



# Section 504 & the PSC as Case Manager

Oregon Department of Education  
May 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

# Meet the Presenter

## **Marinda Peters, PhD - Civil Rights Specialist:**

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



# Topics Covered

- Section 504 Overview
- When 504 Protections are in Place
- Child Find and Determining Eligibility
- FAPE, Accommodations, Modifications, and Related Aids and Services
- School Counselors at 504 Case Managers
- Counseling Services on 504 Plans
- Common Parent “Complaints”

*Use the chat to ask general and relevant questions as they arise.  
Please contact presenter for technical assistance if you have specific questions*

**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

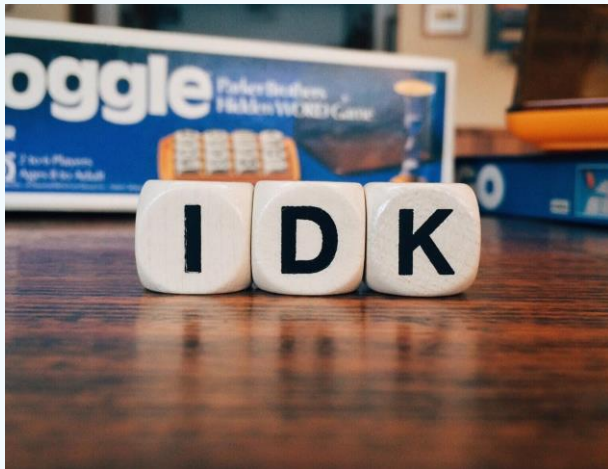
**Child Find** - Identifying and locating students with disabilities

**SDI** - Specially Designed Instruction (provided through special education)

**FBA** - Functional Behavior Assessment

**BIP** - Behavior Intervention Plan

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



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

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- Federal law mandates 504 regulations. OCR has authority.
- State and federal law mandate nondiscrimination.
- Local policies and procedures are used to implement the laws.
- ODE does not require 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.

# 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](#)

*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. It is no different than Title VI and Title IX.*





# When 504 Protections are in Place

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Curricular, co-curricular, and extracurricular activities

**For example, students with disabilities are afforded equal access to:**

- **Academics** - including advanced courses
- **Meals** - include nutrition services for students with food-related disabilities
- **Athletics** - include athletic directors/coaches when disabilities may affect athletics
- **Transportation** - include transportation services for students who may need this related service
- **Testing** - include testing coordinator when writing accommodation for standardized testing
- **Field trips** - 504 plans may need include accommodations for off campus activities
- **After school clubs** - sponsored in whole or in part by the district
- **Before school offerings** - sponsored in whole or in part by the district
- **School events** - think assemblies, career days, field days, dances etc.
- **Pre-K offerings** - if a recipient of any district, state, or federal support, in whole or in part

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



# Section 504 Overview

# 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/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

# Determining Eligibility

## Prong 1:

An Individual determined to:

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

**Prong 2:** Have a record of such an impairment

**Prong 3:** Regarded as having such an impairment

- *Prong 1 = Access to a FAPE is Required (504 plan)*
- *Prong 2 & 3 = No access to a FAPE is Required (No 504 Plan, just the civil rights protections)*
- *Note: The effective use of mitigating measures may also mean that the student is eligible but does not need access to a 504 Plan*

## Logic Sequence

Does the school have reason to believe that the student has a physical or mental impairment?  
(Child Find)



Does that impairment affect a *major* life activity?



Is the major life activity substantially limited?  
(Eligible)



Does the student need access to a FAPE? (504 Plan)

# Educational Impact

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Gregorio has paraplegia and uses a motorized wheelchair. At times it is difficult for Gregorio to navigate the hallways and use the elevator. For that reason he is sometimes late to class and misses directions to the opening activity. Additionally, the school bus that stops in his neighborhood is not accessible to students who use wheelchairs. Gregorio has been identified as gifted (TAG), has As in all of his classes, and reports rarely needing to even do homework because he completes all his assignments during the school day.

**Could Gregorio be eligible under Section 504?**

Mia has generalized anxiety disorder. She perseverates on her academics and often stays up until 2:00 AM completing homework and studying for tests. On average, she gets about 4 hours of sleep during a regular school night. If she feels ill prepared for an exam or presentation, Mia reports feeling sick to her stomach and will stay home. She is taking 2 AP classes and 2 honors classes along with an advanced math course. She currently has As in all her classes but one. She has an 80% attendance rate.

