

PATERSON CHARTER SCHOOL FOR SCIENCE AND TECHNOLOGY

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SECTION 504 MANUAL

POLICY GUIDE

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[See **POLICY ALERT No. 210**]

2418 SECTION 504 OF THE REHABILITATION ACT OF 1973 - STUDENTS

The Board will comply with Section 504 of the Rehabilitation Act of 1973, the purpose of which is to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

Guarantee of Rights

The Board will provide a free appropriate public education to each student with a disability regardless of the nature or severity of the disability.

The Board will make reasonable accommodations to ensure that no student with a disability, solely on the basis of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this Board, including participation in nonacademic and extracurricular services and activities.

The administration will undertake to identify and locate all students with disabilities between the ages of three and twenty-two, who are residing within the district, but not receiving a public school education. The administration will take steps to notify such students and their parents of the district's duty to provide accommodations for students with disabilities as well as procedures to determine eligibility for such accommodations.

Educational Setting

The Board will ensure that a student with a disability participates with nondisabled students in activities and services to the maximum extent appropriate to the needs of the student with a disability.

The school administration will place a student with a disability in the regular educational environment within the district unless the district demonstrates that the education of the student with a disability in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

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[See POLICY ALERT No. 210]

R 2418 SECTION 504 OF THE REHABILITATION ACT OF 1973 - STUDENTS

It is the policy of the Board of Education that no qualified student with a disability will, solely on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this Board. The Board will also comply with the Individuals with Disabilities Education Act through the implementation of Policy 2460 and Regulations 2460 through 2460.16.

A. Definitions

1. "Accommodation" means a change in the educational setting, instructional strategies, materials, and/or supplementary/related aids and services that does not significantly alter the content of the curriculum or level of expectation for a student's performance, but which allows the student to access the regular general education curriculum.
2. "Act" means the Rehabilitation Act of 1973.
3. "Aids and Services" means aids and services designed to meet the individual student's educational needs to the same extent as the needs of students without disabilities are met. 34 CFR §104.33
4. "Board" means the Board of Education of this school district.
5. "Complainant" means a parent of a student with a disability who files a grievance in accordance with the grievance procedure.
6. "Day" means either calendar or working day, as specified in the Act.
7. "Disability" means, with respect to an individual, that the individual meets one or more of the following three prongs:
 - a. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - b. A record of such an impairment; or
 - c. Being regarded as having such impairment.

8. “District” means this school district.

9. The District 504 Coordinator and the Building 504 Coordinator

“District 504 Coordinator” means the district official responsible for the coordination of activities relating to compliance with the Act.

“The Building 504 Coordinator” means the building designee who is responsible for managing the Section 504 in his/her building.

10. “FAPE” means free appropriate public education. FAPE consists of the provision of regular or special education and related aids and services designed to meet the educational needs of a student with a disability to the same extent as the needs of non-disabled students are met.

11. “Grievance” means an unresolved problem concerning the interpretation or application of law and regulations regarding discrimination by reason of a disability by an officer or employee of this district.

12. “Individuals with Disabilities in Education Act” (IDEA) identifies eligible children and young adults who have specific types of disabilities and, thus, require special education and related services. If they qualify, students receiving services through IDEA may also be eligible for services under Section 504 and ADA.

13. “Major life activities” means those of central importance to daily life and include, but are not limited to, functions such as: caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sitting, writing, standing, reaching, lifting, sleeping, bending, speaking, breathing, reading, concentrating, thinking, communicating, interacting with others, learning, and working. “Major life activities” also include physical or mental impairments that substantially limit the operation of a major bodily function, including, but not limited to: functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, reproductive systems, and the operation of an individual organ within a body system.
28 CFR §35.108; 28 CFR §36.105

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14. “Mitigating measures” means steps taken to eliminate or reduce the symptoms or impact of an impairment. “Mitigating measures” include, but are not limited to: medication; medical equipment/appliances; mobility devices; low vision devices (not including ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids, cochlear implants, or other implantable hearing devices; oxygen therapy equipment and supplies; the use of assistive technology; reasonable modifications or auxiliary aids or services; learned behavioral or adaptive neurological modifications; and psychotherapy, behavioral, or physical therapies. 42 U.S.C. 126 §12102

a. Mitigating measures, must not be used when determining whether an impairment is a

disability except for the use of corrective eyeglasses or contact lenses. Mitigating measures may be considered in assessing whether someone is entitled to reasonable accommodation or poses a direct threat.

