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ADA Audio Conference Series
August 20, 2013

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Athletic Opportunities for Students with Disabilities: Focus on Colleges and Universities

Presenters:

Ted Fay, PhD, Professor, State University of New York (SUNY) at Cortland

Linda Mastandrea, J.D., Athletics Equity Consulting

Anita M. Moorman, J.D., Professor, University of Louisville

Stephanie Wheeler, Women’s Wheelchair Basketball Coach, University of Illinois

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The Guidance

Five Key Principles

- 1. Generalizations/Stereotypes Not Permitted
- 2. Equal Opportunity & Access to Existing Programs
- 3. Inclusion Whenever Possible
- 4. Provide Needed Aids and Services
- 5. Expand/Create Opportunities

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Stereotypes

- A college or university may not operate its athletics programs on the basis of generalizations, assumptions, prejudices, or stereotypes about disability generally, or specific disabilities in particular.
- A college or university also may not rely on generalizations about what students with a type of disability are capable of—one student with a certain type of disability may not be able to play a certain type of sport, but another student with the same disability may be able to play that sport.

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Equal Opportunity

- A college or university operating intercollegiate, club, or intramural athletics must do so in such manner as is necessary to afford qualified students with disabilities an equal opportunity for participation.
- This means making **reasonable modifications** and providing those **aids and services** that are **necessary** to ensure an equal opportunity to participate, unless the C/U can show that doing so would be a **fundamental alteration** to its program.

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Inclusion

➤ A college or university must afford **qualified students** with disabilities an equal opportunity for participation in intercollegiate, club, or intramural athletics in an integrated manner to the maximum extent appropriate to the needs of the student.

➤ The provision of *unnecessarily* separate or different services is discriminatory.

- Inclusion is the gold standard
- Students must meet eligibility standards and performance standards.

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Aids and Services

➤ A college or university must also provide a qualified student with a disability with **needed aids and services**, if the failure to do so would deny that student an equal opportunity for participation in intercollegiate, club, or intramural athletics in an integrated manner to the **maximum extent appropriate** to the needs of the student unless

- Fundamental alteration
- Undue Burden
- Significant Difficulty or Expense

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Expand Opportunity

➤ Students with disabilities who cannot participate in the college and university's existing intercollegiate, club, or intramural athletics – even with reasonable modifications or aids and services – should still have an equal opportunity to receive the benefits of these activities.

➤ When the interests and abilities of some students with disabilities cannot be as fully and effectively met by the college or university's existing programs, the college or university **should** create additional opportunities for those students with disabilities.

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Cost

- Is this an “unfunded mandate?” – No – the law has been around since 1973; and clearly applied to colleges and universities institutionally not programmatically since 1987, due to Civil Rights Restoration Act.
- Colleges and Universities subject to ADA since 1990.
- These are guidelines for how to implement an already existing law

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Summary

- Clear Policy Statement applicable to Colleges and Universities
- Confirms Primary Legal Responsibility for Compliance rests with College & University
 - Which supersedes athletic association rules or policies
 - Coverage extends to athletic associations either directly or indirectly (and via Title III of the ADA).
- Adopts a Legal Framework/Roadmap for compliance
 - Equal Opportunity in Least Restrictive Environment
 - Individualize Inquiry
 - Necessary
 - Reasonable
 - fundamental alteration standard from *PGA, Tour v. Martin (2001)*

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New Guidance from the OCR: Implications for Higher Education and the Sport Opportunity Spectrum

Ted Fay, PhD

Professor and Former Chair of the Sport Management Department at the State University of New York (SUNY) at Cortland, Strategic Fellow – Institute for Human Centered Design - Inclusive Sports Initiative

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Description of Session

This segment of this ADA webinar will review the potential impacts for institutions of higher education and its governing structures relative to providing future opportunities for student with disabilities relative to the Sport Opportunity Spectrum at a varsity, club sport, intramural and fitness level of involvement.