**Could Mia be eligible under Section 504?**

# Likely Eligible Conditions

These conditions do not need “extensive analysis” to determine eligibility, according to OCR (as of the ADA Amendments Act):

- Diabetes
- Epilepsy
- Bipolar Disorder
- Autism Spectrum Disorder
- ADHD (as of 2016, see [OCR Guidance on ADHD](#))



## **Newly Released Guidance from OCR** (Feb. 20, 2024)

- Section 504 Protections for [Students with Asthma](#)
- Section 504 Protections for [Students with Diabetes](#)
- Section 504 Protections for [Students with Food Allergies](#)
- Section 504 Protections for [Student with GER or GERD](#)

# Section 504 and Diagnosis

## Direct Citations from the Office for Civil Rights (OCR)

- *There **is nothing in Section 504 that requires a medical assessment** as a precondition to the school district's determination that the student has a disability and requires special education or related aids and services due to his or her disability ([OCR 2016](#) p. 23).*
- *If, however, a district believes a medical assessment is necessary and the parent volunteers to pay for a private assessment, the district must make it clear that the parent has a choice and can choose to accept a school-furnished assessment. Compliance problems could arise when school districts and parents do not communicate clearly on this requirement (OCR 2016, p. 23)*
- *A medical diagnosis does not suffice as an evaluation for the purpose of providing FAPE? The Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions. ([OCR 504 FAQ](#))*

# Evaluation, Reevaluation, Reviews, and Exits

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## Evaluation

- A student must be evaluated to determine if they are eligible under Section 504. (We cannot assume disability.)
- OCR interprets that parents must provide consent for the initial evaluation.
- The evaluation must be completed within a “reasonable” amount of time.
- Not sure what’s reasonable? OCR says lean on IDEA timelines (60 school days) unless that’s not reasonable.

## Reevaluation

- Required at a significant change of placement.
- Every three years unless a different cadence is agreed upon.
- No parent consent needed unless required by your district policies/procedures (use caution if requiring consent is denying a student equal access)

## Annual Reviews

- Not a concept in Section 504 or OCR.
- If you are using data to “review” then you are likely reevaluating.
- If the plan needs to be tweaked it may not constitute a significant change of placement and may not require a full 504 meeting.
- Communicating with parents annually + and providing them notification of their procedural safeguards is an excellent practice.

## Exit or Dismissal from Services

- Must demonstrate the student is no longer eligible. That requires a 504 reevaluation.
- If a parent requests that the student not receive services, document in a manner consistent with your district’s policies/procedures



# Free Appropriate Public Education

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## Also known as a 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 disabilities as adequately as students without disabilities
- The services must be *necessary*
- Commonly documented by a 504 Plan

## Common Pitfalls

Forgetting the “F” in FAPE and requiring parents to provide a diagnosis, attend a school event, etc.

## Providing MORE than a FAPE

- This could create conflict with families down the line when other schools/districts cannot offer that level of service
- May be indicating child find for special education
- Turns teachers off to 504 plans and they are less likely to adhere to them

***Why do 504 Teams offer more than a FAPE?***

# Academic Modification vs Accommodation

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**Modification:** changes *WHAT* is taught and expected to be learned and can lead to a modified diploma in Oregon if the student cannot demonstrate grade level proficiency

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

**DON'T  
KNOW?**

Reference  
the state  
standards

If the 504 Team is considering writing academic modifications, the Team may also need to consider if the student needs SDI (child find)

# Standardized Testing Accommodations

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[Oregon Accessibility Manual](#) outlines 90+ accommodations that can be used

Different tests allow for different accommodations. Examples of accommodations that are acceptable for all state tests include: Cover Overlays, Separate Setting, Magnification Device, Medical Supports, Noise Buffers...

Other testing agencies, like [College Board](#) has its own allowable accommodations:

- Extended time
- Breaks
- Reading and seeing accommodations
- Recording accommodations
- 4 function calculator
- Assistive technology

Accommodations must be requested within the required timeframe and [documentation](#) is required:

1. The diagnosis is clearly stated.
2. The information is current.
3. The student's educational, developmental, and medical history is presented.
4. The diagnosis is supported.
5. The functional limitation is described.
6. The recommended accommodations are justified.
7. The evaluators' professional credentials are established.

