



U.S. Department of Education Office for Civil Rights (OCR)

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



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



What is OCR?

- Part of the U.S. Department of Education
- Enforces civil rights laws prohibiting discrimination in education programs on the basis of: race, color, national origin, sex, disability, and age
- Headquartered in Washington, DC and includes 12 regional offices across the U.S.



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)

The header features a collage of nature-themed images: a star-shaped flower on the left, a bird in flight in the center, and a rocky streambed on the right.

IDEA is Different

Many students are served under another federal law, the Individuals with Disabilities Education Act (commonly referred to as IDEA)

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

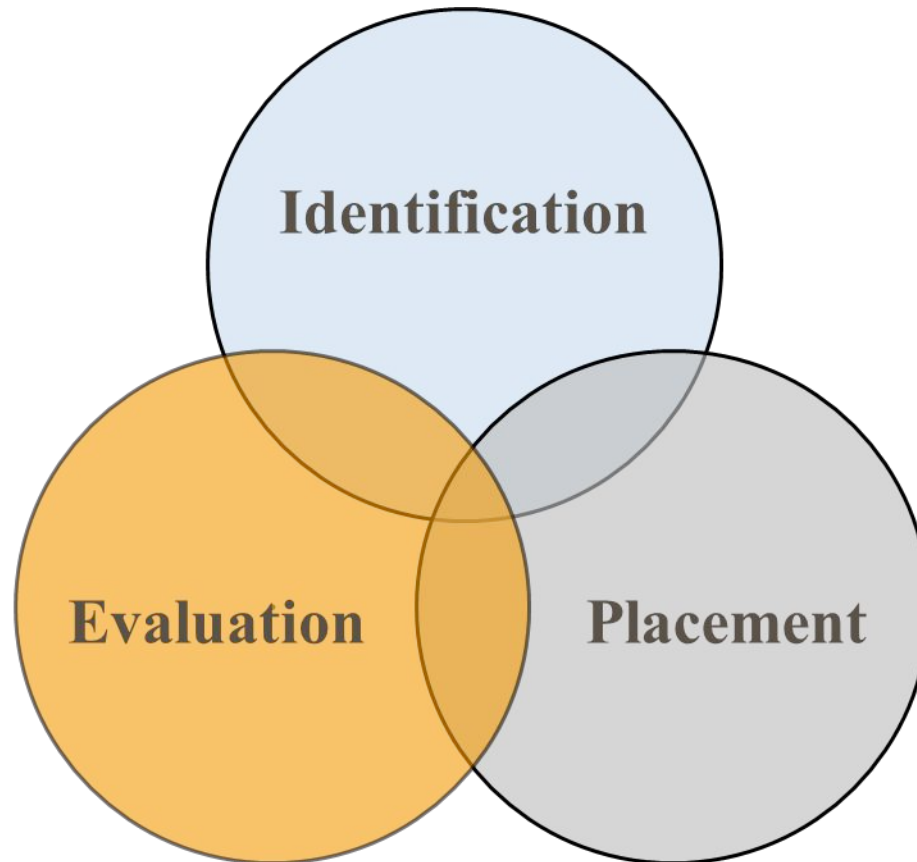
F A P E



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 special education or related services

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When must the evaluation occur?

Before the child's initial placement in a regular or special education program



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?

A decorative header strip at the top of the slide, divided into three sections. The left section shows a close-up of a yellow flower. The middle section shows a bird in flight over a field. The right section shows a blue sky with white clouds.

What is an Impairment?

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

The header features a collage of nature-themed images: a star-shaped flower, a bird in flight, and a rocky landscape with a stream.

**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



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



IDEA vs. Section 504/Title II


- IDEA defines disability differently
- To be protected under IDEA, a child must:
 - have a particular disability listed in IDEA and
 - need special education and related services
- Under Section 504, a qualified student with a disability is protected regardless of whether the student needs special education



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

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- The header of the slide features a horizontal strip of three nature-themed images. From left to right: a close-up of a yellow flower, a bird in flight against a green background, and a blue sky with white clouds and a yellow field.
- The student has been evaluated
 - Eligibility has been established
 - Her/His needs have been identified

Next, decide on . . .

PLACEMENT



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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 students 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!



Types of Academic Settings

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

However, all students must. . .



Academic Setting cont'd

- Be educated with non-disabled students to the maximum extent appropriate to the needs of the student with a disability
- Presumption: Placement should be in regular classroom unless an appropriate education cannot be achieved satisfactorily with supplementary aids and services

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Comparable Facilities

Any district facility for persons with disabilities must be comparable to the other facilities, services, and activities of the district

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

Implement the plan!





Re-Evaluation – When?

- Periodically
- Before a significant change in placement



Significant Change in Placement - Discipline

- Misconceptions:
 - students with disabilities cannot be disciplined
 - students with disabilities have no special protections regarding discipline
- Disciplinary exclusion may result in a significant change in placement, triggering need for re-evaluation

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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 IEP or 504 Plan
- Not affording parents procedural safeguards

Other Responsibilities





Extracurricular and other Non-Academic 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



Coordinator / Grievances

Districts must also:

- establish grievance procedures for resolving complaints (“prompt and equitable”)
- designate a 504 Coordinator to ensure compliance



No Retaliation

Districts may not intimidate, threaten, coerce, or discriminate against individuals because they have:

- asserted rights under 504/Title II
- opposed disability discrimination, or
- participated in a complaint process or hearing

The Result: Equal Opportunity





For Further Assistance:

- Call the OCR Seattle Regional Office at:
 - 206-607-1600 (voice)
 - 800-877-8339 (TTY) or Federal Relay Service (FRS) at 1-800-877-8339

OCR on the internet:

www.ed.gov/ocr