



# Section 504

## Case Study: PTSD & Depression

**ODE Section 504 Webinar Series**  
April 2024

# About ODE

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- 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 your Presenters

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## Karin Moscon

### **Civil Rights Specialist, ODE**

- Title VI, Section 504, Title II of ADA, Title IX, The MOA Program
- 30 years in public education as a middle school and high school teacher and administrator, District administrator, and University instructor
- 11 years as a civil rights specialist

## Marinda Peters (she/ella), PhD

### **Civil Rights Specialist, ODE**

- Section 504 and Title II of the ADA
- 17 years in public education, primarily as a school counselor & 504 Coordinator
- Masters in Counseling Psychology
- PhD in Counseling

# Goals

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## **Using a scenario of a student with depression and PTSD we will:**

- Review disability civil rights law and the obligation of nondiscrimination
- Define free appropriate public education
- Describe the role and responsibilities of the 504 Coordinator
- Outline investigation procedures
- Problem-solve appropriate responses to disability-based harassment and denial of FAPE

# Norms

## Use Zoom Etiquette

- Mute
- Use chat
- Participate in breakout rooms

## Use Conference Etiquette

- Make sure questions are relevant to the content
- Make sure questions are relevant for all
- Email to request consultation

## Take Care of Yourself and your Learning

This training will have a peppy-pace. If questions cannot be answered today, please attend **504 Office Hours** the 2nd Tuesday of the month 3:00-4:00pm. Details distributed through the ODE 504 listserv

**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.**

# Terms & Acronyms

**Section 504** - Section 504 of the Rehabilitation Act of 1973

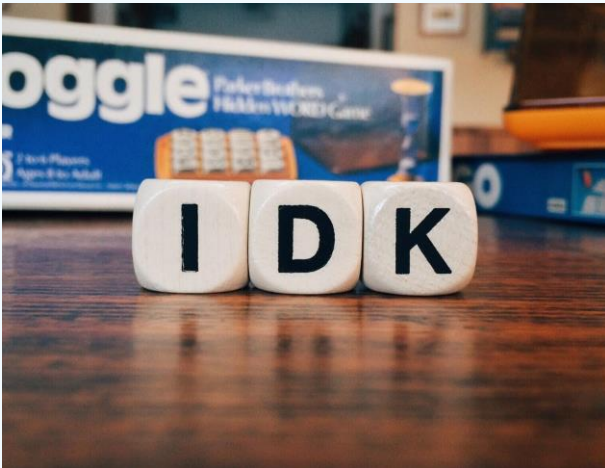
**FAPE** - Free Appropriate Public Education

**FBA** - Functional Behavior Assessment

**BIP** - Behavior Intervention Plan

**OCR** - US Department of Education's Office for Civil Rights

**ASDP** - Abbreviated School Day Program



# Izzy

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Izzy is a 9th grade student at Wiluhmet High School. Izzy is currently under the care of a mental and behavioral health therapist for major depressive disorder. Symptoms that Izzy experiences include difficulty concentrating, difficulty sleeping, episodes of depressed mood in which she sometimes does not get out of bed for several days, and limited appetite.

Izzy's attendance rate is at 70%. Some of Izzy's teachers give her work to do when she is absent, and she typically completes it to the best of her ability. Some teachers do not reach out to Izzy about her missed assignments. In those classes she has lower grades. A truancy letter has been sent home and the family has been "put on notice" that a referral to the truancy officer is the next step if her attendance does not improve.

