. I'll get much more specific about what you can do, at your university, if you have a genuine diagnosable 'mental disorder', to advocate for your free speech rights. Mental disorders are highly stigmatized conditions, but they have a hidden upside: they can give you legal super-powers, including a surprisingly formidable set of rights under the ADA. If enough neurodivergent students, staff, and faculty use the 'ADA strategy' that I'll suggest here, I think we can quickly eliminate most of the unconstitutional speech codes that suppress free inquiry and debate on American campuses.

If the U.S. Constitution can't protect free speech on campus, what can?

Campus speech codes are hard to understand and hard to follow for the neurodivergent, as I argued in my previous article. In principle, this problem could be reduced by rewriting speech codes to be more concrete and detailed, with complete lists of prohibited words, forbidden ideas, banned images, and unwelcome mating tactics. The neurodivergent could simply memorize these lists and feel a little more confident that they understand what they are not allowed to say or do. But no public university would dare to print such lists of communication taboos, since the First Amendment violations would be all too conspicuous, and the lawyers from the Foundation for Individual Rights in Education (FIRE) would sue for prior restraint.

So, universities they have to keep their speech codes vague and overbroad. However, vagueness and overbreadth are also unconstitutional. In particular, speech codes are unconstitutional if they impose a 'chilling effect' because they're too imprecise about what they actually prohibit, so they force even the most reasonable people to err on the side of caution and self-censorship.

The chilling effects of unconstitutional speech codes are exacerbated by neurodiversity. For example, if a graduate student with Asperger's knows that they can't predict other people's reactions to what they say, and what they say could get them in trouble with university administrators, they may become very risk-averse about how they communicate – if they communicate at all. A speech code that imposes only a mild chilling effect on the neurotypical

may impose a strong chilling effect on the neurodivergent. This is a discriminatory and illegal 'disparate impact' against the free speech rights of neurominorities.

But the fact that speech codes are flagrantly unconstitutional has not deterred American public universities from continuing to impose them. This is because even when universities lose lawsuits over First Amendment violations, they don't lose much beyond the settlements they secretly pay out. These almost always include non-disclosure agreements to minimize blowback from any students, faculty, alumni, or journalists who care about the Constitution. So how can neurodiversity rights protect free speech if the First Amendment can't?

The ADA's power to neutralize speech codes that discriminate against neurodiversity

If the First Amendment isn't enough, how can the neurodivergent stand up for our free speech rights? We need a more direct threat with higher legal stakes. We need to impose a clear and present danger of litigation that incentivizes university lawyers and administrators to kill their unconstitutional speech codes. The Americans with Disabilities Act (ADA) offers a credible threat for doing just that.

Passed in 1990, the ADA is a federal civil rights law that makes it illegal to discriminate against people based on disabilities, and it requires employers to provide 'reasonable accommodations' and accessibility. The ADA built upon disability rights first protected in Section 504 of the Rehabilitation Act of 1973, but it went much further. The ADA protects a broad range of rights for students, staff, and faculty with disabilities at any U.S. college that receives any federal financial assistance, such as federal student loans or research grants. That includes virtually all higher education institutions, whether public or private. A good overview of ADA rights at American universities is [here](#).

I think that ADA could be a powerful weapon to challenge speech codes that are unintelligible or unrealistic for neurodivergent people. I'm not a disability-rights lawyer, so I'm not sure how well this ADA strategy would work in practice. Nobody seems to have discussed the possibility before. But this ADA strategy for free speech should work in principle, and most of my lawyer friends think it should work in practice. My main goal in this article is to provoke more public discussion about the relationships between free speech, neurodiversity, and disability rights.

The ADA's most powerful features for free speech advocacy

I know this ADA strategy sounds like a weird way to challenge speech codes. But the ADA has several features that make it surprisingly powerful and relevant:

- 1) Most people assume that the ADA refers only to physical disabilities such as being blind or paraplegic. However, according to the ADA Amendments Act (ADAAA, 2008), the ADA covers any impairment that has affected one or more 'major bodily functions' including neurological and brain functions, for at least six months, and that 'substantially limits one or more 'major life activities', include learning, concentrating, thinking, communicating, and/or working. Any mental disorder that interferes with 'normal' social interaction or communication qualifies as a disability under ADA. This would often include Asperger's, Tourette's, bipolar, schizophrenia, ADHD, PTSD, most personalities disorders, and many other conditions.