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Objectives for Session

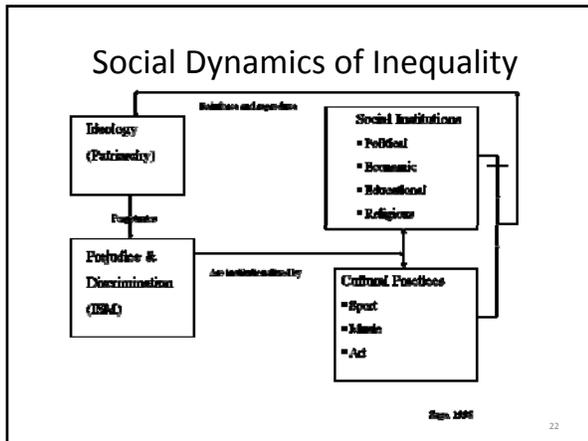
- Educate audience on background and reasoning for recent guidance from the OCR.
- Explain impacts for students with disabilities.
- Explain impacts for higher education institutions and its sport/recreation & fitness governing structures.
- Discussion of next steps.

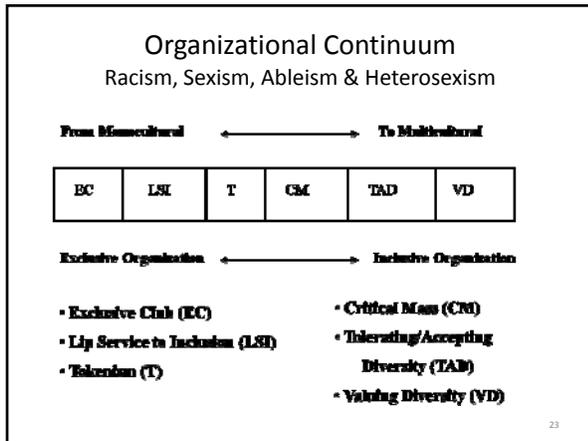
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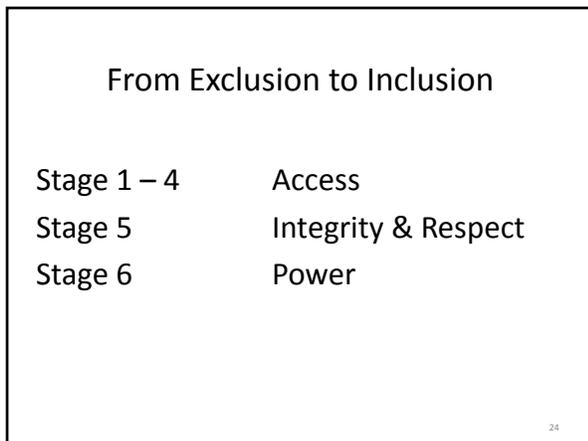
Spectrum of Disabilities

From Education – impacting disabilities to mobility – impacting disabilities

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Inclusion – Stage VI

“Inclusion” has been defined in the context of CRPD as the final stage of integration of people with disabilities in sport competition or a sport organization in which they are involved, accepted and respected at all levels of the competition, and/or organization or governing body.

(Esty, et al, 1995, Fay, 1999, Nixon, 2007)

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Universal Design: Content and Framework of Assessment

1. Built Environment (indoors and outdoors)
2. Information Environment (print, way-finding/ navigation and signs)
3. Communication Environment (e.g. telephone, television, web, multi-media)
4. Policy Environment (evidence of policies that impact equality of experience)
5. Attitudinal Environment (staff or administrative behavior or beliefs)

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Critical Context

• **Marginalization**

(Current Status Quo)

vs.

• **Legitimatization**

(New Inclusive Paradigm)

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Mandate for Higher Ed Institutions?

The Dear Colleague Letter focuses on the three key areas of 1) not acting on generalizations or stereotypes, 2) ensuring equal opportunity for participation, 3) offering separate or different athletic opportunities.

