



Section 504: A Short Course on Compliance



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DISCLAIMER

This presentation is intended for educational purposes only. It is not intended to convey legal or other advice pertaining to any particular situation and, with respect to legal issues, is not a substitute for legal advice. The information presented is a “nuts and bolts” presentation and is not intended to lead to any certification in satisfaction of any Title IX training requirement.

Note: This presentation utilizes resources from a number of sources, including U.S. DOE, NSBA/COSA, and other resources.



Agenda

Introductions

504 Basics

504 and IDEA

504 Coordinators

504 Plans

504 Compliance Program

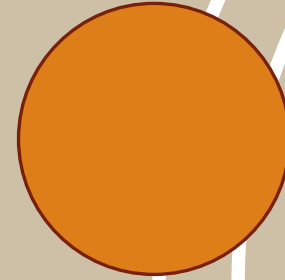
Wrap Up



504 Basics

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504)

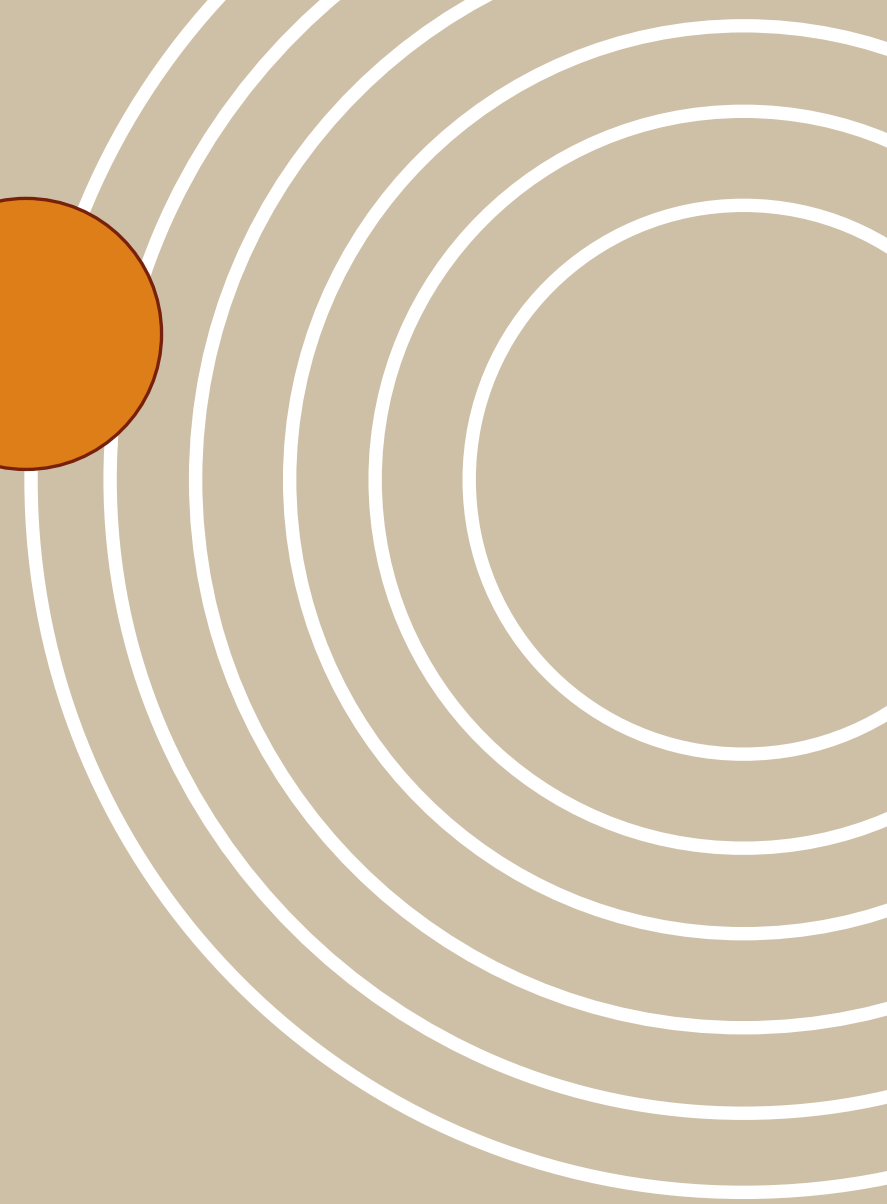
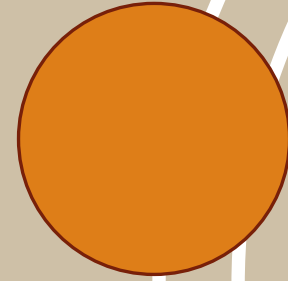
“No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”