2) The ADA covers every neurodiversity condition even if it is in remission or interferes with 'normal' functioning only occasionally. Thus, if someone has bipolar disorder that's well-managed by medication most of the time, but it flares up into a manic episode once in a while, the university may be legally obligated to make accommodations for occasional manic Facebook posts or unwelcome flirtation. As long as the condition does not prevent the person from fulfilling their basic university roles and duties, the university must make accommodations.

3) The ADA concerns the likely effect of a disability apart from any 'mitigating measures' taken by a person to reduce its impact. For the neurodivergent, these mitigating measures may include psychiatric medications and compensatory behavioral strategies to work around the impairment.

For example, universities must consider how a student with ADHD would function without self-control aids such as Ritalin, or how a professor with Asperger's would function without the exhausting mental tricks they've learned to try to increase their mind-reading and empathizing abilities. This has deep implications for speech codes. It means that even if the ADHD student can control their impulsive outbursts while taking Ritalin, the speech code must be applied on the assumption that they will have occasional outbursts without it. The speech code must be applied to accommodate how the aspie professor would interact with colleagues if they didn't use the social and communicative strategies they've spent decades practicing.

The only exception to this 'mitigating measures' principle is that short-sighted people are expected to wear glasses or contacts. Otherwise, ADA puts the burden of accommodation squarely on the university, not on the neurodivergent.

4) ADA rights at universities aren't restricted to the classroom. They extend to all courses, programs, and activities at a university. This includes extracurricular and social activities, where speech codes can become especially discriminatory against neurodiversity. For example, for someone with Asperger's, a vague policy against 'unwelcome sexual language' may be much more dangerous at a faculty party or student club than in a biochemistry lecture. If a speech code can be used to punish you in any given university context, then the ADA can help protect you in that context.

5) The ADA protects disability rights for everyone at universities, regardless of their citizenship status, just as the First Amendment protects everyone's free speech rights. This includes undergrads who are undocumented immigrants, graduate students on F-1 visas, and junior faculty on J-1 visas. You don't have to be a U.S. citizen to use the ADA strategy.

Some of these details of the ADA may sound questionable if you're unfamiliar with disability law, but they've all been upheld in many court decisions, and they can be used by the neurominorities to fight unfair speech codes. We have to take our weapons where we find them. Just as social justice activists weaponized an overbroad interpretation of Title IX to infringe on First Amendment rights in the name of sexual diversity, we can weaponize ADA to fight for First Amendment rights in the name of neurodiversity.

The ADA strategy for neurodiversity free speech rights

All of the mental disorders mentioned in my last article can limit a person's ability to fulfil the 'major life activity' of communicating without getting punished for it, so they would all be covered

by the ADA. This means that almost any American university would be required under federal law to make reasonable accommodations for such conditions.

What kinds of accommodations are the neurodivergent entitled to under ADA? Federal law states that universities are required to make reasonable modifications in their practices, policies and procedures, and to provide auxiliary aids and services for persons with disabilities, unless doing so would 'fundamentally alter' the functioning of the university or impose 'undue financial or administrative burdens' on the university. Accommodations and auxiliary services have traditionally included things like providing blind students with course syllabi in Braille, providing learning-disabled students with note-takers in class, or not penalizing dyslexic students for misspellings on exams.

But when it comes to compliance with speech codes, the neurodivergent could demand a different set of accommodations that might prove even more important, by protecting their free speech rights as well as their disability rights. Here's how.

How to use the ADA strategy: A step-by-step guide

If you're at a university and you have any neurodivergent condition that might make it hard to understand or follow your university's speech codes, here's my step-by-step guide to how this strategy could work in practice. The key challenge is that universities don't have to provide accommodations for a disability unless they know about it. You have to take the initiative to become an advocate for your disability rights, on behalf of everyone's free speech rights.

