



Section 504 Webinar Series: Current Trends and Updates on State & Federal Law

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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

**YOU ARE
HERE**

Section 504 Webinar Schedule 2024-25

Oregon Department of Education

Section 504: 101 for New Case Managers

Section 504: Current Trends and Updates on State & Federal Law

Section 504: Accommodations, Modifications, & Related Services
(Oh, my!)

Section 504 & the Intersection of the IDEA

Section 504 & Disability Harassment

Section 504: What's Actually Required?

Section 504 for the Gen Ed Teacher

Section 504: When a Parent Files Complaint

Section 504, TBI, & Oregon's ITAP

Section 504: Change of Placement, Transitions, & Post-Secondary
Institutions

Topics Covered

Participants will learn about:

- Brief overview of Section 504
- Current trends in Section 504 statistics and complaints
- Updates in state law related to disability civil rights
- Updates in Federal law and guidance issued by the Office for Civil Rights (OCR)

Webinar Expectations

- Use the **chat** function to respond to questions.
- Use the **Q & A** function to message presenters & moderators.
- Request a meeting for technical assistance if you have unique or specific questions via **email**.
- **Raise hand** to request to be unmuted, if needing to share out loud.
- Familiarize yourself with the **accessibility features** of Teams Webinar.
 - **Closed captioning**
 - **Contrast**
 - **Zoom in/out**
- **Message** the webinar moderator if you are having technical difficulties.
- This webinar will not be recorded, however you will receive a **follow up email** with a PDF of the slide deck.

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



Oregon Department of Education

Section 504 - Section 504 of the Rehabilitation Act of 1973

OCR - US Department of Education Office of Civil Rights

FAPE - Free Appropriate Public Education

Child Find - Identifying and locating students with disabilities

SDI - Specially Designed Instruction

ASDP - Abbreviated School Day Program



Section 504 Overview

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.



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)



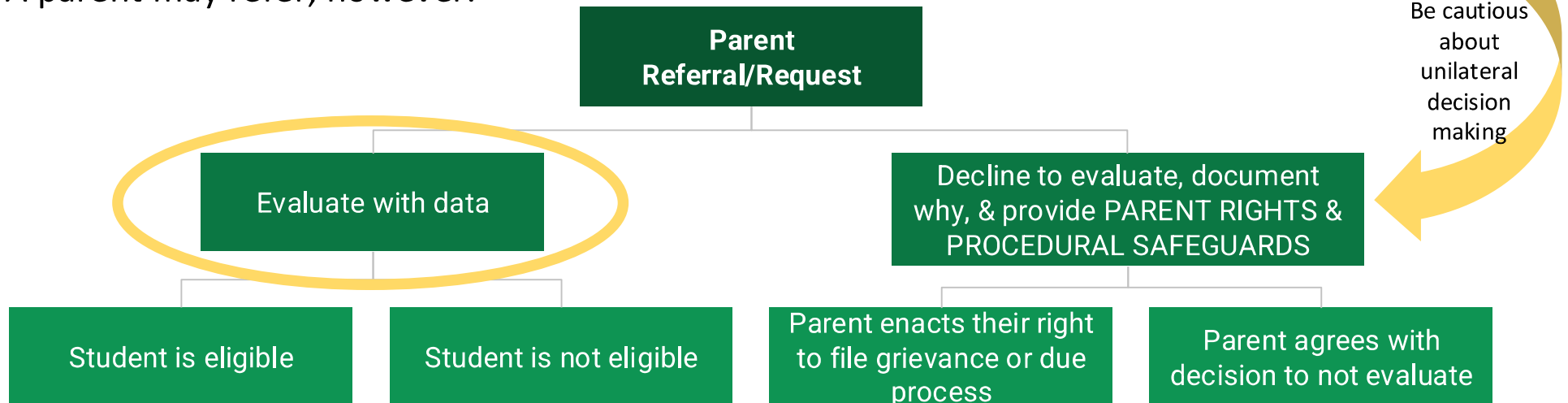
Does the student need access to a FAPE? (504 Plan)

Child Find and Parent Requests

The process of locating and identifying student with disabilities

This is the obligation of the recipient (district), not the parent. Utilize red flag systems.

