The Intersection of Special Education and New, PreK-12, Digital Accessibility Requirements

CYNTHIA CURRY: Hi, everyone. Thanks for joining our webinar today. Folks are entering the room. It looks like looks like the door is closing here with attendees coming in. Hello, welcome. Thanks so much for joining us today at NCADEMI's Part 2 of our two-part webinar series related to the new ADA Title II final rule. Today, we're talking about the intersection of the Title II rule with IDEA.

Welcome. Thanks so much for being here. The title of our webinar is The Intersection of Special Education and New PreK-12 Digital Accessibility Requirements. Really delighted that you're here. Thanks so much. We hope that you also come to our accompanying coaching session two days from now on Thursday, December 12 at the same time, 2:00 to 2:45.

As I mentioned a moment ago, as folks were coming in, this is part two of a two-part webinar series. The first webinar and coaching session last week, December 3 and 5, was specific to ADA Title II and the new preK-12 digital accessibility requirements. Today we're talking about how those new requirements relate to IDEA, the Individuals with Disabilities Education Act, and special education. So let's get underway.

I'm Cynthia Curry and I am the project director of the National Center on Accessible Digital Educational Materials and Instruction, which we call NCADEMI. And I'm delighted to be here with my colleague Jena Fahlbush, who's a TA Specialist for NCADEMI. And we also have some support of extended support from our team.

So we have Natalie Cardenas, our program assistant, is here. Christopher Phillips, who's a technical assistance specialist. And Rob Carr, a digital accessibility specialist. So thank you so much to the whole team for being here. You'll see more folks, particularly Rob and Christopher, helping out during the Q&A session at the end of the webinar where we stop the recording and take Q&A. Jena.

JENA FAHLBUSH: Hi, everyone. As Cynthia said, I'm a technical assistance specialist with NCADEMI, and I'm really grateful to be here with you all today. So we want to remind you that we have lots of webinar resources available for you and that this session is being recorded. So you'll find links and slides today along with some other resources, available bit.ly/idea-ada. And I know we've got that link in the chat for you.

The recording will be published on our website tomorrow morning, so be looking for that. And in case you missed part one of our two-part series, as Cynthia was talking about, we do highly recommend you take a moment before our coaching session on Thursday to review that recording. And that session, as she mentioned, again, just provided that overview of Title II. So in case you want to go back, that's available for you and you can review that recording at the link that Christopher put in the chat. And you can also find it at bit.ly/ada-k12.

Please also be on the lookout for a webinar evaluation that will be emailed to you later this week after the coaching session. The good thing is it's confidential and it'll take you less than five minutes. We really want to say thank you in advance for being on the lookout for that, and completing it when it becomes available, because your feedback is so genuinely important to our project, especially as we're building out our resources and our services to better support you.

To make sure we answer all your questions for the presenters and the panelists today, we ask you to put your questions specifically in the Q&A section. So take a moment and maybe find that Q&A button on your toolbar. It looks like the button over on the upper right hand part of the screen and it says Q&A. This feature can be accessed at any time today, so ask your questions as they're coming up. You don't have to wait until the formal Q&A section at the end. That time-- the Q&A will be the last 15 minutes or so of today's 45 minute session.

You may also raise your hand during the Q&A section to unmute and ask your questions using your microphone if you'd like. But again, that will require you to use the Zoom button to raise your hand, and then we can allow you to come over the mic to ask your questions.

But throughout the session today, please use the Zoom chat to correspond with one another, to share resources, to respond to any of the presenter prompts and to just get to know one another today.

CYNTHIA CURRY: All right, so a little bit about the National Center on Accessible Digital Educational Materials and Instruction or NCADEMI. We are a new technical assistance center funded by the Office of Special Education Programs, or OSEP, at the US Department of Education.

