

Section 504 of the Rehabilitation Act of 1973:

Procedural Safeguards

+ Training Outcomes

Participants will be able to:

- Articulate what is a Free Appropriate Public Education (FAPE) under Section 504
- Articulate procedural safeguards Under Section 504
- Recognize the importance of procedural safeguards
- Ensure that procedural safeguards are followed
- Articulate the grievance process under 504



Parking Lot and Post Its



- We have a lot to get through and will hold questions till the end or break.
- Please use the post its for any questions you may have or items we don't cover.
- We will address what we can during the session today.





What is Section 504?



Section 504 is:

- A part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability.
- Requires the needs of students with disabilities to be met as adequately as the needs of non-disabled students (level the playing field).
- No otherwise qualified individual with a disability shall, on the basis of disability, **be excluded** from participation in, **be denied the benefits** of, or otherwise **be subjected to discrimination** under any program or activity which receives or benefits from Federal financial assistance.”

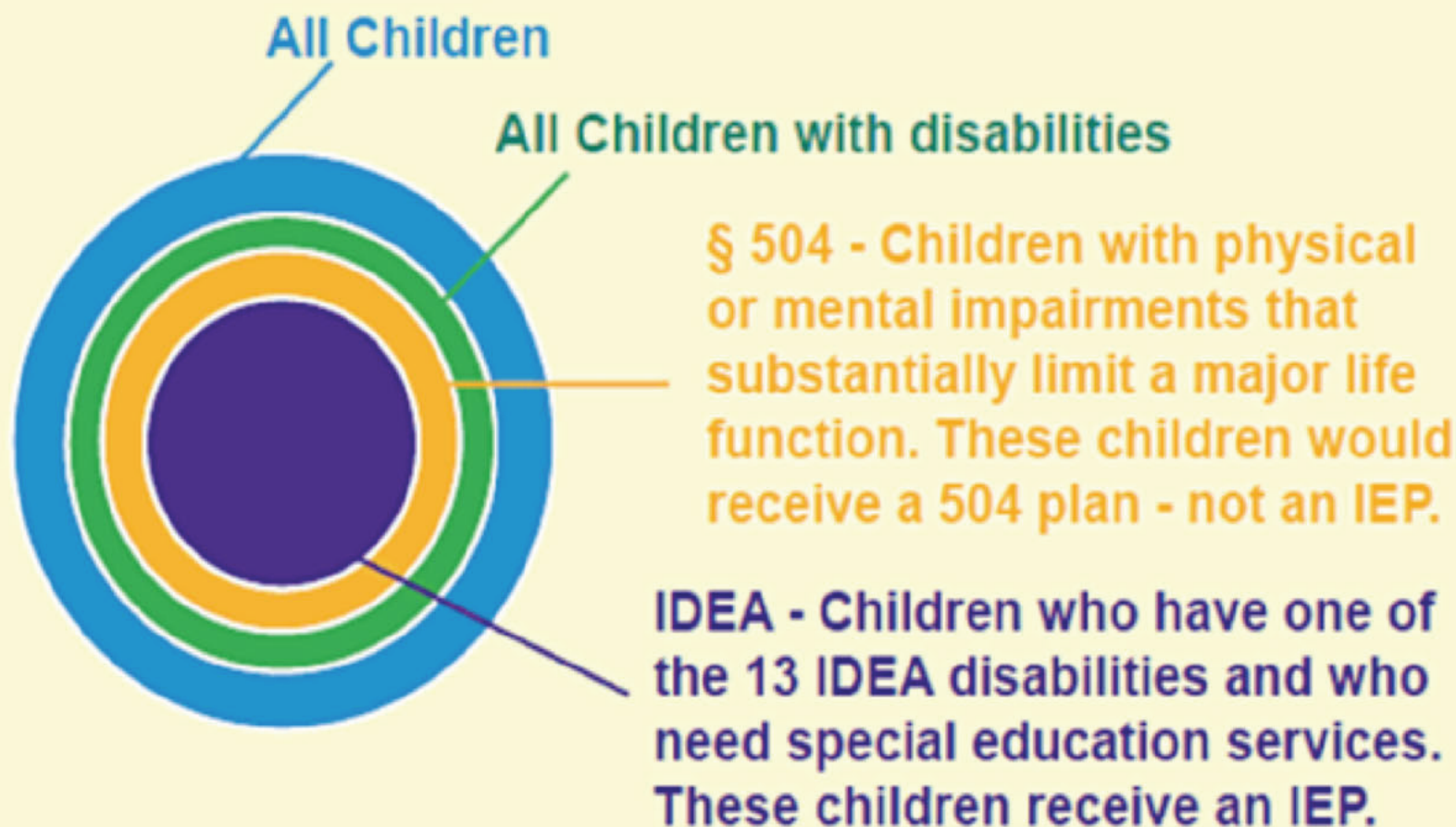


“Child Find”



School systems must locate and identify **any student with a disability** who may require special education and related services under IDEA or accommodations/services under Section 504.

Eligibility for Section 504 and the IDEA



<http://www.aspergerssociety.org/articles/72-Aspergers-and-Autistic-ChildrenHow-Does-a-504-Plan-Differ-From-an-IEP.htm>



Why Procedural Safeguards?



- To eliminate fear of making mistakes
- To understand obligations
- To understand procedures
- To answer your “I don’t know questions”



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.





The FAPE Formula

Procedural Due Process
The “Rules”



Substantive Due Process
The “Plan”



FAPE

- Free
- Compliance with:
 - Educational Setting (a)
 - Evaluation and Placement (b)
 - Procedural Safeguards (c)
- Meets the needs of the student as adequately as non disabled students
 - Regular Education
 - Special Education
 - Not specialized instruction
 - Related aids and services
- Based on data and addresses the major life activity that is affected by the qualifying disability

