



NATIONAL ALLIANCE OF  
**CONCURRENT ENROLLMENT**  
PARTNERSHIPS

**Navigating the Complex World of  
Disability Law in Dual and  
Concurrent Enrollment Programs  
(Part II)  
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# Webinar Presenters:



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# The Agenda for This Webinar Series

- **6/29/15: Part I (aka “The Tease”)**
  - **The Why:** - Why talk about today’s topic?
  - **The What:** - A quick overview of disability rights laws & education
    - Identifying & introducing the issue
- **Today: Part II**
  - **The How:** - A quick review of Part I
    - Re-introducing the issue
    - A quick look at our program
    - Possible best practice responses
    - Q & A

# Disclaimers



- This Webinar Series **is not intended**:
  - to provide legal advice or establish policy
  - to imply an official endorsement or opinion of any federal or state enforcement agency (e.g. U.S. Dept. Education)
- This Webinar Series **is intended**:
  - to **begin** a discussion about today's topic and ideas for possible best practices



# A Quick Review of Part I



# Why is this topic important?

- **Demographics:** there are significant numbers of K-12 special education students who are successfully graduating from high school and enrolling in college
- **Growth** in concurrent enrollment programs
- **Shortage** of guidance on how concurrent enrollment programs can best comply with conflicting laws applicable to education in K-12 and college





# The laws:

- The Rehabilitation Act of 1973 (**Section 504, Subparts D and E**)
- The Education For All Handicapped Children Act of 1975 (**Individuals with Disabilities Education Improvement Act of 2004 “IDEA”**)
- The Americans with Disabilities Act of 1990 (**ADA**)
  - ADA Amendments Act of 2008 (**ADAAA**)



# Different strokes . . . . . . different laws



Laws covering special education in K-12:

- **Subpart D** of Section 504
- IDEA

Laws applying to college students with disabilities:

- **Subpart E** of Section 504
- ADA

# A “Section 504” Cameo Appearance

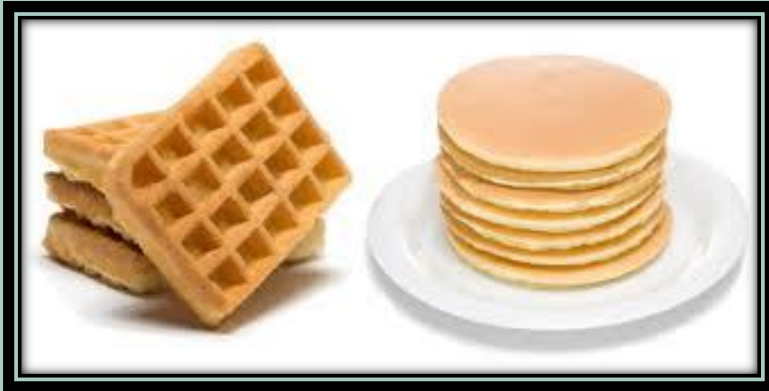
Remember that Section 504 is kind of a “rogue element” in today’s topic; the most relevant differences are between IDEA & ADA

- **K-12:** 504 Subpart D is different from IDEA
- **K-12 vs. College:** 504 Subpart D is different from 504 Subpart E
- **College:** 504 Subpart E & the ADA are virtually identical

Remember, the biggest differences . . .

(and the most likely source of conflict in  
concurrent enrollment programs)

. . . are between the IDEA and ADA



## K-12/IDEA

## vs. College/ADA

An “**educational benefit law**” that offers additional services and protections for those with disabilities that are not offered to those without disabilities.

A “**civil rights law**” that levels the playing field for persons with disabilities by requiring the elimination of barriers that prevent comparable access.

## K-12/IDEA

## vs. College/ADA

Provides federal funds to states and local education agencies to help fund their compliance with the IDEA.

Is not tied to funding in any way, nor does it provide any funding.

# K-12/IDEA

# vs. College/ADA

**K-12 School** is responsible for:

- Identifying students with disabilities
- Arranging/paying for evaluations
- Monitoring student progress and effectiveness of accommodations/services
- **Providing FAPE (Free Appropriate Education)**

**The college student** is responsible for:

- Self identifying as having a disability
- Arranging/paying for evaluations
- Monitoring their own progress and effectiveness of accommodations
- **Paying for their own education, with no guarantee of success**

# K-12/IDEA

# vs. College/ADA

The student may be provided “related services” such as:

- speech-language pathology and audiology services
- psychological or medical services
- physical and occupational therapy
- personal tutoring
- personal assistant/aide
- transportation

Colleges are not required to provide any of these services.





# K-12/IDEA

# vs. College/ADA

The IEP (Individualized Education Program) may include curriculum modifications such as: abbreviated tests, slower pace, reduction in course-work expectations, etc.

