



# Section 504: Avoiding Discrimination and FAPE Claims

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## Agenda

- ◆ Section 504 vs. IDEA
- ◆ FAPE
- ◆ Child Find
- ◆ Evaluations
- ◆ Eligibility
- ◆ LRE
- ◆ BIPs and Behaviors
- ◆ Procedural Safeguards
- ◆ Section 504 Claims

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## Section 504 vs. IDEA

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## Overview of Section 504

- ◆ Section 504 of the Rehabilitation Act of 1973
  - ◆ Prohibits discrimination on the basis of disability
  - ◆ Applicable to programs receiving federal financial assistance
    - ◆ Applies to public schools as recipients of federal funds
  - ◆ Enforced by the Office of Civil Rights (OCR)

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## Language of Section 504

- ◆ Section 504 states:
  - ◆ “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...” 29 U.S.C. § 794(a).

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## ADA Amendments

- ◆ In January 2009, the ADA Amendments Act greatly expanded the meaning of **disability**
- ◆ The ADA Amendment Act and its final regulations make it much easier to be a person with a disability protected under the Act

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## Free Appropriate Public Education- 504

- ◆ Section 504 requires a district to provide a “free appropriate public education” to each qualified individual with a disability within its jurisdiction, regardless of the nature or severity of the individual’s disability. 34 CFR 104.33 (a).
- ◆ Section 504 defines “free” to mean
  - ◆ the provision of educational and related services without cost to a student with a disability or to the student’s parent or guardian, except for those fees that are imposed on nondisabled students or their parents or guardians. 34 CFR 104.33 (c)(1).
- ◆ Section 504 defines “appropriate education” to mean
  - ◆ the provision of general or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of nondisabled students are met. 34 CFR 104.33 (b)(1)(i).

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## The FAPE Standard: IDEA vs. Section 504

- ◆ The primary difference between the standards of FAPE under the IDEA and Section 504 is the type of educational benefit required.
- ◆ The IDEA focuses on students' progress in relation to their own potential.
- ◆ Section 504 requires courts to consider whether students with disabilities are receiving educational services as effective as those made available to their nondisabled peers.

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## FAPE: IEP & 504 Plan

- ◆ If a student with a disability is eligible for services under the IDEA, the district's development and implementation of an appropriate IEP will also satisfy its substantive FAPE obligations under Section 504. 34 CFR 104.33 (b)(2).
- ◆ If a student with a disability qualifies for services under the IDEA, the district can satisfy Section 504's standard of FAPE by developing and implementing an appropriate IEP. 34 CFR 104.33(b)(2).
- ◆ If a student with a disability is not eligible for IDEA services, the district must provide the accommodations, modifications, and related aids and services the student needs to access her education as per Section 504.

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## IEP & 504 Plan?

- ◆ Can a student have both a Section 504 plan and an IEP?
  - ◆ Typically, this would not be necessary.
  - ◆ If a student has other 504 (non-IDEA) disabilities, the district can address needs from such disabilities on the student's IEP.

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## 504 Plan: Sped & Related Services

- ◆ Districts cannot deny qualifying Section 504 students special education or related services solely because the student is not served under IDEA.
  - ◆ In fact, the language specifically states that Section 504 students may be entitled to special education and/or related services to receive FAPE.
- ◆ The evaluation of a Section 504 student's need for special education or related services must be made on an individual basis.

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## Defining Related Services under Section 504

- ◆ Under Section 504 “related aids and services” are part of an appropriate education and must be provided to the extent that they enable the school district to meet the individual educational needs of students with disabilities as adequately as it meets the needs of nondisabled students. 34 CFR 104.33 (b).
- ◆ Whether a student with a disability is entitled to a related service is a decision that must be made by a group of knowledgeable people as per 34 CFR 104.35 (c).
- ◆ Unlike the IDEA, Section 504 regulations do not list specific types of related services, but the identification of specific related services is substantially similar.
  - ◆ *See, e.g., Spokane (MO) R-VII Sch. Dist., 58 IDELR 201 (OCR 2011); Pasadena (CA) Unified Sch. Dist., 80 IDELR 139 (OCR 2021); Beaufort County (SC) Sch. Dist., 121 LRP 34036 (OCR 06/07/21); and Puerto Rico (PR) Dep’t of Educ., 77 IDELR 264 (OCR 2020).*