A parent may refer, however:



The Importance of “The Process”

Violations occur when processes are not established or followed.

Adopting policies and procedures safeguards against Section 504 violations.

THINK:

- What are the established procedures for child find, evaluation/reevaluation, eligibility, and placement in your district?
- Do you have a 504 manual or handbook? - Is it updated when new guidance is released?
- Do all case managers/designees use the same procedures?
- Do you document all your processes?
- If there was a complaint would you be able to demonstrate compliance based on the records that you keep?

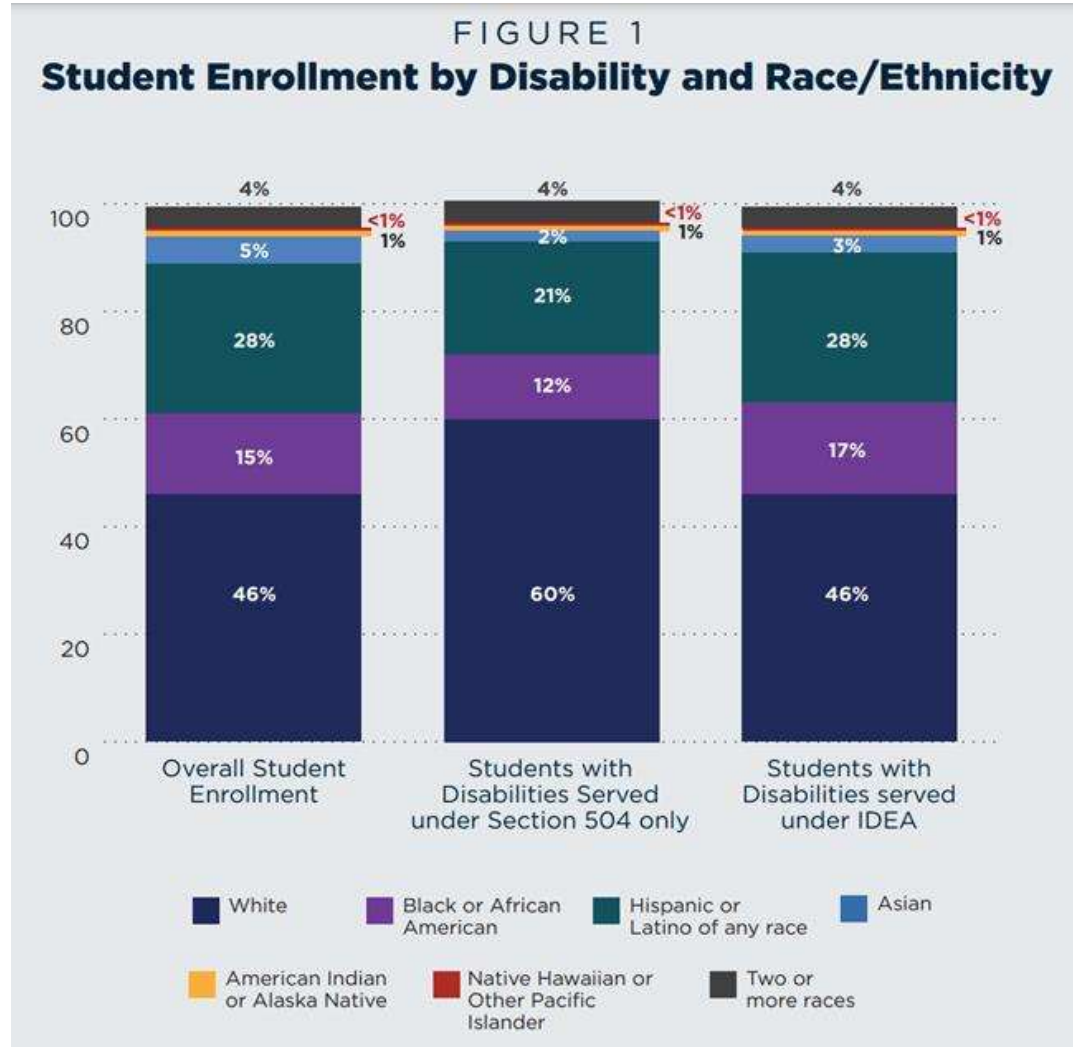


Current Trends

National Data - CDRC 2020-21

- Just over 3.2% of students in the US were Section 504-only in 2020-21
 - 14% served under the IDEA
- In 2009 only 1.2% of students were 504-only
- Overall, rates have increased incrementally since the ADAAA
- Oregon ranks 19th for percentage of 504-only students
- Texas ranks the highest at double the national rate