First, research all of your university's current speech codes. Most schools post their policies online, but they speech codes are usually scattered all over the place – in student handbooks, faculty handbooks, board of regents policies, and administrative policies – and none of them are labelled 'speech codes'. The speech restrictions are usually hidden inside 'respectful campus policies', 'bias incident policies', 'sexual misconduct policies', 'residence life policies', etc. It's useful to check the FIRE website for your school, which analyzes unconstitutional speech codes for many universities. Read the speech codes carefully. Cut and paste them into a document, and make comments on anything you might find confusing or difficult to follow. This can be a very useful exercise even if you don't have a mental disorder.

Second, think hard about whether you really have a neurodivergent condition, diagnosable mental disorder, and/or specific disability that's relevant to understanding and following your speech codes. It's very important that this ADA strategy be used sincerely and honorably, not trivially by attention-seekers or fraudulently by people who pretend to have disabilities when they don't. If a lot of people make false claims for disability accommodations concerning speech codes, that will undermine the credibility of this whole strategy, just as false rape accusations at Duke, Columbia, and Virginia undermined the credibility of claims about a 'rape culture' on campuses. Misuse of this ADA strategy would threaten disability rights for people who have real mental disorders.

If you use this ADA strategy seriously, and you're willing to push it all the way through to litigation, everything you do might end up being scrutinized by a judge and jury. Visualize your psychiatrist and ADA coordinator on the witness stand, being cross-examined by the most aggressive trial lawyers your university can afford. You need to imagine that possible endgame before you contact anyone, and you need to document everything on the assumption that the thoroughness of your paper trail could make the difference between winning and losing a major

free speech lawsuit, potentially up to the U.S. Supreme Court. (Read about the recent *Matal v. Tam* case in which the Supreme Court struck down the concept of 'hate speech', for example.)

However, it's hard to know whether you have a diagnosable mental disorder until you get diagnosed, and it's hard to know if you have a disability that entitles you to ADA accommodations until you talk with your ADA coordinator, who's usually in an 'Office of Equal Opportunity' or suchlike. Self-diagnosis through Wikipedia and WebMD isn't enough.

If you suspect that you have a relevant disability, find out from your ADA coordinator what if any medical documentation your university requires for acknowledging your potential disability status. If you have a mental disorder, they will probably want an up-to-date letter from a psychiatrist – e.g. at a student health center. Make an appointment, and talk with the psychiatrist about your symptoms, your suspected condition, and the problems they might raise in relationship to your university's speech codes.

Bear in mind that most of the official DSM criteria for mental disorders assume an average level of intelligence, such that childhood symptoms persist into adulthood. But higher-intelligence people often develop compensatory strategies to mask their symptoms by the time they get to university. You'll need to talk with your psychiatrist about how you behaved, thought, and felt in childhood before you learned some ways to try to pass for neurotypical.

For example, if you think you have an autism spectrum disorder (ASD), you may need to mention any childhood symptoms such as awkwardness in conversational turn-taking, aversion to eye gaze, lack of interest in peers, stereotyped movements, ritualized behaviors, or intense preoccupations. You may have learned during high school how to make eye contact, take turns talking, suppress rocking, and broaden your interests. But if you have ASD, those coping strategies may not increase your basic mind-reading abilities enough to accurately predict what speech might offend others, so they may not reduce your underlying vulnerability to discriminatory speech codes.

Most people minimize their troubles in talking with psychiatrists, because they want to seem normal, functional, and stoical. Don't pretend to be more neurotypical than you are, but don't pretend to have a disorder if you don't. All your psychiatrist needs is radical honesty about your signs and symptoms, and they'll take care of the diagnosis.

If your psychiatrist agrees that you have a clear diagnosis relevant to your free speech concerns, ask them to write a formal letter to your university's ADA coordinator, which will need to explain their medical credentials, your official diagnosis, your signs and symptoms, and your current limitations that might undermine compliance with your school's speech codes. This letter is the key to unlocking your ADA rights.