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## Related Services

- ◆ Can include any related services listed under the IDEA, including:
  - ◆ School health services
  - ◆ School nurse services
  - ◆ Speech language services
  - ◆ Occupational therapy services
  - ◆ Physical therapy services

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## Failure to Provide FAPE

- ◆ In examining whether a district has failed to provide FAPE under Section 504, OCR examines whether:
  - ◆ 1) the district evaluated the student per Section 504 requirements;
  - ◆ 2) the student's needs were determined on an individual basis; and
  - ◆ 3) the related aids and services necessary to meet the student's individual needs were provided.

*Mansfield (AR) Pub. Schs.*, 59 IDELR 265 (OCR 2012).

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## Do accommodations have to be reasonable?

- ◆ Courts use a standard of “reasonable accommodation.”
- ◆ Thus, if an accommodation is unreasonable or unnecessary, the district need not provide it.

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## Nonacademic Services

- ◆ A school system shall provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford handicapped students an equal opportunity for participation in them. These services and activities may include:
  - ◆ Counseling services
  - ◆ Physical recreational athletics
  - ◆ Transportation
  - ◆ Health services
  - ◆ Recreational activities
  - ◆ Special interest groups or clubs sponsored by school systems
  - ◆ Referrals to agencies which provide assistance to handicapped persons
  - ◆ Employment of students, including both employment by the school system and assistance in making available outside employment. 34 C.F.R. § 104.37.

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## Reasonable Modifications for Extracurricular Activities

- Districts must:
  - Make reasonable modifications as well as provide aids or services that are necessary to ensure a disabled student has the opportunity to participate in extracurricular activities.
- District' are not required to:
  - Provide modifications to the extent that the modifications would fundamentally alter the program.
    - "Fundamental Alteration" may occur when a modification alters such an essential aspect of the activity that it would be unacceptable even if it affected all competitors equally, including when a change provides an unfair advantage to a player with a disability.
  - Negate safety standards or the requirement of a certain skill level.

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# Child Find



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## Child Find: Section 504

- ◆ Districts must “undertake to identify and locate every qualified handicapped person residing in the recipient’s jurisdiction who is not receiving a public education.” 34 CFR 104.32(a).
- ◆ Section 504’s child find requirement applies to individuals with a disability living in a district regardless of whether the student has an official residence or is homeless (district of residence responsible).

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## Section 504 v. the IDEA

- ◆ Under both the IDEA and Section 504, school districts have an obligation to identify, locate, and evaluate all children reasonably suspected of a disability, commonly referred to as “child find.” IDEA, 34 C.F.R. § 300.111; 20 U.S.C. § 1412(a)(3); Rehabilitation Act of 1973, § 504, 29 U.S.C. § 794.
- ◆ Eligibility Questions for the IDEA:
  - ◆ Does the student have a disability in an IDEA eligibility category?
  - ◆ Does the student require special education and related services to benefit from education (i.e., graduate with a regular high school diploma)?
- ◆ Eligibility Questions for Section 504:
  - ◆ Does the student have a physical or mental impairment?
  - ◆ Does the impairment substantially limit a major life activity?

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## Suspecting a Disability under Section 504

- ◆ Because a district has an affirmative child find duty, a district’s own suspicions may trigger an obligation to evaluate, even if the student’s parent does not request an evaluation.
  - ◆ This might include documentation of a medical disability, an outside evaluation suggesting a disability, excessive medical or mental health absences, discipline record, poor classroom performance, etc.
- ◆ When a student is ineligible for IDEA services, the district may need to consider whether there is an impairment that substantially limits a major life activity.
  - ◆ However, the courts are split on whether a parent’s revocation of IDEA services is also a rejection of Section 504 services.

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## No Disability Suspected

- ◆ Section 504 & the IDEA do not require that a district evaluate every student in which a parent requests an evaluation.
- ◆ If a district has NO reasonable basis for suspecting a disability, it may refuse an evaluation.
- ◆ HOWEVER, remember that the eligibility threshold for Section 504 is low; thus, the referral threshold is even lower.
  - ◆ So, it is best to just evaluate for Section 504.
- ◆ If the district does deny an evaluation, it should provide the parent with notice of their right to challenge the refusal.