504 Eligibility

Children with disabilities may be eligible for special education and related services under Section 504.

That's because the Section 504 definition of "disability" is broader than the IDEA's definition.



504 Enforcement

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability under any program or activity receiving federal financial assistance.

OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

504

VS

IDEA



All IDEA students are entitled to Section 504 rights and protections, *but* not all 504 students are entitled to IDEA protections



Procedural safeguards:

Both have procedural protections but not enforced in same way



Services:

IDEA: specialized instruction and related services to allow student to receive a FAPE, must be written

504: Regular or special education and related aids and services to provide FAPE



Eligibility

IDEA: Must meet one of the 13 eligibility categories and adversely affects educational performance Because of that disability needs special education or special education and related services [ARSD 24:05:24:01.01]

504: “An individual with a disability means any person who: (i) has a mental or physical impairment that substantially limits one or more major life activity; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment”

[34 C.F.R. §104.3(j)(1)]



Child Find

Both 504 and IDEA
have affirmative ongoing
child find obligations



Discipline

Removals for disciplinary purposes. Both 504 and IDEA provide for ten-day window for determining a change of placement which triggers a manifestation determination

If the behavior is a manifestation of disability, then cannot impose punishment and should modify 504 or IEP



Manifestation Determination

Under both IDEA and 504, when a child has received disciplinary removals amounting to 10 days in a school year, there is a change of placement requiring a manifestation determination

Under 504 it is called an evaluation, but it is essentially the same as a manifestation determination under IDEA



Manifestation Determination [cont'd]

504 Standard: caused by or directly and substantially related to the student's disability or disabilities

IDEA: was caused by, or had a direct and substantial relationship to, the child's disability, or if the behavior in question was the direct result of the LEA's failure to implement the IEP.

34 C.F.R. § 300.530(e)(1); 71 Fed. Reg. 46748
(Aug. 14, 2006)



Manifestation Determination [cont'd]

Continued provision of services

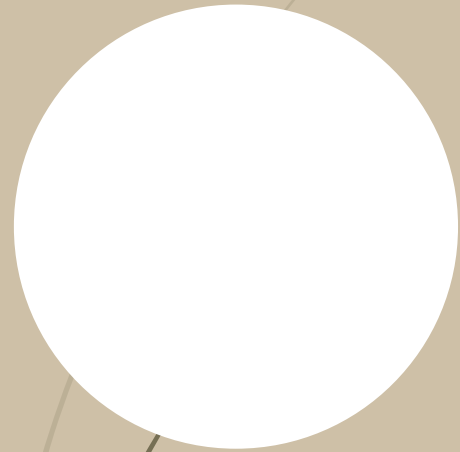
If manifestation of disability, then must continue to provide services under IDEA, not required under 504 unless provided to nondisabled students





