



UNDERSTANDING SECTION 504



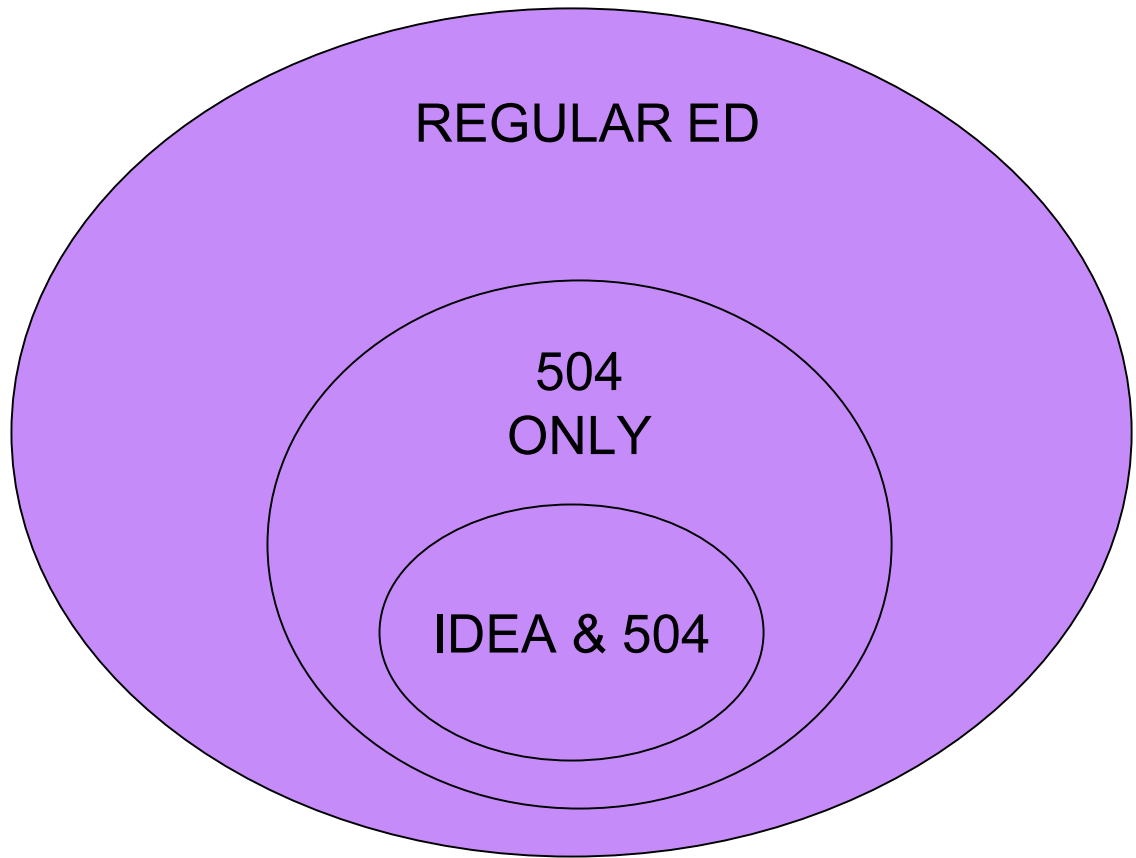
OVERVIEW OF SECTION 504

- ELIGIBILITY
- EVALUATIONS
- ADHD ISSUES





SCHOOLS, AS RECIPIENTS OF FEDERAL FUNDS, MAY NOT DISCRIMINATE AGAINST PERSONS, INCLUDING STUDENTS, WHO ARE OTHERWISE QUALIFIED TO PARTICIPATE IN SCHOOL ACTIVITIES –
BUT
ARE INHIBITED FROM PARTICIPATING TO THE SAME EXTENT AS NONDISABLED STUDENTS BECAUSE OF A DISABILITY



ELIGIBILITY FOR SECTION 504

- STUDENT HAS A RECORD OF HAVING OR IS REGARDED AS HAVING A PHYSICAL, OR MENTAL IMPAIRMENT THAT
- SIGNIFICANTLY INTERFERES WITH ONE OF LIFE'S MAJOR FUNCTIONS