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## Case Law: Child Find

- ◆ *E.P. v. Twin Valley Sch. Dist.*, 78 IDELR 69 (E.D. Pa. 2021).
  - ◆ E.P. was receiving sped services pursuant to an IEP for Gifted.
  - ◆ Kindergarten year, Parent informed his teacher of his sensory processing disorder and asked for specific assistance with ensuring he was eating protein as he reportedly had severe meltdowns when he got home from school.
  - ◆ The district reevaluated him and concluded that he did not meet the requirements for sped under another disability category (continued Gifted IEP).
  - ◆ The district did not offer, and Parent did not ask for, an assessment to determine if he was eligible under Section 504.
  - ◆ Parents continued to inform the district about E.P.'s struggle with self-regulating, learning, and his behavior issues.
  - ◆ The Court found that the district violated its child find obligations under Section 504 when it relied on an IDEA evaluation to determine E.P.'s entitlement to accommodations because the district had reason to suspect he needed accommodation for his emotional regulation and sensory issues.

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## Case Law: Child Find & Medical Needs

- ◆ **Clarksville-Montgomery County School District, No. 04-10-5003, Office for Civ. Rts. Ltr. of Finding (U.S. Dep't of Justice Sept. 26, 2012).**
- ◆ Failure to identify and evaluate students on Individual Health Care Plans (IHCPs) may violate Section 504 and Title II.
  - ◆ In this case, the district had 1,206 students with IHP's and 194 students with IEPs or Section 504 plans during the 2010-2011 school year.
  - ◆ OCR concluded that 235 of the students on IHPs should have, at a minimum, been referred for an evaluation as a student with a disability.

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## Evaluations

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## Section 504 v. the IDEA

- ◆ The concept of an evaluation under Section 504 is essentially the same as it is under the IDEA. 34 CFR 104.35.
- ◆ In connection with the IDEA, an evaluation is defined as the procedures under 34 CFR 300.304 through 34 CFR 300.311 used to determine if a child has a disability; and, if so, the nature and extent of the student's resulting need for special education and related services. 34 CFR 300.15.

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## Consent for Evaluation

- ◆ Nothing in Section 504 discusses whether a district must obtain parental consent for an evaluation.
- ◆ But OCR's position is that parental consent is needed prior to conducting an initial evaluation for identification, diagnosis, and prescription of specific educational services.

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## Evaluations under Section 504

- ◆ Districts are required to establish a system of procedural safeguards regarding Section 504 evaluations. 34 CFR 104.35(b).
- ◆ Compliance with IDEA's procedural safeguards meet that requirement.

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## “Reasonable Amount of Time”

- ◆ Section 504 does not give a timeline for an initial evaluation
- ◆ However, OCR has stated that the evaluation must be completed in a “reasonable amount of time.” *Lumberton (MS) Pub. Sch. Dist.*, 18 IDELR 33 (OCR 1991)
- ◆ OCR may look at state timelines under IDEA to determine what is a “reasonable amount of time.”
  - ◆ *See, e.g., Concept Charter Sch. (IL)*, 115 LRP 17593 (OCR 02/13/15) (“In determining whether a recipient provided a timely evaluation, OCR is informed by the regulations implementing the IDEA, as compliance with the IDEA is one means of complying with Section 504”).

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## Evaluation Instruments

- ◆ Neither Section 504 or its implementing regulations identify any specific assessments a district must use in its evaluations.
- ◆ The regulations do set forth assessment requirements that require the district to ensure that tests and other evaluation materials:
  - ◆ Have been validated for the specific purpose for which they are used;
  - ◆ Are administered by trained personnel in conformance with the instructions provided by their producer;
  - ◆ Are tailored to assess specific areas of educational need and not just IQ; and
  - ◆ Accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors tested).

34 CFR 104.35 (b); and *Dear Colleague Letter*, 58 IDELR 79 (OCR 2012).

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## Evaluation Components

- ◆ A Section 504 evaluation must:
  - ◆ Assess the specific areas of educational need.
  - ◆ Use sound measures and trained personnel that are not racially or culturally discriminatory.
  - ◆ Be based on information from a variety of sources.
  - ◆ Documented and carefully considered by a group of people including persons knowledgeable about the child, the meaning of the evaluation data, and placement options.

