



NATIONAL ALLIANCE OF  
**CONCURRENT ENROLLMENT**  
PARTNERSHIPS

**Navigating the Complex World of  
Disability Law in Dual and  
Concurrent Enrollment Programs  
(Part I)**

**June 29, 2015**

*advancing quality college courses in high school*



## Jaclyn Dumond

- Manager of School Partnerships at the University of Southern Indiana for 11+ years
- Chair of the NACEP Accreditation Commission; prior chair of the Governmental Relations committee on the Board of Directors

# Webinar Series Presenter:



Doug Goepfner, MSW, LSW,  
ICC© Certified Accessibility  
Inspector/Plans Examiner

- ADA Coordinator and Adjunct Social Work Lecturer at the University of Southern Indiana
- Member & Current Chairperson of the State of Indiana Protection and Advocacy Services Commission

# The Agenda For This Webinar Series

- **Today: Part I (aka “The Tease”)**
  - **The Why:** - Why talk about today’s topic?
  - **The What:** - A quick overview of disability rights laws & education
    - Introducing the issue
- **On 7/8/2015: Part II**
  - **The How:** - A quick review of Part I
    - Re-introducing the issue
    - 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

# Question:

Why do we need to talk about disability law and concurrent enrollment programs?

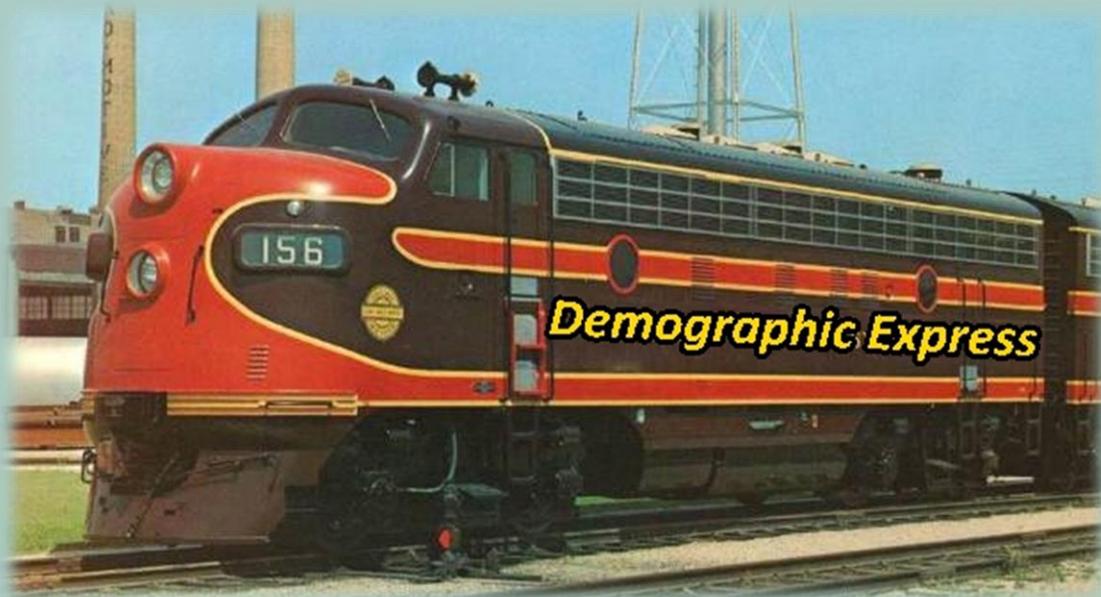


# Answer:

There are at least 3 good reasons . . .



# Reason #1



# **K-12 Special Education students are a significant demographic . . .**

**In 2011-12, 6.4 million children ages 3 to 21 were designated as special education students served under Individuals with Disabilities Education Act (IDEA)**

Source: National Center for Education Statistics (NCES)

**. . . that is successfully graduating  
from high school . . .**

- \*2011-2012: 61% of students with disabilities graduated from high school**
  - This compares to an 80% rate for all students during that same period

\*National Center for Education Statistics (NCES)

**... and going on to college in increasing numbers.**

**\*Students with disabilities who enrolled in a post-secondary school within 4 years of high school:**

**1990 = 26%**

**2005 = 46%**

**\*National Center for Special Education Research (NCSEER)**

# Reason #2

There is **growth** in  
concurrent enrollment  
programs



The # of high school students taking courses for college credit in dual enrollment programs grew:

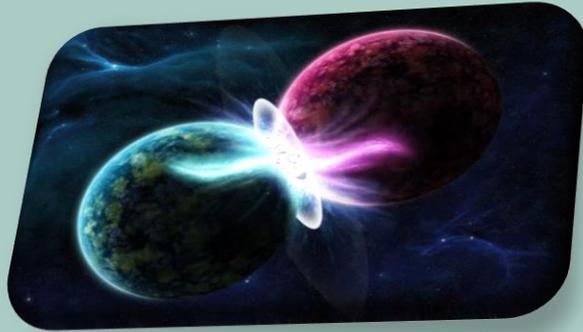
from 679,500 in 2002-03\* . . .

. . . to 1,277,100 in 2010-11\*

\*National Center for Education Statistics (NCES)

## And finally . . . Reason #3

In the universe of disability law and education, K-12 and Postsecondary are two **VERY** different worlds, but when worlds collide . . .



**. . . there appears to be a shortage of  
good guidance on how to best handle  
the collision!**

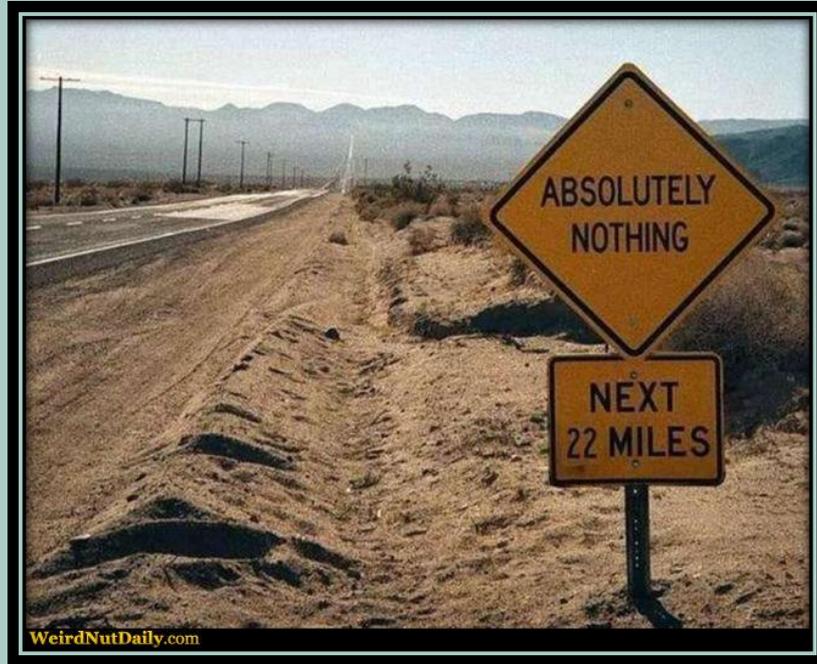


# And now for some legal stuff!



# **A Brief Overview of Disability Rights Laws & Education**

**In the beginning . . .**



**. . . there was nothing!**



## Then came the 1970's . . .

- The Rehabilitation Act of 1973
- The Education For All Handicapped Children Act of 1975