15. “Physical or mental impairment” means any physiological disorder or condition such as, 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, genitourinary, immune, circulatory, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 28 CFR §35.108(b)(2) and 28 CFR§36.105(b)4

a. Physical or mental impairments may include, but are not limited to: contagious and noncontagious diseases and conditions; orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; intellectual disability; emotional illness; dyslexia and other specific learning disabilities; Attention Deficit Hyperactivity Disorder (ADHD); Human Immunodeficiency Virus (HIV) (whether symptomatic or asymptomatic); tuberculosis; drug addiction; and alcoholism.

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b. Physical or mental impairments do not include: transvestism; transsexualism; homosexuality or bisexuality; gender identity disorders; sexual behavior disorders; pedophilia; exhibitionism; environmental, cultural, and economic disadvantages; pregnancy; physical characteristics; personality traits or behaviors; normal deviations in height, weight, or strength; compulsive gambling; kleptomania; pyromania; and psychoactive substance use disorders resulting from current illegal use of drugs.

c. An impairment that is episodic or in remission may be considered a “disability” if it would substantially limit a major life activity when active.

d. Not all impairments are disabilities.

16. “Qualified student with a disability” means a student with a disability at the preschool, elementary, or secondary level, who is: (1) of an age at which students without disabilities are provided educational services; (2) of an age at which it is mandatory under State law to provide educational services to students with disabilities; or (3) a student to whom a State is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

17. “Record of such an impairment” means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

18. “Regarded as having an impairment” means the individual establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits or is perceived to substantially limit a major

life activity.

- a. For this prong only, the public entity must demonstrate the impairment is or would be both transitory (lasting or expected to last six months or less) and minor to show an individual is not regarded as having such an impairment. 42 U.S.C. 126 §12102(3)(B)

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- b. A public entity is not required to provide a reasonable modification to an individual meeting the definition of “disability” solely under the “regarded as” prong.

19. “Section 504” means Section 504 of the Act.

20. “Student” means an individual enrolled in any formal educational program provided by the school district.

21. “Substantially limits” means the extent to which the impairment limits a student’s ability to perform a major life activity as compared to most people in the general population, whether or not an individual chooses to forgo mitigating measures. 42 U.S.C. 126 §12102 (4); 28 CFR §35.108(d); 28 CFR §35.105(d) The rules of construction when determining whether an impairment substantially limits a student in a major life activity include:

- a. That it is broadly construed in favor of expansive coverage, to the maximum extent permitted under the Act.
- b. That it does not demand extensive analysis.
- c. That it substantially limits one major life activity, but not necessarily other major life activities.
- d. That it may be episodic or in remission, as long as the disability would substantially limit a major life activity when active.
- e. That it need not prevent, or significantly or severely restrict, an individual from performing a major life activity.
- f. That it requires an individualized assessment which does not create an “inappropriately high level of limitation” and is based upon the conditions, manner, or duration under which the individual can perform the major life activity 42 U.S.C. 12102(4)(B).

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- g. That it generally will not require scientific, medical, or statistical evidence (although such evidence can be required where appropriate - evidence that can be considered may include statements or affidavits of affected individuals and school records).
- h. That the determination is made without regard to ameliorative effects of mitigating measures, except for the use of ordinary eyeglasses or contact lenses intended to fully correct visual acuity or eliminate refractive error. Non-ameliorative effects, such as the negative side effects of medication or a medical procedure, may also be considered.
- i. That the effects of an impairment lasting or expected to last less than six months can be substantially limiting for establishing a disability under the first two prongs: “actual disability” or “record of”.