- Nationally, boys made up 59% of students served under Section 504-only
- One of the smallest populations identified for services under Section 504 were EL students
- Racial disparities are higher for Section 504 than the IDEA (see next slide)

CRDC 2020-21 Collection



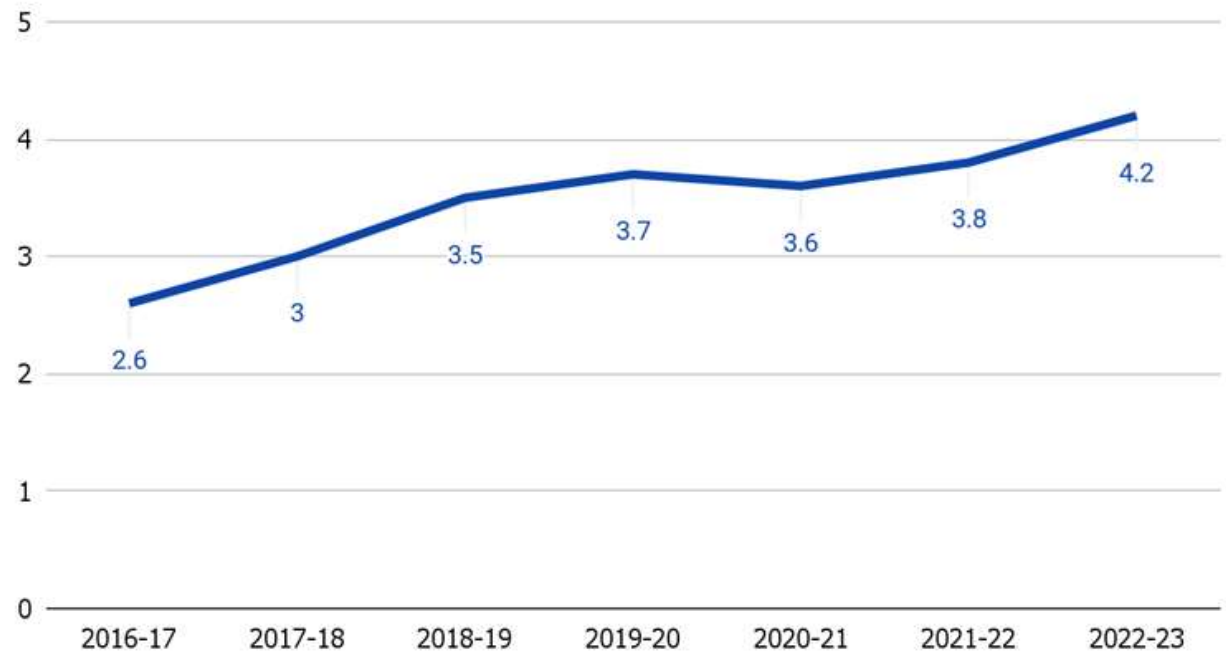
State Data

Rates range from 0% to 13.2% depending on the district.

32 Oregon districts report 0 students as 504 eligible.

These rates omit the schools reporting no data.

Rate of 504 Eligibility in Oregon (%)



Increasing Rates of 504 Eligibility

[ADAAA](#) Broadened the who Qualifies as Having a Disability (2008)

OCR Dear Colleague Letters and Guidance

- [ADHD](#) (2016), [behavior disorders](#) (2022), [Long-COVID](#) (2021), and others

Increased Rate of Diagnosis

- 1 in 36 children age 8 were diagnosed with ASD in 2020 and increase from 1 in 150 two decades prior ([CDC](#))
- 1 in 9 US children have a diagnosis of ADHD ([Danielson et al, 2024](#))
- Rates of diabetes is on the rise ([SEARCH for Diabetes in Youth](#) Study).