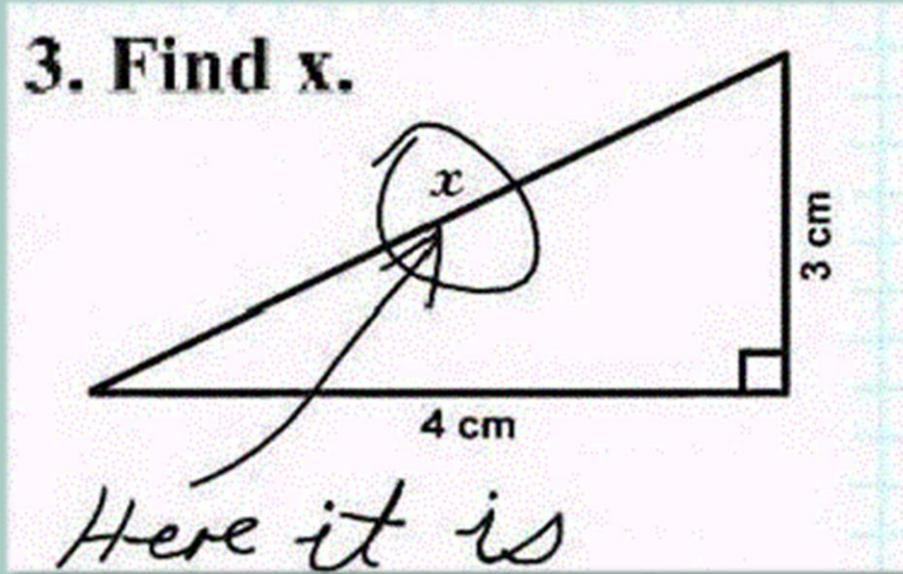


**. . . and then the 90's!**

**The Americans with Disabilities Act of  
1990  
(The ADA)**



# CAUTION: Huge Oversimplifications ahead!



# The Rehabilitation Act of 1973

- The first US “rights” legislation to prohibit discrimination against persons with disabilities
- Coverage limited to Federal agencies or programs that receive Federal \$\$ (e.g., public schools)

# The Rehabilitation Act of 1973 (cont.)

SECTION 504 - “...no otherwise qualified individual with a disability shall, solely by reason of his/her disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance”

# The Rehab. Act & Section 504 (cont.)

- Subpart A: General Provisions
- Subpart B: Employment Practices
- Subpart C: Accessibility
- **Subpart D: Preschool, Elementary, & Secondary Education**
- **Subpart E: Postsecondary Education**
- Subpart F: Health, Welfare, & Social Services
- Subpart G: Procedures

# Education For All Handicapped Children Act of 1975

- Now the “Individuals with Disabilities Education Improvement Act of 2004” (“IDEIA” or “IDEA”)
- Requires states to create policies/procedures for providing a free & appropriate education (FAPE) in the least restrictive environment to pre-school through grade 12 students with disabilities
- Also includes provisions for “birth to age 3” early intervention services

# Education For All Handicapped Children Act of 1975/IDEA (cont.)

- Requires schools to begin **transition planning** and services no later than the student's 16<sup>th</sup> birthday
  - The goal is to prepare students for life after high school (e.g., work, training, college, etc.)



# The Americans with Disabilities Act of 1990, aka The ADA

- In very simple terms: expanded the standards of Section 504 to include nearly all entities not already covered by Section 504.
- Requires equal access and protects individuals from discrimination based on their disabilities.
- At the college level, requires colleges to provide reasonable accommodations to make programs accessible; but does not require colleges to make modifications that fundamentally alter the nature of the program, service or activity.

# THE ADA

TITLE I: EMPLOYMENT

TITLE II: STATE & LOCAL GOVERNMENT

PUBLIC TRANSPORTATION

TITLE III: PUBLIC ACCOMMODATION

TITLE IV: TELECOMMUNICATIONS RELAY

SERVICE

TITLE V: MISCELLANEOUS PROVISIONS

# One more thing about the ADA . . .

## The ADA Amendments Act of 2008: aka ADAAA

- Expanded the interpretation of the ADA definition of “disability”
- Made it easier to qualify for protections under the ADA
- This new interpretation also applies to Section 504

# Now for some comparisons



$\neq$





# 504: The “odd man out”!



## **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

# A Comparison of Special Education Laws in K-12

## IDEA vs. 504 Subpart D



## K- 12: IDEA vs. 504 Subpart D

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.      504 Subpart D**

To qualify, the student must have at least one of 13 specific categories of disability and must be found in need of special education services.

To qualify, the student only needs to have a physical or mental impairment that substantially limits one or more major life activities.

## K- 12: IDEA vs. 504 Subpart D

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

Applies to schools that receive federal funding, but does not provide funding. **FYI:** IDEA funds cannot be used to provide 504 services.

# K- 12: IDEA vs. 504 Subpart D

Meets student's needs via a formally written IEP (Individualized Education Program) that identifies specially designed instruction, accommodations; and other services to help the student be successful.

Generally meets student's needs via reasonable accommodations in regular classrooms. Additional services may occasionally be provided. Sometimes called "504 Plans", but a written plan is not required.

## **K- 12:     IDEA     vs.     504 Subpart D**

No longer applies when the student enter college.	Replaced by 504 Subpart E when the student enters college.
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There are also several other differences on issues such as evaluations, due process procedures, and the level of parental rights.