Our overall goal over the next four years is to improve the quality, the availability, and the timely provision of accessible digital educational materials and the instruction that students need to use those materials for learners with disabilities, from early learning through high school graduation, or through that transition into post-secondary experiences, whether they're going into job training, into careers, going into higher education.

We, like I said, we are brand new. We started October 1. We will be launching a formal introductory webinar about our center in January, so be on the lookout for that. We'll also be doing a lot of needs assessments early in the year. So the webinar in January will also introduce our opportunity for you to inform us of your needs through surveys, listening sessions, and focus groups.

We are part of Utah State University. Specifically within Utah's University Center for Excellence in Developmental Disabilities or Utah's UCED. We're part of the Institute for Disability Research, Policy, and Practice, or the IDRPP, and the Emma Eccles Jones College of Education and Human Services.

More specifically, within the IDRPP, are two centers from the staff from which operates and provides technical assistance and training for NCADEMI. And this team is pulled between WebAIM, or Web Accessibility in Mind. WebAIM has been providing digital accessibility, web accessibility services for 25 years this year.

And the Center for Technical Assistance for Excellence in Special Education, or TAESE, that has been providing technical assistance to state educational agencies and school districts for over 40 years. So we're really excited to be here to serve the field. And we have a lot to do, as you know, between the ADA Title II final rule with new digital accessibility requirements, and that merges with long standing requirements for providing accessible materials for students with disabilities under IDEA.

So this two-week, two-part webinar series really launches the type of technical assistance that the NCADEMI is here to provide. Jena, what are our objectives?

JENA FAHLBUSH: We have two objectives for you all today. So firstly, we hope that you walk away with a clear understanding of the difference between Title II of the Americans with Disabilities Act, or the ADA, and the Individuals with Disabilities Education Act, the IDEA, with respect to the provision of accessible materials for students with disabilities.

Secondly, we want you to be able to identify steps that can be taken to immediately meet those requirements of both laws. And just want to say, as a reminder, please use that Q&A feature to ask your questions throughout the session. So that way when those burning questions pop up, you've got a place to get those set up for answer during the Q&A section in the last 15 minutes or so.

All right. To get everybody really thinking about what's to come in this session, we have a true and false question for you. All your answers are anonymous. So we encourage participation. I see lots of participation already coming through, which is excellent.

So true or false. Students with disabilities can only receive accessible digital materials through the IEP process. And I'll give just a little bit of time for some more answers to come through.

Well, so far, Cynthia, I don't think we're going to be blowing anyone's minds, because we have 100% answering false. So let's see by the end if we're still feeling false, I think we might be. But glad that you're coming in with some great knowledge around accessible digital materials for your students and the different avenues that those can be provided for students.

All right. So again, Thanks for participation there. Let me back up one slide. I think I clicked-- I clicked-- I double clicked. Anyways, as we are getting, again, deeper into this content, we want to clarify some terminology. On the left, we have the word accessible. And I would be willing to place a hefty bet that many of you here in this room have heard the word accessible used mistakenly in place of the terms on the right hand side of the screen.

So I want you to use the chat feature to type the word accessible in the chat if you've experienced somebody using this term in reference to students or individuals with disabilities, when what they actually meant was that something was available to them inclusive, affordable, or usable. And I see the word accessible coming in, I bet. Yep, we're on the same page there.

And I know in my previous role, before I came to NCADEMI, I heard many educators say that their learning management systems were accessible to students. But what they really meant was that the learning management system was available to them. Because in fact, the systems in many cases were actually causing barriers for students with disabilities. And so there was a lot of nuance to that word accessible in that situation.

So thanks for participating in the chat. And what we hope you take back with you today to share with your colleagues is the definition of accessible in federal law and guidance according to the Department of Justice, the Civil Rights Division, and the Department of Education Office for Civil Rights. So here on this slide, we're talking about the definition of accessible, meaning that an individual with a disability can access the same information, engage in the same interactions, and otherwise participate in or benefit from the same services, programs, and activities as individuals without disabilities in a manner that provides substantially equivalent timeliness, privacy, independence, and ease of use.

