

# Section 504 Processes

## A Handbook for USD 416 Staff

### Section 504 and the K-12 Setting

For students, the intent of Section 504 is to provide students with disabilities equal access to educational programs, services, and activities. Students with disabilities may not be denied participation in school programs and activities solely on the basis of disability.

#### What are the School District's Responsibilities?

The Section 504 regulations require the school district to:

- Annually attempt to identify and locate all children with disabilities
- Provide a “free and appropriate public education”
- Ensure that students with disabilities are educated with non-disabled students to the maximum extent appropriate
- Establish nondiscriminatory evaluation and placement procedures
- Establish procedural safeguards
- Ensure students with disabilities the equal opportunity to participate in nonacademic and extracurricular services and activities.

In addition, districts with 15 or more employees are required to designate an employee who will be responsible for ensuring compliance with Section 504 regulations, who is usually known as the Section 504 Coordinator. The district’s annual notice to parents should provide the name and telephone number of the Section 504 Coordinator. The district must also develop complaint policies and procedures for parents, students, and employees.

#### What are the responsibilities of the Section 504 Coordinator?

Responsibilities of the district’s Section 504 Coordinator should include:

- Understanding the requirements and intent of Section 504 regulations
- Establishing and monitoring Section 504 referral, identification, and review process and procedures, including annual notice
- Maintaining data and preparing annual reports on compliance
- Developing awareness materials and workshops for school staff and families  
<http://www.504idea.org/504resources.html>
- Implementing Section 504 complaint procedure
- Conducting self-reviews
- Serving as district liaison to the Office of Civil Rights.

### **What are parents' rights under Section 504?**

Section 504 provides certain parental rights. Specifically, parents have the right to:

- Have their child provided a free, appropriate public education and be given an equal opportunity to participate in all school-related activities, free of discrimination because of a handicapping condition
- Be informed by the school district of their Section 504 rights
- Receive all information, including any attempt at identification, evaluation, re-evaluation or placement (educational programs and activities) of their child, in their primary language or mode of communication
- Request an evaluation of their child and expect periodic re-evaluations before any change of placement
- Examine all education records of their child and obtain copies of records at a reasonable cost
- Request an amendment to their child's educational record
- Challenge evaluation and/or placement decisions
- File a complaint with the school district and/or the Office of Civil Rights
- An impartial hearing
- Representation
- Appeal the hearing officer's decision.

### **Does Section 504 have Procedural Safeguards?**

When a district proposes to change the identification, evaluation, or services of a student protected by Section 504, the parents/guardians must be provided with notice prior to any action. The notice must contain the following four procedural safeguards:

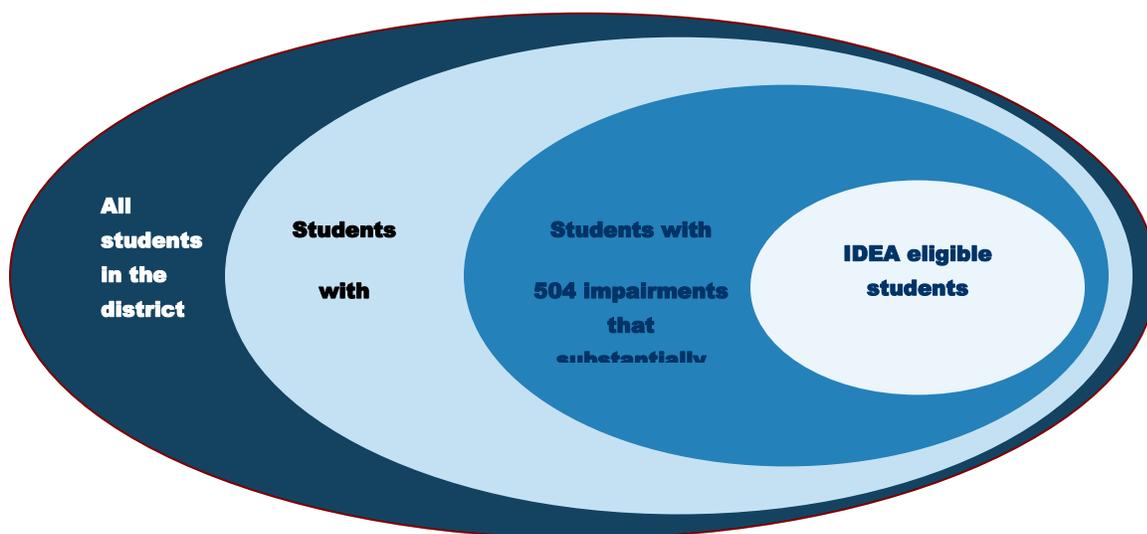
- Notice of parental rights
- The opportunity to examine education records
- An impartial hearing with parent/guardian participation and representation by counsel
- The review procedure.