Third, email your university's ADA coordinator. Politely and clearly explain who you are, your role in the university, the nature of your disability (e.g. 'I've had Asperger syndrome since childhood'), and how it affects your role at the university (e.g. 'I have trouble understanding other people's beliefs and desires, and I can be socially awkward and inappropriate'). Attach the psychiatrist's letter. Then make the specific request that claims your ADA rights – something like "Given my mental disability, I am asking for accommodations to make sure I don't violate our university's restrictions against inappropriate behavior and speech, as specified in our Respectful Campus Policy and Sexual Misconduct Policy. I would like to work out these accommodations within the next two weeks, by [specific date]".

Before you hit 'send' on this first email, read it again and again, and imagine it being read aloud in a court of law during a major litigation action. Sleep on it, and revise it again before sending it. Do that with every other email you send to your university, and never communicate by phone or in person without making an audio recording. Your email record may be crucial to securing your free speech rights. The things that your ADA coordinator, Dean of Students, or Department Chair say to you in person, 'off the record', are usually the things that would make your university look most discriminatory if repeated to a lawyer. (Also, be aware that your university can easily read any email you send or receive through your university account, so if you send an email to a friend implying that you're using this ADA strategy deceptively, your university's lawyers will know all about that.)

With this first email, you've started your email record, and sent medical documentation, so the ADA coordinator is obligated to respond. They must start a dialogue about how the university can help. They'll probably send a response email asking for more specifics. In your second email, you can attach your document that includes all of the university's speech codes and your comments about which parts that you find hard to understand and that you might find hard to follow.

The rest of this second email should depend on your specific mental disorder:

(1) If your condition impairs any social, emotional, and/or verbal capacities that make the speech codes too vague, confusing, euphemistic, or illogical to understand, ask for the speech codes to be translated into specific terms that are clearer to you. Be specific about the kinds of clarifications you'll need. If the 'sexual misconduct policy' prohibits 'sexist comments', ask for specific examples of what would count as a sexist comment, versus an acceptable comment about biological sex differences. If the 'respectful campus policy' prohibits 'displaying objectionable posters', ask for specifics about what visual motifs, themes, and artists would be acceptable, and which would not. If the 'bias response policy' prohibits 'racial slurs', ask for the complete list of prohibited words and phrases.

Given your disability, the university's burden is to explain its policy to you, not for you to second-guess what the policy committee might have meant when they wrote the speech code. (Of course, they probably had no clear idea what they really meant when they wrote the policies, but that's the university's problem to solve – by clarifying the policy or repealing it.)

(2) If you have any impulse-control issues or 'Theory of Mind' issues that make it likely you'll say 'offensive' or 'inappropriate' things sometimes, ask what accommodations the university can offer. You might need this if you have bipolar disorder, Tourette syndrome, ADHD, or a personality disorder. Ask for specifics: if 'unwelcome jokes about a protected characteristic' are prohibited, but you won't realistically be able to inhibit all of the unwelcome jokes that you might ever make, in all social situations, ask how many 'unwelcome jokes' per semester you're allowed to make without getting into trouble. If the ADA coordinator replies that it depends on the severity of the joke, ask them to explain the which specific kinds of jokes would be the worst, so you can take extra care to avoid them. The harder you push them to be specific, the more absurd they may realize the speech codes really are.

(3) If your condition affects both understanding and following the speech codes, explain both issues.

How administrators will respond to the ADA strategy

What happens after you send this second letter to your university's ADA coordinator? They will have an interesting day: they'll have no idea how to reconcile your need for ADA accommodations with the university's conviction that it must impose unconstitutional speech codes on everyone.

That's the main point of this exercise: to force a flurry of initially baffled but increasingly panicked emails between your university's ADA officer, the Title IX coordinator, other OEO staff, University Counsel, the VP for Diversity, the Dean of Student Affairs, etc. They will have no idea how to proceed, because they'll be trying to reconcile three irreconcilable laws (the ADA, the First Amendment, and the 2011 DOE 'Dear colleague' letter mandating an over-broad application of Title IX) and two irreconcilable constituencies (the social justice activists who demanded the speech codes, versus the neurodivergent students, staff, and faculty who are especially oppressed by the speech codes).

They'll be caught in a Kafkaesque bureaucratic nightmare. But show no mercy with your follow-up emails. Be polite and clear, but relentless. Remember that the administrators deserve to feel some anxiety about what to do, because they imposed the speech codes with reckless disregard for the constitutional rights and the neurodiversity of the people on campus.

