

Objectives



Be familiar with:

- Section 504 Nondiscrimination Protections
- District's Obligation to Provide FAPE
- Office for Civil Rights Dear Colleague Letter, July 26, 2016
- Definition of "Disability" under Section 504 v. IDEA
- School Site Practices that Deter Disability Discrimination/Complaints

Be able to identify potential disability discrimination scenarios and apply District policies and procedures to prevent them

Section 504 of the Rehabilitation Act of 1973

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 process. District programs and activities
- Provides complaint processes (i.e., UCP)
- Provides protections
 when disciplined

FAPE

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

More about civil rights...

Section 504 Nondiscrimination Protections			
Students & Community	Employees		
District Programs & Building Access: REF-1446.3 Before, during, after, intersessions, etc. Accommodations/access	Accommodations/access to the work environment (BUL- 4569.0) Essential job functions		
Section 504 Plan Individualized Education Program (IEP)	Record of Interactive Process Reasonable Accommodation Application		



US Department of Education Office for Civil Rights (OCR)

Dear Colleague Letter, July 26, 2016

- > Districts' Obligations
- > Students with Attention Deficit Hyperactivity Disorder (ADHD)
- ➤ Due Process Rights
 - > Identification
 - > Evaluation

 	_	



Office for Civil Rights

- 1. Attention Deficit Hyperactivity Disorder (ADHD)
 - a. Predominantly inattentive
 - b. Predominantly hyperactive
 - Combined (equally present)
- 2. Attention Concerns (undiagnosed)
- 3. Evaluate
 - a. Eligibility determination
 - · Disability?
 - · Supports?

	~	_
•		
S)		

Disability Defined...

Section 504 of the Rehabilitation Act of 1973

Individuals with Disabilities Education Act (IDEA)

13* Specific Handicapping

- Physical/Mental Impairment · Exhaustive List of
- Impairments
- Record of Impairment Regarded as Having an Impairment Section 504 Plan (Welligent)
- Interactive Process (BUL-
- Reasonable
- Accommodation FMLA
- 13" Specific Handicappin
 Conditions

 1. Autism Deathess
 1. Autism Deathess
 2. Developmental Delay (California)
 2. Developmental Delay (California)
 4. Emotional Disturbance
 5. Establish Medical Disability
 6. Hard of Hearing
 7. Intellectual Disability
 8. Multiple Disabilities
 9. Orthopedic Impairment
 10. Other Health Impairment
 11. Traumatic Brain Injus
 12. Traumatic Brain Injus
 13. Visual Impairment
 14. Developmental Delay

 - Individualized Education Program (IEP)

Section 504 Nondiscrimination & FAPE... Breaking it Down...

- Section 504 Disability
- Substantially Limits Major Life Activity

Nondiscrimination Protections

FAPE (504 Plan)

- Section 504 Disability
 - Record of Impairment
 - Regarded as having an impairment
 - Nondiscrimination Protections (No Plan)
- IDEA Disability
- Handicapping Conditions

Nondiscrimination Protections (IEP)

3



FAPE & Child Find...

- District Obligation
- ❖ Identify Students
 - ✓ Disability(ies)
 - ✓ Suspected Disability(ies)
- Provide Appropriate Services Promptly
- Develop a Process for Referral
 - ✓ Communicate it to ALL staff members

Parent Student Handbook; Section 504 brochure; EECO - Posted policies & brochures; Division of Special Education – Posted policies & brochures

Did you know that failure to meet child find obligations could be considered disability discrimination?



Refer students with possible disabilities under Section 504

Physiological Disorder or Condition	Mental or Psychological Disorder	Impairments: Episodic or In Remission
Cosmetic Disfigurement	Intellectual Disability	Substantially Limiting when Active i.e.
Anatomical Loss Affecting at Least One Body System	Organic Brain Syndrome	Asthma Food allergies
	Emotional or Mental Illness	



Substantial Limitation...

student is unable to perform a major life activity that the accompared to what most students of the same grade or age or age compared to what most students of the same grade or age can perform

Hmmm... Does that mean all of our students who wear glasses or contact lenses are eligible under Section 504? NO



9

What major life activities can impact students?

