

**SECTION 504  
POLICY & PROCEDURES**  
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# OBJECTIVES

Be familiar with:

- Section 504 nondiscrimination protections
- Section 504 FAPE obligation
- Broader definition of disability
- Changes in Section 504 policy
- Section 504 procedures



# SECTION 504 OF THE REHABILITATION ACT OF 1973 (SECTION 504) POLICY & FEDERAL LAW

The District affirms that no qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, harassment, intimidation and bullying under any District program or activity.

The denial of *equal access* to District education programs and/or activities and/or the denial of a “*free appropriate public education*” (FAPE) on the basis of a student’s disability(ies) is considered disability-based discrimination under federal and state law.



# SECTION 504 DUAL PURPOSES

## NONDISCRIMINATION

- Civil rights statute
- Prohibits harassment
- Prohibits discrimination or different treatment
- Ensures equal access to District programs and activities
- Provides complaint processes (i.e., UCP)
- Provides protections when disciplined

## FAPE OBLIGATION

- Child find
- Referral
- Evaluation
- Accommodations & supports
- Implementation & monitoring
- Periodic re-evaluation
- Procedural safeguards

# MORE ABOUT CIVIL RIGHTS...

Section 504 nondiscrimination protections extend to :

- **District program &/or building access for students & community – before school, during school, after school, intersessions, etc.**
  - Ex) Wheelchair accessibility, parking for the disabled, elevator use, sign language interpreters for deaf at public events, participation in extracurricular activities, Beyond the Bell, accessible transportation for field trips/other activities, overnight and week long camps, try outs for athletic events
- **Employees' rights to have accommodations in the work environment if disabled**
  - Ex) Request an accommodation at work, Reasonable Accommodations Committees and appeals
- **And.... Access & Accommodations for students with disabilities**

# WHO IS AN INDIVIDUAL WITH A DISABILITY UNDER SECTION 504?

An individual with a disability is someone who:

- Has a physical or mental impairment which substantially limits one or more major life activities;
- Has a record of such an impairment;
- Is regarded as having such an impairment



# NONDISCRIMINATION & FAPE

## BREAKING IT DOWN

### NONDISCRIMINATION PROTECTIONS *ONLY*

- Record of impairment
- Regarded as having an impairment

### NONDISCRIMINATION PROTECTIONS & *FAPE*

Has a physical or mental impairment which substantially limits one or more major life activities

Ex) FAPE = Provisions in Section 504 Plan or IEP

# MORE ABOUT FAPE & CHILD FIND...

The District fulfills child find requirements by providing students with and making available annually :

- *Parent Student Handbook*
- *Section 504 and Students with Disabilities* brochure
- EECO – Posted policies and brochures
- Division of Special Education – Posted policies, brochures & child find efforts

# REFER STUDENTS WITH POSSIBLE DISABILITIES


Under Section 504, physical or mental impairments are:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems – neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine, or..
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness...
- Impairments that are episodic or in remission if they would be substantially limiting when active  
Ex) asthma, food allergies

# SUBSTANTIAL LIMITATIONS OF MENTAL OR PHYSICAL IMPAIRMENTS ARE...

When a student is unable to perform a major life activity that the average student of the same grade or age or as compared to most students of the same grade or age can perform.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as:

- Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aides and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
  - Use of assistive technology;
  - Reasonable accommodations; auxiliary aids or services; or
  - Learned behavioral or adaptive neurological modifications.
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# WHAT MAJOR LIFE ACTIVITIES DO WE CONSIDER?

Functions such as:

- Bending
- Breathing
- Caring for one's self
- Communicating
- Concentrating
- Eating
- Hearing
- Learning
- Sleeping
- Standing
- Speaking
- Thinking
- Walking
- Working

Functions of:

- The immune system
- Normal cell growth
- Digestion
- Bowel
- Bladder
- Neurological
- Brain
- Respiration
- Circulation
- Endocrine
- Reproduction

# THE AMERICANS WITH DISABILITIES ACT AMENDMENT ACT (2008)

- Amended the Americans with Disabilities Act (ADA) which prohibited discrimination on the basis of disability by public institutions
- Emphasizes a broader application of the definition of disability under the ADA and Section 504
- Supersedes court decisions that resulted in too narrow an interpretation of disability
- Eliminated consideration of ameliorative effects of mitigating measures when determining if a student has a disability though they remain relevant when determining students' needs for accommodations/services

