

**STUDENTS ELIGIBLE FOR SERVICES UNDER SECTION 504 OF THE
REHABILITATION ACT OF 1973****Purpose and Scope**

To outline procedures governing the identification, evaluation, and provision of a free, appropriate public education (FAPE) to students who are eligible for services under Section 504 of the Rehabilitation Act of 1973. This applies to students who, because of actual disability or disabilities, are eligible for FAPE under Section 504 as the provision of general or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students. Students eligible for special education services under the Individuals with Disabilities Education Act (IDEA) (20 USC 1400 et seq.) receive discrimination protections under the Americans with Disabilities Act (ADA)/504.

Identification and Education Under Section 504

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

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Definitions

For the purpose of implementing Section 504, the following terms and phrases shall have only the meanings specified below:

Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of students without disabilities are met, at no cost to the student or his/her parent/guardian except when a fee is specifically authorized by law for all students. (34 CFR 104.33)

Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities; or who has a record of such an impairment; or who is regarded as having such an impairment. (28 CFR 35.108)

Physical impairment means any physiological disorder or condition, cosmetic disfigurement, or

anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, immune, hemic, lymphatic, skin, and endocrine. (28 CFR 35.108)

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability. (28 CFR 35.108)

Substantially limits major life activities means limiting a person's ability to perform functions, as compared to most people in the general population, including but not limited to caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, writing, communicating, interacting with others, and working. Major life activities also includes, but is not to be limited to major bodily functions such as: functions of the immune system, special sense organs and skin, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions, as well as the operation of an individual organ within a body system.

The determination of whether an impairment substantially limits a student's major life activities shall be made without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures are measures that an individual may use to eliminate or reduce the effects of an impairment, including, but not limited to, medications, medical supplies or equipment, low-vision devices (which do not include ordinary eyeglasses or contact lens), prosthetics including limbs and devices, hearing aids and cochlear implants and other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies, use of assistive technology, reasonable modifications or auxiliary aids or services, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy. (42 USC 12102; 28 CFR 35.108)

An impairment need not prevent or severely restrict a major life activity to be considered substantially limiting. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active (42 USC 12101).

In determining whether an individual is substantially limited in a major life activity, it may be useful in appropriate cases to consider, as compared to most people in the general population, the conditions under which the individual performs the major life activity, the manner in which the individual performs the major life activity, or the duration of time it takes the individual to perform the major life activity. Considerations of facts such as condition, manner or duration may include, among other things, considerations of the difficulty, effort or time required to perform a major life activity, pain experienced when performing a major life activity, the length of time a major life

activity can be performed, or the way the impairment affects the operation of a major bodily function. In addition, the non-ameliorative effects of the mitigating measures, such as the negative effects of medication or burden associated with following a particular regimen, may be considered when determining whether an individual's impairment substantially limited a major life activity. (28 CFR 35.108)

The determination of whether an individual has a disability should not demand extensive analysis and may not be foreclosed solely on the basis of an outcome measure, such as grades.

Evaluation: administration of tests or other evaluation materials, or a review of formal and informal assessment data to determine student eligibility under the meaning of Section 504 of the Rehabilitation Act of 1973 ("Section 504"). The determination of whether an individual has a disability should not demand extensive analysis, should be made without considering the ameliorative effects of medication or other measures, and may not be foreclosed solely on the basis of bottom line measures such as grades. {Ameliorative effect may remain pertinent to determining appropriate related aids and services as well as classroom and instructional accommodations).

504 Plan: A written statement that identifies the accommodations or related aids and services needed by an eligible student and the person who will provide the services or modifications/accommodations.

504 Team: A group of persons knowledgeable about the student and the student's school history, including the student and his/her parent/guardian, that meets and analyzes the evaluation data to determine if the student has a mental or physical impairment, or is perceived to have such an impairment, that substantially impairs or limits a major life activity, including learning, and is in need of special accommodations/services.

Discriminatory treatment: Harassment of a person with disabilities by others; denial of the opportunity to participate in a program or activity based on disability; other forms of different treatment based on disability; inaccessibility of district programs or activities.

