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**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.