At first, administrators might respond that your request for speech code accommodations is absurd, and that everyone on campus simply must be respectful and inoffensive at all times. Don't get into a philosophical debate about free speech. Stick to brass tacks: Congress and federal courts have already decided that universities must make reasonable accommodations to allow equal access to educational opportunities for those with disabilities.

If you don't understand a speech code or how to follow it because of your disability, and if violating the code can get you sanctioned, expelled, or fired, then the university must figure out reasonable accommodations, or else they are denying you equal access. Keep your emails focused on your legal rights, and their obligation to respect them – and remember that every email you send might end up being read aloud in the Supreme Court.

The ADA coordinator and administrators know they can't ignore your request for a disability accommodation. The only legal basis for denying an ADA accommodation for a medically documented condition is if it imposes an 'undue financial or administrative burden' on the school, or 'fundamentally alters the school's academic program'. Neither of these would happen simply by clarifying, modifying, or eliminating some speech codes.

In rejecting an accommodation request, a school must prove and document that it thoroughly considered whether the requested accommodation would impose undue burdens or undermine academic standards, and they must explain their reasoning. For example, speculating that an ADA speech code accommodation for one student might violate Title IX for another student would not carry much weight in federal court, since Title IX does not trump ADA. They have equal status as parts of the U.S. Code (Title IX is technically 20 U.S.C. §§ 1681–1688; ADA is 42 U.S.C. §§ 12101).

If administrators fail to provide reasonable accommodations in a timely way, and if they insist that you must obey their speech codes, then the university has violated ADA law, which carries first-offense fines of up to \$75,000, and second-offense fines of up to \$110,000. That doesn't sound like much, but it's per plaintiff. And their legal costs for university lawyers defending against disability lawsuits will many times higher than any fines imposed. If several people sue a

university for speech codes violating that ADA, that will get their attention – even if they know that only a small proportion of the suits might win at trial. Moreover, if the refusal to make neurodiversity accommodations imposes a pattern of discrimination on people with a ‘protected characteristic’ such as a mental disability, then the university could face lawsuits under other civil rights laws.

At any university, the first few people to use this ADA strategy will provoke puzzled disbelief, then desperate confusion, then exasperated stonewalling. But administrators can’t stonewall you very long, because the ADA clock started ticking as soon as you emailed the ADA coordinator. And if enough people demand their ADA rights, the university will realize that they simply cannot reconcile their poorly-conceived speech codes with the ADA protections of neurodiversity.

Even worse for the administrators, ADA accommodations must be individualized to everyone who makes a good case for them. If a speech code doesn’t make enough sense that someone with a mental disorder can follow it, the university must explain it so it does make sense to them.

But speech codes might be impossible to understand and follow in different ways to different neurominorities with different conditions. The administration might have to explain the speech codes in one way to someone with schizotypal personality disorder, a different way to someone with Asperger’s, and a third way to someone with sociopathy. Imagine a few hundred students a year asking for personalized translations of the speech codes into language they can understand and follow. Imagine ADA coordinators who were never trained in clinical psychology trying to understand the different free speech issues for a student with rapid-cycling bipolar type I who’s prone to mixed episodes, versus a student with schizoaffective disorder who’s prone to psychotic thought disorders and delusions of reference.

The administrative burden would quickly become so onerous that the university’s management will simply decide to scrap the speech codes as pragmatically unenforceable.

Some universities might make the catastrophic mistake of retaliating against people who use this ADA strategy against their speech codes, but then they’re in for a world of hurt. A complaint about retaliation over an ADA request would be taken very seriously by the Office of Civil Rights in the Department of Education, and by the Department of Justice. Or you could just seek help from a disability advocacy group to file a lawsuit in your local U.S. District Court. Many federal judges would be very interested in a case where a university simultaneously violates a person’s ADA disability rights and their First Amendment free speech rights.

Why administrators might welcome the ADA strategy

Advocating for your ADA rights is your pressure point to force administrators to rethink their misguided policies. Of course, you don’t really want them to develop some patchwork of accommodations so you can try to follow their unconstitutional speech codes, living under their chilling effects for years on end. The best accommodation is for them to simply repeal the speech codes. You’re simply offering them a very good legal excuse for doing that. (Again, you must use this ADA strategy only in good faith, with a genuine diagnosed disorder that qualifies for accommodations under ADA.)