B. District 504 Coordinator and the Building 504 Coordinator - 34 C.F.R. §104.7(a)

- 1. The Building 504 Coordinator will be responsible for the initial evaluation of all allegations, reasonable accommodations (if required), and re-evaluations.
- 2. The District 504 Coordinator will comply with the mediation and due process requirements pursuant to N.J.A.C. 6A:14-2.6 and 6A:14-2.7 where applicable in cases arising from Section 504.

C. Educational Program

- 1. General:
 - a. The Board will not, on the basis of a disability, exclude a student with a disability from a program or activity and will take into account the needs of such student in determining the aid, benefits, or services to be provided under a program or activity.

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- b. Identification for special education services under IDEA and accommodations under Section 504 are not mutually exclusive.
 - c. Students not otherwise eligible for special education programs and/or related services pursuant to N.J.A.C. 6A:14-1 et seq. may be referred to the District 504 Coordinator by the parent or staff member.
 - d. The Board will provide reasonable accommodation(s) to students with disabilities notwithstanding any program and/or related services required pursuant to N.J.A.C. 6A:14-1 et seq.
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D. Free Appropriate Public Education (FAPE) - 34 CFR §104.33

1. FAPE must be provided without cost to the student's parent, except for those fees imposed on a parent of a non-disabled student.
2. The district may place a student with a disability in or refer such student to a program other than one it operates as its means of carrying out the provisions of this Regulation.
 - a. The district will continue to maintain responsibility for ensuring the requirements of the Act are met in respect to any student with a disability so placed or referred.
 - b. The district will ensure adequate transportation to and from the program, provided at no greater cost than would be incurred by the parent if the student were placed in a program operated by the district.
 - (1) The administration will consider the proximity of any alternative setting to the student's home.
 - (2) If a public or private residential placement is necessary to provide FAPE to a student with a disability, the placement, including non-medical care, room, and board, shall be provided at no cost to his/her parent.

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E. Evaluation and Placement - 34 CFR §104.35

1. The Board will establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services on the basis of disability.
 - a. Section 504 evaluations may encompass record and work sample review; direct observation in the natural setting; interviews with the student, parent, and school personnel; and/or administration of assessment measures. They do not include independent evaluations.
 - b. It may be determined that additional data is required, including the administration of formal standardized instruments and data on conditions in remission or episodic in nature. Tests and other evaluation materials must meet the following criteria:
 - (1) Validated for the specific purpose for which they are used and administered by trained personnel;
 - (2) Tailored to assess specific areas of educational need and not merely those designed to provide a single intelligence quotient; and
 - (3) Accurately reflect aptitude or achievement or whatever else the tests purport to

measure, rather than the student's impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular factors).

2. In interpreting evaluation data and in making placement decisions, the district will:
 - a. Draw information from a variety of sources, including, but not limited to: aptitude and achievement tests, medical evaluations, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;

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- b. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
 - c. Ensure that placement decisions are made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and placement options; and
 - d. Ensure that placement decisions are made in conformity with this Regulation and 34 CFR §104.34.
3. The District 504 Coordinator will establish timelines for re-evaluations of students receiving reasonable accommodation(s). A parent may request a re-evaluation at any time upon written request to the District 504 Coordinator.
4. Copies of requests for evaluation and related documents will be maintained in a designated Section 504 file folder placed in the student's cumulative record.

F. Section 504 and Special Education

1. A student who qualifies for Section 504 services may not qualify for special education under IDEA; likewise, a student who qualifies under IDEA may not qualify under Section 504.
2. A referral for a Section 504 evaluation may be made concurrently with a pending special education evaluation. In such instances, the Section 504 evaluation should be conducted during the same timeline utilized for the special education assessment. Generally, the Section 504 evaluation should be conducted in less than sixty days.
3. If a student is found eligible under Section 504 prior to the special education team's findings, a Section 504 Accommodation Plan will be developed pending the special education team's findings. If the student is then found eligible for special education, an Individualized Education Program (IEP) will be developed and the IEP team can incorporate into the IEP any accommodations/services provided in the Section 504 Accommodation Plan.

