



Section 504 101

Webinar
September 2023

About ODE

- The Oregon Department of Education works in partnership with school districts, education service districts and community partners to foster equity and excellence for every learner;
- Together, we serve over 560,907* K-12 students and support 75,807* school employees, including teachers, administrators and classified staff;
- We believe every student should have access to a high-quality, well-rounded learning experience; and
- We work to ensure every student in Oregon graduates with a plan for their future.

*Data from October 2021

About the Presenter

Marinda Peters, PhD - Civil Rights Specialist:

Title VI, Section 504 and Title II of the ADA

17 years in public education

15 as a professional school counselor & 504 coordinator

Masters in Counseling Psychology

PhD in Counseling



Norms

Turn on closed captions, if needed

Use chat to respond to discussion prompts

Use Q & A for general questions

Specific questions can be addressed via email or in a separate meeting

Webinar is not recorded, but you will have access to the slide deck

Take care of yourself and your learning

Topics Covered

- Nondiscrimination and Section 504 as disability civil rights law
- Identifying who is protected under Section 504
- Protections and obligations
- Free appropriate public education (FAPE)
- Roles and responsibilities
- The evaluation process
- Important updates

This training is not intended as legal advice and should not be taken as such; we advise you to consult with your legal counsel before making policy or process changes.

ODE is available to support with individual technical assistance following this training.

Oregon is Local Control State. What Does that Mean for Section 504?

Federal law mandates 504 regulations. OCR has oversight.

State and federal law mandate nondiscrimination

Local policies and procedures are used to implement the laws

ODE does not mandate specific forms but provides guidance and technical assistance

Your local district, which is governed by the school board, should adopt manuals or procedures to assure compliance with the law. 504 coordinators often are charged with overseeing that duty.

Be sure to get legal counsel for any questions regarding the legality of your processes or procedures or if you seek to change those that are already adopted.

Discrimination in Oregon

“Discrimination” means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, **disability**, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity

