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*DoDEA  
Regulation 2500.14*

*Nondiscrimination and Accommodation on  
the Basis of Disability  
in DoDEA Programs and Activities*



# SECTION 1

BACKGROUND INFORMATION

# Background

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- Section 504 of the Rehabilitation Act of 1973 states:

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

# Background

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- DoD Directive 1020.1, “Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense”, March 31, 1982
  - Applied to DoD Components’ activities and programs as they affected persons with disabilities in the United States including Section 6 schools (DDESS)

# Background

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- **DoDDS implemented the Modified Instructional Program (MIP) 1996**
  - MIP provided reasonable accommodations
  
- **Executive Order 13160, June 23, 2000**
  - Based on Section 504 of American with Disabilities Act
  - Prohibited discrimination (sex, race, national origin, disability, religion...)
  - Issued to achieve equal opportunity in all federally conducted education and training programs
  - Supplemented existing laws

# Background

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- **DoDEA Policy Memorandum,  
Nondiscrimination on the Basis of Disability in  
Programs and Activities, December 10, 2004**
  - No student is discriminated against in any preschool, elementary, or secondary education program or activity provided by DoDDS or DDESS
  - Superseded DoD Directive 1020.1 and all previous policies implementing 504, including the MIP

# Nondiscrimination Policy

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## Purpose of Policy:

- Prohibit discrimination
- Provide equal educational opportunity for students with disabilities
- Meet the educational needs of students with disabilities as adequately in the classroom as the needs of those without disabilities
- “Level the playing field,” guarantee opportunity to succeed



# SECTION 2



**DEFINITIONS, PROTECTIONS AND SERVICES**



# Nondiscrimination Regulation

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DoDEA policy concerning any program or activity directly administered by DoDEA states:

- “A student with a disability, or who has a record of a disability, or is regarded as having a disability, shall not be excluded from participating in, or denied the benefits of any DoDEA program or activity, or be subjected to discrimination based solely on a disability.”

# The Three Prongs

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A person is considered to have a disability if that person:

- **Prong 1** - has a physical or mental impairment which substantially limits one or more major life activities,
- **Prong 2** - has a record of a disability, or
- **Prong 3** – is regarded as having a disability

# Prong 2: Provides Protection

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Prong 2: A student who has a record of an impairment/disability, but no longer has a disability.

- Prong 2 provides protection from discrimination. It is discriminatory to treat this student differently based on a record of impairment
- Prong 2 is **not** used to determine eligibility and need for an accommodation plan

# Prong 3: Provides Protection

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Prong 3: A student is regarded or perceived as having an impairment/disability...the student has never had a disability.

- Prong 3: provides protection from discrimination due to misperception. It is discriminatory to treat the student differently based on the misconception that the student has a disability.
- Prong 3 is **not** used to determine eligibility and need for an accommodation plan.

# Prong 1: Eligibility

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Prong 1: When a student has a physical or mental disability which substantially limits one or more major life activities.

- Prong 1 is used when determining eligibility under this Regulation.
- DoDEA schools will implement reasonable accommodations upon establishing that a student has a disability requiring accommodation.

# Physical and Mental Disabilities

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- **Physiological Disorder or Condition**

- respiratory
- neurological
- skin
- cardiovascular
- reproductive
- hemic
- lymphatic
- digestive
- genito urinary
- musculoskeletal

- **Mental or Psychological Disorder**

- Mental retardation
- organic brain syndrome
- emotional or mental illness
- specific learning disability
- recovering alcoholic or addict (does not include current users)

# “Substantially Limits” defined as:

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- Unable to perform a major life activity that the average person in the general population can perform, or
- Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the...average person in the general population...

# Major Life Activities

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Major life activities are basic activities that the average person in the general population can perform with little or no difficulty. These activities include; functions, such as:

caring for one's self  
speaking  
breathing  
working  
performing manual tasks

hearing  
seeing  
learning  
walking



# Corrective Measures

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Devices or practices used to correct or reduce the effects of the student's mental or physical disability

The team must consider the effect of the corrective measures in determining if the disability "substantially limits a major life activity"

Examples:

- (1) Vision is corrected to 20/20 with glasses
- (2) Student takes medication for ADD and functions appropriately

# Corrective Measure/Substantially Limits

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## **Question: Does the Corrective Measure eliminate eligibility under Prong 1?**

1. A student has asthma but it is controlled with an inhaler; she does not need additional accommodations to function as the general student population functioned.
2. A student with asthma uses medication, but tires easily re: physical activity

*In the first example, it was determined that the student's asthma did not substantially limit the major life activity of breathing. What about the second student with asthma? What major life activity may be substantially limited?*

# Substantially Limits...Discussion

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- A student with a hearing impairment may need classroom accommodations in order to access the curriculum. This may or may not require an accommodation plan.
- A student with cerebral palsy may need special transportation. He needs no other accommodations.



# SECTION 3

Steps in the Nondiscrimination Process  
Referral, Evaluation and Eligibility

# Administration/Responsibilities

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The Regulation requires the establishment of an Accommodation Team. It is a separate team from the general education intervention team, but can be comprised of some of the same people.

- Schools have established intervention teams such as SST, SAT, PAT, and PSAT
- These teams can be used to implement the regulation.

The Regulation states, “Administration of programs and responsibilities under this Regulation shall not be assigned to DoDEA’s special education program staff.”