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4. A separate Section 504 team meeting will be convened when a student is identified as eligible for special education and no longer requires accommodations/services under Section 504.
5. When an IEP team determines a student is not eligible or no longer eligible for special education, there may be circumstances when a Section 504 referral for evaluation may be appropriate and should be considered. The IEP team may document the student is being referred for a Section 504 evaluation, and the eligibility evaluation shall be addressed in a separate Section 504 team meeting.

G. Section 504 Accommodation Plan

1. The District 504 Coordinator will assist in organizing a team of individuals responsible for receiving referral documents; securing evaluation information; and determining eligibility and appropriate accommodations, related aids or services for eligible students with disabilities. The team must be comprised of people who:
 - a. Are knowledgeable about the student;
 - b. Understand the meaning of evaluation data; and
 - c. Are familiar with placement options.
2. The Building 504 Coordinator, based on the evaluation of the student eligible for services under Section 504, will prepare a Section 504 Accommodation Plan which may include as relates to the student:
 - a. Name;
 - b. Date of birth;
 - c. Current educational placement;
 - d. Name of the Building 504 Coordinator preparing the Section 504 Accommodation Plan;
 - e. Disabling condition:

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- (1) Major life activity impaired;
 - (2) Educational impact; and
 - (3) Impact on related educational progress.
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f. Accommodation (as appropriate):

- (1) Physical and learning environment;
- (2) Instructional;
- (3) Behavioral;
- (4) Evaluation;
- (5) Medical; and/or
- (6) Transportation.

g. Other:

- (1) List of individuals participating in the development of the plan, along with their titles and the date(s) of their participation.
- (2) Certification by the student's parent that he or she has participated in the development of the plan and provided consent to its implementation.
- (3) A waiver of the fifteen days' notice prior to the implementation of the plan by the parent if the plan is to be implemented sooner than the fifteen days.

3. A Section 504 Accommodation Plan should not:

- a. Modify the curriculum;
- b. Exempt a student from a course or subject required for graduation;

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- c. Alter the level of expectation for a student's performance;
- d. Provide an extended time accommodation only for standardized testing when it is not required as part of the regular program of evaluation;
- e. Include any testing accommodations unless authorized by the testing agency; and
- f. Assign responsibility for implementing Section 504 accommodations to another student.

4. A Section 504 Accommodation Plan should:

- a. Directly relate to a student's identified needs;

- b. Be specific, measurable, and tailored to meet students' identified needs to allow for consistent implementation;
- c. Be written to incorporate specific symptoms, behavior, or triggers that elicit implementation of the accommodation or service if required only occasionally; and
- d. Clearly state how much extended time is required based upon a student's identified needs, if the Section 504 team determines such an accommodation is appropriate.

5. Students needing medication:

- a. Not all students needing medication administered by school staff will require a Section 504 Accommodation Plan. It is not necessary to qualify a student as having a disability that substantially limits a major life activity under Section 504 in order to provide a service that schools perform for all general education students.
- b. A Section 504 referral with the potential for a subsequent Section 504 Accommodation Plan is appropriate when a student is found to have a disability that substantially limits a major life activity and needs medication administered on a systematic basis to receive equal access to the educational program.

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H. Nonacademic/Extracurricular Services - 34 CFR §104.37

- 1. Nonacademic and Extracurricular Services may include counseling, physical recreational athletics, transportation, health services, recreational activities, special interest groups or school clubs, and/or referrals to agencies which provide assistance to students with disabilities and student employment.
- 2. The Board and administration will ensure that students with disabilities are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.
- 3. The Board will provide to students with disabilities equal opportunity as afforded nondisabled students for participation in physical education courses, athletics, and similar programs and activities.
 - a. The district may offer students with disabilities physical education and athletic activities that are separate or different from those offered to nondisabled students only if the separation or differentiation is consistent with the requirements of 34 CFR §104.34 and only if no student with a disability is denied the opportunity to compete or to participate.

