

## **SECTION 504 ELIGIBILITY PROCEDURES SPECIAL EDUCATION SERVICES**

### Procedures

Procedures for establishing eligibility for services under the provisions of Section 504 of the Rehabilitation Act of 1973 are as follows:

These procedures are provided for the purpose of assisting special education teams make eligibility decisions for Section 504 placement. Such categorical and placement decisions must be thoroughly documented. By adhering to compliance with the same procedural safeguards that are used in IDEA-B, the district can ensure that all requirements of Section 504 have been fulfilled. The special education team will complete the following forms for each student who is determined to be ineligible for special education under the provisions of IDEA-B, but who may qualify for services under Section 504:

Form 504 Qualifications for Services  
Form 504 Student Accommodation Plan

Referrals for services under the provisions of Section 504 may be made on SDE Form 3, Referral for Evaluation. The referral form should be clearly marked Section 504 on page one. The evaluation team members include the site administrator, regular education teacher, special education teacher, and a qualified examiner. The completion of the qualification for services form will enable the team to summarize the evaluation findings and reach an eligibility decision.

When a student qualifies for services under Section 504, a Student Accommodation Plan will be documented and implemented. Team members will be the same as defined in the previous paragraph. The student accommodation plan will be reviewed annually.

Eligibility for services under the provisions of Section 504 of the Rehabilitation Act of 1973 “. . . extends to persons who have handicaps as well as persons who have a history of a handicapping condition and persons perceived by others to have a handicap. An individual with handicap(s) is anyone with a physical or mental impairment that substantially impairs or restricts one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” (OCR, 2/89)

The Policies and Procedures Manual for Special Education in Oklahoma states that “while a physical limitation or motor impairment may not adversely affect a child’s educational performance, a child may meet the definition of handicapped under Section 504 of the Rehabilitation Act of 1973.” (SDE 1991)

A memorandum from the United States Department of Education dated September 16, 1991, states that “A student may be handicapped within the meaning of Section 504, and therefore entitled to regular or special education and related aids and services under the Section 504 regulation, even though the student may not be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.” (OSERS, 9/16/91)

Furthermore, “Under Section 504, if the parents believe that their child is handicapped, the Local Education Agency must evaluate the child to determine whether he or she is handicapped as defined by Section 504. . . . Should it be determined that the child . . . is handicapped for purposes of Section 504 and needs only adjustments in the regular classroom, rather than special education, those adjustments are required by Section 504.” (OSERS, 9/16/91)

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“Section 504 recognizes that appropriate education might be provided through the provision of regular education or related aids and services without an IEP. Section 504 may require the provision of related services to a student not eligible for special education.” (NASDSE 1991)

Section 504 recognizes two very important possibilities:

1. There is a population of handicapped persons who are not eligible for special education under IDEA-B who are still in need of protection against discrimination because of a handicap as defined under Section 504; and
2. There is an obligation imposed on recipients to provide services (evaluations, regular education, reasonable accommodations, related services and related aids) regardless of eligibility for special education under IDEA-B. (NASDSE 1991)

**Eligibility Standards**

Eligibility standards for services under the provisions of Section 504 of the Rehabilitation Act of 1973: The eligibility team must document the following:

1. The student must have a documented physical or mental impairment, have a record of such impairment, or be regarded as having an impairment; and
2. The student’s physical or mental impairment must substantially impair or restrict one or more major life activities, such as caring for one’s self, performing manual tasks, walking, seeing, hearing, breathing, learning, and working; and
3. The student does not achieve educationally to a satisfactory degree due to the physical or mental impairment listed above which substantially limits, impairs, or restricts one or more major life activities; and/or
4. The student must require a multi-disciplinary evaluation, a supplementary service or aid, a related service, or some other reasonable accommodation in order to receive an appropriate education.

**Definitions**

Definitions of terms used in determining qualification for services under Section 504 include the following:

1. **Achieve Education Satisfactorily** means:
  - A. That the student is provided with access to an “appropriate education” as defined below; and
  - B. That the student is receiving some benefit from an “appropriate education” as defined below; and
  - C. That the student is progressing through a curriculum or promotion from grade to grade.

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2. **Appropriate Education** means:
- A. For a student who has never been enrolled in a public or private elementary school, performance at or not substantially below expected developmental levels for a student of the same age.
  - B. For a student who is currently enrolled in a public or private elementary or secondary school, but not receiving special education and related services, or is a high school dropout, performance at or not substantially below expected competencies (or other educational standards including progress through a curriculum or promotion from grade to grade) established for grade and/or age level.
  - C. For a student who is currently receiving special education and related services, substantial progress toward the attainment of the goals in the IEP, as evidenced by the accomplishment of at least a majority of short-term instructional objectives established in each goal area.
3. A **Qualified Handicapped Student** is a school-age student who:
- A. Has a physical or mental impairment which substantially limits participation in one or more major life activities; and
  - B. Does not achieve education satisfactorily because of a physical or mental impairment which substantially limits participation in one or more major life activities; and/or
  - C. Requires the provision of a multi-disciplinary evaluation, a supplementary service or aid, a related service, or some other reasonable accommodation to receive an appropriate education.
4. A student's performance in one or more of the major life activities will be determined to **substantially limit participation** when:
- A. The student's performance is more than one and one-half standard deviations below the mean when compared with other students of the same age and mental ability; or
  - B. The student's performance is more than 22 standard points below the mean when compared with other students of the same age and mental ability; or
  - C. The student is performing at or below the third percentile when compared with other students of the same age and mental ability; or
  - D. The student is performing fifty percent or more below his or her developmental age level when compared with other students of the same age and mental ability.

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5. **Adversely affects educational performance** is a term which applies only to students who have been determined to have a disability under IDEA-B and means a disabled student whose diagnosed disability has caused two or more of the following:
- A. One or more grade(s) of D or below in a solid subject or one or more grade(s) of C/BGL (C/Below Grade Level) in a solid subject for two or more consecutive nine-week grading periods. (This does not apply when the student's poor grades are caused by factors other than the diagnosed disability.)
  - B. One or more scores on a standardized group achievement test battery (i.e., ITBS, CTBS, etc.) that are 1.5 standard deviations below the mean when compared with other students of the same age. Examples: Standard scores of 77 or below, scores at or below the 6th percentile, NCE scores at or below 18, etc.
  - C. One or more scores on an individualized achievement test battery (i.e., Woodcock-Johnson Psycho-educational Test Battery, Kaufman Test of Educational Achievement, etc.) which are 1.5 standard deviations below the mean when compared with other students of the same age.