Our hope is really that by fostering a shared understanding of what accessible truly means for students and individuals with disabilities, we will more effectively and efficiently be paving the way for equitable access, especially in the area of accessible digital materials.

So with that in mind, we encourage you to thoughtfully challenge your colleagues. And this can be tricky situation. You have to approach it delicately. But we challenge you to bring this definition to your colleagues and peers when you notice them using the term accessible in a way that doesn't really align with its true meaning when thinking about students with disabilities. It's a great opportunity for you to help

them better understand the importance around this term and what it really means for our students with disabilities.

CYNTHIA CURRY: Jena, before we move on to the next slide, on that definition, I so appreciate the way that you're stressing for people to not only understand the definition and use it with some fidelity themselves, but also to bring it forth. Because we hear this term, we see it in a lot of guidance and a lot of reports when it comes to educational technology.

So I just wanted to also support that, that calling out the word same in this definition. And then those really important qualifiers, substantially equivalent, timeliness, privacy, independence, and ease of use. Having this as a poster available or placemats around the IEP table or the procurement process, just having this definition around can be really reassuring for folks to have something to have available as a reminder.

All right. And of course, that definition is specific to all types of programs and activities that are provided within educational agencies, whether it's a state education agency or a school district or a school, or an extracurricular program, or whether it's something that is out in the public spaces. So we're going to focus the rest of the session on digital accessibility and what that definition means for digital learning and assessment in particular.

I have an example here of a student from 2008. His name is Tyler. Tyler is blind. And in 2008, he was an eighth grade middle schooler. And this was in the state of Maine. I worked in the state of Maine for years and years as a statewide technology integration mentor for the Maine Learning Technology Initiative, and with the state's Assistive Technology Act Program.

And in 2008, I had the opportunity to interview Tyler, who was using his state issued Apple iBook laptop. It was issued to all middle school students across the state in the early and mid 2000s. And Tyler had access to it before. There was an actual screen reader built into the laptop.

As a result of what were identified as access issues for blind students, students with low vision in the state, the installment of voiceover, or the screen reader that's part of what we all know as Mac operating system and iOS now was in its very early infancy. And Tyler was using VoiceOver, the built in screen reader on his laptop, his iBook, to access his eighth grade science book.

Now, this was 16 years ago. And we see this today. We see digital books on laptops, on tablets all the time. In 2008, seeing this work with a student who was blind with his screen reader, while next to him he also had access to other devices, like his Braille Note, his refreshable Braille display, his Victor Screen Reader. So all this assistive technology was available to Tyler. But he was relying on his built in screen reader to access the general education science book.

And this is what we're really referring to when we're talking about digital accessibility. And so we wanted to share this video. And I'm wondering, Jen, if you want to play it, since it was working for you. We don't want to disturb the digital universe right now. But Tyler's going to demonstrate how in 2000-- this is 2008-- he opened his eighth grade science book using his built-in screen reader.

[VIDEO PLAYBACK]

- So I've entered the password. I'm going to press the Return or Enter key.

- HTML content.

- OK, so that sound indicates that the page is loaded. So I can select the textbook. And to do that, I hold Control Option down and I go to U. And that'll just bring me up a list of links. Nothing else, just links.

- Link Chooser Menu, 24 items.

- 24 items, meaning links. So I'll press the letters for the links, and that'll narrow it down. So the book is called Science Explorer. So I'll press S-C together, like this.
- One item, Science Explorer 2009. Astronomy.
- Science Explorer 2009 Astronomy. I'll press Control Option Space to get out of the menu. So now I'm back to the normal web page. I'll press it and it'll open up the text. It will click the link and open up the textbook.
- Print HTML content, HTML content, HTML content. Safari has new window.
- So here's the textbook.
[END PLAYBACK]

So I really appreciate Tyler's final words there. So here's the textbook. Just like a student who might be using the print version or a student who might be accessing the digital version using a mouse and a keyboard would say, here's my science book. Here's my reading assignment.