# The Accommodation Team

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Accommodation Team is composed of:

- Educators that are knowledgeable about curriculum, evaluation, and accommodation options
- At least one member who is knowledgeable about the student (this is usually the classroom teacher)

Team Leader is often the leader or a member of the school's intervention team (SST)

# Team Leader

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- Coordinates all aspects of the team process
- Accepts and processes referrals for eligibility
- Ensures meetings are scheduled and participants are informed
- Ensures the Team's decisions are documented in writing and a copy given to parents
- Ensures Accommodation Plans are reviewed annually

# Caution

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**Do not create legal requirements for DoDEA through extensive procedural requirements by:**

- Creating additional steps to the process, such as unnecessary forms not required by the regulation
- Follow the streamlined process outlined in the Regulation



# Streamlined Process

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## 1. Referral

- May be initiated by parent, school personnel, medical or community agency staff

## 2. Evaluation

- Formal and informal data from parents, school records, teachers, specialists

## 3. Eligibility

- Determined by the response to 2 questions

# Referral to Accommodation Team

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## **Purpose:**

- Determine if a student has a disability that is limiting one or more major life activities
- Address student's need for access to curriculum, facilities and equal treatment

## **Reasons why a student may be considered for referral:**

- Enrolls with Accommodation Plan/Section 504 Plan
- Has a major health concern
- Requires physical accommodations
- Determined ineligible for special education services and still struggling with acquisition of skills

# Referral: Request for Assistance

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## 1. **Complete a Request for Assistance**

- Submit to Accommodation Team Leader who coordinates team activities

## 2. **Team Leader will pass request to a case liaison who will meet with the teacher and help**

- Clarify concern/problem
- Collect necessary documentation

## 3. **Teacher and case liaison meet with Team**

- Review concern/problem and documentation
- Determine next steps

# Evaluation Requirements

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Information/data is required to determine ...

- Does the student have a physical or mental disability/impairment?

AND

- Does a disability substantially limit a major life activity in the educational setting?

# Evaluation

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1. Formal evaluation is **not** mandatory
2. Documentation may come from a variety of sources :
  - Formal or informal data provided by parent or classroom teacher
  - Comprehensive review of school records
  - Medical report from appropriate specialist
  - Previous accommodation plan
  - Individual test results from a special education evaluation
3. Information/data must be sufficient to accurately and completely assess the nature and extent of the disability on a specific major life activity.

# Evaluation (continued)

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Formal assessment is not a requirement to determine eligibility under Prong 1

- Example: Juvenile Arthritis and Cerebral Palsy

Parental consent is required before testing is conducted

- Example: ADD/ADHD

# Eligibility Questions

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Remember there are two questions that must be answered “yes” in order to determine that a student is eligible under Prong 1 of the Regulation

1. Does the student have a physical or mental impairment?
2. Does the impairment substantially limit a major life activity in the educational setting?

# Eligibility

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- **Required participants**

- Person(s) who have knowledge of DoDEA standards, curriculum, evaluation, and accommodation options
- One person must have knowledge of the student

- **Determination is subjective. Neither Section 504 nor DoDEA Nondiscrimination Regulation provide operational criteria for determining substantial limitation**

- Team members must use their collective professional judgment to make this determination





# SECTION 4

DoDEA Accommodation Plan

# DoDEA Accommodation Plan....

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Includes Eligibility Components of:

- nature of the student's disability
- major life activity it limits
- basis for the determination of disability
- educational impact of the disability
- area (s) for accommodation (s)
- accommodation strategies
- documentation as to how student progress will be measured.

# DoDEA Accommodation Plan

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## **Team Leader sets date/time for meeting and notifies participants**

- Team is composed of no less than three members who have knowledge of DoDEA standards, curriculum, and accommodation options.
- At least one member must have knowledge of the student.
- Parents and, as appropriate, students should be invited to attend the meeting

## **Accommodation Team completes plan**

- Parental consent to implement the plan is documented
- Parents provided copy of plan



# SECTION 5



Parent Rights, Concerns and Complaints

# Parent Rights

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## **Parents have the right to:**

- Participate in their child's education.
- Access to student records and to information that can be used in the development of educational interventions, planning, and programming.
- Participate in referral, eligibility, and development of accommodation plan.
- Access the complaint process.
- Ensure written permission is given before testing occurs.
- Keep school informed of changes in students life.

# Complaint Process

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## **Informal complaint gets best solutions**

- First step is for parent to contact and work with principal and staff

## **Formal complaint**

- If unable to resolve complaint informally at the school level, submit a written complaint to the principal or designee
- Parent may appeal school level decision at the DSO level, and ultimately to the Area Office POC for implementing the accommodation process
- Parent may file complaint with DoDEA Office of Compliance and Assistance (DoDEA OCA) in accordance with Enclosure 5 of the regulation



# SECTION 6

Comparisons

# Regulation and DoDI 1342.12

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## Nondiscrimination Regulation

- Eligibility based on very broad definition of disability
- Informal evaluation, review of records and teacher input may suffice for documentation
- Parents' Rights
  - Written notice of Plan
  - Permission to assess
  - No independent evaluation
  - Parental participation invited
  - Informal appeal process
  - Right to OCR complaint

## IDEA (1342.12)

- Eligibility – 13 Specific Categories
- Formal evaluation required
  - Battery of assessments
  - Multi-disciplinary team
- Parents' Rights clearly stated
  - Written notice
  - Permission to assess
  - Right to independent eval
  - Participation in IEP
  - Due process rights (formal & legalistic)
  - Right to OCR complaint



# Regulation and DoDI 1342.12

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## Nondiscrimination Regulation

- Informal committee process
- Accommodation plan (reasonable accommodations)
- Regular classroom environment
  
- Accommodations
  
- Supplementary aids and services (positive behavior plans, scheduled counseling)
- General educators (classroom teachers and PPS)

## IDEA (1342.12)

- Formal IEP team process
- IEP
  
- Continuum of placement environments
  
- Specialized instruction
  
- Supplementary aids and related services (O.T. and P.T.)
- Special education educators and related service providers