



## 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

2

## 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.

3

## 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)

4

## IDEA is Different

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

5

## Section 504 and Title II

What do school districts need to know?



6

## 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

7

## 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



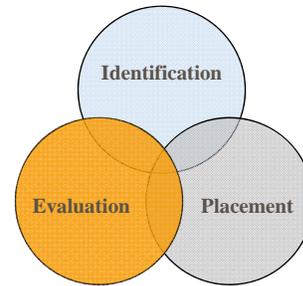
8

## 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

9

## 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

11

## When must the evaluation occur?

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

12

## 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?

13

## 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?

14

## What is an Impairment?

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

15

**Does the student's impairment substantially limit one or more major life activities?**

16

## 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

17

## 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

18

## Substantial Limitation

- Does not mean severe restriction or inability in performing major life activity
- Look to condition, manner, duration

19

## 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

20

## 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

21

- The student has been evaluated
- Eligibility has been established
- Her/His needs have been identified

Next, decide on . . .

22

## PLACEMENT



23

## Placement

Appropriate educational services designed to meet the student's individual needs

24

## Who Decides?

- The “team” -- a group that includes persons knowledgeable about:
  - the student
  - the meaning of the evaluation data
  - the placement options

25

## Placement Procedures

The Team carefully considers:

- evaluation information from a variety of sources
- all significant factors affecting the students ability to receive a FAPE

26

## 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!**

27

## Types of Academic Settings

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

However, all students must. . .

28

## 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

29

## Comparable Facilities

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

30

## Once educational placement has been decided . . .

Implement the plan!



31

## Re-Evaluation – When?

- Periodically
- Before a significant change in placement

32

## 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

33

## Procedural Safeguards

School districts must provide a system of procedural safeguards regarding identification, evaluation, and educational placement

34

## Procedural safeguards include:

- Notice
- Records review by parent or guardian
- Due process -- impartial hearing with participation by parent and counsel
- A review procedure

35

## 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

36

## Other Responsibilities



37

## 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

38

## 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

39

## Coordinator / Grievances

Districts must also:

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

40

## 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

41

## The Result: Equal Opportunity



42

## For Further Assistance:

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

OCR on the internet:

[www.ed.gov/ocr](http://www.ed.gov/ocr)

43