And that's what we mean by digital accessibility aligned with the Department of Justice and the Department of Education definition. Same information, same interactions, same services, substantially equivalent, timeliness, privacy, independence, and ease of use.

So this is another very helpful reminder about what accessible means. Tyler being able to access his science book at the same time as his peers. And sometimes people will say, well, that doesn't seem like very equivalent effectiveness or ease of use. But for a screen reader user, going through those keyboard shortcuts really becomes part of the quite automatic and very fluent over time.

So getting into the definitions, that will be helpful as well for making this distinction between the Americans with Disabilities Act and IDEA is the definition of accessible educational materials, or AEM. This definition comes from 2014. It is not part of legislation. You won't find the definition of accessible educational materials in statute.

This actually came from a notice inviting applications or a notice of intent to establish a National Center on Accessible Educational Materials, and was a footnote in the Federal Register. But the definition, the official definition of AEM, is print and technology based educational materials, including printed and electronic textbooks and related core materials that are required by state educational agencies and local educational agencies for use by all students produced or rendered in accessible media, written and published primarily for use in early learning programs, elementary, or secondary schools to support teaching and learning.

So there are some key terms there that we can parse out. One is produced to be accessible and the other being rendered in accessible media. So you can think about these-- you can think about this as a pathway or a bridge. And on the slide is a chart or flow chart that goes in two different directions for a student who needs accessible materials.

And a school really has two options for that student. One would be to provide the digital materials in a way that they were produced to be accessible from the beginning. So that's the model that Tyler just demonstrated. Same science book, accessible to his assistive technology. Alternatively, when something is provided that's not accessible from the beginning, we can retrofit it in an accessible format, like Braille, digital text, adding closed captions, or audio description.

But these are two different ways of making sure that students who require accessible materials because of a disability who use assistive technology have it in a timely manner. And this is the distinction between the two laws, ADA Title II and IDEA.

ADA Title II to really promote accessibility from the beginning. So that is proactive digital accessibility, part of procurement, part of the creation of materials that are used in schools, using practices that promote Web Content Accessibility Guidelines 2.1 AA, such as Christopher and Rob presented last week. Alternatively, when those materials aren't accessible, we can follow the processes that have been established under IDEA to retrofit those materials to be accessible and provided in a timely manner through mechanisms that have been established by that law. Under both of these laws, however, it's important to remember that accommodations are to be made for students with disabilities.

So even though ADA Title II requires a certain technical standard for digital accessibility, there's still that need for when something isn't accessible that it be provided in an accessible format. For example, some of the exceptions under Title II. So over to you, Jena.

JENA FAHLBUSH: Sorry about the delay. I couldn't find my mute button. It had disappeared. So just briefly, as Cynthia was mentioning, just to review from part one of our webinar last week. ADA Title II is a broad protection against discrimination, and it applies to state and local government, including state and local educational agencies, SEAs and LEAs. The new rule does mandate proactive.

And we can't stress the word proactive enough. Proactive digital accessibility, including in education. And she was mentioning too it does include a specific technical standard compliance deadlines and exceptions. So review that recording if you have any questions about the ADA Title II, or feel free to reach out to us with your questions. You can email us and we'll share some contact information at the end.

Some examples of those digital materials that are required to conform under the new rule of Title II include your websites and your digital textbooks, online learning platforms, apps and tools, which is going to cover your learning management system and any of those apps that you might be communicating with parents on.

We're also talking about videos and slide presentations. Oops, sorry. Let me get back to where we were. And teacher created and curated materials. So that being said, it's really critical to make sure that we're training staff, your teachers on how to create with accessibility in mind, or how to curate and test for accessibility, because that's such a critical piece to the instructional experience for your students.