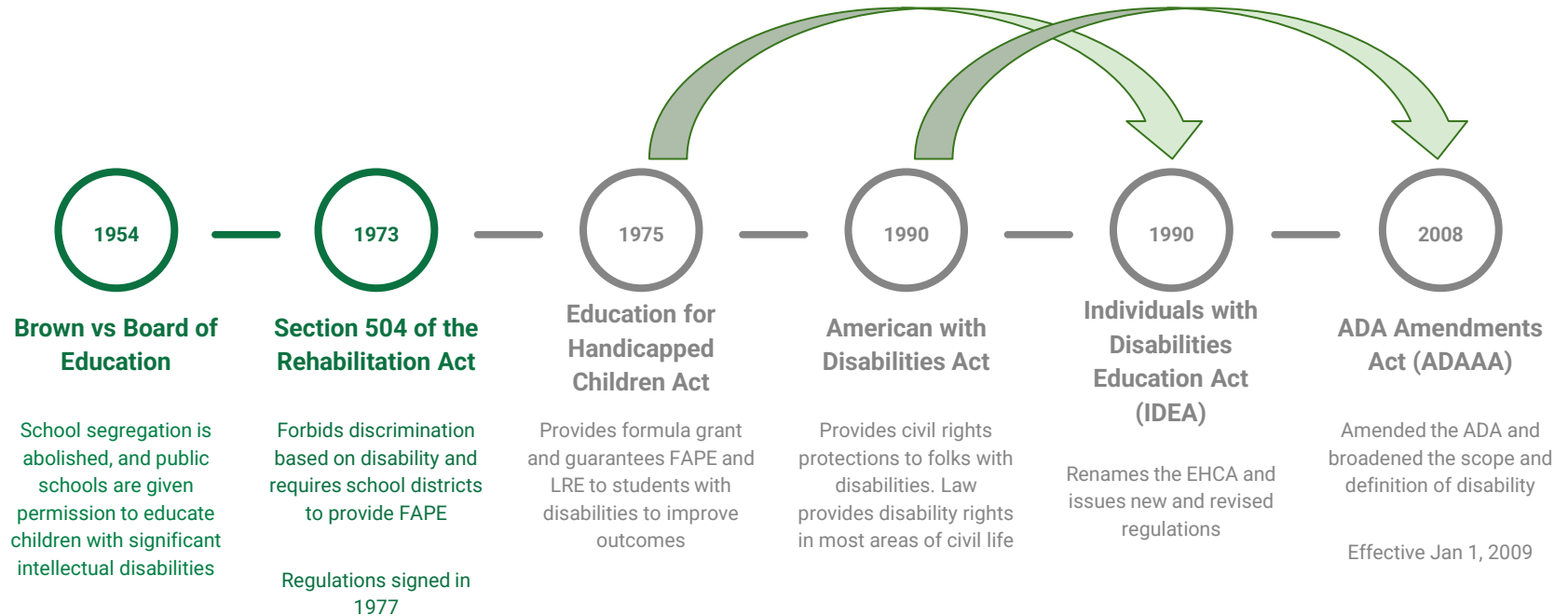
OAR 581-021-0045

Examples of disability discrimination:

An elementary student is on the autism spectrum and becomes overwhelmed with sensory stimuli including loud sounds. When the student is overstimulated, he rocks, yells, cries and covers his ears. Because of this, his teacher has him sit and complete worksheets in the focus room during whole-school assemblies and other large-group activities. The student does not attend those activities all year.

A local district has 6 elementary schools plus a public charter elementary school. The school's charter does not provide access to district staff, including a school nurse. When families of students with medical conditions (insulin dependent diabetes, seizure disorders, etc.) apply to attend the school, school officials inform them that they do not have the staffing necessary to support their child's medical needs. Students with medical conditions requiring nursing services do not enroll at the charter school.

Disability Educational Civil Rights Timeline

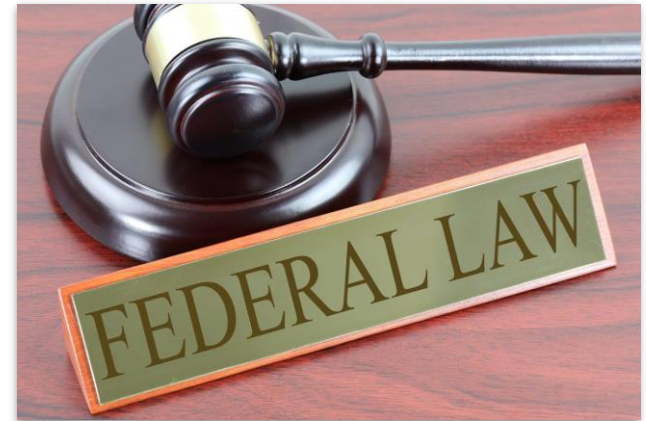


Section 504: Federal Civil Rights Law

Section 504 of the Rehabilitation Act of 1973

Federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: ***"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 . . ."*** [34 CFR 104.4](#)

The Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability [34 CFR 104.33](#)



Institutions Responsible for Section 504

Any institution receiving federal funds, like:

- Public schools
- Public charter schools
- Magnet programs
- After school programs
- Athletics (OSAA)
- Nutrition Services
- Transportation/bus services
- Colleges and universities



When 504 Protections are in Place

Protections are in place in [academic and nonacademic settings](#) (34 CFR 104.34)

For example:

- Class time
- AP and advanced courses
- Breakfast/Lunch
- Free time
- After school activities
- Athletic events
- Field trips
- School events

A school/district cannot deny access of benefit from any part of the student's "education"



Students Protected Under Section 504

A student determined to:

- Have a physical or mental impairment
- That substantially limits
- One or more major life activities

OR... Have a record of such an impairment

OR... Be regarded as having such an impairment

[34 CFR 104.3\(j\)](#)

The impairment can be temporary (case-by-case); episodic, in remission, and mitigating measures cannot be considered when determining the level of impairment (except regular eye glasses)

Defining Substantial Impairment

Substantial

Condition under which an individual can perform a major life activity as compared to the average person in the general population who can perform the same activity

Consider time/effort it takes to perform the MLA

Impairment & MLAs

Non-exhaustive

Do not need to be “educational” activities

Scenario - Alia

Mr. Kidwell is a school counselor at Meadowlark Middle School. He was assigned the responsibility of being the Section 504 coordinator for the building. Mr. Kidwell has 425 students on his caseload and his job duties as a counselor include scheduling, developing the advisory curriculum, running multiple counseling groups, doing suicide risk assessments and support plans, collecting data for and facilitating the Care Team, PBIS Team and Attendance Team, supporting the Student Advisory Council, mentoring the new counselor at the school, and doing daily lunch duty, among other responsibilities. The mother of his student, Alia contacted him because she is struggling academically. On her last progress report Alia was failing 3 classes. Alia's mom said that she was recently diagnosed with ADHD and she believed her struggles at school were related to her inattention. Alia's mom said her doctor told her that Alia might be able to get a 504 plan. Mr. Kidwell said that as part of the RTI process, they would try 6-8 weeks of intervention before considering a referral for a Section 504 evaluation. It has now been 3 months and Alia's mom has not gotten communication from the school regarding her request for a 504 plan.