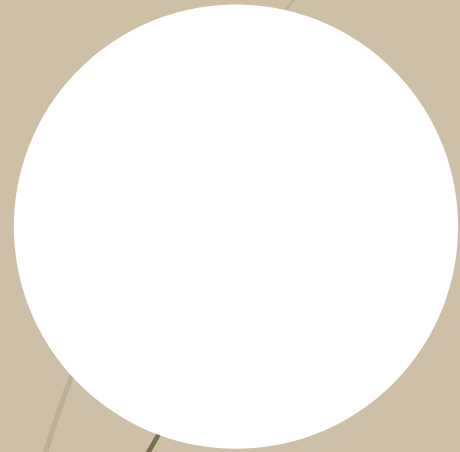
→ 504 Coordinators

504 Coordinator Sample Job Tasks



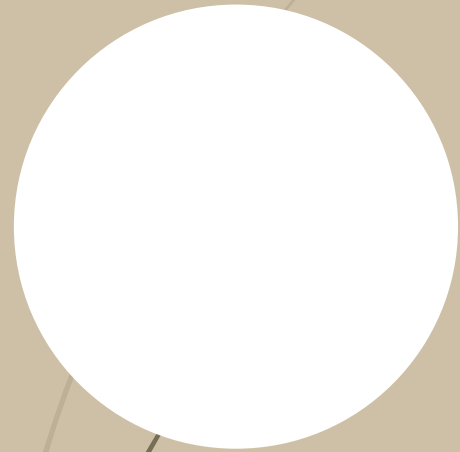
1. Coordinate, collaborate and plan with guidance from the Counselor Coordinator for vision and guidance of district-wide implementation of Section 504 policies and procedures.
2. Ensure effective implementation of consistent Section 504 procedures throughout the district.
3. Provide ongoing training and support to staff, including identified 504 coordinators in each building, regarding Section 504 and the implementation of the Section 504 procedures.
4. Develop and follow a continuous improvement and monitoring process for Section 504 data

504 Coordinator Sample Job Tasks



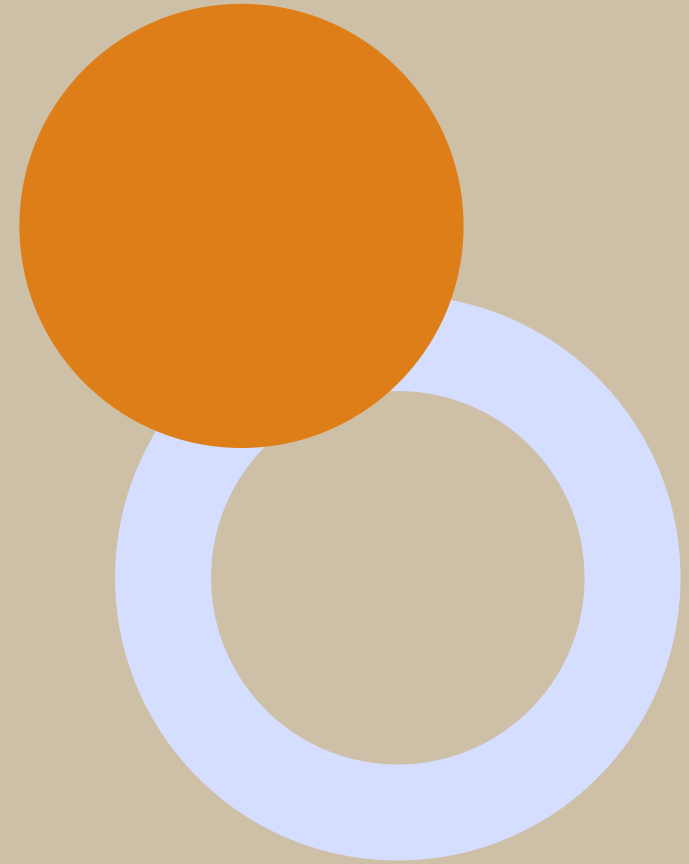
5. Serve as a daily resource to school counselors, district administrators, building level teams, families and community members regarding Section 504.
6. Work collaboratively with district personnel and schools to support 504 policies and procedures.
7. Collaborate with Counselor Coordinator to continuously review Section 504/ADA practices.
8. Stay abreast of state and federal laws, regulations, and guidelines related to disability discrimination, Section 504 and Title II of the ADA, by attending regular training and participating in ongoing professional development opportunities.

504 Coordinator Sample Job Tasks



9. Demonstrate a commitment to:
 - a. Understand, appreciate, and make accommodations for student diversity.
 - b. Include and engage families in the student's education.
 - c. Support all school district policies, procedures, and expectations.
 - d. Provide personal and professional excellence.
10. Attend appropriate meetings, trainings, 504 meetings, parent conferences and/or school functions.
11. Perform other duties as assigned.
12. Attend work and arrive in a timely manner.