- a. 34 CFR § 104.34
- b. 34 CFR § 104.35
- c. 34 CFR § 104.36

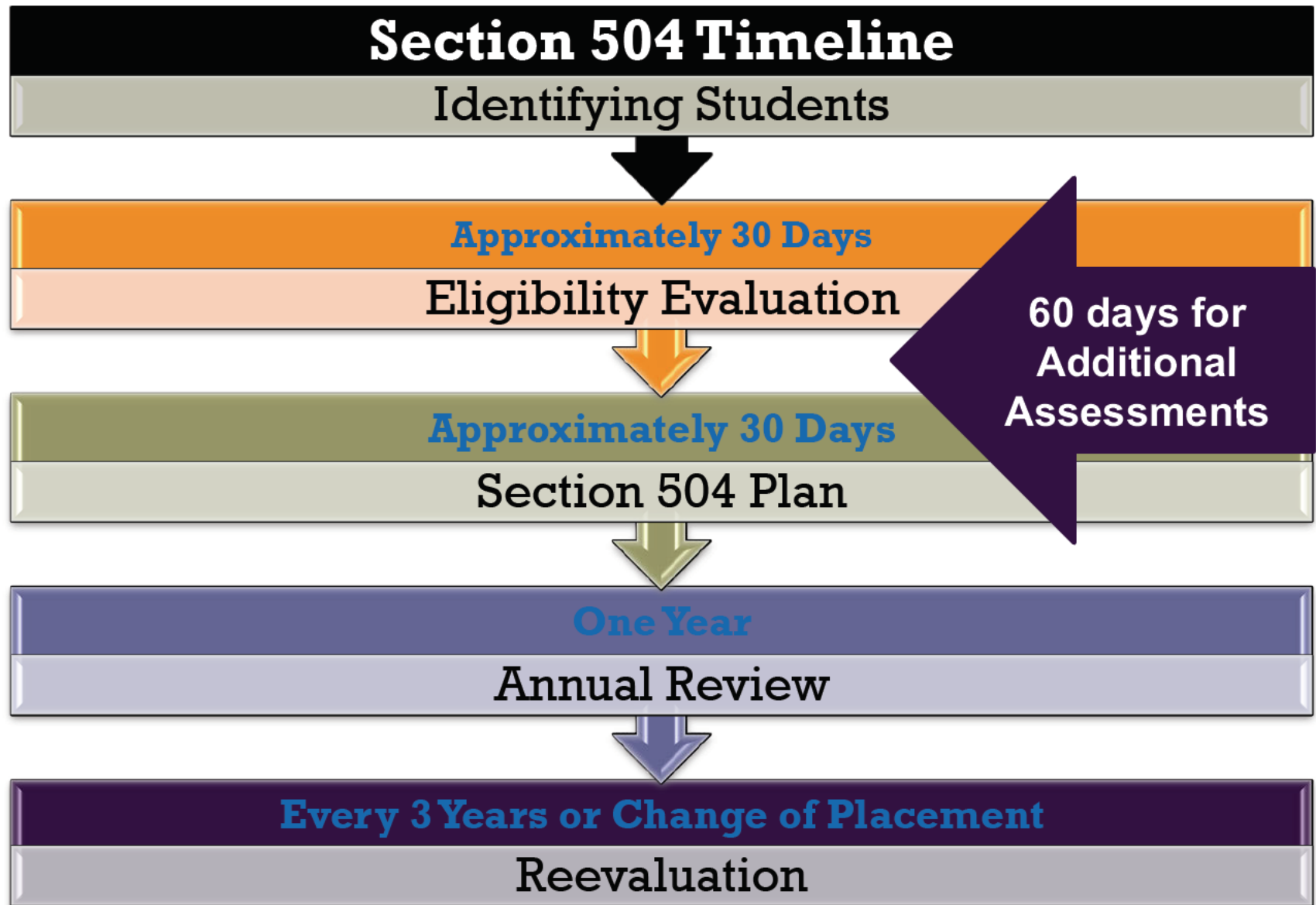


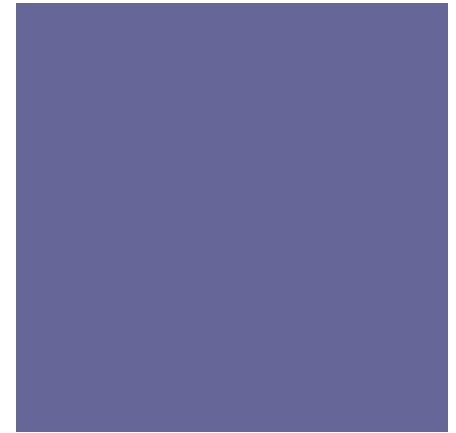


A Note About Evaluation/Placement The Section 504 Team



- Properly Constituted Team
 - Knowledgeable about the child
 - Knowledgeable about the evaluation data
 - Knowledgeable about the placement options/services
- No individual can act on behalf of a 504 team. Agreements should not be made outside the 504 process. *“This is an 504 function. I am not an 504 team.”*





Parental Rights Under Section 504

Procedural Safeguards

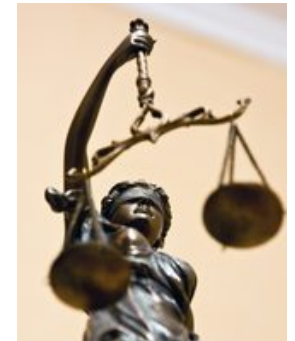
+ Procedural Safeguards

Districts are required to establish and implement procedural safeguards for parents that include:

1. Notice.
2. An opportunity for the parents (or guardian) to examine relevant records.
3. A review procedure
4. An impartial hearing
 - Opportunity for participation by the parents
 - Representation by counsel

When to provide?

- Prior to:
 - any significant change of placement,
 - identification,
 - evaluation, and
 - during the grievance process



When do you have to provide parents with a “Copy” of their procedural Safeguards?



Ask the parents if they have any questions and tell them to contact their child's case manager about procedures or their rights.