I. Grievance Procedure - 34 CFR §104.7(b)

- 1. This grievance procedure shall apply to a student with a disability alleging discrimination under

the provisions of Section 504 of the Rehabilitation Act of 1973.

2. The parent who believes his or her child has a valid basis for a grievance under Section 504 shall file an informal complaint in writing with the District 504 Coordinator stating the specific facts of the grievance and the alleged discriminatory act.

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3. The District 504 Coordinator will make reasonable efforts to resolve the matter informally by reviewing the grievance with appropriate staff including, but not limited to: the Principal, Child Study Team staff, and/or classroom teacher(s).
4. The District 504 Coordinator will investigate and document the complaint including dates of meetings, dispositions, and date(s) of dispositions. The District 504 Coordinator will provide a written decision to the complainant within seven working days of the written complaint.
5. If the complainant is not satisfied with the District 504 Coordinator's written decision, the complainant may appeal the decision in writing, setting out the circumstances that give rise to the alleged grievance. This written appeal must be filed with the District 504 Coordinator within three working days of the complainant's receipt of the written decision. The written appeal must state the basis for the appeal and the remedy sought by the complainant.
6. The District 504 Coordinator will appoint a qualified hearing officer within seven working days of the receipt of the written appeal. The hearing officer will conduct a hearing within seven working days of receipt of the written appeal. The hearing officer will give the parent a full and fair opportunity to present evidence relevant to the issues raised under the initial grievance. The parent may, at his or her own expense, be assisted or represented by individuals of their choice, including legal counsel. The hearing officer will present a written decision to the District 504 Coordinator and aggrieved individual within seven working days of the hearing.
7. The complainant may file a written appeal to the Board if not satisfied with the hearing officer's decision provided the written appeal is submitted to the Superintendent within three working days of the complainant's receipt of the hearing officer's written decision. The Board may, but is not required to, conduct a Board hearing on the appeal.

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8. ___ The complainant may request mediation and due process in accordance with N.J.A.C. 6A:14-2.6

and 2.7 if unsatisfied with the written decision of the Board. If specifically requested by the parent, the aforementioned N.J.A.C. 6A:14-2.6 and 2.7 grievance procedures must be followed.

Adopted:

NOTICE OF PROCEDURAL SAFEGUARDS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973
Paterson Charter School for Science and Technology

You have the right to be informed by the school district of your rights under Section 504. This is a notice of you and your child's rights under Section 504 and the rights you have if you disagree with the school district's decisions.

WHAT IS SECTION 504?

Section 504 of the Rehabilitation Act of 1973, commonly called "Section 504," is a federal law that protects students from discrimination based on disability. Section 504 assures that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities. To be eligible, a student must have a physical or mental impairment that substantially limits one or more major life activity.

YOUR CHILD'S EDUCATION

Your child has the right to:

- Receive a free and appropriate public education.
- Participate in and benefit from the district's educational programs without discrimination.
- Be provided an equal opportunity to participate in the district's nonacademic and extracurricular activities.
- Be educated with students who do not have disabilities to the maximum extent appropriate.
- Be educated in facilities and receive services that are comparable to those provided to students without disabilities.
- Receive accommodations and/or related aids and services to allow your child an equal opportunity to participate in school activities.
- Receive educational and related aids and services without cost, except for those fees imposed on the parents of children without disabilities.
- Receive special education services if needed.

YOUR CHILD'S EDUCATIONAL RECORDS

You have the right to:

- Review your child's educational records and to receive copies at a reasonable cost. You will not be charged if the cost would keep you from reviewing the records.
- Ask the district to change your child's education records if you believe that they are wrong, misleading, or are otherwise in violation of your child's privacy rights. If the district refuses this request, you have the right to challenge the refusal by requesting an impartial hearing.
- A response to your reasonable requests for explanations and interpretations of your child's education records.