College students with disabilities, are responsible for meeting the same standards as those without disabilities. Accommodations provide access but do **NOT** modify the fundamental standards of the courses or programs.

An IEP may include a modification of grading standards for students with disabilities.

College grades reflect the quality of work submitted, grading standards are **NOT** modified.

# **K-12/IDEA vs. College/ADA: The Bottom Line**

For students with disabilities, there are major differences between K-12 special education and the disability services provided at the college level; not all services and accommodations available at the high school level are required or available at the college level.



## Re-introducing the Issue

So, what are implications of all of this for concurrent enrollment programs?

- **First the good news:** Not all of the differences in disability laws between K-12 and college will cause conflicts in concurrent enrollment programs; in fact, many will not.

# So, why is there some good news?

- Most “related services” provided to high school students with disabilities do not directly impact academic standards (e.g., medical or psych. services, speech or occupational therapy services).
- Many high school accommodations have comparable college-level counterparts (e.g., extended test time, accessible class materials).

## But, what happens . . .



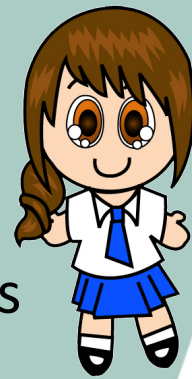
. . .when a special education student enrolled in a concurrent enrollment program is receiving academic accommodations in their high school courses that impact whether or not that student is actually meeting college-level academic standards for college credit??

# Remember . . .

- Under the ADA, colleges **may not** discriminate on the basis of disability. **But** they have the legal right to uphold legitimate academic standards and performance expectations, and to deny accommodations that result in a fundamental change to those standards or expectations.
- To earn college credit, students with disabilities must meet those same academic standards and performance expectations with or without an accommodation.



# Suzie's Story from Part I



- Suzie was the high school student with an IEP accommodation that allowed her to take all exams as “open book.” She wanted the same accommodation for her concurrent enrollment classes.
- This was not considered to be a reasonable accommodation at the partner college because it impacted that college’s academic and performance standards.
- The question from last time:

**“What are the implications?”**

# Implications = More Questions

- If Suzie does not get the accommodation . . . is the high school and/or college in violation of any laws? If so, who and of what laws?
- Does it matter (legally) where the courses are physically taught (i.e. the high school or the college campus)? If so, how?
- If Suzie does get the accommodation . . . can the college deny her college credit?
- If Suzie does get the accommodation and the college credit . . . has the college forfeited its ADA right to uphold memory, recall, and etc. as legitimate academic standards?



# **The issue: finally identified in a single sentence!**

The challenge for a concurrent enrollment program is this:

**How does the program simultaneously maintain the college's fundamental academic and performance standards, keep everyone in compliance with their respective legal obligations, and meet the needs of students with disabilities to the maximum reasonable extent?**

**Hold that thought!**



**Before we share some best practice ideas for answering “How . . . ?”**



**. . . a quick look through my lens!**



## **USI at a glance:**

- state institution of higher education founded in 1965
- originally a regional campus of Indiana State University; became a separate university in 1985
- just under 10K undergraduate & graduate students
- offers 70 undergraduate academic majors, 10 master's programs, and one doctoral program
- percentage of student body with known disabilities ranges from 3.5% to 5%



## **USI's College Achievement Program (CAP):**

- enrolled its first students in the fall of 1985
- was the 13<sup>th</sup> program in the nation to be awarded NACEP accreditation
- reaccredited in 2013; one of 97 programs nationally and one of seven programs in the state of Indiana to hold this distinction
- all CAP courses are provided in the partner high schools by HS teachers meeting USI's criteria for adjunct faculty

# More on USI's CAP:

- In 2014-2015:
  - ✓ 35 USI faculty liaisons & 128 CAP instructors
  - ✓ 3,500+ student enrollments
  - ✓ 10,700+ Credit hours for 45 available USI courses
  - ✓ 1,796 hours were free for 608 students eligible for the National School Lunch Program
  - ✓ 27 partner high schools in 13 counties across Indiana
  - ✓ Tuition ranges from \$25-\$80 per credit hour and is paid by the student
- No numbers to share today, but over the past 3-4 years, CAP has seen a slow but steady increase in the numbers of students receiving accommodations in high school.

# Some Best Practice Ideas

It does not have to be rocket science!



In the absence of clear guidance . . .  
    . . . stick to the basics!



## Keep these goals in mind:

- The high school maintains compliance with special education laws.
- The college maintains compliance with the ADA/504 and maintains its legitimate academic and performance standards.
- The student's are accommodated to the maximum reasonable extent.
- "Suzie" scenarios are dealt with before they become a problem with no good solutions.

# Another thing to keep in mind. . .

Any of the following recommendations may be superseded or otherwise changed by future case law and/or guidance provided by government enforcement agencies.