Think & Share in Chat

Mr. Kidwell is a school counselor at Meadowlark Middle School. He was assigned the responsibility of being the Section 504 coordinator for the building. Mr. Kidwell has 425 students on his caseload and his job duties as a counselor include scheduling, developing the advisory curriculum, running multiple counseling groups, doing suicide risk assessments and support plans, collecting data for and facilitating the Care Team, PBIS Team and Attendance Team, supporting the Student Advisory Council, mentoring the new counselor at the school, and doing daily lunch duty, among other responsibilities. The mother of his student, Alia contacted him because she is struggling academically. On her last progress report Alia was failing 3 classes. Alia's mom said that she was recently diagnosed with ADHD and she believed her struggles at school were related to her inattention. Alia's mom said her doctor told her that Alia might be able to get a 504 plan. Mr. Kidwell said that as part of the RTI process, they would try 6-8 weeks of intervention before considering a referral for a Section 504 evaluation. It has now been 3 months and Alia's mom has not gotten communication from the school regarding her request for a 504 plan.

What stands out to you in this scenario?

What would 504 eligibility provide Alia?

How does RTI play into Section 504 referrals?



504 Protections & Obligations

504 Coordinator and discrimination complaint procedures [34 CFR 104.7](#)

- Required notice of this information [34 CFR 104.8](#)

Required process for district response to disability-based harassment [\(OCR, 2014\)](#)

Locating all students with a disability not receiving a FAPE [34 CFR 104.32](#)

Evaluation and placement procedures [34 CFR 104.35](#)

Access to a FAPE through a 504 plan, if needed [34 CFR 104.33](#)

Parent/student rights and procedural safeguards [34 CFR 104.36](#)

Prohibition of school exclusion due to disability-based behaviors (MDR) [\(OCR, 2022 p. 14\)](#)

Child Find

The process of locating and identifying students with disabilities

- Anyone can refer a student for consideration under Section 504
- District *annually identify & locate students* all Section 504 qualified children who are not receiving FAPE and take appropriate steps to notify guardians
 - This includes any student within the attendance area
- Follow a process/procedure for determining if evaluation is needed
- Rule out special education/need for SDI

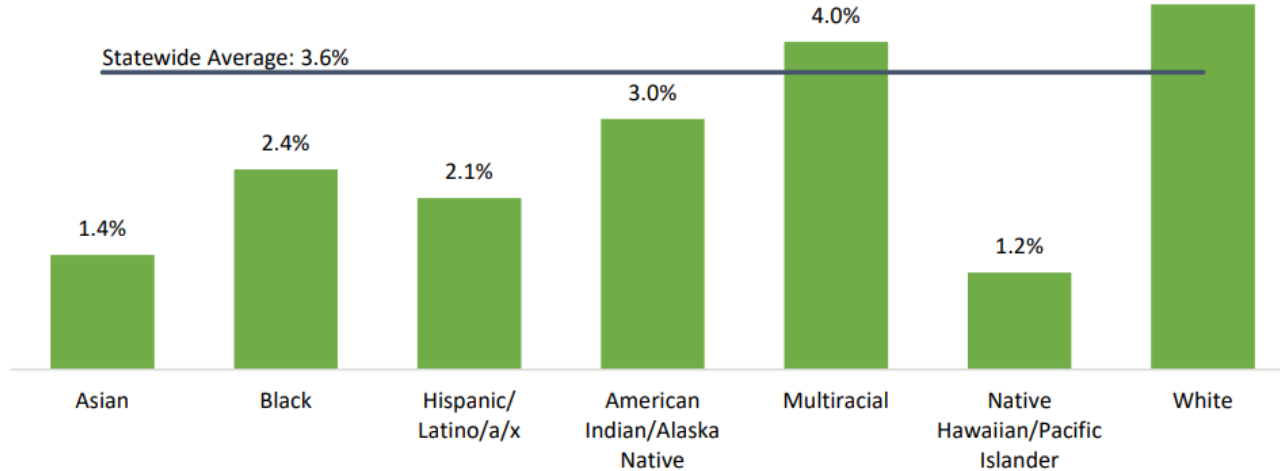
Districts often fall short when they rely on parent referral/request for 504 evaluation. The result? An imbalance of which students are served/protected under Section 504.