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## Reevaluations under Section 504

- ◆ Section 504 requires that districts periodically reevaluate students with disabilities. 34 CFR 104.35(d).
  - ◆ Reevaluating every 3 years consistent with IDEA meets this requirement.
- ◆ Other circumstances that may trigger a reevaluation:
  - ◆ Transfer of student to a new school.
  - ◆ Prior to determining a student is no longer eligible under Section 504.
  - ◆ Continued issues with behavior, grades, or attendance.
  - ◆ Unexpected event that may change the student's needs, such as a head injury or car wreck.
  - ◆ Secondary difficulties from bullying.

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## Requiring Medical Evaluation under Section 504

- ◆ If the school district requires a medical evaluation for eligibility under Section 504 (or IDEA), the district must provide that evaluation at no cost to the parent.
- ◆ Furthermore, if the district suspects a disability, the district is obligated to conduct an evaluation, which may include a medical assessment if needed.

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## Case Law: Requiring Medical Documentation

- ◆ ***South Monterey County Joint Union High Sch. Dist., 112 LRP 28705 (OCR 2012).***
  - ◆ OCR concluded that a district denied a student FAPE when it delayed an evaluation due to the parent's failure to provide a medical diagnosis.
  - ◆ When the parent referred her son for a 504-plan due to academic struggles related to his ADHD, the district required the parent to provide medical documentation for identification under Section 504.
    - ◆ This resulted in an evaluation being delayed almost a year and half until the parent provided an outdated (6 years old) medical statement.
  - ◆ The district implemented a Section 504 plan without completing a current evaluation to determine the impact of the disability on learning.
  - ◆ Because the medical evaluation was outdated, OCR concluded "the plan based on that evaluation was inadequate."

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## Eligibility

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## Who is eligible under Section 504?

- ◆ A student is eligible for special education under Section 504 if the student is:
  - ◆ an individual who has “a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.”

34 CFR 104.3 (j)(1).

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## Eligibility Criteria: Section 504 v. IDEA

- ◆ Vs. IDEA Eligibility:
  - ◆ Between the ages of 3-21 & meets the definition of one of the identified disabilities:
    - ◆ intellectual disability,
    - ◆ a hearing impairment,
    - ◆ a speech or language impairment,
    - ◆ a visual impairment/blindness,
    - ◆ a serious emotional disturbance,
    - ◆ an orthopedic impairment,
    - ◆ autism,
    - ◆ traumatic brain injury,
    - ◆ other health impairment,
    - ◆ a specific learning disability,
    - ◆ deaf-blindness, or
    - ◆ multiple disabilities; and
  - ◆ Need special education and related services as a result of his disability or disabilities.

34 CFR 300.8 (a)(1).

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## Eligibility Questions

- ◆ The criteria for determining eligibility under Section 504 and the ADA is broader (more inclusive) than the categories of eligibility under the IDEA.
  - ◆ Does the student have a physical or mental impairment?
  - ◆ Does the impairment substantially limit a major life activity?

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## Broad Coverage

- ◆ Congress has specifically stated that eligibility should be viewed with “broad coverage”!!!
- ◆ So, whether or not an impairment **significantly limits** a major life activity should not be a sticking point for eligibility.

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## Physical or Mental Impairment

- ◆ An individual who has “a **physical or mental impairment** that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.”

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## Section 504 Physical or Mental Impairment

- ◆ **Physical Impairment:**
  - ◆ Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine.
- ◆ **Mental Impairment:**
  - ◆ Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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## Section 504 “Substantially Limits”

- ◆ An individual who has “a physical or mental impairment that **substantially limits** one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.”

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## Substantially Limits

- ◆ When determining whether the impairment substantially limits one or more major life activities, the team may consider the following as compared to the general population:
  - ◆ The condition under which the student performs the major life activity.
  - ◆ The manner in which the student performs the major life activity.
  - ◆ The duration of time it takes the student to perform the major life activity.
- ◆ Don't spend too much time considering this requirement- Remember BROAD COVERAGE!

