



**SECTION 504**  
OF THE  
REHABILITATION ACT  
OF 1973

Policies and  
Procedures

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## OVERVIEW OF SECTION 504

### **What is Section 504?**

Section 504 of the Rehabilitation Act of 1973 is a civil rights law prohibiting discrimination based on disability. Section 504 applies to all agencies that receive federal funds, including public schools and federal agencies. All staff and administrators have the responsibility of insuring that all student with disabilities are identified, evaluated, and provided with needed accommodations and services, result in a free appropriate public education (FAPE). FAPE must be provided free of charge to students with disabilities. Schools may impose fees on a student with a disability only if the fees are equally imposed on students without disabilities. Section 504 is enforced by the U.S. Department of Education, Office of Civil Rights.

### **Section 504 Process**



### REFERRAL

Under Section 504, school districts must conduct an evaluation, in a timely manner, of any student who needs or is believed to need special education or related services because of a disability.

#### *How is a Section 504 request made?*

A 504 request can be made verbally or in writing. Whoever, the request is initially made to, should immediately notify the school's 504 Coordinator of the request.

#### *Who can refer for a Section 504 Evaluation?*

A 504 referral can be made by anyone. A parent, teacher or other school staff member, health care provider, therapist, MET team, or student can ask the school to evaluate the student for Section 504.

#### *What is the timeline for evaluation?*

Once the school's 504 coordinator receives the request, the coordinator or designated staff member will start the process by contacting the parent to schedule a meeting with the 504 team. OCR's guidance is for meetings to be scheduled "in a reasonable amount of time." DCS defines a reasonable amount of time as within 30 days.

### EVALUATE

A school district 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.

#### **Purpose of Meeting**

1. Provide Notice of Rights Under Section 504
2. Obtain Parental consent
3. Review all relevant data from a variety of sources
4. Evaluate: Decisions must be made by a group, including a person with knowledge in each of the required areas (the child, the meaning of the evaluation data, and the placement options)

## Sources of Evaluation Data

The 504 team will review and consider data from a variety of sources. The sources include but are not limited to cumulative record, grades, school health information (medical health care plan/school nurse historical information) medical evaluations/ diagnoses/physical condition (if available), parent input, teacher input, student input, disciplinary records, observations, intervention data, district and state assessment results, formal assessments, and mitigating measures.

## 504 Team

The 504 team is a group, including a person with knowledge in each of the required areas (the child, the meaning of the evaluation data, and the placement options). Members include but are not limited to: Agency representative, school's 504 Coordinator, parent, student (if appropriate), one general education teacher, school test coordinator/interventionist and DCS 504 or Nursing Supervisor. Others specific to each student may include school nurse, counselor, audiologist, dyslexia therapist, etc.

## Team Decision

At the initial 504 evaluation meeting, one of the following decisions will be made by the team to determine how to proceed:

1. Team recommends collecting additional data before eligibility decision is made.
2. Team recommends a referral to RTI/MTSS.
3. Team recommends determining eligibility decision.

## Eligibility Determination Questions

1. Does the student have a physical or mental impairment?
2. Does the physical or mental impairment affect one or more major life activity (including major bodily functions)?
3. Does the physical or mental impairment substantially limit the major life activity?
4. Does the student need Section 504 services in order for his/her educational needs to be met as adequately as those of non-disabled peers?

## Criteria

*Disability.* Under Section 504, an individual with a disability (also referred to as a *student with a disability* in the elementary and secondary education context) is defined as a person who: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) must be made on a case-by-case basis.

*Physical or mental impairments.* Section 504 defines a physical or mental impairment as any

- physiological disorder or condition,
- cosmetic disfigurement, or
- anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.

The Section 504 definition of physical and mental impairment also includes any mental or psychological disorder. The definition does not include all specific diseases and conditions that may be physical or mental impairments because of the difficulty of ensuring the completeness of such a list.

*Major life activities.* The list of major life activities under Section 504 includes, but is not limited to, the following activities:

- caring for oneself • bending • performing manual tasks • speaking • seeing • breathing • hearing • learning • eating • reading • sleeping • concentrating • walking • thinking • standing • communicating • lifting • working

Major bodily functions are also major life activities under the law, and these major bodily functions include functions of the bowel, bladder, and brain; normal cell growth; and the immune, endocrine (for example, thyroid, pituitary, and pancreas), respiratory, reproductive, circulatory, digestive, and neurological systems. Major life activities include certain acts a person does (such as hearing, speaking, lifting) and a person's bodily functions (such as lung disease that affects a person's respiratory system, or a traumatic brain injury that affects the function of the brain).

*Mitigating measures.* When determining if a person has a disability, a school cannot consider the ameliorative effects of mitigating measures when determining how the impairment impacts the major life activities under consideration.

*Substantial limitation.* The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. Section 504 requires that, for elementary and secondary school students, a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

*Episodic impairments.* If an impairment only occurs periodically (that is, it is episodic) or is in remission, it is a disability if, when in an active phase, it would substantially limit a major life activity. For example, a student with epilepsy is a student with a disability if, during a seizure, the student is substantially limited in a major life activity such as thinking, breathing, or neurological function. Or a student with bipolar disorder is a person with a disability if, during manic or depressive episodes, the student is substantially limited in a major life activity such as concentrating or brain function.

*Record of disability.* To meet the Section 504 definition of an individual with a disability, a student could also *have a record of* a disability. For example, a person who had heart disease, cancer, or a mental illness, may have a record of a disability, but no longer have the impairment. Having *a record of a disability* means that a person either has a history of a disability or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities. An example of a misclassification is a school district that incorrectly identified a student as having a learning disability, when further testing revealed the student's issues were caused by the need for ordinary eyeglasses and the student does not have a learning disability.