Child Find, Disability, & Race/Ethnicity in Oregon

ODE, 2022

White and Multiracial Students are Overrepresented Among Students with Section 504 Plans

2020-21, Percentage of Each Student Group with a Section 504 Plan



FAPE

FAPE means “free appropriate public education”

- Both section 504 and IDEA require districts to provide FAPE
- Education a related services must be provided w/o cost to the student & family
- “Appropriate” means providing regular or special education and relates aids and services that are designed to meet the *individual needs* of disabled students as adequately as non-disabled students
- The services must be *necessary*

Accommodations that Provide a FAPE

They are regular or special education related **aids and services**

Accommodations allow **equal access** to educational benefit

They are **necessary**

Team-based decisions with input from various sources and stakeholders

Data-informed

They are **monitored**

They may be a **modification** of school/district policy

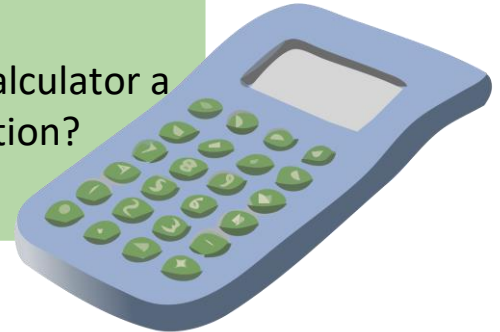
Modification vs Accommodation

Modification: changes *WHAT* is taught and expected to be learned and can lead to a modified diploma in Oregon

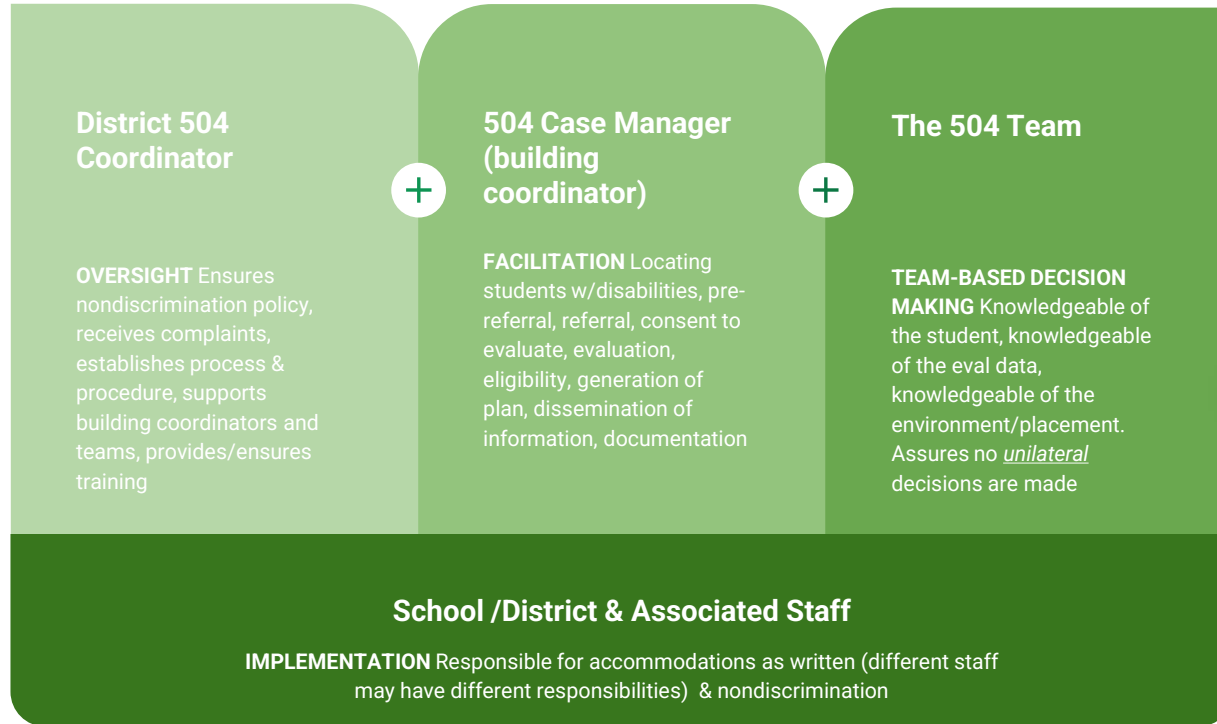
Accommodation: changes *HOW* something is taught and how a student demonstrates proficiency in the grade-level curriculum

Section 504
does point to
MODIFICATION
of policy

In the Chat: Is the use of a calculator a modification or accommodation?