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## Major Life Activities

- ◆ An individual who has “a physical or mental impairment that substantially limits one or more **major life activities** of such individual; a record of such an impairment; or being regarded as having such an impairment.”

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## Major Life Activities

- ◆ The impairment does NOT have to have an impact on learning to qualify as a disability under Section 504.
  - ◆ The substantial limitation can be on any major life activity, including (but not limited to):
  - ◆ Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working OR
  - ◆ Operation of a major bodily function, including (but not limited to)
    - ◆ Functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, reproductive functions, and operation of individual organ.

28 CFR 35.108 (c)(1)(i).

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## Virtually Always a Disability

- ◆ Title II lists several impairments that will “virtually always” substantially limit a major life activity:
  - ◆ Cancer
  - ◆ Diabetes
  - ◆ Epilepsy
  - ◆ Muscular Dystrophy
  - ◆ Multiple Sclerosis
  - ◆ HIV
- ◆ OCR has also stated that the following virtually always qualify as a disability:
  - ◆ Bipolar Disorder
  - ◆ Autism

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## Examples of Disabilities

- ◆ Diabetes virtually always substantially limits endocrine function. Diabetes may also substantially limit caring for oneself, walking, eating, and seeing.
- ◆ Food allergies may substantially limit breathing, respiratory function, and immune system function.
- ◆ HIV virtually always substantially limits immune function.
- ◆ Environmental allergies may substantially limit the ability to breathe or the ability to learn.
  - ◆ However, an allergy that is only providing a mild reaction (not life-threatening) might not substantially limit a major life activity.

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## Can these be disabilities?

- ◆ Obesity
  - ◆ Can be a physical impairment if it substantially limits a major life activity.
- ◆ Pregnancy
  - ◆ Pregnancy itself is NOT an impairment.
  - ◆ But complications from pregnancy may be a temporary disability if such impairments substantially limit a major life activity.

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## Mitigating Measures

- ◆ The Act also explicitly removes the requirement that the impact of mitigating measures be considered when determining whether a person has a disability under the Act. 28 CFR 35.108(d)(1)(viii).
  - ◆ However, regular eyeglasses and contact lenses are not considered mitigating measures. Dear Colleague Letter, 58 IDELR 79 (OCR 2012).

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## Mitigating Measures

- ◆ So, the team cannot consider the impact of mitigation measures when determining whether an impairment significantly impacts a major life activity.
- ◆ So, without medication...
  - ◆ ...without classroom accommodations...
  - ◆ ...would the impairment substantially limit a major life activity?
- ◆ So basically, if a student is on medication or has some other mitigating measure, the team must assume that without such mitigating measure, the impairment would substantially impact the major life activity.

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## What are Mitigating Measures?

- ◆ Mitigating Measure include:
  - ◆ Medication
  - ◆ Medical supplies, equipment, and devices
  - ◆ Prosthetic limbs
  - ◆ Low vision devices
  - ◆ Hearing aids and cochlear implants
  - ◆ Mobility Devices
  - ◆ Oxygen therapy equipment
  - ◆ Use of assistive technology
  - ◆ Reasonable accommodations or auxiliary aids or services
  - ◆ Learned behavioral or adaptive neurological modifications
  - ◆ Psychotherapy
  - ◆ Behavioral therapy
  - ◆ Physical therapy

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## Individualized Health Plans

- ◆ OCR has specifically stated that individualized health plans (IHPs) are considered a mitigating measure.
  - ◆ Thus, the impact of an IHP cannot be considered when making a disability determination.
- ◆ Furthermore, an IHP is not equivalent to a Section 504 plan if all the procedures and safeguards of Section 504 are not followed/provided to the parent and student.

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## Technically Eligible Students

- ◆ Under Section 504, unlike the IDEA, a student may have a qualifying disability and be technically eligible but not need a 504 plan.
  - ◆ These students are still protected by Section 504's anti-discrimination provisions even though they do not require a 504 plan. *Dear Colleague Letter*, 58 IDELR 79 (OCR 2012).

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## Dual Eligibility??