Ideally, University Counsel (the university’s chief lawyer) will become your best advocate, pointing out to senior administrators that the speech codes they thought were reasonable a few

years ago have turned out to be a legal minefield for reasons they never anticipated. In my experience, administrators almost never challenge the legal advice of University Counsel – whether it's right or wrong. If Counsel says speech codes are constitutional, administrators will take their word for it – regardless of what the country's best free speech lawyers at FIRE say. On the other hand, if Counsel says the ADA strategy makes speech codes untenable, that will be considered 'dispositive' (legally decisive).

If the ADA strategy forces administrators to repeal the speech codes, they can all save face if 'Legal says we have to do it'.

Remember that many administrators might be closet free speech advocates, and might secretly hate the speech codes that social justice activists pressured them into imposing. They just don't know how to push back against the political correctness. No administrator wants to argue against a 'respectful campus' without being able to advocate for something even more virtuous, such as standing up for neurodiversity and disability rights.

If local social justice activists argue that the university needs speech codes to make everyone feel 'safe' and 'welcome', administrators can ask the activists how speech codes that the neurodivergent can't understand or follow are going to make the neurodivergent feel safe and welcome. If the activists reply that it's more important to make certain demographic minorities feel safe than to make neurominorities feel safe, administrators can ask why the activists are being 'ableist'. They can also point out that neurodiversity isn't restricted to straight white cis males.

As a last resort, administrators can ask the activists to try drafting their own speech code language that will be fully intelligible and practicable for all students, staff, and faculty with Asperger's, schizotypy, bipolar mania, PTSD, and ADHD. The activists may try this for a few frustrating meetings in the student union building, then realize they have no idea how to do it given their weak understanding of neurodiversity and disability law. They will drift away, grumbling but helpless. Problem solved. The administrators can repeal the speech codes ASAP, and everyone's constitutional rights are restored.

Your stigma is your strength

Of course, it will be embarrassing for anyone to go to a psychiatrist and an ADA coordinator and say 'I think I may have a mental disorder that can get me in trouble with my university; please help me understand how not to be offensive.' This can feel a lot like saying 'I'm crazy and I can't be trusted to speak in public'. It can feel like a pre-emptive admission of guilt – that you're a bad person who's bound to use bad words that upset everyone.

The stigma against mental illness is still very strong, across cultures. The stigma against offending others is especially strong on current American campuses, due to the social justice activists' 'culture of coddling'. Fortunately, there are some practical tactics and mind-hacks you can use to overcome this stigma of using a mental disorder diagnosis and an official disability status to secure your free speech rights.

The first mind-hack is to remind yourself that you're simply using the ADA as a strategy to regain your constitutional or contractual rights to free speech that the campus speech codes have already violated. It's just a workaround, a point of maximum leverage, that can work at both public and private universities. Given the backlash against unconstitutional speech codes

by FIRE, the Heterodox Academy, and much of the mainstream media, your administrators might even welcome a good excuse to repeal them.

The ADA strategy can work at both public and private universities. If you're at a 'public university' that takes government money to cover much of its operating costs, such as U.C. Berkeley or Evergreen State College, then federal courts consider your university to be an 'arm of the state' with respect to the U.S. Constitution. So, in principle, your free speech rights on campus are already guaranteed under the First Amendment. But almost all campus speech codes violate your constitutional rights, so you're just using ADA to re-secure those rights.

Conversely, if you're at a 'private university' such as Middlebury or Harvard, their recruitment materials and policies have probably already made promises to defend your free speech rights – even if their speech codes then limit those rights. Those free speech promises are contractually binding, as confirmed in many court cases. In this case, you're simply using the ADA to secure your free speech rights because it's probably cheaper and faster than suing your university for breach of contract and false advertising.