### **Are Section 504 and Special Education the same?**

No, Section 504 is a civil rights law that protects a broad range of students with disabilities from discrimination on the basis on their handicapping conditions. No federal funding is provided to districts to implement Section 504. It is the responsibility of the general education program to ensure compliance and funding. Special Education is a federally funded statute that ensures that a free, appropriate public education is provided to IDEA 2004 qualified students. The protections of Section 504 apply to special education students.

### **Who is eligible for Section 504 services?**

Students who meet the definition of a person with a disability are those who have a physical or mental impairment which substantially limits one or more major life activities.



The physical or mental impairment must substantially limit one or more major life activities. Major life activities are defined as those functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.

#### What does substantially limited mean?

The regulations do not provide a definition of “substantially limited,” however, school districts are directed to develop their own definition. Districts often look to the Americans with Disabilities Act (ADA) for guidance in defining “substantially limited”; the individual is unable to perform a major life activity that the average person in the general population can perform or is “significantly restricted as to the condition, manner or duration under which the average person in the general population can perform the same major life activity.” In schools, we would compare the student with a disability against the skills and progress of the average student in the average classroom. The nature and severity of the impairment, its expected duration, and the impact on a major life activity should be considered when defining “substantially limited.” Both academic and nonacademic activities need to be considered. Temporary disabilities, such as a broken leg or mild illness, often do not meet the definition of “substantially limited.”

## **Determining the “Substantially Limits” Requirement Sevier County School System, Tennessee**

School personnel, after reviewing relevant student information, must use their collective professional judgment in determining if an impairment (or disability) *substantially limits* one or more of a student’s major life activities. Making this determination will often challenge school staff especially if this is their first opportunity to participate in the Section 504-eligibility process. What follows are a few factors and framing questions to consider when deciding if an impairment meets the *substantially limits* requirement for Section 504 eligibility.

Have staff keep in mind that when a student is *substantially limited* by an impairment, the student is:

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

The following three factors and related questions should be used by staff when determining if the *substantially limits* requirement is met.

### **Nature and severity of the impairment**

- Is the impairment mild or severe?
- Does the impairment result in the student not achieving near expected levels?
- Does the impairment impact on a major life activity? If so, how?

### **Duration or expected duration of the impairment**

- Will the impairment be of such short duration as to not cause significant problems?
- Will the impairment cease impacting on the child without any intervention?

### **Permanent or long term impact resulting from the impairment**

- Will the impairment be short or long in duration?
- If the impairment is of short duration, will it have a significant impact without intervention?
- If the impact will be long term, will the impact negatively affect the child’s status, academically, socially, emotionally, or behaviorally?

## **Who determines eligibility?**

A student must be evaluated by the school district in order to determine Section 504 eligibility. The evaluation must be conducted by a team composed of individuals who know the student and understand the evaluation information. Individuals who may be members of the Section 504 Team often include:

- Teachers
- School nurse
- Principal or administrative designee
- School psychologist
- School counselor
- Parents and/or family members
- Social workers
- Specialists

Many schools use the Student Intervention Team (SIT) as the Section 504 Team. The composition of the Section 504 team will change, depending upon the needs of the student. The team should be knowledgeable of the student, the evaluation data, interventions that have been successful, strategies that have failed, and service options.