- ◆ Are all students who qualify under IDEA also protected under Section 504?
- ◆ The 2<sup>d</sup> and 10<sup>th</sup> Circuits have opined that students who receive services under the IDEA do not necessarily have protections under 504, as the definitions differ.
  - ◆ A student may have an impairment that needs special education and related services even if the impairment doesn't substantially limit a major life activity.
  - ◆ However, OCR has stated that it "cannot conceive of any situation in which [IDEA-eligible] children would not also be entitled to the protection extended by Section 504."

LRE

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## LRE Requirement under Section 504

- ◆ Similar to the IDEA, Section 504's LRE requirement provides that districts must educate students with disabilities with students without disabilities to the maximum extent appropriate.
  - ◆ A district must place students with disabilities in the regular education environment unless the education of a student in the regular environment, with the use of supplementary aids and services, cannot be achieved satisfactorily. 34 CFR 104.34 (a).
  - ◆ A district must also ensure that students with disabilities participate with nondisabled students to the maximum extent appropriate. 34 CFR 104.34 (a).

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## BIPs and Behaviors

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## Section 504 BIPs

- ◆ Circuit Courts have held that a district may have a duty under Section 504 to develop a BIP if it is necessary to address the behaviors of a student with a disability.
  - ◆ *Morgan v. Chris L.*, 25 IDELR 227 (6th Cir. 1997, unpublished) (finding that despite the student's long history of behavioral difficulties and failing grades, the district failed to create a plan of intervention to address them);
  - ◆ *A.G. v. Paradise Valley Unified Sch. Dist. No. 69*, 67 IDELR 79 (9th Cir. 2016) (noting the because a seventh-grader with autism could have remained in her middle school's gifted program had the district developed a BIP, the parent's Section 504 and Title II claims against the district could proceed).

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## Manifestation Determination Review

- ◆ The discipline protections for Section 504 are almost identical to IDEA
  - ◆ Prohibits districts from disciplining students with disabilities more harshly than nondisabled students.
  - ◆ Although Section 504 does not mention the words “manifestation determination,” OCR has interpreted Section 504 to require an MDR for disciplinary actions resulting in a significant change of placement.
  - ◆ Must consider information from a variety of sources.
  - ◆ Should include persons knowledgeable about the child’s disability and needs, the evaluation data, and placement options.
  - ◆ If the conduct is not a manifestation, the district may discipline the student as it would discipline a non-disabled student.

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## Procedural Safeguards

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## Section 504 FAPE Procedural Requirements

- ◆ Districts must also comply with Section 504's procedural FAPE requirements to ensure that the services provided to students with disabilities align with the Section 504 regulations governing:
  - ◆ Educational setting, including the duty to educate students with disabilities with their nondisabled peers to the maximum extent appropriate. See 34 CFR 104.34.
  - ◆ Evaluation and placement, which prohibit districts from providing students with special education or related services or from changing their placements without an assessment of their needs. See 34 CFR 104.35.
  - ◆ Procedural safeguards, which require a district to adopt and implement procedures to protect parents' rights under Section 504. See 34 CFR 104.36. 34 CFR 104.33 (b)(1)(ii).
- ◆ A district's failure to comply with Section 504's procedural requirements can amount to a denial of FAPE.

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## Procedural Safeguards under Section 504

- ◆ Districts are required to maintain a system of procedural safeguards including:
  - ◆ Notice with respect to actions involving identification, evaluation, or educational placement.
  - ◆ An opportunity for the parent to examine the child's educational records.
  - ◆ Right to a due process hearing.
    - ◆ Right to be represented by counsel at such hearing.
    - ◆ Right to a review of any adverse due process hearing decision.

34 CFR 104.36.

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## Section 504 Procedural Safeguards Examples

- ◆ Notice of Procedural Safeguards
  - ◆ *Norwich City (NY) Sch. Dist.*, 114 LRP 35076 (OCR 04/17/14) (determining that a district violated Section 504 when it failed to notify a father of his right to request an impartial due process hearing or provide him with a copy of procedural safeguards despite his disagreement with Section 504 team's decisions);
  - ◆ *Tuba City Unified Sch. Dist.*, 76 IDELR 19 (OCR 2019) (finding that a district violated Section 504 when it failed to provide a parent a copy of procedural safeguards after it changed the student's qualifying disability and modified her accommodations).

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