504 Referral & Evaluation Process:
How Does It Differ From Special Education?

ACSA Every Child Counts Symposium
February 15, 2018
Your Presenters

Susan Chaides, Project Director III
Jewel Forbes, Consultant II

chss@lacoe.org
(562) 922-6233
Outcomes

Participants will be able to:

1. Discuss IDEA v. 504
2. Explain the eligibility requirements for Section 504
3. Discuss the Section 504 process from beginning to end
The Law

[29 USC §794(a), 34 CFR §104.4(a)]

No otherwise qualified individual with a disability shall, solely by reason of that disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
Section 504 of the Rehabilitation Act protects students with disabilities from discrimination and may also entitle them to regular or special education and related aids and services.
Section 504 Overview

“Disabled” and “eligible” are not interchangeable

- Not all disabled students are eligible for services
- All disabled students eligible under IDEA, also eligible under Section 504
- Some disabled students are only eligible under Section 504
- Some disabled students are not eligible under Section 504 or IDEA
Free Appropriate Public Education (FAPE)

Under Section 504 FAPE is provision of:

- Regular or Special Education and related aids & services
- Designed to meet individual needs of students w/ disabilities as adequately as needs of non-disabled students are met
- Procedural requirements related to educational setting, evaluation and placement, and procedural safeguards
Americans w/ Disabilities Act

Section 504

IDEA

STUDENT FOCUS

Facilities

Employees

Parents

Other Individuals

SCHOOL FOCUS

Extracurricular

Public Buildings

Business

Telecommunications

Public Transportation

Includes Title II

COMMUNITY FOCUS

Special Education

STUDENT FOCUS

Includes Title II

Los Angeles County Office of Education 2018
# Section 504 & IDEA: Differences

<table>
<thead>
<tr>
<th>504</th>
<th>IDEA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Rights Law</td>
<td>Educational Law</td>
</tr>
<tr>
<td>Physical or Mental Impairment</td>
<td>13 Categories of Disabilities</td>
</tr>
<tr>
<td>Accommodation Plan</td>
<td>IEP</td>
</tr>
<tr>
<td>No Funding</td>
<td>Funding</td>
</tr>
</tbody>
</table>
## Section 504 & IDEA: Similarities

<table>
<thead>
<tr>
<th></th>
<th>504</th>
<th>IDEA</th>
</tr>
</thead>
<tbody>
<tr>
<td>FAPE</td>
<td>FAPE</td>
<td>FAPE</td>
</tr>
<tr>
<td>Evaluations</td>
<td>Evaluations</td>
<td>Evaluations</td>
</tr>
<tr>
<td>Placement Procedures</td>
<td>Placement Procedures</td>
<td>Placement Procedures</td>
</tr>
<tr>
<td>Procedural Safeguards</td>
<td>Procedural Safeguards</td>
<td>Procedural Safeguards</td>
</tr>
</tbody>
</table>
Student Need

- SST
- 504
- IDEA
Student Study Team

SST

Interventions

504

IDEA
IDEA

Disability adversely affects educational performance

13 categories

Specially designed instruction

IEP
Section 504

Handicap substantially limits one or more major life activities

Education comparable to that provided to non-handicapped

Reasonable accommodations

Physical | Instructional

Accommodation Plan
How Does a Student Qualify?
34 CFR 104.3(j)

Does student have a potentially limiting mental or physical disability or impairment?

Does student’s disability impair a major life activity?

Is degree of impairment substantial?
Question #1

Does student have a potentially limiting mental or physical disability or impairment?
Question #2

Does student’s disability impair a major life activity?
Question #3

Is degree of impairment substantial?
• Compared to average student of same age/grade
• Expansive, not restrictive
What Is Substantial?

- Severity
- Duration
  - Chronic vs. Temporary
- Transitory
Mitigating Measures

Reduce severity or seriousness of disability

Mitigation Devices: medication, prosthetics, medical supplies/equipment, hearing aids, assistive technology

Does not include eyeglasses and contact lenses

Do not use mitigation measures to determine if disabled
Medical Diagnosis

- Is a doctor’s note needed?
- 504 Evaluation not a medical diagnosis
Eligibility

• How many “yes” answers do you need to qualify?
• What if you have some “no” answers?
What About…?

- Informal Accommodations
- Special Education (IDEA)
- Individualized Healthcare Plan (IHP)
Process

Referral

504 Team

Evaluation

Section 504 Meeting
Referral

- Request for 504 evaluation
- IDEA consolation prize?
- Child Find
- Annual notification
Referral

Permission to Assess
Procedural Safeguards
34 CFR 104.36

- No Discrimination
- Notice of Evaluation
- Reasonable Accommodations
- FAPE
- Team Decision
- Extracurricular Activities
- Records – Review, Copies
- Appeal/Complaint Procedure
- Review/Re-evaluation
504 Team

• Multi-disciplinary team that includes persons knowledgeable about:
  • Student
  • Meaning of evaluation data
  • Placement options

• Student Study Team (SST)
Team Members

May include:

• Parent
• Student
• Administrator/designee (504 site coordinator)
• Teacher(s)
• School nurse
• School psychologist
• Counselor
Evaluation

• Observations
• Academic – tests, report cards, interventions
• Health – medical reports
• Discipline
• Attendance
• Other
Notice of Meeting

• Date & Time
• Place
• Purpose
• Reports
504 Meeting

Reason for Referral

Procedural Safeguards

Review Data

Eligibility Questions

Team Decision

Accommodations
Decision

Team Consensus:
- Have input
- Willing to go along with decision
- Agree to support decision
- Does not require agree with decision
Student Not Eligible

Give parent:

• Written documentation regarding eligibility determination
• Notice of parent rights
• Provide informal accommodations
Student Eligible: Accommodation Plan

Plan includes:
• Present levels of student performance
• Disabling condition
• Major life activity
• Accommodations
• Review date

• Distribution of plan
  • Confidentiality (FERPA)
<table>
<thead>
<tr>
<th>Eligibility Scenario</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd grade, food allergy to citrus, Dr. note, frequently sent home for cough, itchy eyes and skin</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Answer**
<table>
<thead>
<tr>
<th>Eligibility Scenario</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$5^{th}$ grade, fractured left elbow, in a cast for 6 weeks, left handed</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Answer**
<table>
<thead>
<tr>
<th>Eligibility Scenario</th>
<th>8th grade, depression, note from therapist, frequent absences and tardies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer</td>
<td></td>
</tr>
<tr>
<td>Eligibility Scenario</td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>---</td>
</tr>
<tr>
<td>7th grade, diabetes, does all self-care, A &amp; B grades. Parent states student entitled to 504 plan, brings copy of sample plan from American Diabetes Association</td>
<td></td>
</tr>
</tbody>
</table>

**Answer**
<table>
<thead>
<tr>
<th>Eligibility Scenario</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>K grade, heart condition – history of a heart murmur &amp; heart surgery in infancy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Answer**
<table>
<thead>
<tr>
<th>Eligibility Scenario</th>
</tr>
</thead>
<tbody>
<tr>
<td>7th grade, bowel problems – frequent stomachaches &amp; diarrhea</td>
</tr>
<tr>
<td>Frequent absences, often goes home early</td>
</tr>
<tr>
<td>Answer</td>
</tr>
</tbody>
</table>

Los Angeles County Office of Education 2018
<table>
<thead>
<tr>
<th>Eligibility Scenario</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>8th grade, ADHD, takes Ritalin. B &amp; C grades. Parent states student spends 6+ hours on homework each night.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Answer</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
</table>
Closing

- What is one thing you learned today that you can implement next week?