1. Upon initial referral and any reevaluation (Mailed with *Notice of 504 Team Meeting*)
2. One time per year (Annual Review, mailed with *Notice of 504 Team Meeting*)
3. Parent request
4. **Upon any disciplinary removal from school that constitutes a change of placement**
5. Upon receipt of request for Section 504 Review or Section 504 Impartial Hearing (*Section 504 Coordinator*)



HCPSS Parent/Student Rights under Section 504



Right

Have their child take part in, and receive benefits from public education programs without discrimination based on a disability.

Application

- Reinforces the right to access under Section 504
- Includes all the educational settings
 - Academic-Least Restricted Environment
 - Nonacademic
 - Comparable facilities
 - Programs held in school buildings

“Nothing is more unequal than the equal treatment of unequal people.” Author Unknown





HCPSS Parent/Student Rights under Section 504



Right

Have the District advise them of their rights under federal law.

Application

- Section 504 team members need to understand procedural safeguards and parental rights.
- Section 504 team members also need to know the grievance policy.





HCPSS Parent/Student Rights under Section 504



Right

Receive notice with respect to identification, evaluation, or placement of their child.



Application

- What does it look like?
 - Document in Meeting notes
 - Discussion/Explanation of the Proposed Action
 - Basis for the Proposed Action (data, assessments, etc.)
 - Options Considered and Reasons for Rejection
 - Any Other Factors Relevant to the Proposal
 - Providing safeguards-including appeal of any decision



HCPSS Parent/Student Rights under Section 504



Right

Right to notice



Application

- When do you have to provide notice?
 - Identification
 - Evaluation
 - Educational Placement Decisions
 - Change of placement concerns
 - Discipline exclusion
 - Transferring to another program
 - Termination
 - Significantly Reducing a related service
 - Alterations to plan outside of a meeting



HCPSS Parent/Student Rights under Section 504



Right

Have their child receive a free appropriate public education.

- This includes the right to be educated with non-disabled students to the maximum extent appropriate (appropriate).
- It also includes the right to have the District make accommodations to allow their child an equal opportunity to participate in school and *school-related activities* (appropriate).

Application

- These services are to be provided free, at no cost to parents, unless students in general have to pay for a program or service.
- All school activities as previously discussed
- Assistive Technology consult before making recommendations about what technology we can provide





HCPSS Parent/Student Rights under Section 504



Right

Have their child receive a free appropriate public education.



Application

- Meets the needs of the student as adequately as non disabled students
 - Regular Education
 - Special Education
 - Related Services
- If the student rejects or does not use of an accommodation, the team needs to meet to discuss whether the accommodation is meeting the student's needs. The student may need a new accommodation.



HCPSS Parent/Student Rights under Section 504



Right

Have an evaluation of their child if the school system has reason to believe that their child has a mental or physical impairment that substantially limits learning or a major life activity:

- Before the initial placement
- Before any subsequent significant change in placement

Application

- Free of charge
- Conducted by District personnel
- If academic testing is recommended/needed, it should be done through the IEP team.
- Parents can request assessments



When the team is UNDECIDED about assessments...



- It is better to assess than to say the child does not have a disability without an evaluation
- Assessments are necessary to ***rule in*** as well as ***rule out*** the presence of a disability
- ***The failure to assess translates to a denial of FAPE if a court determines the child is eligible for service.***

**If there's a
DEBATE...
EVALUATE!!**



HCPSS Parent/Student Rights under Section 504



Right

Have eligibility and educational placement decisions made based upon a variety of information sources, and by individuals who

- know the student,
- know the eligibility, and
- know the placement options

Application

- Team membership is key here
 - Having the right people at the meeting
- More than one staff person at the meeting
- Need to have appropriate information required to make decisions
- Seek further assessment if necessary





HCPSS Parent/Student Rights under Section 504



Right

Receive all information in their native language or other primary mode of communication.

Application

- This does not mean we have to translate 504 forms.
- We should have interpreters at the meeting to explain the process and rights.
- We have a process on Canvas. List of providers and how to access Spanish speakers.





HCPSS Parent/Student Rights under Section 504



Right

Give their child an equal opportunity to participate in nonacademic and extracurricular activities offered by the District through the provision of reasonable accommodations.

