

Overview of Procedures for Section 504 and Special Education Services

Seattle/King County Coalition on Homelessness

Families with Children Committee

June 25, 2014

East Cherry YMCA

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This presentation should be used as guidance
and is not intended as legal advice

The information provided is an overview of civil
rights laws and special education rules and
procedures; it is not a substitute for reviewing
state and federal laws and regulations

The presentation and/or materials should be
viewed and applied by users in accordance with
their specific needs

Guiding Questions

- What is the difference between a 504 Plan & an IEP?
- What is the process of requesting and obtaining a 504 Plan or an IEP?
- What timelines need to be followed when setting up either a 504 Plan or an IEP?
- How are services transferred when families move to another shelter or permanent housing?
- What timelines need to be followed for out-of-school suspensions?

Key Differences between 504 & IDEA

Section 504

- Civil rights law
- No separate funding
- No “categories” to qualify
- Substantial limitation on major life activity
- Parent participation recommended
- 504 plan

IDEA

- Federal grant program
- Federal & state funding
- Disability categories
- Adverse educational impact and need for SDI
- Parent is required IEP team member
- IEP

Section 504 of the Rehabilitation Act of 1973

“No otherwise qualified individual with a disability...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...”

(29 U.S.C. § 794)

Section 504 Plan (34 C.F.R. Part 104)

- Must evaluate a student for Section 504 eligibility if the district knows or suspects that a student, because of a disability, needs aids or services to participate in or benefit from the district's education program, regardless of whether the student has a medical diagnosis
- An evaluation involves reviewing information and data from various sources; this may include, but is not limited to, grades, test scores, attendance records, parent input, teacher observations, medical or psychological evaluations, special education data, medical diagnosis, and health room visit information

Section 504 Plan Referral

- Any person (e.g., a parent, guardian, school staff, or persons outside the school) can refer a student for evaluation under Section 504
- Each district has a designated 504 Coordinator
(See: <http://www.k12.wa.us/Equity/ContactList.aspx>)
- District must make decision to evaluate and, if yes, obtain parent or guardian consent before conducting initial evaluation
- An evaluation must be conducted within a reasonable amount of time after a student is recognized as potentially eligible

SPED Referral (WAC 392-172A-03005)

“A parent of a child, a school district, a public agency, or other persons knowledgeable about the child may initiate a request for an initial evaluation to determine if the student is eligible for special education”

Timelines for Referral & Evaluation

Referral for special education evaluation

25 school days to **decide** whether to evaluate student

Written parental **consent** for evaluation

35 school days to **complete** evaluation

504/IDEA Eligibility

Section 504

- 1) Disability
(i.e., “...an impairment that substantially limits one or more major life activities...”)
- 2) Adverse educational impact requiring accommodations, related aids or services

IDEA

- 1) Disability
(WAC 392-172A-01035)
- 2) Adverse educational impact
- 3) Need for specially designed instruction (SDI) with or without accommodations

Developing & Implementing a 504 Plan

- 504 team must consist of at least two people and must include persons knowledgeable about the student, the meaning of the student's current evaluation data, and placement options
- Parent/guardian must be notified of placement and provide consent before the initial placement
- District must provide any accommodations or related aids and services that a student needs to participate in any school program or activity
- All district staff must implement the 504 Plan
- Student must be periodically reevaluated

Developing & Implementing an IEP

- An IEP (Individualized Education Program) is a written statement for a student with a disability that is developed, reviewed, and revised by an IEP team in accordance with WAC 392-172A-03090 to -03115
- For an initial IEP, the school district must hold a meeting to develop the student's IEP within 30 days of determining that the student is eligible and make special education and related services available to the student in accordance with the student's IEP as soon as possible (WAC 392-172A-03105)
- IEP must be reviewed and revised periodically, but not less than annually and consider results of most recent evaluation (WAC 392-172A-03110)

Developing & Implementing an IEP (cont.)

- Reevaluations may not occur more than once a year, unless parent & school district agree otherwise (WAC 392-172A-03015)
- Reevaluations must occur at least once every three years, unless parent & school district agree that a reevaluation is unnecessary (WAC 392-172A-03015)
- Reevaluations must be completed within 35 school days of receiving consent, unless a different time period is agreed to by the parent & documented by the district (WAC 392-172A-03015)
- Must include transition services beginning not later than the first IEP to be in effect when a student eligible for special education turns 16 (WAC 392-172A-03090)

In-State Transfers

504 Plans

- The new (receiving) school district must review 504 Plan and implement and/or reevaluate (if necessary)

IEPs (WAC 392-172A-03105)

- The new (receiving) school district, in consultation with the parents, must provide FAPE to the student including services comparable to those described in the student's current IEP, until the new school district either:
 - a) Adopts the student's IEP from the previous school district;
 - or
 - b) Develops, adopts, and implements a new IEP

General Education Discipline Guidelines

- All students are subject to district's student code of conduct
- No student shall be deprived of the right to an equal educational opportunity in whole or in part by a school district without due process of law (WAC 392-400-215)
- Due process rules and timelines vary for different levels of discipline (e.g., short-term/long-term suspension; expulsion; emergency expulsion)
- Consult school district policies & Chapter 392-400 WAC
- Section 504 protections similar to SPED; conduct manifestation determination review before any "significant change in placement"

Special Education Discipline Protections

- School personnel may consider any unique circumstances of each student eligible for special education who violates a code of student conduct when determining whether a change in placement is appropriate (WAC 392-172A-05145)
- For disciplinary removals...a change of placement occurs if:
 - 1) The removal is for more than 10 consecutive school days; or
 - 2) The school district determines on a case-by-case basis that the student has been subjected to a series of removals that constitute a pattern because:
 - a) the series of removals total more than 10 school days in a school year;
 - b) the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the...removals; and
 - c) there are additional factors (e.g. length of removal, proximity of removals, total time removed) (WAC 392-172A-05155)

Special Education Discipline Protections (cont.)

- Manifestation Determination Review

Within ten school days of any decision to change the placement of a SPED student...the school district, the parent, and relevant members of the student's IEP team (as determined by the parent and the school district) must review all relevant information in the student's file...to determine:

- a) If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- b) If the conduct in question was the direct result of the school district's failure to implement the IEP (WAC 392-172A-05145)

- Consult OSPI Guidance for more resources & information:

<http://www.k12.wa.us/SpecialEd/Families/Behavior.aspx>

Section 504 Resources

Section 504 Guidance for Families

<http://www.k12.wa.us/Equity/Families/Section504.aspx>

Prohibiting Discrimination in Washington Schools

<http://www.k12.wa.us/Equity/ProhibitingDiscrimination.aspx>

OSPI Office of Equity & Civil Rights

equity@k12.wa.us

(360) 725-6162

Special Education Resources

OSPI Special Education

<https://www.k12.wa.us/SpecialEd/default.aspx>

OSPI Guidance for Families

<http://www.k12.wa.us/SpecialEd/Families/default.aspx>

Chapter 392-172A WAC

<http://apps.leg.wa.gov/WAC/default.aspx?cite=392-172A>

OSPI TAP #1 – IDEA: A Review of the Basics

<http://www.k12.wa.us/SpecialEd/pubdocs/TAP1.pdf>

Contact Information

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