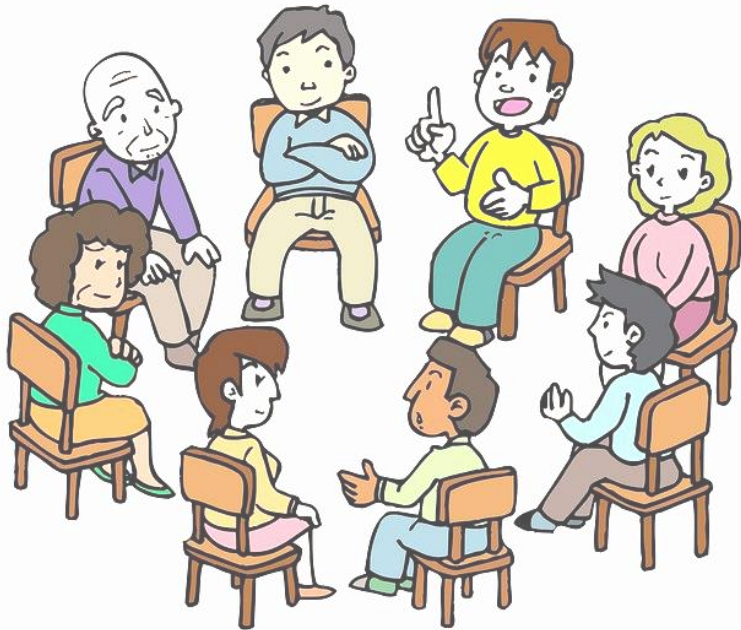


Photo by Ethan De Long on unsplash



# Breakout Room Discussion

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What stands out to you in this scenario?

Based on your current knowledge of Section 504, how would this law apply to Izzy and the district?



# Section 504

# 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 . . . ."***

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

*Upon accepting federal funds, schools/institutions agree to follow federal civil rights laws including Section 504. There is not an additional funding source attached to Section 504 because it is a civil rights access statute that districts are required to follow when they accept federal funds.*

Oregon Department of Education



# Institutions Responsible for Section 504

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Any institution receiving federal funds, like:

- Public schools
- Charter schools
- Magnet programs
- After school programs
- Transportation
- Athletics (OSAA)
- Nutrition Services
- Colleges and universities



# When 504 Protections are in Place

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Every part of the student's educational experience.

## For example:

- Class time
- AP and advanced courses
- Breakfast/Lunch
- Free time (Fun Fridays, for example)
- After school activities
- Athletic events
- Field trips
- School events
- CTE classes and work experiences
- Student Leadership and clubs



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

# Students Protected under Section 504

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## 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

*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)*

- Mental health conditions **are** mental impairments
- When schools know of or suspect a mental health condition, that instigates their **child find** obligation
- The Team must then assess the level of limitation to determine if the student is eligible under Section 504
- If mitigating measures lessen the impact of the limitation, the team must determine the level of limitation w/o mitigating measures in place

# Child Find

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## 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

## Examples of Child Find Activities

- Sending notice to families of home school or private school students
- Accepting referrals for 504 evaluation from parents and providers
- MTSS/RTI Red Flags
- **Reviewing attendance data**
- Monitoring health intake forms
- Reviewing list of students on IHPs
- Reviewing health room data
- Reviewing behavior data
- **Examining who is coming to the counseling center frequently for support**

# Free Appropriate Public Education

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## Often referred to as “FAPE”

- Both section 504 and IDEA require districts to provide FAPE
- Education and related services must be provided w/o cost to the student & family
- “Appropriate” means providing regular or special education and related aids and services that are designed to meet the *individual needs* of students with a disability as adequately as students without disabilities
- The services are *necessary* to provide equal access to educational benefit
- Often documented by a 504 plan with accommodations



# Academic Accommodation vs Modification

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

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

*(However, a modification to POLICY may be necessary & required under Section 504)*

**Don't know?** Reference the state standards.

# Izzy...

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## **In the Chat:**

Is Izzy receiving a Free Appropriate Public Education (FAPE)? What is the evidence that she is or is not?

What modifications to district policy or school procedures could help assure a FAPE?

# The Role of the 504 Coordinator

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Under [Section 504](#) of the Rehabilitation Act of 1973, each school district that receives federal financial assistance must designate at least one employee to coordinate the district's compliance with its responsibilities under Section 504.

## **At minimum, the 504 Coordinator is responsible for:**

1. Coordinating and monitoring the district's compliance with Section 504 as well as state civil rights requirements regarding discrimination and harassment based on disability;
2. Overseeing prevention efforts to avoid Section 504 violations from occurring;
3. Implementing the district's discrimination complaint procedures with respect to allegations of Section 504/ADA violations, discrimination based on disability, and disability harassment; and
4. Investigating complaints alleging violations of Section 504/ADA, discrimination based on disability, and disability harassment.

