



**Key points:**

- **Identify district-sponsored programs**
- **Review forms, applications for language that excludes students with disabilities**
- **Recognize that accommodations for noneducational programs may differ from 504 plan, IEP**

**Avoid 504 compliance concerns in before, afterschool programs**

A parent finds a leaflet for a before-school day care program stuck inside her child's backpack. She enrolls her son who has [autism](#) in the program and calls the program director to inform him that her son's [IEP](#) requires a one-to-one aide.

The program director tells the parent she'll need to pay for her son's aide because the district has nothing to do with the day care program.

Be careful of falling into this trap.

School districts are responsible for providing students with disabilities equal access to district-sponsored [noneducational programs](#), said Anahid Hoonanian, school attorney with [Lozano Smith](#) in Los Angeles.

To find out if a program is "district sponsored," OCR takes a hard look at the factors that tie the two together, Hoonanian said. Funding is not the only determinant.

Even indirect assistance from districts, such as advertising for the program or offering free use of school facilities, can indicate district sponsorship, Hoonanian said.

Proactively address compliance concerns in before and afterschool programs by using these pointers:

**Generate list of district-sponsored programs.** Examine the relationship from OCR's perspective between your district and the program, Hoonanian said. Perhaps there's information on a district website saying, "Here's this program that we're sponsoring, promoting, or offering..." she said.

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If your district sponsors the program, it is responsible for ensuring students with disabilities have an equal opportunity to participate, Hoonanian said. That could mean providing reasonable [accommodations](#) if necessary, she said.

Review these factors that may influence OCR's decision, Hoonanian said.

*The district provides the program with:*

- Direct or indirect financial support such as paying for the teachers or staff who run the program or not charging the program rent or fees to use the district's facilities.
- Tangible resources such as materials.
- Intangible benefits such as lending the program materials or offering recognition or support through advertisements in district newsletters, websites, or handbooks.
- Selection of recipients.
- Provision of privileges and resources.

Also, OCR considers whether the relationship is short-term and temporary or long-term and permanent, Hoonanian said.

Districts can "divorce" themselves of a noneducational program by cutting these ties, but in many instances that's not possible or prudent, said Robin S. Ballard, a school attorney with [Schenck, Price, Smith & King LLP](#) in New Jersey.

"Many of these programs are essential to a district's functioning," she said. For example, "cutting out before-school day care could result in a huge decrease in attendance." Instead, train staffers to reach out to district personnel for guidance when a parent approaches the program with a request for accommodations, she said.

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❑ **Spot troublesome language in applications.** Review intake forms and applications for statements that unintentionally screen out students with disabilities from noneducational programs, Hoonanian said. The program may ask parents for information concerning their child's special accommodations, special needs, or health issues, she said. However, the program's intake forms shouldn't discourage parents of children with disabilities from enrolling their child in the program by in any way suggesting that the program won't make reasonable accommodations, she said.

For example, an application shouldn't imply that a child must be able to participate in a 1:20 teacher-to-student ratio to participate, Hoonanian said. "That's problematic."

Districts do not have to approach every student with a [504 plan](#) or IEP who is participating in these noneducational programs and ask if they need reasonable accommodations, Hoonanian said. However, applications or handbooks "should say that we're an entity with an anti-discrimination policy so that parents know that the program doesn't discriminate based on race, gender, sex, or disability."

❑ **Adopt reasonable accommodation standard.** A student may not need the same accommodations that are listed in his 504 plan or IEP, Ballard said. "I don't believe they'd be identical." For example, masking certain [test] choices or using bigger font might not be necessary or reasonable for access to an afterschool program, she said. The environment and academic demands on the student are different, she said. Instead of using the [FAPE](#) analysis, consider whether the accommodation is necessary to provide access, she said.

Make sure that these programs also consider what reasonable accommodations may be necessary to address students' [health needs](#), Ballard said. That could mean writing an emergency care plan for the student or providing a qualified individual to [administer medication](#), she said.

❑ **Document agreement outside of student's 504, IEP.** It's not necessary to have a team meeting to discuss reasonable accommodations in noneducational services. See *In re: Dear Colleague Letter of Jan. 25, 2013*, [62 IDELR 185](#) (OCR 2013).

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"I would simply document it in letter form," Hoonanian said. Meet with the parents to discuss the child's needs and the accommodation requested, she said. Afterward, send a letter summarizing the meeting and stating whether the request was approved or denied.

"Because it's not a part of the FAPE analysis, I do not believe that we're required to have a 504 plan or an IEP to address it," she said.

One caveat is if participation in a noneducational program is necessary to provide the student FAPE, Hoonanian said. "That's a rare circumstance."

*Jennifer Herseim covers Section 504, education technology, and Common Core issues related to special education for LRP Publications.*

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