504 Services Plans



504 Services Plans Contents

Section 1: School Information:

SAMPLE ONLY

School name: _____

Student name: _____

Date Plan Written: _____

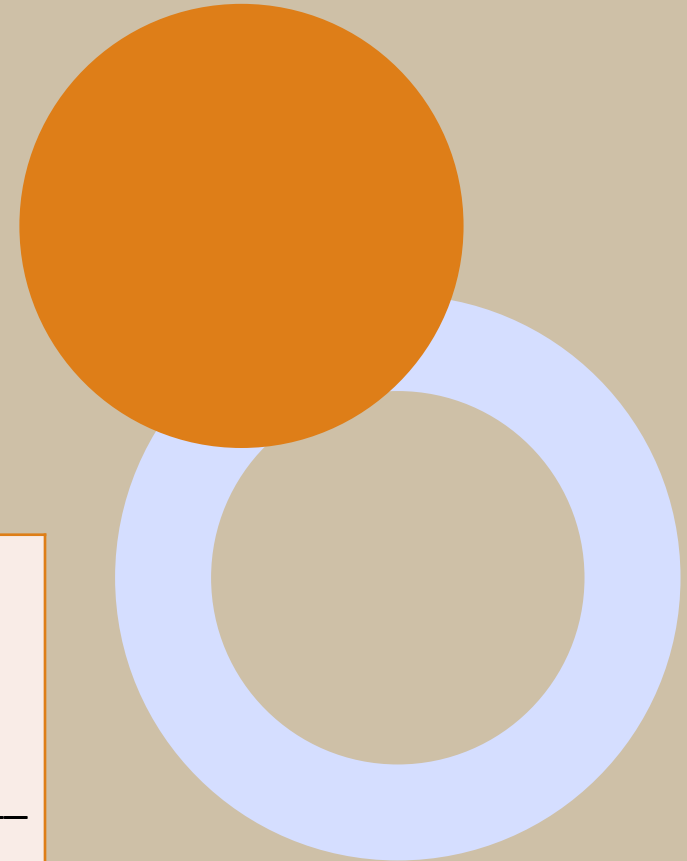
Date of birth: _____ Grade: _____

Date Plan Goes Into Effect: _____

Qualifying disability: _____

Date For Plan Reviewed: _____

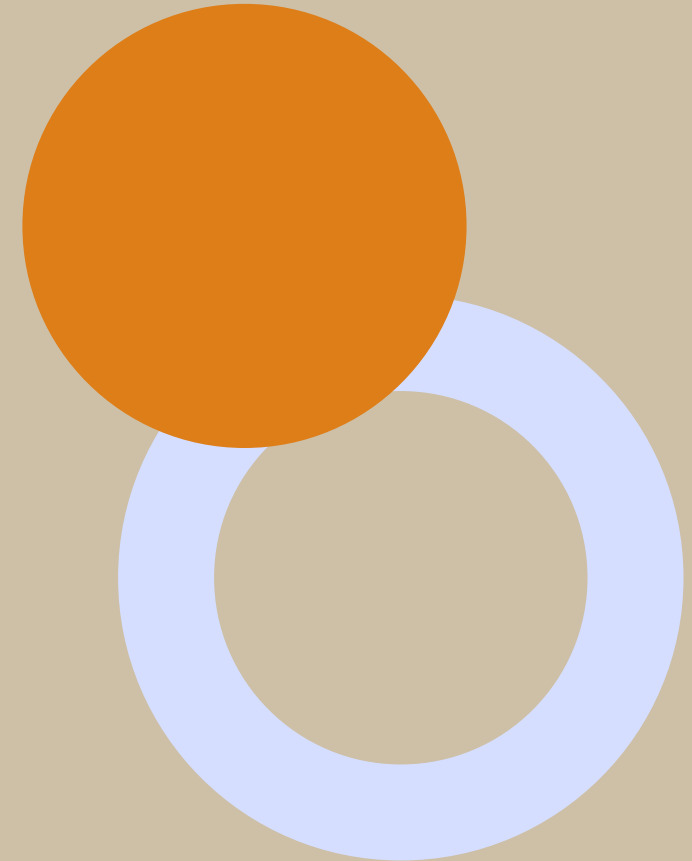
Documentation of disability (see attached)