# Section 504 Violation

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Denial of a FAPE may be discrimination because the student with a disability does not have equal access to educational benefit:

*"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 . . . ."*

The 504 Coordinator has the obligation to investigate violations of Section 504.

The **Civil Rights Coordinator** may oversee and monitor those investigations.

# Acknowledging the Role of Case Manager

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**The case manager may not always be the 504 Coordinator.**

**The case manager role is not defined in regulation.**

**The case manager:**

- Acts as a facilitator to the process
- Relies on the 504 Team to avoid unilateral decision making
- Uses processes and procedures under the direction of the 504 Coordinator
- Consults with the 504 Coordinator, as appropriate
- Reports disability-based discrimination and harassment to the 504 Coordinator for investigation

*Please note, this individual does not usually have the independence, authority, or training to oversee an investigation of a violation of Section 504 and should not be delegated that responsibility*

# Izzy Continued...

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After receiving the truancy letter, Izzy's mom reaches out to the 504 Coordinator to discuss Izzy's school refusal. Izzy's mom expresses a concern regarding possible sexual harassment by classmates as a reason she does not want to come to school.



Photo by Ethan De Long on unsplash

# In the Chat...

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What is the district 504 Coordinator's responsibility in the case of Izzy?

What other state or federal laws may apply in this case?

Who should be brought in as part of the Team to determine next steps?





# Other Applicable Federal Law



# What is Title IX?

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Federal civil rights law that prohibits sex discrimination in federally funded education programs.

This includes discrimination based on **sex, sexual orientation, and gender identity**.

***“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”***

# Sexual Harassment Response

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Whenever any school employee becomes aware of possible sexual harassment, this puts the school “on notice” and requires the school to take specific steps:

- Connect with the harmed student
- Offer supportive measures
- Describe complaint options and offer the option to file a formal complaint under Title IX

Other steps may be required to protect the safety of the student(s) and the school, depending on the severity of the harassment.

In order to meet these obligations all adults in the building need to know who to report to: The Title IX Coordinator.

# Sexual Harassment Investigations

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If a formal complaint is filed, the district has to follow specific procedures. Complainants and respondents have rights within the process:

- Receive supportive measures
- Submit evidence, and review submitted evidence
- Know the final outcome, including sanctions provided to respondent

Title IX investigations are different than other disciplinary processes in K-12:

- Students are entitled to more information about the complaint and investigation, including information typically protected by FERPA.
- There are specific required timelines, so processes can take longer.
- Written documents and determinations are required at multiple steps.

# 504 Coordinator and Title IX Coordinator

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1. Work together to make sure that Izzie's needs are being met
2. Work together to meet the requirements of Title IX and Section 504
  - a. Connect with the harmed student
  - b. Offer supportive measures
  - c. Describe complaint options and offer the option to file a formal complaint

# Title IX and IDEA/Section 504 Intersections

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Emergency removals and administrative leave processes as the result of a Title IX violation cannot violate an individual's rights under Section 504 or IDEA. (34 CFR 106.44(c) and (d))

Additionally (in proposed regulations)

- The Title IX Coordinator must consult with the 504 or IEP team when implementing supportive measures for a student with a disability (*proposed 106.44(g)*)
- When a complainant or a respondent in an investigation has a disability, the Title IX Coordinator must consult with the IEP or 504 team during the process (*proposed 106.8(e)*)

Complainant

Respondent

**How could a student with a disability be involved in a Title IX investigation?**

Witness

**Keep in mind:** statistics show children with disabilities are nearly 3x as likely to be sexually abused as children without disabilities.

# Areas of Overlap:

## Accommodations in Interviews and Meetings

Consider what accommodations or supports students with disabilities might need to successfully engage in the process. Steps you can take include:

- Review the student's IEP or 504 plan. Do they need extended time? An additional support person? Access to in-person/virtual interview options?
- Discuss directly with the student about any additional supports or accommodations they may need.
- May be helpful to discuss with school experts (Section 504 Coordinator, School Psychologist, Special Education Director, etc) how you can make your process friendly and accessible to students.