Learning	Reading	Concentrating	Thinking	
Communicating	Seeing	Hearing	Eating	
Speaking	Breathing	Sleeping	Walking	
Lifting	Bending	Standing	Performing Manual Tasks	
Bowel Function	Bladder Function	Digestive Function	Endocrine Function	
Respiratory Function	Brain Function	Reproductive Function	Circulatory Function	
Neurological Function	Normal Cell Growth	Functions of Immune System	Caring for One's Self	
Working				

9

Americans with Disabilities Act Amendment Act (ADAAA) of 2008

- · Definition of Disability (Broader)
- Eliminated Consideration of Mitigating Measures adjustments; accommodations; services eliminate or reduce symptoms of an impairments i.e. diabetes, allergies, commercial tutoring, mental health, etc.
- More Students Eligible Under Section 504:
 - Nondiscrimination Protections + 504 Plan
 - Nondiscrimination Protections Only = No 504 Plan

BUL-4692.5 Section 504 of the Americans With Disabilities Act of 1973:

Section 504 referrals may be appropriate if a disability is suspected...

- ✓ Consistent/systematically implemented accommodations
- Episodic/temporary disability that is substantially limiting when active
- ✓ Exhibits a severe health condition
- ✓ Does not qualify for special education services
- ✓ At risk of school failure or demonstrates a pattern of not benefiting from instruction
- ✓ Escalating behavior or patterns of discipline exist
- ✓ Access to District programs is impacted



Section 504 Plan Accommodations

- ✓ Identified areas of impact/need
- Academic
- Behavioral
- Social-emotional
- Physical
- Health
- ✓ Grade level
- √ Specific action or support
- ✓ Required for equal access

Common Pedagogics and Implications Under Section 504

FAPE

- > Referral
- ➤ Evaluation
- > Implementation

Timelines for Section 504 **Evaluations**



60 Days = Reasonable

15 days = response to requests
60 days = evaluation/meeting
36 months = reevaluation

Does that mean that Section 504 is not important and that Section 504 Plans do not have to be implemented? NO





Section 504 Follow-up & Implementation

- Identify 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 Welligent
- 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, harassm 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 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.



Manifestation Determination **BEFORE Disciplinary Change of Placement**

- ❖ Section 504
- ❖ IDEA
- 1. Is the behavior in question linked to the disability?
 - √ Yes = do not proceed
- 2. Is the behavior in question due to the District's failure to implement the Section 504 Plan?
 - Yes = do not proceed

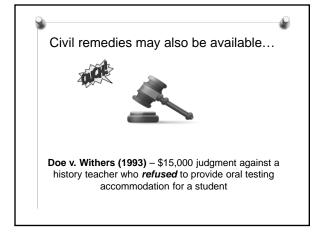
Exception to Manifestation Analysis Requirement Illegal Drug/Alcohol Use or Possession

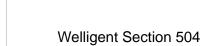
If I ignore the results and try to proceed with the recommendation, what's the worst that could happen?



	laint Processes tion Protections
	s (UCP) & Office for Civil Rights plaints
Disagreement/Appeals	Complaints
Identification Evaluation Plan accommodations/services	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)

Discrimination and/or Harassment Failure to implement the Section 504 Plan may constitute discrimination thus requiring corrective actions.





REF-6241.2 "Mandatory Use of Welligent Section 504 Program Module to Conduct All Section 504 Activities

Program Module

9

Section 504 Program Module

- Monitor Section 504 Activity
- Access
- Data/Records
- Section 504: Four Phases
- I. Management
- II. Evaluation
- III. Meeting
- IV. Follow Up



Section 504 Program Module

- ❖ Section 504 Designees and Case Managers
- ❖ Welligent Support Unit
- ❖ Activate Welligent Account
- ❖ Single Sign On



Welligent Section 504 Program Module

REF-Guide 6241.2 Mandatory Use of Welligent Section 504 Module to Conduct All Activities

- Technical Requirements (Attachment A)
- ✓ Windows
- ✓ Macintosh
- Quicksheet (Attachment B)

Resources

- Educational Equity Compliance Office Phone 213.241.7682 Website achieve.lausd.net/eeco
- ❖ BUL-4692.5 Section 504 of the Rehabilitation Act of 1973
- REF-6241.2* Mandatory Use of Welligent Section 504 Program Module to Conduct All Section 504 Activities
- Learning Zone Training
 https://lz.lausd.net
 Section 504 Procedures (Mandatory for Section 504
 Designees)
 Your Role in Supporting Special Education and Section 504
 (Clerical Responsibilities)
 Welligent Section 504 Lab

Educational Equity Compliance Office



(213) 241-7682