



Oregon Department of Education
Office of Equity, Diversity & Inclusion

Section 504, Title II and
Students with TBI in Public
Schools

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Today's Objectives

- Discuss the requirements of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act
- Explain the responsibilities of public schools in educating students with disabilities (TBI)



Keys in Today's 504/Title II

- OCR: 504 is a general education responsibility
- Goal is to make the environment more accessible
- 504 Team member knowledge/contribution
- No single source decides in any aspect
- Timely and effective accommodations
- Episodic and “in remission” in play
- No mitigating measures (except?)



Which Schools are Covered by 504 and Title II?

- Section 504 prohibits discrimination on the basis of disability by schools that receive Federal financial assistance
- Title II prohibits discrimination against people with disabilities by public schools (including public vocational schools and public charter schools)

Section 504 and Title II

What do school districts need to know?





Locate and Notify

Every year, each district must:

- Identify and locate students with disabilities in the district who are not receiving a public education
- Notify parents/guardians of children with disabilities of the district's duties under Section 504



Provide a Free Appropriate Public Education

- to each qualified student with a disability
- in the school district's jurisdiction
- regardless of the nature or severity of the disability

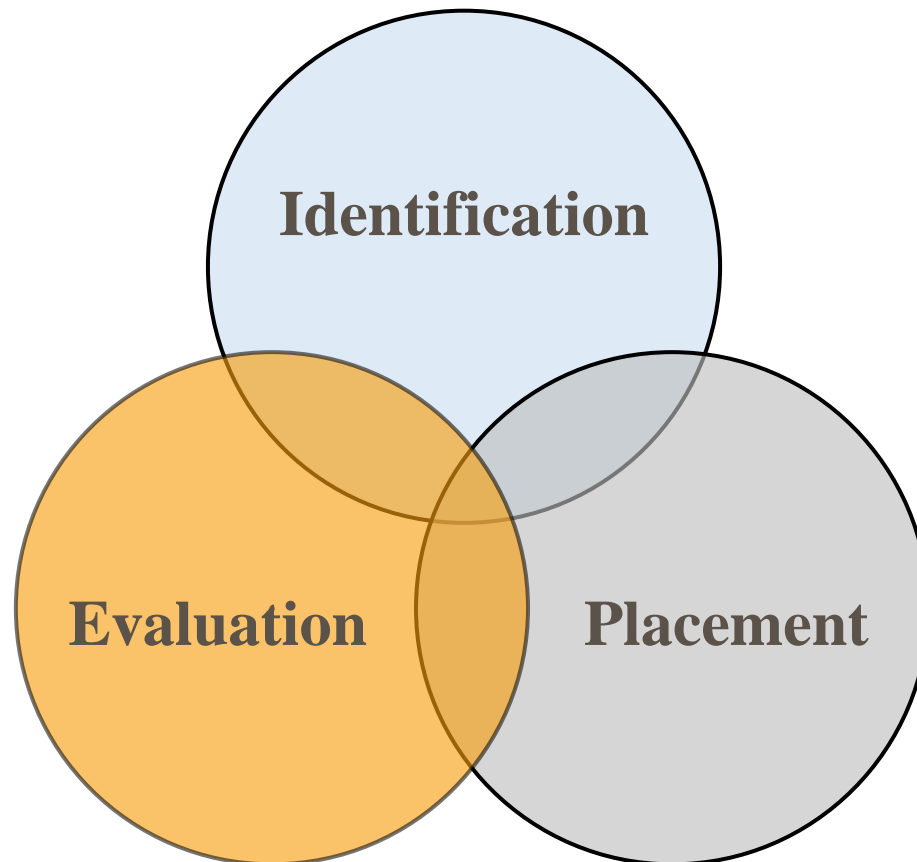
FAPE



What does “free and appropriate” mean?

- Free means *free!*
 - not charging for costs related to disability
 - may charge usual fees paid by all students
- Appropriate:
 - regular or special education and related aids and services designed to meet a student's individual needs as adequately as the needs of non-disabled persons are met

The Process





Identify and Evaluate

Districts must individually evaluate any child who, because of a disability, needs or is believed to need accommodations or related services



Purpose of the Evaluation

The evaluation is intended to answer two questions:

(1) Does the child have a disability under Section 504/Title II? If so:

(2) What are the child's individual education needs?




Question #1: Does the child have a disability?

i.e., does the student have a physical or mental impairment which substantially limits one or more major life activities?



What is an Impairment?

Any physiological condition that affects a bodily system, or any mental or psychological disorder



**Does the student's
impairment substantially
limit one or more major life
activities?**



Major Life Activities include (but are not limited to):

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working
- Eating
- Sleeping
- Standing
- Lifting
- Bending
- Reading
- Concentrating
- Thinking
- Communicating
- Interacting with Others



Major Life Activities (cont.)


Major life activities also include operation of “major bodily functions” such as:

- Functions of the immune system
- Normal cell growth
- Digestive
- Bowel Functions
- Bladder
- Brain
- Circulatory
- Endocrine
- Reproductive
- Neurological
- Respiratory



Substantial Limitation


- Does not mean severe restriction or inability in performing major life activity
- Look to condition, manner, duration



Question #2: What are the child's individual education needs?

Needs are identified by looking to a variety of evaluation sources, including:

- aptitude and achievement tests
- teacher recommendations
- physical condition
- social or cultural background
- adaptive behavior

- 
- The student has been evaluated
 - Eligibility has been established
 - Her/His needs have been identified

Next, decide on . . .

PLACEMENT





Placement

Appropriate educational services
designed to meet the student's
individual needs



Who Decides?

- The “team” -- a group that includes persons knowledgeable about:
 - the student
 - the meaning of the evaluation data
 - the placement options



Placement Procedures

The Team carefully considers:

- evaluation information from a variety of sources
- all significant factors affecting the student's ability to receive a FAPE



Placement Procedures cont'd

The Team:

- documents all the information considered
- does not rely on assumptions regarding persons with disabilities or classes of such persons

IT'S ABOUT THE INDIVIDUAL!



504 Accommodations (cbirt.org)

- Processing delays
- Memory deficits
- Visual Spatial Deficits
- Fine Motor Difficulties
- Gross Motor Difficulties
- Mobility
- Fatigue



504 Accommodations (cbirt.org)

- Attention
- Organizational Skills
- Academic Progress
- Emotional Wellbeing
- Behavior
- Transitions
- Technology



Types of Academic Settings

- Regular classes
- Regular classes with supplementary services, and/or
- Special education and related services

**Once educational placement
has been decided . . .**

Implement the plan!





Re-Evaluation – When?

- Periodically
- Before a significant change in placement



Procedural Safeguards

School districts must provide a system of procedural safeguards regarding identification, evaluation, and educational placement



Procedural safeguards include:

- Notice
- Records review by parent or guardian
- Due process -- impartial hearing with participation by parent and counsel
- A review procedure



FAPE - Common Compliance Concerns

- Making decisions unilaterally instead of by Team
- Making decisions that are not based on evaluation information or child's needs
- Failing to implement 504 Plan
- Not affording parents procedural safeguards

Other Responsibilities





Extracurricular activities

- Students with disabilities must be provided an equal opportunity to participate in transportation, lunch, recess, physical education, clubs, athletics, etc.
- May be part of 504 Plan



Discrimination under 504/Title II

- Denial of FAPE is only one form
- OTHERS:
 - Different treatment/impact
 - Disability harassment
 - “Significant assistance” to an entity that discriminates
 - Any exclusion, denial of benefit, or other form of discrimination



For Further Assistance:

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