504 Services Plans Contents

Section 2: 504 Team Members

ROLE	NAME	CONTACT INFORMATION	ATTENDANCE SIGNATURE
504 coordinator			
General education tchr			
Parent or guardian			
Other:			
SAMPLE ONLY			

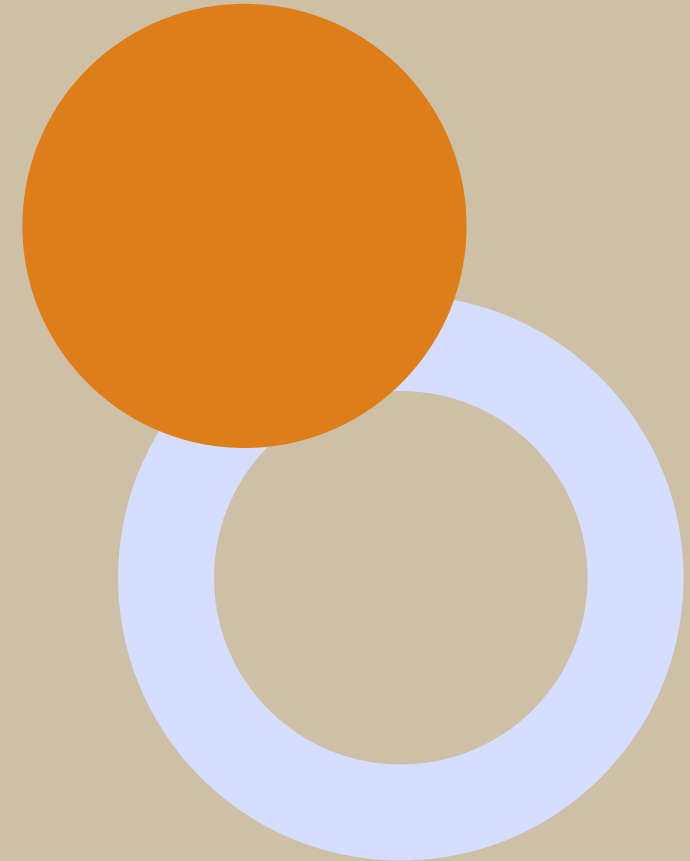


504 Services Plans Contents

Section 3: Teacher Education and Support

SAMPLE ONLY

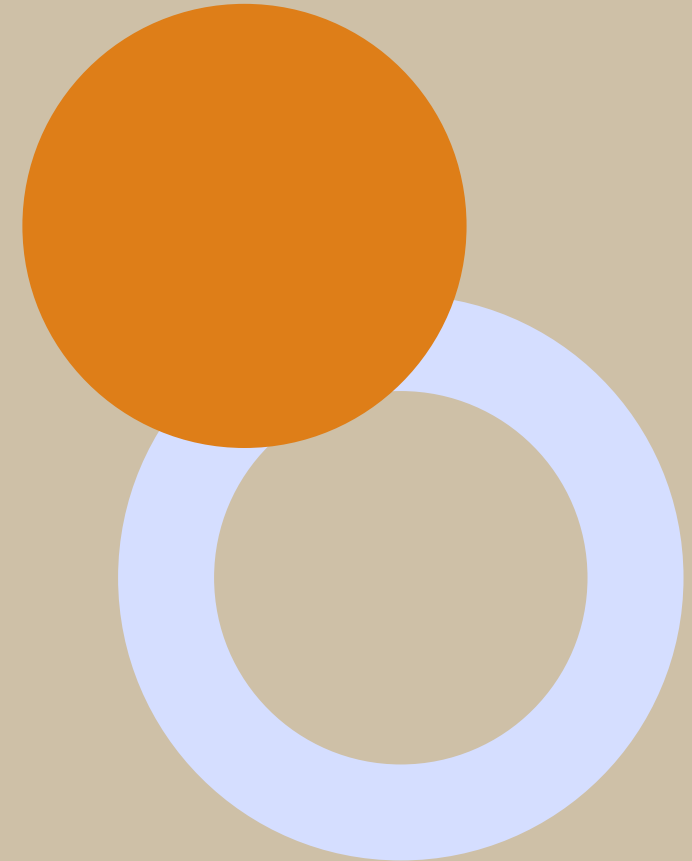
Teachers who work with Kara will be provided consultation time with the school behavior specialist, Ms. Smith. She will help them implement accommodations and behavior management strategies in the classroom. Any teacher who works with Kara, and who isn't trained as a special educator or behavior specialist, must watch a 3-minute video called "What Is ADHD?"--available at [URL](#). Teachers who work with Kara must also review the attached articles on (1) signs of ADHD they may see in the classroom and (2) self-advocacy phrases for middle school students.