### **How is eligibility determined?**

Districts should develop specific standards for evaluation for Section 504 eligibility. Formal testing is not always required. Information should be considered and documented from a variety of sources, including:

- Teachers' reports
- Parent/family information
- Home language survey
- Report cards
- Response to interventions
- Standardized tests
- Referral forms
- Disciplinary records
- Health records
- Prior Section 504 or Special Education evaluations or services
- Private evaluation reports
- Attendance records

### **Are there requirements for testing?**

The regulations require that any tests or other evaluation materials used to determine eligibility be:

- Validated for the specific purpose for which they are used;
- Administered by trained personnel in conformity with the instructions provided by the test producer;
- Tailored to assess specific areas of educational need; and
- Selected and administered to best ensure that, when administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect whatever other factor the test purports to be measuring, assuming that factor is something other than the degree of impairment.

### **How are students referred?**

Districts are required to develop policies and procedures to meet their Section 504 obligations. A parent or teacher can request a referral for Section 504 eligibility. In most schools, when a student is not progressing as expected, a referral will be made to the Student Study Team. If the Student Study Team suspects a disability, a referral for a Section 504 or Special Education evaluation may be made. A district must conduct an initial evaluation when a student, because of his disability, "needs or is believed to need special education or related services." If the Student Study Team does not suspect the referred student has a disability and chooses not to refer the student for evaluation, the District will provide the parent with procedural safeguards.

### **If eligible, how is the student served?**

Once the 504 Team has determined that a student is eligible, that is, he or she has a disability that substantially limits one or more major life activities, a service plan is developed. This plan, typically known as a 504 Plan, details the accommodations that will be made to ensure that the student has access to the academic curriculum and extracurricular programs and activities.

### **Where are Section 504 students placed?**

Section 504 is a general education statute. The mandate of Least Restrictive Environment applies to

Section 504 students. Placement refers to the general education classroom with individually planned accommodations. Students with disabilities may be placed in a separate class or facility only when they cannot be educated in the general education setting with the use of supplementary aids and services.

#### **Is participation in extracurricular activities, including athletics, covered?**

Section 504 applies to all school-sponsored activities, including athletics. Schools must make efforts to ensure that all students have access to all programs, services, and activities and that no student is denied participation on the basis of his or her disability. Students with 504 Plans are expected to meet the same conduct standards and activity prerequisites as their non-disabled peers.

#### **What is a 504 Plan?**

A 504 Plan is a written document detailing the services and accommodations to be provided. The plan should include:

- A description of the disability
- The major life activity limited
- The basis for determining the disability and its educational impact
- Necessary accommodations
- Placement in the least restrictive environment
- A review or re-evaluation date
- 504 Team members' names

#### **Is a 504 Plan required?**

Districts are not required to document agreed upon services and accommodations. Written documentation is, however, recommended.

#### **What are accommodations?**

Accommodations are program adjustments made to remove disability-related barriers to a student's full participation in school, including nonacademic and extracurricular activities, such as field trips, athletics, and assemblies. Accommodations are made in order to provide a student equal access to learning and equal opportunity to demonstrate what he or she knows. Accommodations should not alter or lower the standards of the coursework or standards required for participation in extracurricular activities. It is important that accommodations be:

- Disability specific
- Necessary, not merely helpful
- Individualized
- Documented
- Communicated to all individuals involved.

#### **Are there requirements for school staff dispensing medication?**

Some students' disabilities require that medication(s) be administered during school hours. Schools should have policies and procedures in place regarding medication administration. The Office of Civil Rights (Culver City Unified School District, 16 EHLR 673) provided guidance and specified four items that should be discussed by the 504 Team:

- The purpose of the medication (as indicated in documentation provided by the student's doctor);
- Which individuals at the school have responsibility for administering the medication;
- Whether any staff training for administration of the medication is needed;
- The protocol to be followed in the event of an emergency involving the student and his medicine.

Best practices would indicate that these items are clearly documented and communicated to all school staff involved with the student.

#### **Are there accommodations for statewide testing?**

Federal law requires school districts to include students with disabilities in statewide and district-wide testing. Kansas allows certain accommodations for Section 504 and Special Education students. The allowable accommodations are those that do not alter the content of the test nor provide inappropriate assistance to the student. The testing accommodations used should be those that the student is familiar with and has used during instruction. Accommodations used for Kansas Statewide Assessments should be clearly documented on the IEP or 504 Plan. See test accommodations manual on-line.