Application

- 504 plans should be shared with coaches and extracurricular staff (case manager)
- Arrange training and assistance to staff (case manager)
- Academic waivers-specific way to handle requests through 504- (Policy 9070).



HCPSS Parent/Student Rights under Section 504



Right	Application
<ul style="list-style-type: none">■ Examine all relevant records relating to decisions regarding their child's identification, eligibility, educational program, and placement.■ Obtain copies of educational records at a reasonable cost unless the fee would effectively deny them access to the records.	<ul style="list-style-type: none">■ Policy 9050■ Have access to student record■ Obtain copies of educational records at a reasonable cost unless the fee would effectively deny them access to the records.■ Per page fee for copies and inform the parent of right to copies and reasonable cost





HCPSS Parent/Student Rights under Section 504



Right	Application
<ul style="list-style-type: none">■ Receive a response from the District to reasonable requests for explanations and interpretations of their child's records.■ Request amendment of the record and if not granted, place a statement in the student's record or seek a hearing before the Superintendent or designee.	<ul style="list-style-type: none">■ Suggest that you have two people present whenever go over the student record, including a person trained to provide explanation to assessment items.■ Policy 9050-Protocol on correction of student record<ul style="list-style-type: none">■ Request goes to principal■ Determines if any information is inaccurate, misleading, or violates privacy■ Parent can place a statement in the record if the record is not amended■ There is an appeal process





HCPSS Parent/Student Rights under Section 504



Right

Seek resolution of issues if dissatisfied with decisions regarding their child's identification, evaluation, and educational placement /program through:

- A Section 504 review
- A Section 504 impartial hearing
- Office of Civil Rights review

Application

- All three options available at the same time
 - In past was written that had to central office before either of the two others
- Preference is to address at school level but this is not always possible
- Parent Concern form is another grievance option
- Will discuss in more depth

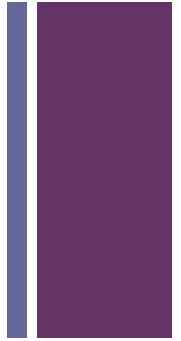




HCPSS 504 Grievance Procedures



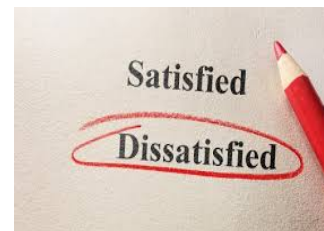
HCPSS 504 Grievance Procedures



If a parent/guardian, student or employee:

- is dissatisfied with the decisions of the Section 504 team regarding the identification, evaluation, and educational placement/program for a student;
- believes the 504 Plan has not been implemented; or
- believes a student has been subject to discrimination due to the student's disability

Then the parent/guardian, student, or employee may request a Section 504 review by the HCPSS Section 504 Coordinator in the Department of Special Education and Student Services.





HCPSS 504 Grievance Procedures



If a complainant:

- wishes to contest an action or failure to act on the part of the school system with regard to the identification, evaluation, or placement of a disabled student under Section 504;
- believes the 504 Plan has not been implemented; or
- believes a student has been subject to discrimination due to the child's disability

Then the complainant may request a hearing before an impartial Hearing Officer, who is not an employee of the Howard County Public School System.

The request must be made to the HCPSS Section 504 Coordinator in the Department of Special Education and Student Services.





HCPSS 504 Grievance Procedures



Beyond HCPSS, the Office for Civil Rights (OCR) enforces Section 504 and handles Section 504 complaints.

If a parent/guardian or student believes that the school system has committed a violation that falls under the jurisdiction of the OCR, the parent/guardian or student may file a complaint to the OCR.





HCPSS 504 Grievance Procedures



Complaints to the Office for Civil Rights may be sent to:

Office for Civil Rights,
Philadelphia Office
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323





HCPSS Policy 9060 and HCPSS Section 504 Guidebook Grievance



- Keep Discrimination, Harassment, and Retaliation in mind if the parent wants to grieve about a student with a 504
- Multiple HCPSS policies may apply
- Need to be alert to any of these concerns and seek assistance from central office.