504 Services Plans Contents

Section 4: 504 Plan Template

AREA OF EDUCATIONAL NEED	ACCOMMODATION OR SERVICE	PERSON RESPONSIBLE FOR IMPLEMENTING	FREQUENCY OF ACCOMMODATION OR SERVICE
Organization	Write homework assignments in planner and teachers initial it.	Student, all teachers	Daily: At the end of each class
Organization	Provide an extra set of books to keep at home.	All teachers	Annually
SAMPLE ONLY			



504 Services Plans Contents

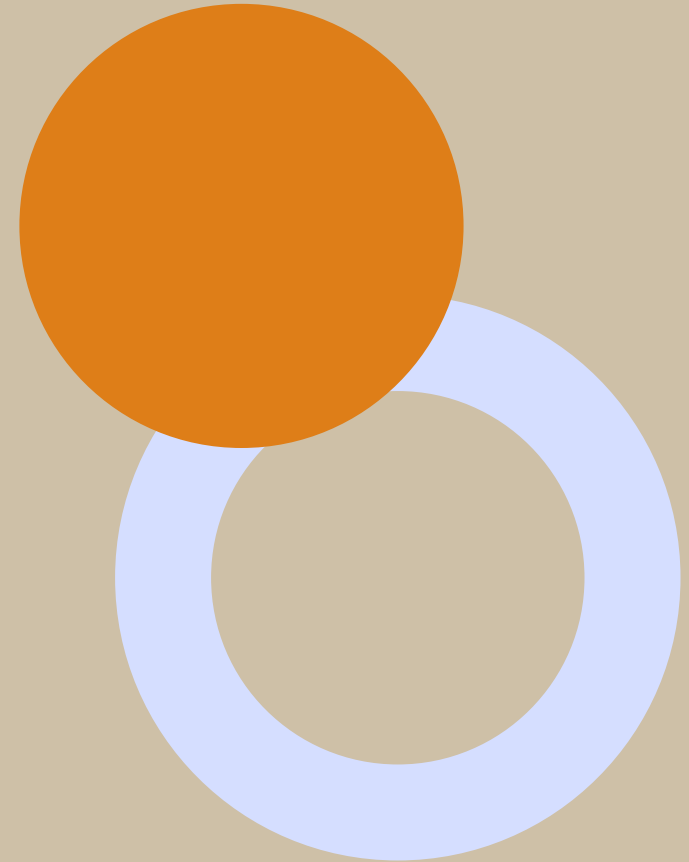
Section 5: Notes and Approval

NOTES: _____

Plan Approved By: _____
Johnny Appleseed
504 Coordinator

Date: _____

SAMPLE ONLY

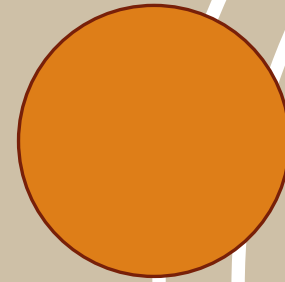


504 Compliance Program



Compliance In a nutshell

A program of compliance with the educational services requirements of § 504 consists of a process by which disabled children who may be in need of services under § 504 are *identified*, *evaluated*, and *placed* by a group of knowledgeable persons in accordance with their educational needs, so that they have an equal opportunity to receive an education despite their disabilities. The provision of a FAPE is made possible by the implementation of a § 504 services plan.