The second mind-hack is to remember that the ADA strategy can be used very discreetly, with no public attention, and little risk of disclosure by your psychiatrist or your ADA coordinator. Your mental disorder diagnosis is 'Protected Health Information' (PHI) under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and your psychiatrist cannot reveal it to anyone without your permission, or they face serious penalties. Once you disclose your disability to your ADA coordinator, it is no longer Protected Health Information, but it is still an 'educational record' that is subject to strict confidentiality rules under both the ADA and the Family Educational Rights and Privacy Act of 1974 (FERPA).

Again, your university faces strict regulations about keeping your disability status confidential, and serious penalties if they don't. Thus, you can use the ADA strategy without telling anyone that you're doing so, beyond your psychiatrist and your ADA office. You don't have to tell your friends, family, lovers, room-mates, professors, or colleagues.

Because the ADA strategy can be used very discreetly, the main stigma you have to worry about is not public social stigma, but 'internalized stigma' – dealing with your self-image as someone who identifies as having a 'mental disorder' and a 'disability'. This can be very hard. It can feel like deeply shameful. But there are several ways to overcome this:

(1) Remember that almost all mental disorders are heritable, with little influence from your upbringing ('shared family environment') or your lifestyle choices. If you have a mental disorder, it was probably due to a roll of the genetic dice; it's not an existential judgement on your validity as a person. Once you understand you have a mental disorder, you can manage it well or poorly, but having it should carry no more internalized stigma than having other common genetic variants such as being colorblind.

(2) Remember that 'mental disorders' are somewhat arbitrary constructs: their names, definitions, and symptoms change every time that psychiatry's bible – the Diagnostic and Statistical Manual (DSM) – is updated. Homosexuality was considered a 'mental disorder' until it was removed from DSM-II in 1973. Asperger's was considered a distinct disorder in DSM-IV (1994), but in DSM-V (2013), it was lumped into a more general category of 'Autism Spectrum Disorder'.

As psychiatric genetics uses genome-wide association studies (GWAS) to identify the thousands of genetic variants that influence mental disorders, the definitions of these disorders will keep changing faster and faster. It's becoming clear that, at the DNA level, there are as many 'mental disorders' as there are distinct patterns of genetic variation that lead to any possible form of neurodivergence. 'Mental disorders' will stop being considered discrete categories, and will become continuous distributions of neural variation that reflect millions of unique DNA profiles. The line between 'neurotypical' and 'neurodivergent' will get fuzzier and fuzzier.

(3) Remember that you can turn your 'disorder' into a badge of honor, as a challenge you've overcome, a mountain you've climbed. There are lots of resources from the mental health advocacy groups like NAMI and disability rights groups like NDRN on how to do this mind-hack.

(4) Remember that many 'mental disorders' have hidden benefits. They're not just disabilities, like having a broken leg. Bipolar is associated with creativity. Asperger's is associated with technical competence. Schizotypy is associated with openness. Find the silver lining in your dark cloud, and turn it into a source of pride and potential growth.

The third mind-hack is to think of yourself as a heroic altruist who's weaponized your disability for the greater good. You're leveraging your ADA rights to secure free speech rights not just for yourself, but for everyone else who doesn't happen to have a diagnosed disability. You have a legal superpower that they don't have, and you can use it on their behalf. You're a spartan warrior holding Thermopylae against the invading hordes who want to destroy your country's freedoms. You're throwing yourself on the hand grenade of internalized stigma so your platoon-mates can enjoy their free speech rights.

If you challenge unjust speech codes using the ADA strategy, you can enjoy the satisfaction forever afterwards that you did something brave in fighting for the same freedoms that Americans fought for in previous generations. They may have used Kentucky long rifles in the Revolutionary War, or mass protests in the Berkeley free speech movement of the 1960s. Now you're just using the most powerful legal weapon you have: the ADA.

Conclusion

I've offered a legal strategy based on the ADA that I think could promote free speech rights on American campuses, not just for neurominorities, but for everyone. Again, I'm not a lawyer or a disability rights expert, and I'm not offering legal advice. I've researched these issues as best I can, but probably at least 20% of what I say here isn't quite right, or could have been conceptualized better. I don't expect this to be anywhere close to the last word on this issue.

But I hope it's the start of a serious conversation about how to promote a society that's freer and more open for the whole range of neurodiversity that we find among our fellow students, staff, and faculty.