**Super Seed**



## And just one more thing . . .

- The following suggestions are based on the assumption that a majority of programs fall under one of these two concurrent enrollment program models:
  - courses are physically taught at the high school; the high school provides all accommodations and related special education services
  - courses are physically taught on the college campus; the college provides classroom accommodations & students are required to go through the college's standard process for obtaining accommodations

# For Colleges & High Schools: The Collective Job #1

- **Communication:** Maintain a continuous flow of information & communication between the college and high school (and don't forget the students & parents).
- **Consistency, Agreement, & Understanding:** Make sure that everyone (the high school, college, and students & parents) are all on the same page!
- **Proactivity:** Don't wait for problems. Familiarize yourselves now with the relevant federal and state regulations, and have a plan for identifying and dealing with potential compliance conflicts.

## For Colleges & High Schools: The Collective Job #2

- **Training #1:** Make sure that your program's staff are aware of the potential for conflict with certain academic accommodations, and that they are trained to detect & report potential problems before they become actual problems.
- **Training #2:** Either train some staff or arrange for ongoing access to someone with a working knowledge of the laws dealing with disability and education, both K-12 and college; and make sure that they stay abreast of new legal developments at both the state and federal level.

## For High Schools: Educate Yourself

- Become familiar with the types of academic accommodations that “are” and “are not” typically provided at your partner college(s).
- In programs where the courses are actually taught by the partner college on their campus, become familiar with their procedures for students who wish to apply for and receive academic accommodations.

# For High Schools: Educate Your Students

It is **inappropriate** to discourage students with disabilities from enrolling in a concurrent enrollment program. **But it is appropriate** to provide accurate information so they can make informed choices and be fully on board with the program and any accommodation modifications.

For example, they should be made aware that:

- there are differences between high school and college level course work, and that not all the accommodations that are available at the high school may be allowed in college.
- college credit earned through concurrent enrollment becomes part of their college transcript and may be transferable to other colleges. Any course taken for college credit **must** maintain the integrity and rigor of college level work regardless of where the class is taught.

# For High Schools: A Reminder from Part I

- For students with IEPs, IDEA requires you to begin **transition planning** and services no later than the student's 16<sup>th</sup> birthday.
- Concurrent enrollment programs represent a great opportunity for creating effective transition plans that prep your students for what they will actually face in college.
- Make sure the student and parents are up to speed and on board!
  - (\*Remember the prior slide)

# For High Schools: More on Transition Planning

- Remember to incorporate any participation in a concurrent enrollment program in the student's transition plan.
- Documentation in the plan should accurately reflect any changes in the student's accommodation regimen resulting from their participation in such a program. (Bonus: this helps maintain your compliance with IDEA!)

# For High Schools (and Parents & Students!): A Special Message

## All legal compliance issues aside:

- In the long run you may be doing your college-bound student a great disservice if you advocate for all IEP accommodations to be provided in a concurrent enrollment program. Remember: College = Change!
- Beware!! The legal landscape changes yet again when the student enters the workforce!



# For colleges



- **Important to remember:** If an individual with a disability meets the standards for admission into any program offered by that college, they cannot be denied admission because of their IEP accommodations.

# For colleges:

Remember the tried and true mantra for maintaining your ADA compliance:



**“Evaluate each situation & accommodation on an individual case-by-case basis”**

Even if it seems like a “no-brainer” (e.g., open book exams), take the time to evaluate whether the accommodation truly is inappropriate for the academic standards of that specific course.

Be open to negotiating and considering alternative accommodations that meet the student’s needs and your standards.

# For colleges:

- Make sure that all the materials used to promote your concurrent enrollment program (e.g., brochures, web pages, etc.) include a statement of non-discrimination and information on what accommodation differences the students might expect.
- For programs where the classes are taught on the college campus, also include information on your disability accommodation process; and treat these students in a manner consistent with your “regular” college students with disabilities who pursue that process.

# For Colleges: Doug's thoughts on documentation

Specifically for programs where courses are taught at the high schools, colleges should not automatically request copies of a student's disability-related documentation.

- The emphasis of any initial analysis in that instance should be on whether the accommodation need can be met in a way that also maintains academic standards.
- Only request to see the documentation when the student's functional limitation and/or the accommodation details are unclear; only ask for what you need, and make sure that the documentation is reviewed by someone at the college with the appropriate training/expertise.



The End . . . for now . . .



Thank you for participating  
in this webinar series!

*Stand by for Q & A*



# Contact Information for Today's Speaker



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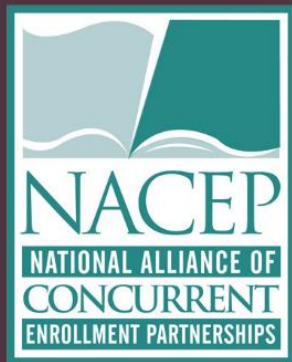
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&

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*Reaching New*  
**HEIGHTS**



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