THE SECTION 504 PROCESS

Your child has the right to an evaluation before the school determines if he or she is eligible under Section 504. You have the right to:

- Receive notice before the district takes any action regarding the identification, evaluation, and placement of your child.
- Have evaluation and placement decisions made by a group of persons, often called a "504 team", including persons who know your child, the meaning of the evaluation information, and the placement options available.
- Have evaluation decisions based on a variety of sources, such as aptitude and achievement tests, teacher recommendations, physical conditions, medical records, and parental observations.
- Refuse consent for the initial evaluation and initial placement of your child.

If your child is eligible under Section 504, your child has a right to periodic re-evaluations, including re-evaluations before any significant change is made in your child's placement.

IF YOU DISAGREE WITH THE DISTRICT'S DECISION

If you disagree with the district's decisions regarding your child's identification, evaluation, educational program, or placement under Section 504, you may request mediation or an impartial due process hearing. You and your child have the right to take

part in the hearing and have an attorney represent you. Hearing requests and other concerns can be made to the District Supervisor of Special Programs:

Director of Special Programs
196 W. Railway Avenue, Paterson, NJ 07503
Tel: (973) 247-0600 ext. 1155

You have the right to file a complaint of discrimination with the U.S. Department of Education's Office for Civil Rights (OCR), or to file a complaint in federal court. Generally, an OCR complaint may be filed within 180 calendar days of the act that you believe was discriminatory. The regional office is located in New York. Tel: (646) 428-3900. Email: OCR.NewYork@ed.gov

SECTION 504

Frequently Asked Questions

1. What is Section 504?

Section 504 is that section of the Rehabilitation Act of 1973 which applies to persons with disabilities. Basically, it is a civil rights act which prohibits discrimination against individuals with physical or mental disabilities who attend public or private schools funded with public dollars. Section 504 is enforced by the U.S. Department of Education, Office for Civil Rights (OCR).

2. How does a student become eligible to receive services and protection under Section 504?

To become eligible for services and protection under Section 504, a student must be determined, as a result of an evaluation, to have a *physical or mental impairment* that *substantially limits one or more major life activities*.

3. What is a physical or mental impairment?

A physical or mental impairment is described as:

- any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following basic systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; and lymphatic; skin and endocrine; or
- any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and special learning disabilities (34 Code of Federal Regulations, Part 104.3).

4. What are “major life activities”?

Section 504 defines major life activities as “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.”

5. When does impairment “substantially limit a student’s major life activity”?

Section 504 regulations do not define the word “substantially.” The Office for Civil Rights (OCR) directs school districts to make the decision of whether a particular impairment “substantially limits” a major life activity for a student on an individual basis. A physical or mental impairment does not constitute a disability for purposes of Section 504 unless its severity or educational impact is such that it results in a substantial limitation of one or more major life activities.

I. EVALUATION

1. Do schools have to evaluate students who are referred under Section 504?

Section 504 does not provide an absolute right to an evaluation on demand; if a school district rejects the parents' request based on its belief that the child is not eligible, it must inform the parents of their right to challenge the district's decision not to evaluate.

2. Do schools have to formally evaluate students to determine if he/she is eligible for services under Section 504?

Yes. Schools do have to evaluate students before determining their eligibility for services and before deciding which services are appropriate. As a general rule, Section 504 evaluation procedures are substantially similar to those set out in the IDEA regulations for special education; however, school districts may have a different evaluation process for Section 504 than they have for IDEA.

Section 504 requires that "information from a variety of sources be considered and documented prior to placement (tests, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and observations from parents, teachers, and school personnel).

3. Who is responsible for conducting the multidisciplinary assessment and determining eligibility for programs and/or services under Section 504?

Section 504 regulations require that decisions regarding eligibility, programs, related services, and accommodations be made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.

Standing members of the Section 504 Committee should be but are not limited to the school administrator, the student's regular classroom teacher, the school nurse, the school counselor, and the parent. Depending on the nature of the disability, one or more child study team specialists may be included.

