

What is Section 504 and how does it relate to students?

- The Rehabilitation Act of 1973, 29 USC 794, commonly referred to as “Section 504,” is a federal statute that prohibits discrimination against persons on the basis of their disability by institutions that receive financial federal assistance, including all public schools. There is no monetary set aside for Section 504.
- A student is eligible for protection under Section 504 when they have a physical or mental impairment that substantially limits one or more major life activities.

Can a student who does not require accommodations and does well academically still be protected under section 504?

- Yes, an individual may not need special education and related services under Section 504 to be considered an individual with a disability. However, a student with a disability may achieve a high level of academic success but may nevertheless be substantially limited in a major life activity due to the student’s impairment because of the additional time or effort the student must spend to read, write, or learn compared to others.
- School staff should note, in particular, that a student may have a disability and be eligible for Section 504 services even if his or her disability does not limit the major life activity of learning. Therefore, rather than considering only how an impairment affects a student’s ability to learn, school staff must also consider how the impairment affects any major life activity of the student and, if necessary, assess what is needed to ensure that students have an equal opportunity to participate in the school’s programs.

Does FAPE apply to students who qualify for Section 504 plans?

- Yes, students who qualify for a Section 504 plan are entitled to FAPE. A school must ensure that students have access to:
 - Evaluation and placement procedures that guard against misclassification or inappropriate placement of students.
 - Periodic reevaluation of students who have been provided special education or related services and prior to a significant change in placement.
 - A significant change of placement can be defined as a suspension of 10 days, a series of short-term exclusions that total more than 10 days and create a pattern of removal, or a student changing programs from one type to another. These re-evaluations can be and should be a part of a manifestation process if its discipline related.
 - Provision of regular or special education and related aids and services that are designed so that the individual educational needs of students with disabilities are met as adequately as the needs of non-disabled students are met.
 - Education of students with disabilities with non-disabled students—to the maximum extent that this arrangement is appropriate for the needs of students with disabilities.
 - A system of procedural safeguards (that is designed to inform parents of a school district’s actions or decisions and to provide parents with a process for challenging those actions or decisions) that include notice; an opportunity for parents to review their child’s records; an impartial due process hearing (with an opportunity for participation by the student’s parents or guardians and representation by counsel); and a review procedure.

Is a school obligated to do a 504 evaluation based on a parent request?

- A school must evaluate a student if it has reason to believe the student has a disability and the student needs special education or related services as a result of that disability, even if the student only exhibits behavioral (and not academic) challenges.
- If the school does not agree to evaluate the student, the school must inform the parent of their decision and the guardian’s right to challenge the school’s decision through due process.

What does a typical Section 504 process look like?

- MTSS and/or parent request determines student’s possible eligibility review

- Procedural Safeguards and Parental Rights
- Permission to Evaluate
- Evaluation Conducted
- Prior Written Notice for the Meeting
- Eligibility Meeting (Determination is made and plan created accordingly)
- Annual Updates and Regular Reviews

How does a school to determine if a student needs a 504 plan or a health care plan?

The decision for eligibility under Section 504 should be conducted on a case by case for each individual student. Health care plans cannot serve as a substitute for a 504 evaluation and a school should consider if certain students require a 504.

What if there is disagreement on the 504 team when making an eligibility decision?

- Try taking preventative measures prior to the official eligibility meeting. Be sure to inform all team members about what the evaluation process entails, what materials and information you will be gathering to make the decision, make sure all members are informed on how the eligibility decision is made, and do not be afraid to pause within a meeting or reschedule if people need an emotional break.
- If a guardian ultimately does not agree with any decisions regarding the identification, evaluation, or educational placement of his or her child, the parent may seek an impartial hearing. It is essential for the school's 504 Coordinator to be proactive in helping all team members understand the 504 processes as well as ensure the guardian receives their procedural rights.

Can a parent refuse deny consent for an evaluation?

Yes, a parent may refuse consent for an evaluation. However, if a school suspects the student has a disability, schools may use the due process hearing procedures to seek to override the parents' denial of consent.

Does a medical diagnosis from an outside medical professional automatically qualify a student for a 504 plan?

- Similar to a parent request, a school district must evaluate a student if it has reason to believe the student has a disability.
- A medical diagnosis should only be one element of the evaluation body of evidence that needs to:
 - Consist of more than IQ tests
 - Measure specific areas of educational need. These could include speech processing, inability to concentrate, and behavioral concerns.
 - Tests and other evaluation materials are validated for the specific purpose for which they are used
 - Administered by trained personnel
 - Tests are selected and administered to the student in a manner that best ensures that the test results accurately reflect the student's aptitude or achievement or other factor being measured, rather than reflect the student's disability, except where those are the factors being measured

Where can I learn more?

- US Department of Education - Parent and Educator Resource Guide to Section 504 in Public Elementary Secondary Schools: <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>
- US Department of Education – FAQs about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973: <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>