Section 504

and

Students with Disabilities and Impairments
in Tennessee Public Schools
Today’s Objectives

► Discuss the requirements of Section 504 of the Rehabilitation Act.

► Explain the responsibilities of public schools in educating students with disabilities and impairments.
Which Schools are Covered by Section 504?

Section 504 prohibits discrimination on the basis of disability by schools that receive federal financial assistance – all public schools and the state department of education.
Individuals with Disabilities Education Act (IDEA) vs. Section 504

► IDEA requires a student to have a qualifying disability listed in IDEA and thereby need special education and related services. IDEA is an entitlement law designed to serve a specific population.

► Section 504 protects a qualified student with a disability regardless of whether the student needs special education. Section 504 is a civil rights law that prohibits discrimination based on disability.
Find and Notify

Every year, each district must:

► find students with disabilities in the district; and,

► notify parents/guardians of students with disabilities of the district’s duties under Section 504.
A Free Appropriate Public Education (FAPE)

► must be provided to each qualified student with a disability in the district’s jurisdiction; and,

► regardless of the nature or severity of the disability.
Free and appropriate means

► not charging for costs related to disability, but a district may charge usual fees paid by all students; and

► providing 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 students are met.
Identify and Evaluate

Districts must individually evaluate any student who, because of a disability, needs or is believed to need special education or related services.
When must the evaluation occur?

An initial evaluation must be completed prior to the student’s initial placement in a regular or special education program.
Purpose of the Evaluation

The evaluation is intended to answer two questions:

(1) Does the student have a disability under Section 504; and

(2) What are the student’s individual educational needs?
Question 1:
Does the student have a disability under Section 504?

Does the student have a physical or mental impairment which substantially limits one or more major life activities?
What is an impairment?

Any physiological condition that affects a bodily system, or any mental or psychological disorder.
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
Major life activities (cont.)

Major life activities also include operation of “major bodily functions” such as:

- immune system functions
- normal cell growth
- digestive
- bowel functions
- bladder

- brain
- circulatory
- endocrine
- reproductive
- neurological
- respiratory
If a parent submits a medical diagnosis for a student, does that alone qualify the student for services under Section 504?

A medical diagnosis does not automatically qualify a student for services. However, a medical diagnosis may trigger an evaluation as it may give the district a reason to suspect the student has a disability.
Substantial limitation

► does not mean severe restriction or inability in performing major life activity; and,

► evaluation teams should look to the condition, manner, duration.
Question 2: What are the student’s individual educational 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; and
► medical diagnoses / information.
Evaluation Checklist

✓ The student has been evaluated.
✓ Eligibility has been established.
✓ Needs have been identified.
Placement

Appropriate educational services designed to meet the student’s individual needs.
Who Decides?

The “team” — a group that includes persons knowledgeable about:

► the student;
► the meaning of the evaluation data; and,
► the placement options.
Placement Procedures

The team carefully considers:

► evaluation information from a variety of sources; and,

► all significant factors affecting the students ability to receive a FAPE.
Placement Procedures cont’d

The team should:

► document all the information considered; and,

► not rely on assumptions regarding persons with disabilities or classes of such persons.
Types of academic settings include

- regular classes;
- regular classes with supplementary services; and/or,
- special education and related services.
Academic settings (cont’d)

All students must –

► be educated with non-disabled students to the maximum extent appropriate to the needs of the student with a disability; and

► be in a regular classroom unless an appropriate education cannot be achieved satisfactorily with supplementary aids and services.
Re-Evaluations must be conducted

► periodically; and,
► before a significant change in placement.
Health-Related Services

Generally, Section 504 obligates districts to provide students with disabilities those health-related services that are required to be performed during the school day to allow school attendance.
Individual Health Plans

► Health plans should not serve as substitutes for Section 504 plans.
► Services provided in health plans are usually mitigating measures and cannot be considered in determining eligibility.
► Districts with a practice of placing students on health plans absent evaluations for Section 504 eligibility may want to re-visit their practice.
HIV / AIDS

► A student with AIDS and/or HIV status is entitled to a FAPE pursuant to Section 504.

► The student should be in a regular classroom with accommodations, unless it is demonstrated that the student cannot be educated in such a setting.
Special Diets

► If food is provided to all students, it must be provided to students with disabilities who have special dietary needs on the same basis that food is provided to non-disabled students.

► Districts must allow snacks for students with diabetes, but districts are not required to provide the snacks, unless snacks are provided to all students.
Food Allergies

- No use of nut products in food preparation.
- Allergy-free / gluten-free table in cafeteria.
- Train students and staff regarding allergies, prevention and responses.
- Make medication readily available.
- Prohibit nut products in classrooms.
- Section 504 does not require a district to comply with a parent’s subjective view of proper plan implementation.
Chemical Allergies

- Districts must provide environments in which students can learn.
- Minimize exposure to source of allergy.
- Incorporate air purifiers in classrooms.
- Remove plants / replace ceiling tiles.
- Use of breathing mask as necessary during heightened sensitivity.
- Complete ban on fragrances has been held to be unduly burdensome and unworkable.
Comparable Facilities

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

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

► notice;
► records review by parent or guardian; and, 
► impartial due process hearing with participation by parent and counsel.
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.; and,
► such activities may be part of the 504 Plan.