#### **Can Section 504 students be disciplined?**

Students covered by Section 504 are expected to conform to the same behavior standards as their non-disabled peers, unless explicitly outlined in their 504 Plan. They have, however, extra protections when facing serious discipline such as expulsion. Prior to expelling a student, the 504 Team should conduct an evaluation (manifestation determination) to determine if the incident was related to the student's disability. If the 504 Team determines that the incident was not related to the disability, the school may discipline the student as they would any other student. Students currently using drugs or alcohol are exempt from Section 504 protections.

#### **How is Section 504 funded?**

It is the responsibility of the general education program to ensure compliance and funding. No federal funding is provided.

#### **Should parents participate in the evaluation process?**

Although the Section 504 regulations do not specify the degree of parent participation, it is best practice to include the parent. The parent can provide valuable information regarding health and social history, strategies that have been successful, techniques that have failed, and services that have been provided. Efforts should be made to schedule the meeting at a time when the parent can attend.

#### **Must teachers and other school staff comply with the 504 Plan?**

Yes. The 504 Plan is developed to provide those accommodations the student with a disability needs in order to access the curriculum and other school activities. Although often unintentional, failure to implement the agreed upon plan may result in the parent filing a discrimination complaint. School staff should be provided training in order to understand the importance of Section 504 and their obligation to ensure compliance with this law.

It is important that teachers be involved in developing the 504 plan. They should provide input regarding the curriculum rigor and requirements and suggest necessary accommodations. It is equally important

## Examples of Program Accommodations and Adjustments

This part contains possible examples of 504 accommodations. This is intended to be a staff document. The following examples are not offered as check lists and should never be considered as all-inclusive or mandatory listings. Rather the following are examples intended to serve as “starters” for 504 teams designing accommodation plans that meet a student’s specific need(s). The best 504 plans incorporate teacher expertise and available regular education resources. The Student Support Team process involves schools in identifying the resources they (and outside agencies) have to support various student needs. Obviously, the kinds of accommodations schools can provide will vary based on school, level, etc. No attempt was made to sort these examples by level, etc. The 504 evaluation team decides the accommodations that will best support a particular student. The following examples are organized into two groups. The first group includes general environmental, organizational, behavioral, presentation, and assessment strategies. The second group includes possible examples of accommodations that might be valuable when dealing with specific disability profiles.

- General Accommodations
- Environmental Strategies
- Organizational Strategies
- Behavioral Strategies
- Presentation Strategies
- Evaluation Methods

### General Accommodations

General program accommodations/adjustments or services are always made on a case-by-case basis and individualized. Accommodations are to be reasonable. Accommodations are intended to provide persons with disabilities compensation for their functional limitation(s) due to a mental or physical impairment. Where Section 504 is concerned, accommodations are made to bring a student with a disability to the same starting point as a non-disabled student. Consequently, the accommodations defined in a Section 504 plan are those interventions that are over and above the accommodations available to all students.

### Environmental Strategies

- Provide a structured learning environment
- Make separate "space" for different types of tasks
- Possible adapting of non-academic times such as lunch, recess, and physical education
- Change student seating
- Utilize a study carrel
- Alter location or personal or classroom supplies for easier access or to minimize distraction

### Organizational Strategies

Model and reinforce organizational systems (i.e. color-coding)

- Write out homework assignments, check student's recording of assignments
- Tailor homework assignments toward student strengths
- Set time expectations for assignments
- Provide clues such as clock faces indicating beginning and ending times

## Behavioral Strategies

Use behavioral management techniques consistently within a classroom and across classes

- Implement behavioral/academic contracts
- Utilize positive verbal and/or nonverbal reinforcements
- Utilize logical consequences
- Confer with the student's parents (and student as appropriate)
- Establish a home/school communication system for behavior monitoring
- Post rules and consequences for classroom behavior
- Put student on daily/weekly progress report/contract
- Reinforce self-monitoring and self-recording of behaviors