Intent

1. To identify, evaluate, and provide a free, appropriate public education (FAPE) to each student attending a district school who is an individual with a disability within the meaning of Section 504, regardless of the nature or the severity of the student's disability.
2. To ensure that students with disabilities within the meaning of Section 504 are identified, evaluated, and provided with the required free, appropriate education (i.e., general or special education and related aids and services that are designed to meet the needs of each individual with a disability as adequately as the needs of nondisabled persons are met).

Identification and Referral

Students who, because of disability, need, or are believed to need special accommodations or related aids and services not available through existing programs in order to receive a free, appropriate public education, may be referred to the site 504 coordinator by a parent/guardian, teacher, or other certificated school employee, or community agency for identification and evaluation of the student's individual education needs.

Upon receipt of any such referral, the principal, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability shall consider the referral and determine whether an evaluation is appropriate within a reasonable amount of time. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below. The evaluation shall be completed and the multidisciplinary 504 team convened within 60 days of the parent/guardian's signature on the evaluation plan.

Evaluation

If the student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to his/her initial placement and before any significant change in placement. (34 CFR 104.35)

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instruction provided by the test publishers.
- b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient.
- c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure.

The 504 Team will conduct an evaluation of the student and the impact of the disability upon his/her educational access. The 504 Team will obtain and review current, complete and reliable information on the student's educational, psychological, medical, and/or social/emotional history and status that is sufficient to:

1. Fully and accurately identify the nature and extent of any disabilities the student may have, and
2. Determine the services, if any that are necessary and appropriate for the student's individual needs.

Evaluation will include consideration of any behaviors that interfere with the regular participation of a student who otherwise meets the criteria for participation in the educational program and/or activities.

The 504 coordinator will notify the student's parent/guardian of the procedural safeguards available to them, including the right to an impartial hearing and review, as described in the "Procedural Safeguards" section below.

Section 504 Services Plan and Placement

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multidisciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.
3. The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

4. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a person with a disability under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
5. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)
6. The district shall complete the identification, evaluation, and placement process within a reasonable time frame. The district shall adhere to this time frame regardless of any extended school breaks or times that school is otherwise not in session.
7. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

Reevaluation of the Student's Progress

The 504 Team will annually monitor the progress of the student identified as an individual with a disability to determine the appropriateness of the accommodations and related services. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

Prior to any significant change in the educational placement of a student identified as an individual with a disability, a reevaluation of the student must be conducted. (34 CFR 104.35)

Procedural Safeguards

Parents/guardians shall be notified in writing of all decisions concerning the identification, evaluation, or educational placement of their child made under this procedure. Parents/guardians shall have the right to review relevant records. Records may be reviewed at the school site or at the district office. As part of the notification of any district decision concerning the identification, evaluation or placement of their child, the parents/guardians will be advised of the right to appeal

the decision. The notification will include:

1. The procedures for filing a request for an impartial hearing.
2. The title of the person to whom they shall make any such request and his/her address and telephone number.

Parents/guardians may appeal decisions made by the district relating to any of the following:

1. Identification of the student as an individual with a disability.
2. Evaluation procedures utilized with the student.
3. Educational placement services recommended for the student.

A written appeal must be filed with the district's ADA/504 Office within 30 days of the date the appellant was served notice of the district's decision. The appeal must specify the decision that is being appealed, the relief sought, and any other information the appellant believes will assist in understanding the appeal.

Within 20 calendar days of receipt of a written appeal and request for hearing, the district's ADA/504 Office will identify an impartial hearing officer. A hearing officer identified by the district must meet the following requirements:

1. Be qualified to review district decisions relating to Section 504 of the Rehabilitation Act of 1973.
2. Be impartial and unbiased.
3. Not be an employee of, or under contract with, the district in any capacity other than that of a hearing officer in the past three years, or by any cooperative program in which the district participates, or by any other agency or organization that is directly involved in the diagnosis, education, or care of the student, or who in any other way has a professional or personal involvement that would affect his/her objectivity in the case.

Continuance

Either party to the hearing may request the hearing officer to grant a continuance. The continuance may be granted upon a showing of good cause or by agreement of the parties.

Party Rights

Any party to the hearing shall be afforded the following rights:

1. The right to be accompanied and advised by counsel and by individuals with specialized knowledge or training relating to the needs of students who are individuals with disabilities under Section 504.
2. The right to present written or oral evidence, including documents and witnesses.
3. The right to question and cross-examine witnesses.
4. The right to written findings of fact, conclusions of law, decisions, and reason for the decisions prepared by the hearing officer.