Further HCPSS Disability Grievance Procedures



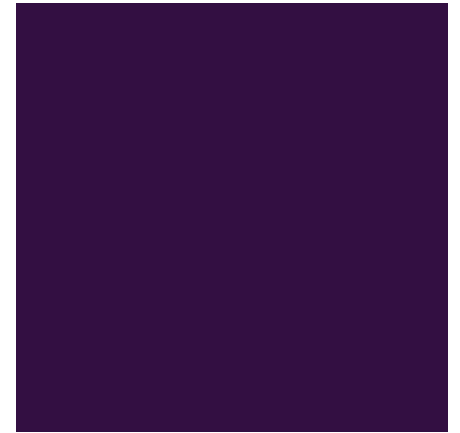
Grievance procedures concerning discrimination:

- ***against students*** by other students or employees/third parties ***and***
- ***against employees/third parties***

are covered through HCPSS Policy 1010-Discrimination.

Grievance procedures concerning ***bullying, harassment, or intimidation*** are covered through HCPSS Policy 1060-Bullying, Cyberbullying, Harassment, or Intimidation.





504 Bumps in the Road



Process Bumps in the Road



- Not having a consistent administrator involved with a case can lead to confusion.
- Parent request for assessments
 - Not realizing that assessments can be done through 504
- Having reevaluation every year (Time consuming)
- Not having reevaluations every three years
- Need permission to have the initial 504 meeting, which is called the “504 Eligibility Evaluation”



Process Bumps in the Road

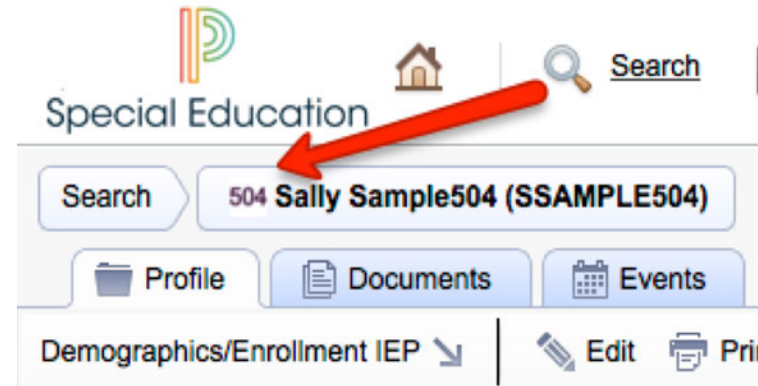
- Not convening a 504 meeting when addressing issues that would fall under 504, for example
 - Removing tutorial
 - Altering an accommodation
 - Holding informal meetings with parents when 504 is more appropriate
- A verbal referral is allowed but follow up with a parent referral form.
- Not using the review of independent assessment form
- During manifestation meeting, not fully reviewing assessments to understand the nature of the disability
 - You may have to dig deep into the file!
- Limiting Major Life Activity to “learning” only or “academic impact”

