

**A LEGAL LOOK AT THE
CONFUSED, COMPLEX,
AND JUST PLAIN
CONFOUNDING REALITY
OF TODAY'S SDI**


Erin D. Gilsbach, Esq.
erin@edlawinteractive.com

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**“ROLLOVER”
ACCOMMODATIONS**


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**There are many reasons why a
“rollover” accommodation
may not be appropriate:**

- The student is in a new building where the accommodation cannot be implemented as designed/drafted (different structure of the school day/schedule, different resources available, etc.).
- The accommodation is no longer necessary in light of the student's progress.
- Another accommodation is more appropriate.
- In the new setting/school year, the accommodation may not have a beneficial effect or may be inappropriate.

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**There are also many reasons why a
“rollover” accommodation may be
maintained even though it is not
appropriate:**


- The parents have come to expect or even insist upon the accommodation.
- It is a “standard” accommodation for the student's disability.
- The Team is not thoroughly reviewing and revising this section – only adding.
- The Team does not have sufficient knowledge about the classes and/or building that the student will be in next year.

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**AMBIGUOUS
ACCOMMODATIONS**


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Examples of Ambiguity:

- **“Ignore minor call-outs.”**
 - What is a “call-out”?
 - Answering a direct question without raising a hand?
 - Interrupting class when no one asked a question?
 - What is “minor”?

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Examples of Ambiguity:

- **“Books on CD whenever possible in all classes.”**
 - What does “when possible” mean?
 - Under the IDEA, if a student NEEDS an audio book, it is ALWAYS possible!
 - Query: Would a student ALWAYS need them??
- **BETTER: Audiobooks for discretionary and mandatory novels in English class.**
 - Hint: If audiobooks are necessary in other settings, the Team needs to be much more specific about which texts, and they should have a clear understanding of the reasons why they are needed for some and not others.

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**DISCRETIONARY
ACCOMMODATIONS**


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**Discretionary
Accommodations**

- **“as needed”**
- **“as necessary”**
- **“whenever appropriate”**


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4 Key Practical Risks:

- Often ambiguous as to *whose* discretion – staff or student.
- If too ambiguous, different staff members will interpret differently.
- Use of the accommodation that far exceeds the IEP or Section 504 Team’s expectations will likely go unnoticed if those expectations aren’t specified – Over-use may be due to misuse/abuse by the student or the Team’s underestimation of the student’s actual disability-related need. Both are legally and educationally problematic.
- Different legal and practical issues, depending upon whose discretion:


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If Student's Discretion:

- **Consider: Is the student capable of understanding when he/she needs this?**
- **Consider: Is this student mature enough to self-implement this accommodation properly and not abuse/misuse it?**
- **Consider: Is there a reason why this student may not use this accommodation (ex. shyness, self-consciousness, doesn't agree there's a need, etc.)?**


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If Teacher's Discretion:

- **Does the staff member know enough about the student's disability and how it manifests to be able to implement this accommodation?**
 - (Hint: Probably not.)
- **VERY likely that the IEP or 504 Plan doesn't provide enough information to the staff member to make the determination**
 - (i.e., the individual expected to implement it may have little-to-no knowledge about the student's disability or how it manifests).

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Solutions:

- **Identify whether the student or the staff member (or both) will be responsible for identifying need/appropriateness**
- **Be specific – write it exactly how you expect it to happen (think: When? Where? How often? How long?)**

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Solutions (Contd.)


- **Make sure those responsible for implementing the accommodation know enough about the student's disability and how it manifests in order to properly implement it. This may mean including in the IEP or Section 504 Plan a more detailed description of the disability and how it manifests; a more detailed "what to look for" explanation written into the accommodation, itself; or, in rare cases, specific training for the implementing staff members.**

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OTHER COMMON PROBLEMS:

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Other Common Problems:

- **SDI that may be counter-intuitive to the student's program**
 - "Use of a calculator in math and science classes" for a student with SLD in math and a math computation goal.
- **SDIs that involve alteration or remediation of grades**
 - If the student is receiving appropriate instruction, why would we need to remediate grades??
 - Alternatively, if grades do not reflect expectations, shouldn't the IEP team be reconvened to examine the issue?

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Outdated Accommodation Ideas

- **Updated Teaching Methods and Classroom Set-Ups** – involve antiquated pedagogical ideas.
 - “Preferred” Seating
- **Ever-Evolving Understanding of Disabilities and Their Functions**
 - Ex. ADHD
- **Technological Advances**

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THE “EXTENDED TIME” PROBLEM

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A WORD ABOUT GOAL-SPECIFIC SDIs

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Interested in Additional Training Topics?
Upcoming Webinars:

 FAMILY LAW FOR SCHOOL EMPLOYEES: Who's the Parent and Why It Matters Tuesday, March 19	 FERPA 101: Student Records Rights and Privacy Thursday, April 11 1:00 – 2:30 pm	 Top 10 Section 504 MISTAKES Lessons Learned from Real-Life Cases... Wednesday, May 15 1:00 – 2:30 pm
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QUESTIONS?

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