II. ELIGIBILITY DETERMINATION

1. What qualifies a student for programs and services under Section 504?

Eligibility for programs and/or services under Section 504 is based on an affirmative response with documentation to the following qualifying questions:

- Does the student have a physical or mental impairment?
 - Does the impairment affect one or more of the major life activities?
-

- Does the impairment substantially limit a major life activity?

2. Is attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD) a recognized disability under Section 504?

Yes. The Department of Education has acknowledged that ADD and ADHD are impairments that can be the basis of eligibility under either Section 504 or IDEA. The key to eligibility under 504 is whether the student's ADD or ADHD is sufficiently severe that it substantially limits a major life activity, e.g. learning.

3. Does a physician's diagnosis of ADD/ADHD automatically result in a student being eligible for Section 504?

No. A physician's diagnosis alone does not automatically result in eligibility for programs or services under Section 504. A physician's diagnosis should be considered as one piece of the evidence when evaluating the child.

4. Is a student with a physical or mental impairment that was referred to the child study team, but found ineligible for special education under IDEA, automatically covered under Section 504?

No, depending on the severity of his/her condition, a student with impairment who does not meet the standards for eligibility under the IDEA may or may not fit within the Section 504 definition.

5. Can a parent elect to have a student with a disability who is eligible under the IDEA identified as covered under Section 504 only?

No. Although a parent may wish to avoid having his/her child "labeled" as a special education recipient, the Office for Civil Rights (OCR) has stated in no uncertain terms that parents have no such flexibility. A rejection of the services offered under IDEA amounts to a rejection of services offered under Section 504. Conversely, it should be noted that a district has no flexibility to opt to provide services and accommodations under Section 504 when the student is IDEA eligible.

6. Is every student with a disability who is eligible under the IDEA also covered under Section 504?

Yes. Students who are eligible for special education programs and related services under the IDEA meet the definition of eligibility under Section 504. IDEA eligible students are entitled to additional protections and services offered under Section 504, e.g., the right to accessible facilities.

III. INDIVIDUAL ACCOMMODATION PLAN

1. Are IEPs required under Section 504?

No. An IEP is not required; however, best practice dictates that the district produce a written document entitled "Section 504/ADA Individual Accommodation Plan" to memorialize the agreed services and accommodations.

2. What types of accommodations may a child receive if determined eligible under Section 504?

Each child's needs are determined individually. Determination of what is appropriate for each child is based on the nature of the disabling condition and what that child needs in order to have an equal opportunity to compete when compared to the non-disabled

3. Accommodations that may be used, but are not limited to, include:

- Highlighted textbooks
 - Extended time on tests or assignments
 - Peer assistance with note taking
 - Frequent feedback
 - Extra set of textbooks for home use
 - Computer aided instruction
 - Enlarged print
 - Positive reinforcements
 - Behavior intervention plans
 - Rearranging class schedules
 - Visual aids
 - Preferred seating assignments
 - Taping lectures
 - Oral tests
 - Individual contracts
 - Identification of benchmark dates for long-term assignments to check for progress.
 - Copies of overheads prior to class
 - Books on tapes
 - Notification of more than 2 consecutive missed assignments
 - Signing agenda book
 - Provide course syllabus
-

- Using self-monitoring strategies
- Allow legitimate movement

4. Can students who are eligible for Section 504 receive related services, such as physical therapy?

Yes. Schools must provide services to Section 504 eligible students. Whereas under the IDEA, a student must be eligible for special education programs and related services in order to receive physical therapy or occupational therapy.

5. Can students who are eligible under Section 504, but not IDEA, be served in special education classrooms?

As a matter of law, no; in practice, maybe. Section 504 does not explicitly condition entitlement to special education on IDEA eligibility. Regulatory and judicial guidance concerning the provision of special education under Section 504 is scant. There are no authoritative decisions reviewing whether a particular student was entitled to special education services under Section 504.

6. Can a teacher refuse to provide a service that school district agrees to provide in a Section 504 Individual Accommodation Plan?