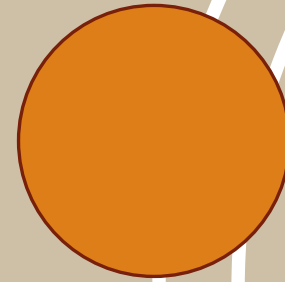
Compliance In a nutshell

A solid §504 program also ensures compliance with the procedural safeguards of §504 with respect to notice to parents, an opportunity to review relevant records, the right to a due process hearing, and the right to a review of a due process hearing decision.



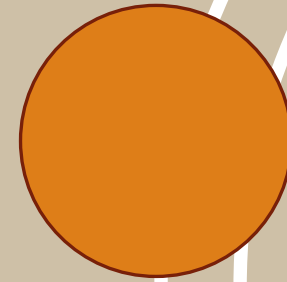
10 Tasks to Ensure Compliance

1. Designate a trained 504 Coordinator
2. Ensure staff understand Section 504
3. Form a team to make 504 decisions
4. Understand 504 eligibility criteria
5. Understand the referral and evaluation processes



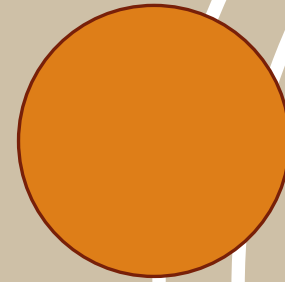
10 Tasks to Ensure Compliance

6. Ensure students have access to extracurricular activities
7. Ensure due process
8. Discipline students under 504 similarly as under IDEA
9. Develop a 504 policy handbook
10. Embrace the intent



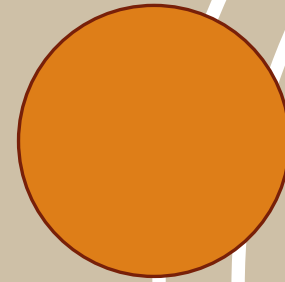
504 Forms

- **Internal Referral Form**—serves to gather referral information from parents, teachers, or other staff.
- **Procedural Safeguards/Rights Notice**—informs parents and students of their rights under §504, specifically with respect to notice rights, records, and due process.
- **Notice of Evaluations or Other 504 Actions**—notifies parents of upcoming §504 committee meetings and evaluations (while not required, a PWN, with inclusive notes, is encouraged).



504 Forms

- **Report of 504 Committee Meetings or Group Decisions**—informs parents of the §504 committee's basic decisions (i.e. whether the child qualifies for §504 services, continues to qualify for services, or ceases to qualify).
- **§504 Services Plan**—for children that qualify for services, the plan consists of the written plan of accommodations and/or services that will be implemented in order for the child to receive an appropriate education under §504.



504 Grievance Procedure

The Section 504 implementing regulation, at 34 C.F.R. § 104.7(b), requires a school district to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by the Section 504 regulation.



504 Grievance Procedure

In evaluating whether a school district's grievance procedures are prompt and equitable, OCR will examine, for example:

- whether reasonably prompt timeframes have been established for the various stages of the complaint process;
- whether notice of the outcomes of the complaint has been provided to the parties;
- and whether there is an assurance that any violations will be addressed, and steps will be taken to prevent a recurrence.



504 Grievance Procedure

In evaluating whether a school district's grievance procedures are prompt and equitable, OCR will examine, for example:

- the extent to which notice of the procedures has been provided to students, parents, and employees of the school;
- whether the procedures afford an opportunity for an adequate, reliable, and impartial investigation; a recurrence.



Add to your District's 504 library...

- ▶ **Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools (USD OE)**
<https://doe.sd.gov/sped/documents/504Resource.pdf>
- ▶ **USD OE FAQs About 504 and the Education of Children with Disabilities**
<https://www2.ed.gov/about/offices/list/ocr/504faq.html#interrelationship>
- ▶ **The Civil Rights of Students with Hidden Disabilities Under Section 504 of the Rehabilitation Act of 1973**
<https://www2.ed.gov/about/offices/list/ocr/docs/hq5269.html>
- ▶ **Public Law 93-113 (Section 504)**
<https://uscode.house.gov/statviewer.htm?volume=87&page=394>
- ▶ **34 C.F.R. 104**
<https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-104>





Thank you

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