On the flip side of that accessibility coin, as Cynthia started to mention, is the IDEA, where accessibility oftentimes is being retrofitted into inaccessible content, or where accessible formats must be located to accommodate the needs of eligible students who are guaranteed that free and appropriate public education.

So as we're talking today about Title II and now the IDEA, I do have a wonder, and I'm wondering if you're noticing how Title II really supports your efforts under IDEA to be more proactive and increase the accessibility of digital content so that it's less of a lift for an IEP team to have to go locate accessible formats and/or retrofit accessibility into instructional materials in a timely manner for your students with disabilities.

So we hope there's that light bulb moment right now and being thoughtful about how you can present this to your teams. If we do this, it's going to make it easier for our teachers and our assistants and our aides to provide content that's accessible. Also, you can lessen the lift for your teams by really ensuring that your state or district has opted into the National Instructional Materials Access Center, or the NIMAC, as

the NIMAC provides 24/7 access to more than 80,000 files that adhere to the National Instructional Materials Accessibility Standard or the NIMAS.

So make sure that you're opted in to that. And additionally, you want to be thoughtful and check in to do some investigation to see if your procurement language includes the fact that publishers must provide NIMAS formats or NIMAS file sets of the materials that they're providing. So that way, you're procuring accessible from the start as well.

CYNTHIA CURRY: And as Jena mentioned on the ADA Title II side of our comparison here between IDEA and ADA Title II, there are numerous really endless types of digital materials, materials with digital interfaces that are covered under Title II. So the list that Jena not only shared but also illustrated for us around online learning platforms, websites, digital textbooks, videos, podcasts. So anything digital that we're using in the classroom, or in our virtual spaces for students and their families with disabilities, need to be accessible under Title II.

When we're talking about IDEA, we're talking about, remember rendering inaccessible media or rendering inaccessible formats and you really can't retrofit a learning management system. That's why it's so important to follow the accessibility requirements and the outline under Title II to make sure that you're purchasing and choosing accessible from the beginning.

For those materials that can be converted into accessible formats, such as print textbooks or certain digital instructional materials that have static text and images, to the extent that we're using videos that can be closed captioned, those are covered under IDEA and can be considered for accommodations for students with disabilities as part of the IEP.

The materials covered specifically under IDEA and NIMAS and the NIMAC, as Jena just described, are defined as printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction, and are required by a state educational agency or local educational agency. Those SEAs or LEAs for use by students in the classroom.

Now, that's a very print centric definition because it was 2004. Since that time, there has been a high adoption of digital materials within schools. So in 2020, the US Department of Education published a notice of interpretation updating the definition of print instructional materials to include digital instructional materials that can conform to that NIMAS specification.

So essentially, static text and images, materials that are following a linear reading order, so don't have any dynamic or interactive elements to them. But these are materials that, as we'll talk about in the coaching session on Thursday, under IDEA there have been mechanisms in place to help expedite the provision of them.

So some of these examples include print or digital text materials that can be converted into Braille, accessible digital text, because not-- just because you have a digital text format, doesn't necessarily mean it's going to be accessible to assistive technology users. Large print, audio files, tactile graphics are all examples of ways that print or digital text can be converted to accessible formats.

For audio, we can provide text transcripts. And for video, some examples include captions, audio description, and even video with synchronized American Sign Language or ASL. And that might pique your interest. You're thinking, well, where am I going to find video with synchronized ASL.

That would be the described and captioned media program or DCMP. They Increasingly are adding ASL sort of pop up windows to their videos. And DCMP is funded by the Office of Special Education Programs. And we'll talk some more about that in the coaching session as well on Thursday.

JENA FAHLBUSH: So as we wrap up here, we want to point out that we have a resource for you. So when a student is struggling to gain access to the curriculum and related core materials as they're being presented in the classroom, we know that it's really critical that a student's IEP team be considering the need for accessible materials alongside the considerations for assistive technology.