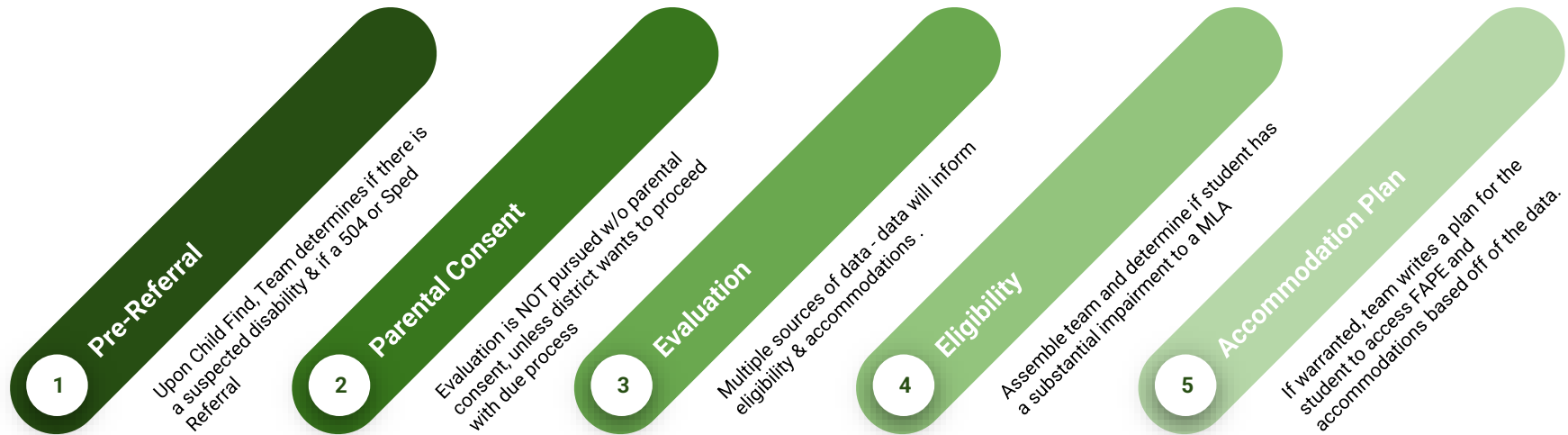


Roles & Responsibilities



Think: Who could those people be? Is the team stagnant?

The Evaluation Process



How long should this take? Section 504 doesn't indicate a timeline. Rely on rules of IDEA (60 school days) - unless it is not timely enough

Re-Evaluation: every 3 years and at change of placement (including at day 10 of school exclusion)

Best Practices in Evaluations

Secure multiple sources of information:

- Academic records/hx - File Review
- Standardized test scores
- Previous SpEd evaluations
- Psych reports
- Vision/hearing test results
- Attendance
- Behavior records
- Teacher input or work samples
- Observation
- FBA
- Parent input
- Relevant cultural information
- HMP
- Medical/mental health information (although a dx is not required)

Important Updates

SB 819 and the abbreviated school day program

- Changed the definition of a student with a disability and an abbreviated day
- Requires informed, active and ongoing consent for ASDP
- Mandates processes and compliant meetings for students to be placed in an ASDP

Medicaid billing for billable services in a 504 plan. Full rollout expected in 2024

Minor revision of the state 504 manual with updates forms

Proposed rule update [coming soon](#)

More training opportunities:

- Monthly webinars
- Open office hours
- Listserv with updates

Reach Out & Stay Informed

Marinda Peters: marinda.peters@ode.oregon.gov

- Section 504 virtual or in-person trainings available upon request
- Monthly webinars
- Monthly open office hours
- Technical assistance

[504 Coordinator & Case Manager GovDelivery Listserv](#)

ODE SB 819 Questions Email: ODE.SB819Questions@ode.oregon.gov

[Section 504 ODE Webpage](#)

[SB 819 ODE Webpage](#)