# Another Comparison: 504 vs. 504

**K-12/Subpart D vs. College/Subpart E**



# 504: K-12 & Subpart D vs. College & Subpart E

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

- identifying students with disabilities
- arranging and paying for evaluations
- monitoring student progress and the effectiveness of accommodations
- **providing FAPE (Free Appropriate Education)**

In college, the **student** is responsible for:

- self identifying as a student with a disability
- arranging and paying for evaluations
- monitoring their own progress and the effectiveness of accommodations
- **paying for their own education, with no guarantee of success**

# And Now, The More Relevant Comparison for this Topic: **IDEA vs. ADA\***

Prepare for some  
Déjà vu . . .

\*Reminder: ADA = 504 Subpart E



## 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 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.

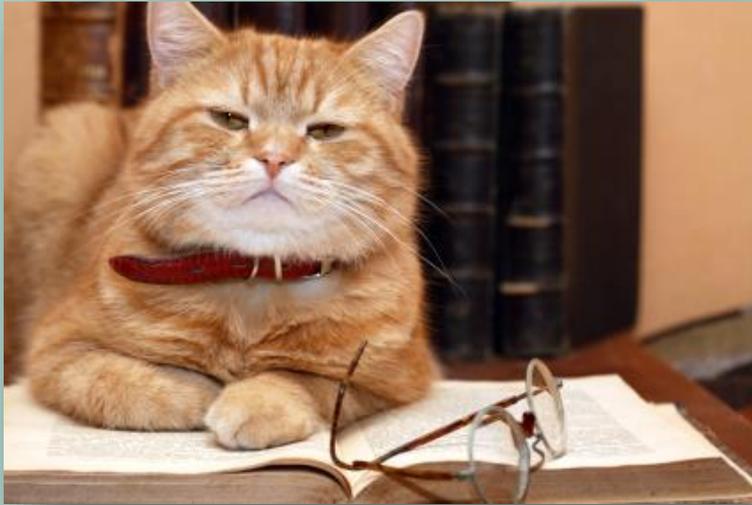
An IEP may include a modification of grading standards for students with disabilities.

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 will be allowed or provided in college.