ELIGIBILITY CONTINUED:

- RECORD OF
- PHYSICAL/MENTAL IMPAIRMENT
- SIGNIFICANTLY INTERFERES WITH LIFE FUNCTION
- OTHERWISE QUALIFIES

RECORD OF IMPAIRMENT

- HAVING A “RECORD OF” A DISABILITY OR BEING REGARDED AS DISABLED CANNOT BE THE BASIS ON WHICH THE REQUIREMENTS OF FAPE UNDER 504 ARE TRIGGERED-----





Because a parent or a child's doctor "regards" a child as being disabled, does that make the child eligible under Section 504?

NO

- UNLESS THE STUDENT ACTUALLY HAS A DISABLING CONDITION
- THE FACT THAT A STUDENT HAS A RECORD OF OR IS REGARDED AS HAVING A DISABILITY IS NOT ENOUGH TO TRIGGER ELIGIBILITY



NO!

- The proper inquiry is whether the student, because of an actual disability, needs services. The opinion of the parent and doctor need only be considered in the decision making process.



PHYSICAL OR MENTAL IMPAIRMENT

- ANY PHYSIOLOGICAL
DISORDER OR CONDITION...
- OR ANY MENTAL OR
PSYCHOLOGICAL DISORDER
- OR SPECIFIC LEARNING
DISABILITY



SIGNIFICANTLY INTERFERES

- A LIMITATION THAT AFFECTS A STUDENT'S ABILITY TO PERFORM AN ACTIVITY IN RELATION TO THE AVERAGE STUDENT IN THE GENERAL POPULATION



MAJOR LIFE ACTIVITIES

- MUST BE CENTRAL IMPORTANCE TO DAILY LIFE
- LEARNING
- BEHAVIOR



LEARNING

- COMPARE THE STUDENT'S ACADEMIC PROGRESS TO THAT OF THE "AVERAGE STUDENT"
- STUDENT IS NOT "SUBSTANTIALLY LIMITED" SIMPLY BECAUSE THE STUDENT IS NOT REACHING POTENTIAL



BEHAVIOR

- IN DETERMINING WHETHER A STUDENT'S BEHAVIOR SUBSTANTIALLY LIMITS THE STUDENT, THE SCHOOL SHOULD CONSIDER THE STUDENT'S ABILITY TO EFFECTIVELY PARTICIPATE IN SCHOOL.....



BEHAVIOR CONTINUED...

- (e.g., attend school without suspensions or expulsions and participate in non-academic activities.)

T.J.W. By Butler vs. Dothan City Bd. Of Ed. 26 IDELR 999
Templeton (CA) Unified School District 17 IDELR 859 (OCR 1989)



MAJOR LIFE ACTIVITIES

■ TOYOTA CASE

SUPREME COURT CASE

Due to carpal tunnel syndrome, plaintiff could not perform manual repetitive work

- with hands and arms extended
- at or above shoulder level
- for extended periods of time



DOES THIS CONSTITUTE DISABILITY UNDER ADA?

NO!

- Major life activities are those of central importance to most people's lives.
- Repetitive work with hands and arms extended at or above shoulder level is not an important part of most people's daily life



EXAMPLES OF DAILY LIFE

- HOUSEHOLD CHORES

- BATHING

- BRUSHING ONE'S TEETH



TOYOTA APPLIED TO STUDENTS

- LOCATION SPECIFIC (WORKING ON ASSEMBLY LINE)
- IF ADHD STUDENT ACTS OUT ONLY IN CERTAIN CLASSES DISABILITY IS NOT PERVASIVE



TOYOTA CONTINUED

- STUDENT'S ADHD MAY NOT BE SUBSTANTIAL IMPAIRMENT OF MAJOR LIFE ACTIVITY

BLOCK V. ROCKFORT 2002 wl 3185769



FACTORS LIMITING 504 APPLICATION

- ACTIVITY MUST BE OF CENTRAL IMPORTANCE TO PEOPLES DAILY LIVES
- MUST BE ASSESSED IN CORRECT CONDITION – i.e., EYEGASSES
- MUST BE “SUBSTANTIAL”- NOT MODERATE