= More students eligible for nondiscrimination protections whether or not they currently need Section 504 plan accommodations/services

**CONSIDER WHETHER TO REFER FOR EVALUATION  
UNDER SECTION 504  
OR  
SPECIAL EDUCATION**



# 504 REFERRALS MAY BE APPROPRIATE IF...

A disability is suspected and the student needs consistent and systematically implemented accommodations in order to have needs met as adequately as nondisabled peers

A student has an episodic or temporary disability that is substantially limiting when active

A student exhibits a severe health condition

A disability is suspected but the student does not qualify for special education services

A disability is suspected and the student is considered at risk of school failure or demonstrates a pattern of not benefiting from instruction

A disability is suspected and escalating behavior or patterns of discipline exist

A disability is suspected and the student's access to District programs is impacted



# IF A SECTION 504 REFERRAL IS NOT WARRANTED...

Review relevant records and consult with persons knowledgeable about student as to the appropriateness of the referral

Ex) Student is receiving special education services and therefore his/her needs for accommodations can be addressed in that forum ; student does not have a disability and therefore does not need accommodations through Section 504

Provide written notice to the parent using the “Denial of Request for Section 504 Evaluation” & “Section 504 Parent Procedural Safeguards”

(New: Section 504 forms are to be completed in the Welligent Section 504 Program module: REF- 6241.0 Mandatory Use of Welligent Section 504 Program Module to Conduct all Section 504 Activities, 02/27/2014)



# SECTION 504 REFERRAL PROCESS

*“Request for Section 504 Evaluation and Consent”* should be completed & *“Section 504 Parent Procedural Safeguards”* provided to parent(s)

New: Parental consent must be obtained and documented prior to evaluation

New: Private school parents in District’s area may request evaluations though Section 504 plans, if developed, can only be implemented in District schools if student enrolls




# TIMELINES FOR SECTION 504 EVALUATIONS

There are no specific timelines for completing Section 504 evaluations codified in law. However, it is expected that evaluations be completed in a reasonable period of time, which has been interpreted to be within 60 days.



# GATHER DOCUMENTATION FROM A VARIETY OF SOURCES

- Information provided by parents or in *Section Parent Input Form*
  - Cumulative records
  - Language surveys
  - Progress reports/report cards
  - Standardized test scores
  - District administered assessments
  - Health records
  - Staff interviews or *Section 504 Teacher Observation Form*
  - Student portfolio
  - Work samples
  - Prior special education documents
  - Discipline records
  - Attendance records
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# NOTIFICATION REQUIREMENT

*“Notice of Section 504 Evaluation Meeting”* should be provided to parents along with procedural safeguards.

New: The notification includes questions as to whether parents require oral interpretation or translation of documents.

New: Interpretation should be provided by qualified District-trained interpreters.



# SECTION 504 TEAM MEMBERS

Team members must be knowledgeable about:

- 1) The student
- 2) Evaluation information being drawn from a variety of sources
- 3) Accommodations/services to enable the team to make informed decisions



# SECTION 504 ELIGIBILITY DETERMINATION


Document in “Section 504 Evaluation” whether student:

- 1) Meets criteria for nondiscrimination protections & requires accommodations/services of a Section 504 Plan as a student who has a physical or mental impairment that substantially limits a major life activity; or
- 2) Meets criteria for nondiscrimination protections but does not require accommodations/services of a Section 504 Plan as student's physical or mental impairment is not substantially limiting; or

Ex) Disability may be episodic, in remission, or ameliorated by mitigating measures.

- 3) Does not meet the criteria for nondiscrimination protections & does not require accommodations/services of a Section 504 Plan

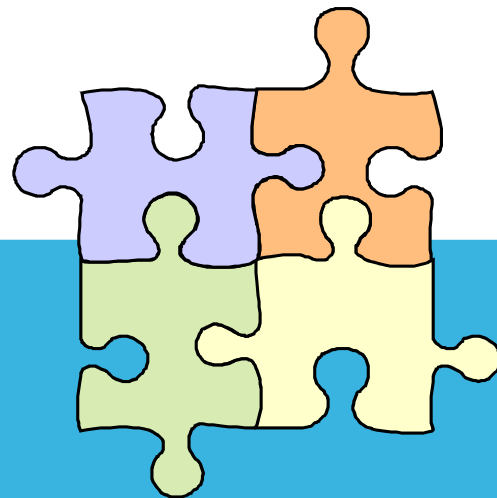
Ex) Student does not have or no longer has a physical or mental impairment that substantially limits major life activities