No. Teachers who refuse to perform an accommodation may find themselves in the position of the defendant teacher in *Doe v. Withes*. A jury found the teacher liable for \$5,000 in compensatory damages and \$10,000 in punitive damages because he refused to provide oral testing for a student with a disability.

IV. MISCELLANEOUS

1. Are all schools required to adhere to Section 504?

Yes. All schools that receive any federal financial assistance must comply with Section 504 of the Rehabilitation Act of 1973.

2. Do schools have to make all of their buildings accessible to students with disabilities?

No. Schools are required to make all programs accessible for students with disabilities, not all buildings.

3. Is there any extra federal funding for schools to use to provide appropriate services under Section 504?

No. There are no federal funds associated with serving Section 504 students.

4. What can parents do if they are dissatisfied with the way schools are serving students eligible for Section 504 protections?

Parents may file a written grievance with the District 504 Coordinator, request an impartial due process hearing, or file a complaint with the U.S. Department of Education Office for Civil Rights.

Section 504 Plan

Date of Meeting: _____ Time of Meeting: _____

Location of Meeting: _____ Initial 504 Starting Date: _____

Reason for Meeting: Eligibility Meeting
 Periodic Review
 Review before significant change in placement

	Date sent	Sent by
• Notice of Section 504 meeting	_____	_____
• Parent/student rights under Section 504	_____	_____

1. General Information

Students Name _____	Birth Date _____	Today's Date _____
Address _____	City _____	State ____ Zip ____
Parent(s) Name(s) _____	Home Phone _____	Work Phone _____
504 Coordinator _____		Phone ____

2. Referral

1. Describe the nature of the concern. _____

2. Describe how the disability/handicap affects a major life activity. _____

3. Supporting documentation provided? No Yes

3. Review of Available Information (include test scores when appropriate)

1. Summarize present levels of performance in areas evaluated. _____

2. Teacher reports/comments: _____

3. Health and development: _____

4. Further information needed? Yes No

a) If yes, what information is needed? _____

b) Person responsible for obtaining information: _____

c) Date, time, and place to reconvene committee: _____

5. Review was conducted by: (list names)

4. Determination of Eligibility or Non-Eligibility for 504 Plan

1. Is there a disability/handicap present that substantially limits one or more major life activities?

Yes No If yes, which major life activity is limited? (check one or more, as appropriate)

- caring for self walking seeing
 hearing speaking breathing
 learning working other (describe) _____

2. Description of impairment _____

3. Eligibility for a 504 plan Yes, this student meets the criteria for a 504 plan

No, this student does not meet the criteria for a 504 plan

4. Participants – the persons whose signatures appear below participated in this eligibility meeting:

Name

Title

Date

Administrator

Counselor/504 Co-Coordinator

Nurse

SAC

Teacher

Teacher

Parent

Student

Other

5. Accommodation Plan

Date, Time and Location of

1. Accommodation Plan Meeting: _____
Date Time Location

2. Describe the specific accommodations planned for this student, including the person responsible for each.

Accommodations Needed	Responsible Party

3. Criteria to be used to evaluate the accommodation plan: _____

4. Placement

- regular classes
- regular classes AND accommodative services
(may include but not limited to OT, PT, Speech)
- special education
- special education AND accommodative services
(may include but not limited to OT, PT, Speech)

504 - CLOSURE FORM

Date of this meeting: _____

Effective Date of Closure: _____

To Parents/Guardians/Adult Student:

Student's Name: _____

D.O.B. _____ Age: _____

School: _____

Grade: _____

M/F: _____

Ethnic Code: _____

Address: _____

Telephone: _____

1. REASON FOR 504 REFERRAL:

2. RATIONALE FOR CLOSURE: (you must indicate all data used to make this decision).

3. RECOMMENDATIONS:

PARTICIPANTS:

Name	Title	Date
	Administrator	
	Counselor/504 Coordinator	
	Nurse	
	SAC	
	Teacher	
	Teacher	
	Parent	
	Student (if applicable)	
	Other	