# Related Services

**Both Section 504 and IDEA require districts to provide “aids and related services”**

If the related services are funded by **IDEA** monies, they can only be provided to students with the services on their IEPs. Examples may be:

- Occupational Therapy
- Speech Therapy
- 1:1 or shared IA support



Some services are funded by **general education funds** (or can be) and may be required services on 504 plans. Examples may be:

- Transportation
- Nursing and delegated services
- OT/PT consultation
- Audiology support or consultation



# Section 504 & the School Counselor

# Rates of 504 Eligibility

Rates range from **0% to 20%** depending on the district.

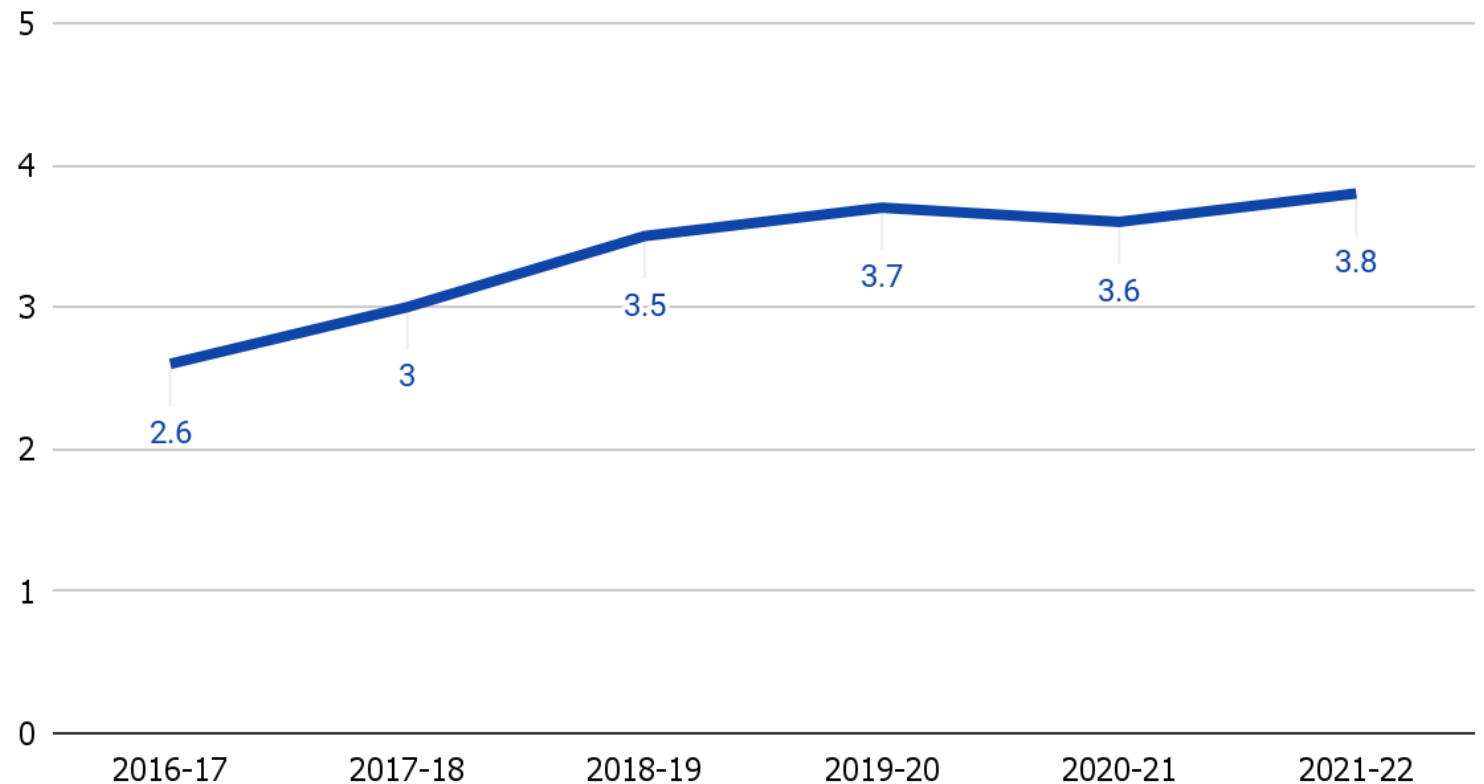
The state data mirrors national data.

Nationally, rates have been rising since 2009.