EVALUATION REQUIREMENTS

- IS A PARENT AUTOMATICALLY ENTITLED TO SECTION 504?
- NO----A DISTRICT ONLY HAS AN OBLIGATION TO EVALUATE IF IT SUSPECTS THAT A STUDENT HAS A 504 DISABILITY



EVAUATION CONTINUED

- IF A DISTRICT REFUSES TO EVALUATE---NOTIFY PARENTS AND INFORM THEM OF THEIR PROCEDURAL RIGHTS UNDER 504



EVALUATION REQUIREMENTS

- DRAW UPON INFORMATION FROM A VARIETY OF SOURCES
- ESTABLISH PROCEDURE TO DOCUMENT AND CONSIDER INFORMATION FROM ALL SOURCES
- DECISION MADE BY GROUP OF KNOWLEDGEABLE PEOPLE



GUIDELINES REGARDING EVALUATIONS

- A DOCTOR'S DIAGNOSIS ALONE DOES NOT MAKE THE STUDENT ELIGIBLE FOR 504
- IF A DISTRICT REQUIRES A MEDICAL EVALUATION, THEN THE DISTRICT MUST PAY FOR IT





GUIDELINES CONTINUED

- A MEDICAL EVALUATION IS NOT REQUIRED TO MAKE AN ADD OR ADHD STUDENT 504 ELIGIBLE
- IF THE ADD OR ADHD CHILD IS ON MEDICATION EVALUATE THE CHILD IN THE “CORRECTED CONDITION”

GUIDELINES CONTINUED

- PARENTS CONTROL THE MEDICATION DECISION
- LETTER TO VEIR, 20 IDELR 864, OCR 1993



PARENT CHOICE: IDEA OR 504?

- PARENTS HAVE NO FLEXIBILITY TO HAVE THEIR CHILD “LABELED” 504 RATHER THAN IDEA
- A REJECTION OF IDEA SERVICES AMOUNTS TO REJECTION OF 504



504 VERSES IDEA

- STUDENTS WHO ARE ELIGIBLE FOR SERVICES UNDER IDEA ALSO MEET THE DEFINITION OF ELIGIBILITY UNDER 504
- CONVERSE IS NOT TRUE



WHY?

- CRITERIA FOR ELIGIBILITY UNDER 504 IS MUCH BROADER AND MORE INCLUSIVE THAN IDEA



TEST TAKING ACCOMMODATIONS?

- NO---- IF STUDENT IS MAKING ACADEMIC PROGRESS IN RELATION TO THEIR AVERAGE PEERS, THEN THE IDENTIFIED DISABILITY DOES NOT MAKE THE STUDENT ELIGIBLE



STUDENT IS GIFTED AND MAKING PASSING GRADES?

- DOES THIS STUDENT
QUALIFY FOR SECTION 504
FOR THE PURPOSES OF
TEST ACCOMMODATIONS?

NO!



THREE MAIN REASONS WHY PARENTS ARE TURNING TO SECTION 504

- THE REFORM MOVEMENT FROM “MAINSTREAMING” TO “INCLUSION” THAT BEGAN IN THE 1980’S REFOCUSED ATTENTION ON HOW STUDENTS WITH DISABILITIES WERE FARING IN THE REGULAR CLASSROOM



THREE REASONS CONT'

- 2. THERE WAS AN INCREASE IN AND AN AWARENESS OF PERSONS WITH MENTAL OR PHYSICAL DISABILITIES WHO DIDN'T QUALIFY FOR IDEA



THREE REASONS CONT'

- 3. THE WHOLE CONCEPT AND PRACTICE OF A DESIGNATED “SPECIAL EDUCATION” PROGRAM HAD BECOME A MAJOR DISAPPOINTMENT FOR MANY PARENTS, TEACHERS, AND STUDENTS



504 HOTLINE

305 995-2799