So we have a document or a resource on our website titled More to the Myths and Facts, Addressing Accessible Educational Materials in the 2024 Assistive Technology Guidance. And this is a companion to the Myths and Facts Surrounding AT Guidance that was put out earlier this year by the US Department of Education.

So you can give me a thumbs up by using the thumbs up and in the React tool of your toolbar. Or you can let me in the chat if you're familiar with that Myths and Facts doc. And we really encourage you to check out our supplemental guide to see where you can build in accessible educational materials.

And it will highlight four important pieces to that process, which is the determination of a student's need, the selection of an appropriate format, the identification of the source of that format, in addition to support for the use of accessible formats, amongst many other details. So be sure to take a look at that guide. And we'll be looking at it a little more in depth in our coaching call this Thursday.

So we know true and false after. We have a few more attendees now. But we know this is-- in fact, we'll just, we'll skip the poll just for time's sake. We know this is a false statement that students with disabilities don't have to only rely on the IEP process in order to access accessible digital materials.

When we bake accessibility into the instructional materials from the beginning, thinking about that final rule of Title II, a student with a disability might have their need for accessible materials met. Think about a video. If a student needed an accessible video. If we've procured video that comes with captions and transcripts and audio descriptions, we have likely already met their need for that accessible format.

And now we don't have to go hunting for the accessible video that we're looking for. We also know there's other cases of students with 504s, and just alternate instances where our students need access to accessible materials. Oh, you're muted.

CYNTHIA CURRY: We have a few calls to action for you for Thursday. But of course, if you can't make the coaching session on Thursday, you can reach out to us by email or text us or call us if you want to follow up on these calls to action. If you implement some of these ideas and you're finding that you need some more assistance, or as you're actually taking action, you get more questions than answers, which is probably the case, because that's what progress is all about.

But we give you-- we're leaving you with three specific activities, directions that you can take ahead of Thursday, or at your earliest time that you can start working toward improving accessibility in your setting. The first one is to investigate whether your state or district IEP form or guidance includes considerations for accessible materials.

Again, everyone's preference is to purchase and choose, select, create, evaluate for accessibility from the beginning. But we know that is not always going to work. We need to be prepared to make sure that we are providing accessibility for those students who require it. So is that baked in? Is there consideration for accessibility baked into your IEP process?

The second option is to confirm that your state or district contract or purchase order language directs publishers to submit NIMAS files to the NIMAC. This is really essential to the mechanism under IDEA to work to expedite and make more efficient the process of providing accessible formats for students.

And then the third is possibility is to host a shared reading of our More to the Myths and Facts document. On the resources page for today's webinar, we have additional resources and guidance to walk you through all three of these calls to action.

JENA FAHLBUSH: We also have a list of resources here in the slides, as well as on our webinar notes page on the website. So be sure to check out those resources that accompany today's session. And again, we'll be looking at a couple of those more specifically at our coaching call on Thursday.

So hopefully, you're planning to join us and have saved the date for Thursday, December 12 at 12:00 PM Mountain Time, 2:00 PM Eastern time. And bring your findings from those calls to actions if you've had a chance to get into those. We'll be working in some breakout sessions on Thursday where you'll get a chance to choose whether to discuss accessible materials in the IEP, or how to include language in your purchase orders and agreements. That's directs the publishers to submit those accessible formats.

And just briefly, before we get into the Q&A, as your new Center on Accessible Digital Educational Materials, we really hope that you can contact us, connect with us and stay informed. So we are on the web at ncademi.org. You can email us at info@ncademi.org.

You can also call or text us at 435-554-8213, and we encourage you to follow us on LinkedIn and to sign up for our newsletter and notifications, which can be done with the QR code on the right hand side of the screen or at bit.ly/NCADEMI, all in caps, N-C-A-D-E-M-I, dash notifications, all lowercase. And I point that out because bit.ly's are case sensitive.

All right. We will now stop the recording and start the Q&A.