# Areas of Overlap

When implementing restorative measures for a student with a disability ensure that the remedies take into account any accommodations or supports already included in the student's 504 plan or IEP.

Are the remedies accessible?

Are they consistent with and take into account the individual accommodations or requirements for the student?

Does the 504 Plan or IEP need to be revisited?





# Applicable Oregon Laws

# Other Applicable State Laws

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## **ORS 343.154 - Functional Behavior Assessments (FBAs) & Behavior Intervention Plans (BIPs) (2017)**

There are three specific situations where an FBA/BIP is explicitly required for students experiencing disability under Section 504 in Oregon:

- (1) when a student exhibits behavior that is determined to be a manifestation of their disability following a decision to change their placement because of a violation of a code of student conduct;
- (2) within 45 days when a student has placed themselves, other students, or staff at imminent risk of serious bodily injury as a result of the student's behavior ([OAR 581-015-2181\(2\)\(a\)](#)); and
- (3) following an appropriate incident of seclusion ([OAR 581-021-0553](#)).

## **SB 819 Abbreviated School Day Programs (2023)**

Newly passed Oregon law (2023) that requires students eligible for 504 plans or in referral have meaningful access to a full day of instruction and educational services. Mandates:

- informed and written parent consent before an ASDP placement
- regular 504 Team meetings
- accountability for compliance through prescribed enforcement measures

# Izzy and State Law

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**THINK:**

Could the FBA/BIP law apply to Izzy?  
Would an FBA/BIP be appropriate?

**THINK:**

Could SB 819 (ASDP) apply to Izzy?  
Would an ASDP be appropriate?



# Compulsory Attendance and SB 819

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- Under ORS 339.010, **all** children (including students with disabilities) ages 6 to 18 must attend a public or private school or a home-based private educational program (home schooling) unless the student is excused under the law or has graduated with a regular diploma
- Students with disabilities must attend school for the same number of hours and minutes as nondisabled students unless a student's 504 team determines otherwise based on a student's unique, disability-related needs, with the support of results from an appropriate evaluation
- Whether suggested by parents/foster parents or the school, the 504 team should carefully consider the potential impact of decreasing the number of hours of instruction and educational services to which a student has meaningful access when determining the need for an ASDP

# FAPE, Compulsory Attendance, and SB 819

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When a parent requests a shortened school day, the 504 team should:

- Review all available information
- Meaningfully consider the parent's request
- Make a reasonably calculated decision that enables the student to make progress in light of their circumstances

Where providing FAPE cannot be enabled consistent with the ASDP requested by the parent, the district's obligation is to enable the provision of FAPE. The district should utilize its policies and procedures related to student attendance, as appropriate. Districts should refer to their local attendance and excusal policies to determine whether absences will be excused.

# In Summary

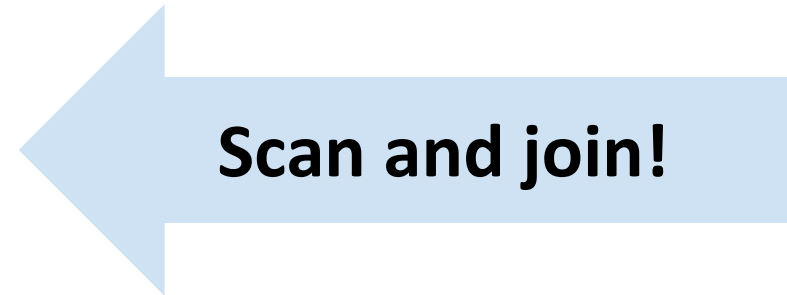
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- Mental health conditions may qualify a student as eligible under Section 504
- Students with mental health conditions may need access to a FAPE
- Denial of a FAPE may be a violation under Section 504
- Other state and federal laws may need to be considered for students with disabilities
- Multiple coordinators may need to be involved in a civil rights investigation (504 Coordinator, Civil Rights Coordinator, Title IX Coordinator, etc.)

[OCR Section 504 Parent Educator Resource Guide](#)

[ODE Section 504 Webpage](#)

Further  
Reading  
and  
Learning





# CONTACT US

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