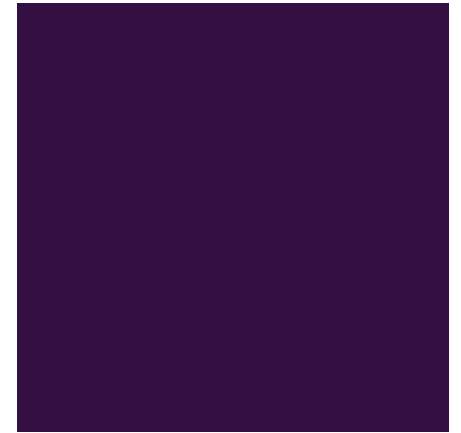
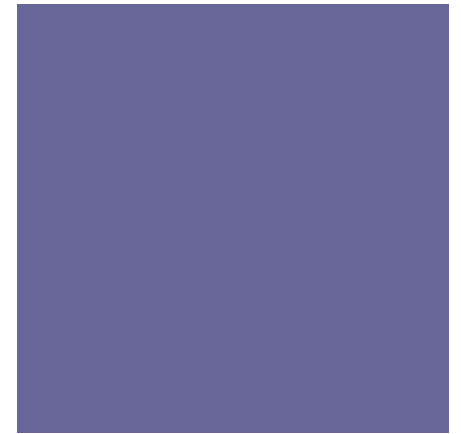
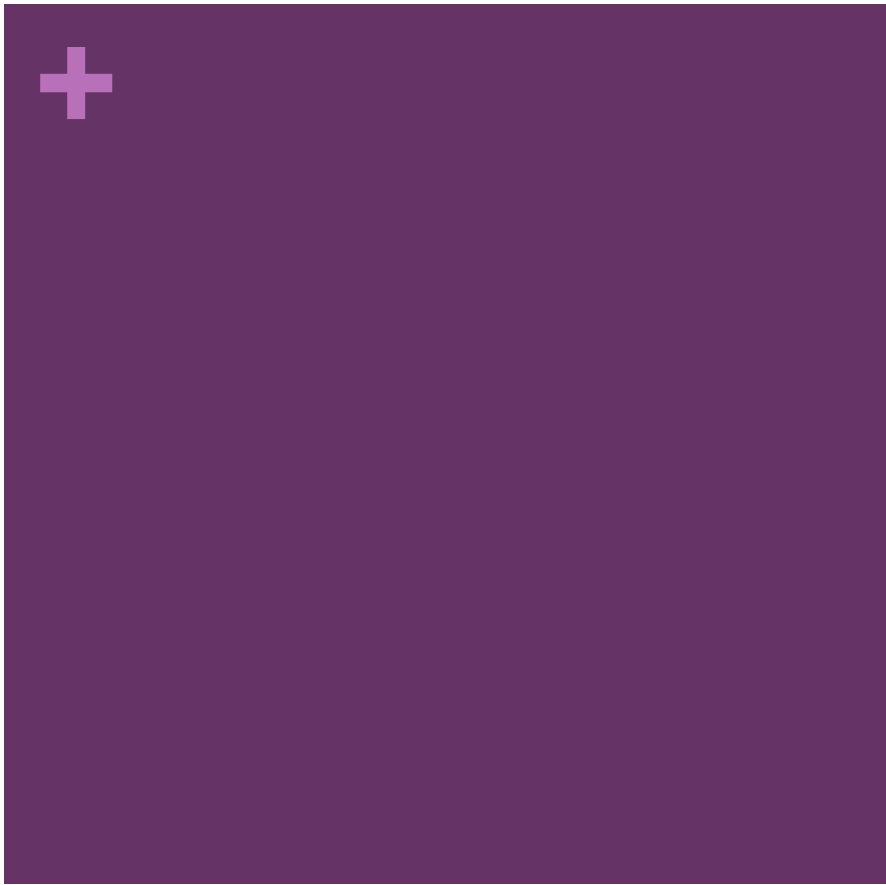




TIENET Bumps in the Road

- Not creating meeting notices
- Not understanding the flags
 - Green is active in TIENET
 - Purple is not active
 - TIENET flag drives Synergy flag
- Force Final on June 30-forms were “frozen” in time and therefore the profiles were altered to empty boxes
- Put accommodation discussions on accommodation page or it will not print with flash





504 Resources and
TIENET FYIs



504 Resources on Canvas



- Support Documents
 - Checklists
 - QRCs
- Forms
 - Two teacher feedback forms
 - Referral forms
 - Release of Information
 - Outside reports
- Link to TIENET
- Guidebook
 - Manifestation
 - Academic Eligibility
 - Dive Deeper
- Assessment Resources
- Trainings



You made it!!!

Following the process is
the key!!

And even if you do
everything right, you may
still have a complaint...



DUE PROCESS

THE GAME WHERE EVERYBODY GETS A
TURN, NOBODY HAS FUN, AND EVEN IF
YOU WIN, YOU FEEL LIKE YOU'VE LOST!