**OK, this is all very interesting. But what does all this have to do with Concurrent Enrollment programs?**



**First, a little good news!**



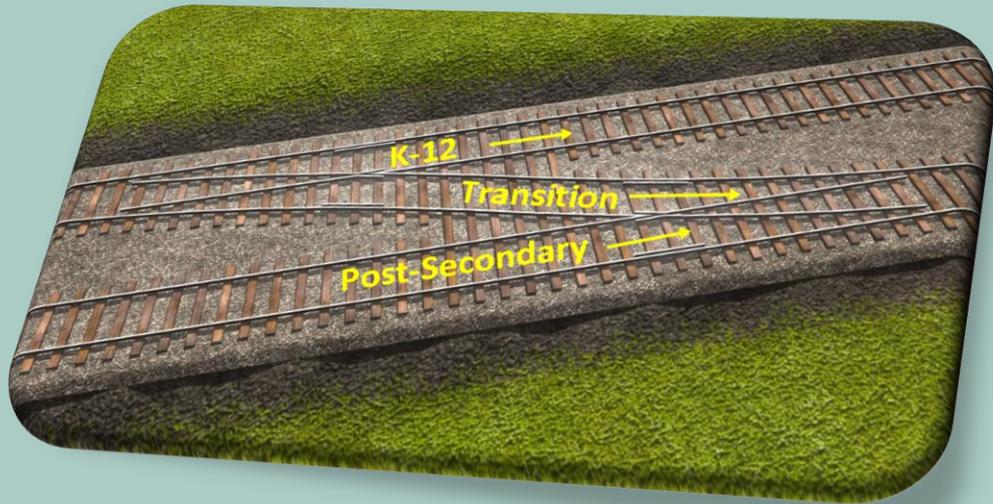
**Most of the time . . .**



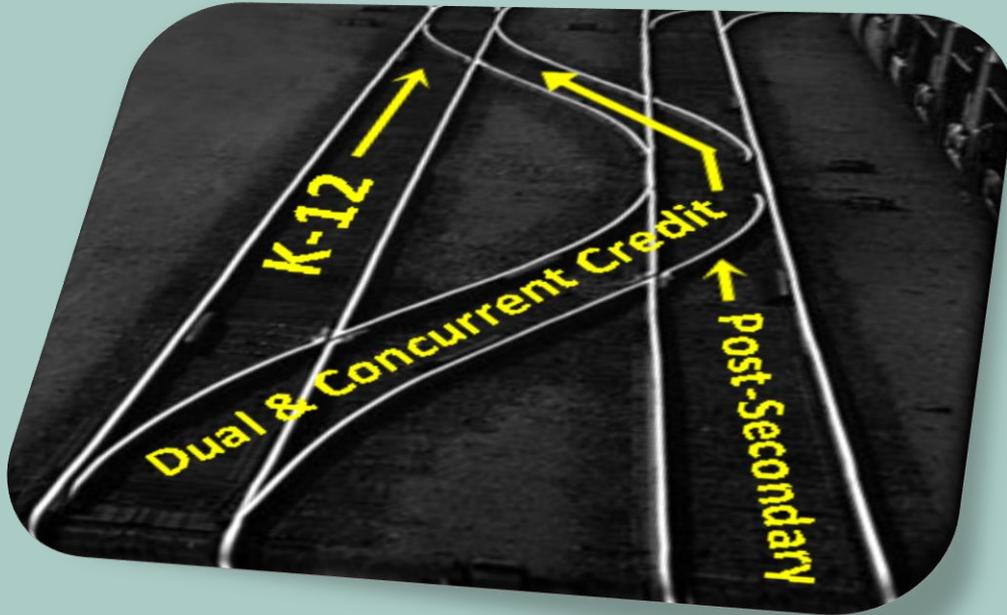
**. . .there are no conflicts,**



... except for a little “culture shock” for some students with disabilities when transitioning from high school to college.



**But in concurrent enrollment programs,  
things start getting tangled!**



# Luckily, there is a little more good news!

Not all of the legal differences between K-12 and college will cause conflicts in concurrent enrollment programs.

For example, even though they are not required or provided in college . . .

**... many of the so-called “related services”  
included in some IEPs = No Problem!!**



**Because these examples of such services don't  
directly impact academic or performance standards**

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

# Also, many IEP accommodations do have comparable college counterparts

Just a few common college-level accommodations:

- extended exam time (typically 1½ or 2X time)
- note-takers
- preferential seating in the classroom
- scribes and/or readers for exams
- limited/no distraction exam settings
- provision of class materials in accessible formats (e.g., large print handouts & exams)

# But what happens . . .

. . .when a student enrolled in a concurrent enrollment program is receiving IEP accommodations in their high school courses that **do** impact the partner college's academic standards??

# And now for the tease: An example for you to ponder between now and Part II

- Suzie is a high school student with an IEP that includes the following accommodation:
  - She can take all exams as “open book”.
- Suzie (and her parents) insist that she also receive this accommodation in all of her classes taken via the school’s concurrent enrollment program.

# Example . . . continued

- The partner college acknowledges that some of its instructors do periodically use open book exams; but **only** in very specific courses where this style of testing is consistent with the academic objectives for those courses.
- In all other courses, the college considers memory and recall, as well as the ability to demonstrate knowledge and mastery of course material, to be essential academic objectives that this accommodation would defeat.

## In other words . . .

If Suzie used this accommodation in concurrent enrollment courses that did not already have this option as a normal component of those particular courses, Suzie would **not** be meeting the college's fundamental standards for college-level work.



**What are the implications?**

# The end . . . for today!



**Stay tuned for more on this  
issue in Part II of:**

**Navigating the Complex World of Disability  
Law in Dual and Concurrent Enrollment  
Programs**

**Coming on July 8, 2015**

**2:00 PM (EDT)**

# Contact Information for Today's Speaker



**Doug Goepner, MSW, LSW**  
**ICC Certified Accessibility**  
**Inspector/Plans Examiner**

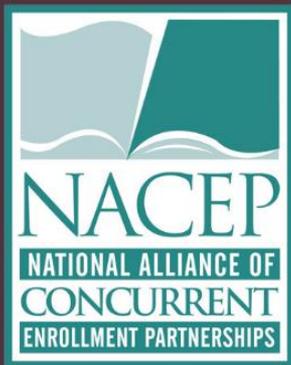
**ADA Coordinator**  
**Human Resources**

**office: 812-465-7101**  
**fax: 812-465-1185**  
**[Drgoepper@usi.edu](mailto:Drgoepper@usi.edu)**

**800 University Blvd**  
**Evansville, IN 47712**

**[www.usi.edu](http://www.usi.edu)**

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