Proposed [rule update expected soon](#).

*Getting the support YOU need to do the work assures that the district is compliant and not denying students with disabilities access to educational benefit.*

## Rate of 504 Eligibility in Oregon (%)



# 504 Coordinators and Case Managers

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## Who are our 504 district coordinators?

Generally, student services directors, COSAs, or administrators-other duties as assigned.  
(Coordinators are required by law)

## Who are our 504 case managers?

Generally, school counselors, deans, building-level administrators (Not required by law, but often bear the administrative brunt)

*The 504 Team or Committee IS required in the 504 regulations.*

## School counselors as 504 Case Managers:

- Nobody goes to school to be certified in Section 504 (unlike special education)
- Section 504 regulations do not dictate who can or cannot case manage students on 504 plans
- Section 504 is disability civil rights not a grant formula
- [ASCA](#) has position statements on 504 case management. If you are **RAMPing** up, be sure to discuss this as part of your management agreement
- Case managers should not make unilateral decisions. Use the Team.

# Your Supports

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## **The Team**

Use the Team! -If you feel like you don't have the answer, you don't need to. Go back to team-based decision making, it is required under the regulations. The Team is defined as someone knowledgeable of the student, the eval data, and placement

## **The School Nurse**

For health and mental health conditions. They can be a team member or consultant. They are the health expert! Remember a 504 plan NEVER replaces an IHP.

## **The District 504 Coordinator**

For consultation, process questions, and as team member for difficult situations.

## **The Administrator**

For issues of implementation. You are not teachers' supervisor. If they are not providing accommodations as written, let their supervisor intervene.



# Balancing Roles

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Some students you consistently work with will also be the students who are 504 eligible:

## **Students who** (for example):

- Frequent the counseling office due to emotional/mental health issues
- Have check-in/out plans or BIPs due to behavioral issues
- Have suicidal ideation and require suicide risk assessment or display NSSI
- Have attendance issues/plans related to health or mental health symptoms
- Have been in treatment facilities, hospitalizations, etc.

For students such as these, you are both their 504 case manager and tier III support at school

# Writing School Counseling Services in 504 Plans

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Endorsed by OCR

May be required if it provides a FAPE

Services should be within your scope of practice

## Examples:

- Routine check ins
- Check In Check Out
- Goal setting
- Small groups
- Intentional scheduling
- Supports for bullying/harassment



# Common Parent Concerns

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**Problem:** Not knowing if the 504 plan is still being implemented

**Solution:** Communicate annually+ that the plan is being followed. Share copy of rights/procedural safeguards.

**Problem:** Not hearing back from the case manager when concerns arise

**Solution:** Reply back in a timely manner, even if to say that you received the message and will get back to them as soon as possible

**Problem:** Delayed 504 meetings when a meeting is requested

**Solution:** Communicate that you understand they want a 504 meeting but that you need to assemble the team. Provide a timeline of when they can expect the meeting to be held.

*What's the theme? Communicate, communicate, communicate (and document that communication)*

# Current Trends in Appeals Accepted by ODE

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**Complaint:** Not effectively communicating the 504 plan to the responsible staff members.

**Remedy:** Providing staff members with hard copies or digital copies of the plan and digital access through your SIS. Consider having staff sign off that they received the plan.

**Complaint:** Not sending 504 documents to the receiving school when a student transfers.

**Remedy:** Include 504 records in students' cumulative files so that they travel with them.

**Complaint:** Not adequately determining if a newly enrolled student is 504 eligible.

**Remedy:** Utilize multiple methods for determining if a new student may be coming to you already 504 eligible, not just a checkbox on enrollment paperwork.

*What's the theme? Document, document, document... and have a documentation procedure established that assures all relevant parties have access to the information.*

# Important Updates

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[SB 1558](#) and changes to the abbreviated school day program (SB 819)

- Generally allows Juniors and Seniors on track to graduate to have open periods
- Allows for one asynchronous course in very specific situations

Medicaid reimbursement for billable services in a 504 plan coming in 2024-25

**NEW Sample 504 Forms on the [ODE Section 504 Webpage!](#)**

Proposed rule update coming soon (?)



**2024-25 504 Webinar  
Registration**



# Questions?

# Reach Out & Stay Informed



Oregon Department of Education

**Marinda Peters:**

[marinda.peters@ode.oregon.gov](mailto: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](#)

[Section 504 ODE Webpage](#)