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Sport Opportunity Spectrums



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Operating Principles

Mainstream
Modified
Adapted

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Levels of Involvement

- Varsity competition
- Club sport competition
- Intramural competition
- Individual Fitness activities

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National Collegiate Athletic Association (NCAA)

- Founded: 1906
- Headquarters: Indianapolis, IN
- 400,000 Student-Athletes
- 1,300 Member Institutions
- 89 Championships
- 23 Sports
- 3 Divisions
- 1 Association

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National Association of Intercollegiate Athletics (NAIA)

- Founded: 1952
- Headquarters: Kansas City, MO
- 60,000 Student-Athletes
- 258 Member Institutions
- 21 Member Conferences
- 23 Championships
- 13 Sports
- 1 Division
- 1 Association

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National Junior College Athletic Association (NJCAA)

- Founded: 1938
- Headquarters: Colorado Springs, CO
- Over 120,000 Student-Athletes
- 525 Member Institutions
- 24 Regions
- 35 Member Conferences
- 47 Championships
- 17 Sports
- 3 Divisions
- 1 Association

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National Intramural - Recreational Sports Association (NIRSA)

- Founded: 1950
- Headquarters: Corvallis, OR
- Over 2 million Student-Athletes in collegiate club sports
- 7,000 Members
- Championships in over 58 Sports
- 3 Divisions
- 1 Umbrella Association with sub-sport governing bodies

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Some Overarching Issues

- Understanding of guidance as a mandate to higher education institutions
- Funding and resources
- Compliance and eligibility
- Athlete classification systems
- Mainstream, modified or adapted solutions
- Impact and relevance of Title IX to OCR guidance

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The Illinois Journey

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Main Themes

- Overview of college division
 - Student athletes with disabilities have more in common with their able-bodied peers
 - Ease of implementation
 - Student athletes with disabilities offer a unique educational benefit that is different than that offered by able-bodied student athletes



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Overview of College Division

- 7 Universities field teams
- 2 housed in Athletic Department
- Others housed in various departments
- All have full time head coaches



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Description of the Illinois Athletic Program



- Program for 64 years; first in the nation
- 4 teams
 - Men's and women's basketball
 - Men's and women's track and road racing
- What our student-athletes do
 - Game schedule
 - Training schedule
 - Strength and conditioning
 - Mental training
 - Nutrition
 - Academic monitoring

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The History of the Illinois Program

- Started in 1948 following WWII
 - Initially populated by returning veterans
- Dr. Timothy Nugent saw past disability
 - Saw physical potential



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The History of The Illinois Program

- Initially started and competed in National Wheelchair Basketball Association (NWBA)
 - Served as founders of the women's division within the NWBA
 - Served as founders of the college division within the NWBA
 - Alumni participated in the founding of the junior division within the NWBA



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The History of the Illinois Program



- Founding philosophies continue to be the priorities for our program today
 - Importance of education leading to employment
 - Community service
 - Leadership
 - Respecting difference while valuing all for what they can do

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The Present Opportunity

- Large population of veterans returning from wars with disabilities not unlike WWII
- Medical advances that are reframing disability
- Increase in understanding of the importance of including all people in society
- GAO recommendations will significantly increase the opportunity for students with disabilities to participate in scholastic athletics



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Easily Said **AND** Done



- Choose a guiding philosophy
- Develop key partners
 - Example: Disabled student services, Vocational Rehabilitation, VA
- Survey of assets and gaps
- Establish initial budget
- Determine facility needs
- Recruit

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What Are The Benefits?

- Improved education, graduation, and employment for students with disabilities
- Expanded research opportunities
- Educational and social benefit for all students
- Expanded donor base



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How Do We Connect Our Past, Our Present and Our Future?

- Where we were
- Where we are
- Where we will go



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"Go as far as you can see and when you get there, you'll be surprised how much you've learned along the way and how much further you can see." -Dr. Timothy Nugent, Founder- Illinois Wheelchair Athletics program



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Questions?

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Thank you for participating in today's
ADA-Audio Conference Session

The next scheduled session is:

"Building Blocks for Accessible Health Care"

September 17, 2013

Register at: www.ada-audio.org or call 877-232-1990 V/TTY

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