# DEVELOPING THE SECTION 504 PLAN

Include:

- Statement of student's physical or mental impairment
- Date for plan re-evaluation (at least every 3 years or sooner)
- Specific areas of educational impact or identified need
- Related accommodations to receive equal access
- Responsible individuals for implementation



# ACCOMMODATIONS VS. MODIFICATIONS

## ACCOMMODATIONS

A change to the educational setting, instructional strategies, materials, and/or supplementary/related aids and services that does not significantly alter the content of the curriculum or level of expectation for a student's performance, but which allows the student to access the regular education curriculum

## MODIFICATIONS

Strategies/supports that significantly alter the curriculum/grade level/common core state standard by which student performance is being measured.



# ACCOMMODATIONS

## DO'S

- Ensures access to core curriculum
- Directly relate to student's identified needs
- Are specific & measurable
- Includes symptoms, behaviors or triggers that elicit implementation
- Extended time is clearly stated and does not extend beyond marking period
- Are required for access to the District's program

## DON'TS

- Do not alter core curriculum for which student is being measured
- Do not exempt from required graduation courses beyond District policy
- Do not have jurisdiction over College Board (i.e., AP, PSAT, SAT, or ACT tests)
- Are not implemented by another student

# PARENT CONSENT/DISSENT

## Consent:

New: Parents must consent to the Section 504 Plan in order to implement it.

## Dissent:

- New: Parents may refuse consent to implement an initial Section 504 Plan and the plan will not be implemented
- New: Parents may revoke consent to implement an existing Section 504 Plan or a Section 504 Plan being re-evaluated (See bulletin regarding *Parent Request to Revoke Consent*)
- Parents may disagree with the Section 504 Plan and access their procedural safeguards for disagreements (Provide *Section 504 Complaint Form* along with *Section 504 Parent Procedural Safeguards*)



**NEW**

# SECTION 504 FOLLOW-UP & IMPLEMENTATION

- Identify Section 504 Case Manager for proper implementation, monitoring & plan review
- Distribute Evaluation, Plan, Notice of Section 504 Eligibility Determination & procedural safeguards to parents
- Provide plans to personnel responsible for implementation as soon as possible & repeat when staff changes
- Place plan in relevant teachers' sub folders & repeat with staff changes
- Place plan in student's cumulative file
- Enter 504 eligibility in District's electronic databases (i.e., SIS, ISIS)
- Legal document to be implemented as written
- Plans can only be modified in a Section 504 Plan meeting
- Scores/grades shall not be negatively impacted by the District's failure to implement a plan
- Ensure environment free from discrimination, harassment, intimidation & bullying
- Update plans at least every three years; when requested; ineffective; accommodations are unrelated to needs; and for changes in placement

# MANIFESTATION DETERMINATION

## A NONDISCRIMINATION PROTECTION

Students identified under Section 504 are general education students and can be suspended the same number of days as general education students.

However, for students identified as disabled under Section 504 who have been suspended 10 days in a school year or students being considered for a disciplinary change of placement....

Conduct a manifestation determination to determine whether the behavior being considered for discipline is directly linked to the disability or the District's failure to implement the Section 504 plan



# APPEAL/COMPLAINT PROCESSES

## NONDISCRIMINATION PROTECTIONS

Uniform Complaint Procedures (UCP) & Office for Civil Rights Complaints

### DISAGREEMENT OR APPEALS

- Identification
- Evaluation
- Plan accommodations/services

### DISCRIMINATION/HARASSMENT COMPLAINTS

- Discrimination/Different treatment
- Harassment/Bullying/Intimidation based on disability
- Failure to follow District Section 504 policies/procedures
- Failure to provide adequate oral interpretation

(File within 6 months of incident or knowledge of incident)

Civil remedies may also be available  
**Doe v. Withers (1993)** – \$15,000 judgment where  
history teacher refused to provide oral testing  
accommodation for a student

# RESOURCES

Educational Equity Compliance Office – 213.241.7682 or [eeco.lausd.net](http://eeco.lausd.net) (website)

BUL-4692.2 “*Section 504 of the Rehabilitation Act of 1973*” (2013), Issued by Office of General Counsel

Learning Zone Training - (Spring, 2014) – <https://lz.lausd.net/lz/index.jsp>

