

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

David DuBay v. University of New England

DuBay · No. 2:25-cv-00508-LEW · Decided June 2, 2026

SUMMARY

The United States District Court for the District of Maine dismisses without prejudice a pro se plaintiff’s claims against the University of New England alleging disability discrimination and retaliation under the Americans with Disabilities Act and Rehabilitation Act. The Court concludes that the complaint lacks sufficient factual allegations to satisfy the plausibility standard and grants leave to amend within 30 days. The Court also denies the plaintiff’s motion for reasonable accommodations and Rule 17(c) protective measures.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	Lance E. Walker
JURISDICTION	United States District Court for the District of Maine
DECIDED	June 2, 2026
DOCKET	2:25-cv-00508-LEW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved to dismiss the pro se complaint under the pleading standards, and Plaintiff moved for reasonable accommodations and protective measures under Federal Rule of Civil Procedure 17(c).
STANDARD OF REVIEW	On a motion to dismiss, the court accepts well-pleaded factual allegations as true, disregards legal conclusions, and determines whether the remaining factual allegations state a claim for relief that is plausible on its face. Pro se filings are liberally construed, but a pro se litigant must still comply with procedural and substantive law.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	David DuBay v. University of New England

TOPICS

- motions to dismiss
- ada / disability
- reasonable accommodation
- civil procedure
- pleadings

PRACTICE AREAS

Civil procedure

Disability discrimination

Employment and education discrimination

Federal courts

QUESTIONS PRESENTED

1. Whether the complaint alleged sufficient nonconclusory facts to state plausible disability-discrimination and retaliation claims.
2. Whether Plaintiff could rely on new legal theories and factual allegations raised for the first time in his opposition to the motion to dismiss.
3. Whether Plaintiff was entitled to accommodations, protective measures, or appointment of a guardian ad litem under Federal Rule of Civil Procedure 17(c).
4. Whether dismissal should be with prejudice or without prejudice and accompanied by an opportunity to amend.

HOLDINGS

1. The complaint failed to state plausible claims because, after conclusory allegations were disregarded, it lacked sufficient factual content concerning the requested accommodations, their purpose or reasonableness, the services allegedly denied, and the causal connection between Plaintiff's complaints and the adverse actions.
2. Pro se pleadings are liberally construed, but pro se status does not excuse compliance with procedural and substantive law or eliminate the requirement to plead sufficient factual content.
3. Plaintiff could not use his opposition and attached exhibits to expand the claims and factual allegations presented in the complaint; a new complaint was required to define the scope of the litigation.
4. Rule 17(c) did not apply because Plaintiff was neither a minor nor an incompetent person, and the court denied the requested blanket protective order and appointment of counsel.

KEY QUOTATIONS

"To avoid dismissal, a complaint need only contain "a short and plain statement," Fed. R. Civ. P. 8(a)(2), that provides "enough facts to state a claim for relief that is plausible on its face," as opposed to one that is merely conceivable"

"Nonetheless, "Plaintiff's pro se status does not absolve him of having to comply with this Court's procedural and substantive law."

"Although the allegations may give notice to Defendant broadly why Plaintiff is dissatisfied with its conduct and the kind of claims he wants to pursue, it is still necessary for Plaintiff to put some flesh on the bones by narrating enough information for the Court to assess whether it is plausible that relief may be granted against Defendant and in favor of Plaintiff."

FACTUAL BACKGROUND

David DuBay, a disabled combat veteran enrolled in the University of New England's Doctor of Education program, alleged that his mental-health conditions, chemical dependency, and diabetes affected his academic functioning. He alleged that UNE denied disability accommodations and retaliated against him after he requested accommodations and filed complaints. He also alleged that he experienced delays, increased scrutiny, restrictions on services, and ultimately dismissal from the doctoral program. The court found that the complaint did not provide sufficient factual detail about the requested accommodations, their reasonableness, the services from which he was allegedly excluded, or the connection between his complaints and dismissal.

PROCEDURAL HISTORY

Plaintiff filed a complaint alleging disability discrimination and retaliation under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and other federal and state laws. Defendant moved to dismiss. In opposition, Plaintiff sought to change his ADA theory from Title II to Title III, identified the Maine Human Rights Act for the first time, added factual allegations, and requested leave to amend. The court dismissed the complaint without prejudice, denied the request for Rule 17(c) protective measures and appointment of counsel, and granted leave to move to amend within 30 days.

DISPOSITION

dismissed

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ocasio-Henandez v. Fortuno-Burset, 640 F.3d 1, 12 (1st Cir. 2011)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)
- Livingston v. BJ's Wholesale Club, Inc., 625 F. Supp. 3d 1, 2 (D. Mass. 2022)
- DesRosiers v. Moran, 949 F.2d 15, 23 (1st Cir. 1991)