Pre-Pandemic Increase in Mental Health Concerns in Youth

- Depressive symptoms increased 40% over 10 yrs prior to pandemic ([APA](#))

Pandemic and Post-Pandemic Increases in Mental Health Diagnoses

- Eating disorders ([ASN](#))
- 25% increase in anxiety and depression worldwide ([WHO](#))

Supporting Staff with Increased Caseloads

Spread out Responsibilities

- Distribute responsibility with more coordinators/case managers
- Allocate resources for case managers
- Unburden case managers from other responsibilities such as duties/supervision, committees, master schedule, data collection, etc

Increase Support

- Allocate administrative/secretarial support for paperwork, meeting scheduling, etc
- Give time (PD days, late start, etc.)
- Provide adequate 504 training
- Make sure 504 processes are sound and seamless. Update the 504 Manual
- Educate **all staff** on their responsibilities and enforce the **504 Team**
- Engage/educate the school board and advocate for more resources

Common Parent Concerns that Can be Easily Resolved

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

Solution: Communicate at least annually that the plan is being followed. Share 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

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. Include classified staff when appropriate. Have a plan for providing relevant information to substitute staff.

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. Upload documents into your SIS.

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.



Update on Abbreviated School Day Programs (ORS 343.321-343.333)

Lessons Learned: Abbreviated School Day Programs 2023-24

- Need for more responsive data collection system
- Additional specificity regarding non-traditional educational environments
- More opportunities to build capacity in behavior supports, especially for students with complex communication and behavioral needs
- Renewed emphasis on civil rights regarding access to a full day of school

Moving Forward

Focus on Senate Bill 1558 - Strategic Exemptions to Enhance Education Equity

- SB 1558 provides additional specificity related to requirements for the use of Abbreviated School Day Programs (ASDP) for students with disabilities, including those on Section 504 Plans
- Under SB 819, ASDP requirements are applied to students with disabilities based on the specifics of their educational programs and/or circumstances, with limited exceptions and exemptions
- SB 1558 updated the requirements related to Abbreviated School Day Programs (ASDP) for certain students

Specific SB 1558 Changes

On Track to Graduate

Students with disabilities who are in 11th or 12th grade, who are on track to graduate with a standard diploma (including modified diplomas) within four years of starting 9th grade or by the end of the current school year, and who voluntarily do not schedule a class for one or more class periods.

Asynchronous Instruction

Students with disabilities who receive asynchronous instruction for NO MORE than one class per term or semester, when that one asynchronous course meets specific criteria. Oregon law requirements for placement on an ASDP still apply to asynchronous instruction that does not meet ALL specified criteria.



A Closer Look

Exemption 1: On Track to Graduate

On Track to Graduate

SB 1558 adds a new exemption from the requirements of Oregon law when a student with a disability voluntarily does not schedule a class for one or more class periods if:

- (a) In grade 11 or grade 12, and
- (b) is on track to fulfill all state requirements for graduation with a high school diploma, or a modified diploma, within four years of starting grade 9;

OR

- (a) The student is on track to graduate with a high school diploma or modified diploma by the end of the current school year.

Exemption 2: Asynchronous Instruction

Senate Bill 819 (2023) Definition

- Meaningful access to instruction and educational services for a student with a disability had to be synchronous (i.e., simultaneous interactions between a qualified licensed teacher or qualified staff member under the direct supervision of a qualified licensed teacher)
- School districts had to carefully consider whether students with disabilities who received asynchronous instruction (i.e., limited or no interaction) were receiving meaningful access based on that instruction
- If that determination concluded that a student with a disability was receiving fewer hours of meaningful access than the majority of students in their appropriate comparison group, the student with a disability was placed on an ASDP and the provisions of SB 819 applied

Asynchronous Instruction

SB 1558 exempts from SB 819's requirements certain students who receive asynchronous instruction. In order to qualify for this exemption, the asynchronous instruction must meet **all five** of the criteria below:

The instruction is only for one class per term/ semester

1

The instruction satisfies a credit requirement for a high school diploma or modified diploma

2

The instruction is a credit recovery class or is a class not otherwise available to the student

3

The instruction is offered to students on a voluntary basis and is not restricted to only students with disabilities

4

The instruction is accessible to a student while the student is in school and while staff of the school are immediately available to the student

5

FINAL REMINDER - Civil Rights and ASDP

- School districts must provide all students with disabilities with the **same opportunities as nondisabled peers and may not exclude students from attendance** based on their disability (Section 504 of the Rehabilitation Act of 1973, [34 CFR 104.4](#))
- Shortening the school day of a student with a disability can create **significant barriers to providing a free appropriate public education (FAPE).**
- It is not appropriate to shorten the school day for a student with a disability **unless the student's team determines a shortened day is required to address the student's unique, disability-related needs.**



Other Relevant State Law

HB 2281 (2023) - Civil Rights Coordinators

Requires districts to designate one or more Civil Rights Coordinators (CRCs) to monitor, coordinate, and oversee district compliance with state and federal laws prohibiting discrimination in public education.

CRCs work in collaboration with Federally required Coordinators such as 504 and ADA Coordinators.

CRCs must be knowledgeable of Federal and State civil rights laws such as Section 504.

What does this mean for you?

- You may be the designated CRC
- If not, any report of discrimination towards individuals with disabilities must also be reported up to the CRC
- The CRC may share investigation and response responsibilities with you and others
- You may need to support the CRC in knowing and understanding Section 504 as disability civil rights law



Federal Law and Guidance

Title II Accessibility Rule Update (June 24, 2024)

Accessibility of Web Information and Services

- Websites, apps, digital textbooks, learning platforms, etc.
- Accessible text, images, sounds, videos, controls, animations and more
- Must be accessible to individuals who are blind or have low vision, deaf or hard of hearing, those with mobility disabilities, and others
- **Technical standard for compliance:** WCAG Version 2.1, Level AA

Applies to all public entities including school districts, charter schools, ESDs etc.

Compliance dates:

- Districts in cities of 50,000 or more: April 24, 2026.
- Districts in cities of less than 50,000: April 26, 2027

Resource: [OCR Digital Accessibility Video Series](#)

2024 OCR Release on Specific Conditions

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](#)

Newly Released Guidance from OCR (June 20, 2024):

- Section 504 Protections for [Students with Sickle Cell Disease](#)
- Section 504 Protections for [Students with Epilepsy](#)
- Section 504 Protections for [Students with Cancer](#)



OCR Complaints FY 2023

[OCR Annual Report FY 2023](#)

Oregon Department of Education

Figure 7: Section 504/Title II Complaint Allegations Received in FY 2023



Highlights of Recent OCR Findings

FY 2023 Annual Report - Report to THE PRESIDENT and SECRETARY OF EDUCATION

- Failing to accommodate during after school programs
- Segregation and clustering of students with disabilities
- Scheduling and course schedule conflicts
- Timeliness of evaluations
- Failing to provide instruction to homebound and hospitalized students
- Restraint and seclusion
- Shortened school days
- Failing to convene the Team after an incident of bullying
- Failing to evaluate student access to a FAPE after harassment occurred
- Web accessibility

Some Pre-Remedies to Common 504-Violations

- Know your after school partners. Assure nondiscrimination in after school programs. Collect data on how many students with disabilities are accessing after school programs.
- Consider your master schedule. Build classes AROUND special education classes, etc.
- Have a 504 Manual/Handbook that is compliant and revised when new guidance is issued.
- Identify students as 504 eligible in your SIS. Determine who is responsible for doing so.
- Train pre-referral teams and Case Managers on what constitutes a parent request for a 504 evaluation and how to respond to it.
- Have a system for responding to students with disabilities who report bullying and harassment.
- Assure web accessibility standards are met. Check with IT and communicate improvements that need to be made. Train all staff on how to make documents, videos, teaching materials accessible.

Reach Out & Stay Informed



504 Listserv



**2024-25 504
Webinar
Registration**

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Questions?