## Presentation Strategies

Tape lessons so the student can listen to them again; allow students to tape lessons

- Use computer-aided instruction and other audiovisual equipment
- Select alternative textbooks, workbooks, or provide books on tape
- Highlight main ideas and supporting details in the book
- Provide copied material for extra practice (i.e. outlines, study guides)
- Prioritize drill and practice activities for saliency
- Vary the method of lesson presentation using multi-sensory techniques:
  - a) lecture plus overhead/board demonstration support
  - b) small groups required to produce a written product
  - c) large groups required to demonstrate a process
  - d) audio-visual (i.e. filmstrips, study prints) methods
  - e) peer tutors or cross-age tutors
  - f) demonstrations, simulations
  - g) experiments
  - h) games
- 1-to-1 instruction with other available adults
- Ask student to repeat/paraphrase context to check understanding
- Arrange for a mentor to work with student in his or her interest area or area of greatest strength
- Provide peer tutoring
- Simplify and repeat instructions about in-class and homework assignments
- Vary instructional pace
- Reinforce the use of compensatory strategies, i.e. pencil grip, mnemonic devices, "spell check"
- Vary kind of instructional materials used

- Assess whether student has the necessary prerequisite skills. Determine whether materials are appropriate to the student's current functioning levels
- Reinforce study skill strategies (survey, read, recite, review)
- Introduce definition of new terms/vocabulary and review to check for understanding
- Be aware of student's preferred learning style and provide matching instruction materials

### Evaluation Methods

- Limit amount of material presented on a single page
- Provide a sample or practice test
- Provide for oral testing
- Provide tests in segments so that student hands in one segment before receiving the next part
  - Provide personal copy of test tools and allow for color-coding/highlighting

## Sample Accommodations

<p><b>Sample Environmental Accommodations</b></p> <ul style="list-style-type: none"> <li>• physical arrangements of room</li> <li>• preferential seating</li> <li>• lighting adjustments</li> <li>• use of an air purifier</li> <li>• alter location of supplies and materials for easier access</li> </ul>	<p><b>Sample Testing Accommodations</b></p> <ul style="list-style-type: none"> <li>• adjust the length of the test</li> <li>• orally administer the test</li> <li>• provide take-home tests</li> <li>• provide alternate formats</li> <li>• administer frequent quizzes rather than exams</li> <li>• change the location</li> </ul>
<p><b>Sample Teaching Strategy Accommodations</b></p> <ul style="list-style-type: none"> <li>• individual or small group instruction</li> <li>• adjust teaching style to match student's learning style</li> <li>• emphasize key information</li> <li>• provide frequent breaks</li> <li>• read written materials to the student</li> <li>• accompany oral directions with written steps</li> <li>• provide outlines, study guides, organizers</li> <li>• assign a peer tutor or note taker</li> </ul>	<p><b>Sample Behavior Accommodations</b></p> <ul style="list-style-type: none"> <li>• provide a behavior plan</li> <li>• provide nonverbal cues</li> <li>• provide frequent feedback</li> <li>• ignore identified inappropriate behaviors</li> <li>• monitor and redirect behaviors</li> </ul>
<p><b>Sample Assignment Accommodations</b></p> <ul style="list-style-type: none"> <li>• break assignments into smaller units</li> <li>• grade for correct answers</li> <li>• tailor homework</li> <li>• allow extra time for completion</li> <li>• use an assignment sheet</li> </ul>	<p><b>Sample Health Accommodations</b></p> <ul style="list-style-type: none"> <li>• administer medication per protocol</li> <li>• modified physical education</li> <li>• allow for absences</li> <li>• ensure privacy</li> </ul>
<p><b>Sample Materials Accommodations</b></p> <ul style="list-style-type: none"> <li>• provide alternate formats</li> <li>• use highlighted or underlined reading materials</li> <li>• use a variety of materials including, films, tapes, manipulatives</li> <li>• use technology</li> </ul>	<p><b>Sample Other Accommodations</b></p> <ul style="list-style-type: none"> <li>• group/individual counseling</li> <li>• other agency involvement</li> <li>• disability awareness training for staff and students</li> <li>• disability-specific staff training</li> </ul>