Where a State Fair Hearing has been held under the Individuals with Disabilities Education Act (IDEA) concerning issues relevant to the Section 504 due process proceeding, the hearing officer shall, at the request of either party, accept into the record as evidence, copies of the transcript of testimony and documents submitted in the State Fair Hearing. The Section 504 hearing officer shall then provide an opportunity for the submission of additional evidence by the parties that is relevant to a determination of the issues under Section 504. The Section 504 hearing officer's jurisdiction shall be limited to Section 504 issues and shall not extend to a determination of eligibility for special education assessment or placement under IDEA.

If the parent/guardian and the district both agree that the student is not eligible for special education services under the IDEA, neither party is required to exhaust administrative proceedings under the IDEA prior to holding a Section 504 hearing.

Within 45 calendar days of the selection of the hearing officer, excluding the days of any continuance, the hearing on the appeal shall be conducted and a written decision mailed to all parties.

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

The parties shall abide by the decision of the Section 504 hearing officer unless the decision is appealed to a court of competent jurisdiction and the decision is stayed, revised, or reversed by the court.

Complaints

Any individual that believes the school or school representative has inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973 may submit a complaint.

Complaints about Section 504 identification, evaluation or placement of a student with a disability or suspected disability under Section 504 may be submitted by either:

1. Following the school's grievance procedure.
2. Contacting the Office for Civil Rights, as outlined below.

Complaints not resolved at the school site shall be submitted in writing by the complainant to the district's ADA/504 Office within **10** business days. The ADA/504 Office shall further investigate the allegations and reply in writing to the complainant within 60 business days. Within 10 days of receipt of the complaint, the ADA/504 Office may contact the complainant for additional information for inclusion during the investigation.

To appeal a decision of the district's ADA/504 Office, the complainant may file a complaint with the Office for Civil Rights (OCR) or at any time during the complaint procedure.

The site administrator should make every attempt to resolve complaints of discriminatory treatment at the site level.

If the complaint of discrimination based on disability is not resolved at the site, the complainant shall be informed of the right to file a complaint under the District's Uniform Complaint Procedure.

Complainants may also file complaints directly with the Office for Civil Rights (OCR). An OCR complaint must be filed in writing within 180 days after a violation has occurred. The OCR complaint can be submitted in the form of a letter or on the Discrimination Complaint Form.

The complaint will include:

1. Complainant's name and address (a telephone number where the complainant may be reached during business hours is helpful, but not required).
2. A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required).
3. The name and location of the institution that committed the alleged discriminatory act(s).

A complainant shall not be retaliated against for having made a complaint, testifying, assisting, or participating in any manner in an investigation or proceeding.

Implementation

1. Principal or designee identifies a site 504 coordinator.
2. Site 504 coordinator, upon receipt of referral from parent/guardian, student, or staff member:
 - a. Sends notice of intent to evaluate the student to the parent/guardian, invites the parent/guardian to the 504 Team meeting, and provides information on due process rights.
 - b. Coordinates collection of relevant student data.
3. 504 Team:
 - a. Together with parent/guardian, reviews all relevant data, including any previous formal evaluation results.
 - b. If necessary, conducts additional formal or informal evaluation.
 - c. Makes determination as to whether student is eligible for services within the meaning of Section 504. If student is determined to be eligible under Section 504, develops a 504 Plan for the student including a description of the proposed accommodations and /or special aids or services.
 - d. Notifies parent/guardian and all concerned parties (e.g., teacher, counselor, nurse) by providing each a copy of determination and the 504 Plan.
 - e. Sets a date for annual review of student's progress and placement.
4. Parent/guardian, upon receipt of determination, may appeal determination by:
 - a. Contacting principal or designee to discuss and resolve concerns.
 - b. Sending written complaint within designated timelines described above to district's ADA/504 Office if concerns are not resolved at the site level after discussion with principal or designee.

5. District ADA/504 Office:
 - a. Meets with parent/guardian to discuss complaint.
 - b. If parent/guardian concerns remain unresolved, initiates fair hearing process within designated timeline with an impartial hearing officer as described above.
6. Hearing officer renders final written decision and notifies parent/guardian and district ADA/504 Office of the decision.
7. District ADA/504 Office notifies principal or designee of final decision.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)