*Regarded as having a disability.* A student could also meet the definition of an individual with a disability by being *regarded as* a person with a disability. This could mean, for example, that the student does not have any impairment, but is treated by others as having a disability.

*Qualified individual with a disability.* In addition to satisfying the definition of an individual with a disability, a student with a disability must also be qualified for the protections of Section 504 to be covered under the law. For students with disabilities at the elementary and secondary level, being qualified under Section 504 is based primarily on whether the person is a certain age.

## **DEVELOP 504 PLAN**

### **Section 504 Services Plan**

A written Section 504 Plan is often a useful way to document that the school district engaged in a process to identify and address the needs of a student with a disability and to communicate, to school personnel, the information needed for successful implementation. OCR encourages schools to document a student's Section 504 services in a written plan to help avoid misunderstandings or confusion about what Section 504 services the school offered the student. The team develops a Section 504 Student Services plan to identify reasonable accommodations related to the student's needs due to their identified disability. Instructional/Functional accommodations can be provided in the classroom setting and allowed district and state test accommodations can be provided in the testing setting.

*Accommodation.* An accommodation alters the academic setting/environment and enables the student to accurately demonstrate what is known. Provisions are made so a student can access information or demonstrate mastery of a standard.

## **IMPLEMENTATION AND PLACEMENT**

### **Placement and Services Under Section 504**

Students with disabilities must be educated with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability.

A review of the Section 504 Services Plan should take place annually. A meeting will be scheduled with the 504 team.

### **Section 504 Coordinators**

The school's 504 Coordinator is assigned at the discretion of the principal. Duties (include but not limited to):

- Manage referrals/requests/evaluations
- Gather relevant data
- Facilitate scheduling 504 meetings by contacting/inviting all appropriate team members
- Participate in 504 meetings to assist with paperwork and develop Section 504 Services Plans
- File paperwork and maintain student files following meetings and throughout the school year
- Disseminate information and plans following 504 meetings to district and school staff
- Monitor and assist with implementation of 504 Services Plans within the school
- Remain knowledgeable about the requirements of Section 504

It is the responsibility of the 504 School Coordinator to provide knowledge/access of a student's 504 eligibility and 504 Services Plan to:

- Who: Administration, Applicable school staff (counselor, nurse, etc.), Student's teacher(s)
- When: At the beginning of the school year, periodically throughout the school year when Schedule changes are made, 504 Services Plan is revised, Mode of learning is changed
- How: School 504 Coordinators and administrators will have access to their school's students' 504 data through the district's student information system and other digital resources.

### **Responsibilities of Teachers and Staff**

Once developed, a 504 plan is a legal contract between the school district and the student. Teachers are responsible for implementing designated services and strategies identified on a student's plan and should always maintain documentation which demonstrates compliance with a student's 504 Services Plan.

Teachers do not have the discretion to decline or refuse to implement any component of a 504 plan. Only the student's 504 team may revise the services, and any changes must be based on the student's disability. At least one of the student's general education teachers will be a member of the 504 team. When a teacher has a concern about the nature of a student's plan, he/she should discuss it with the 504 School Coordinator.

Teachers and staff will have access to their students' 504 Services Plans through the district's digital resources; In the case that a necessary staff member does not have access to the digital resources, the plan will be emailed to the staff member's DCS email, or a printed copy will be provided.

Teachers and staff are trained annually, at a minimum, on what Section 504 is, who is eligible for Section 504, their responsibility to refer students for Section 504 when they suspect the student has a disability, their responsibility to implement Section 504 plans with fidelity, and communicate with the school's 504 coordinator when they have questions or concerns about the plan.

## **PERIODIC REEVALUATIONS**

If a student is eligible under Section 504, he/she has the right to periodic reevaluations. The 504 team will meet to conduct a reevaluation at least every three years or more often as needed.

## OTHER CONSIDERATIONS

### **Athletics and Extracurricular activities**

School districts must provide non-academic services and activities in a manner that provides students with disabilities an equal opportunity for participation. This requirement includes activities such as extracurricular athletics and special interest groups or clubs sponsored by the school district.

School districts must afford qualified students with disabilities an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate to the needs of the student. This requirement means that a school district must make reasonable modifications to its policies, practices, or procedures whenever such modifications are necessary to ensure equal opportunity, unless the school district can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the extracurricular athletic activity.

### **Attendance**

The 504 team will review a variety of data to determine if the student's attendance is impacted by their identified impairment. The DCS attendance policy will be reviewed with all parents and parents will be notified of their responsibility to provide necessary documentation.

### **Bullying and Harassment**

Section 504 prohibits disability-based harassment by peers that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's education programs and activities (in other words, creates a hostile environment). When a school district knows or reasonably should know of possible disability-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred.

### **Difference Between Section 504 and Special Education (IEP)**

	<b>Section 504</b>	<b>Individualized Education Plan (IEP)</b>
<b>Type of Law</b>	Civil Rights	Education
<b>Eligibility Requirements</b>	Disability significantly impairs a major life function (may not have an educational impact)	Disability must: <ul style="list-style-type: none"><li>- Meet criteria under IDEA</li><li>- Significantly impact educational performance</li><li>- Requires specially designed instruction</li></ul>
<b>Includes</b>	Mostly accommodations, sometimes modification and related services	Accommodations, modification, courses, related services
<b>Age</b>	No age limits	3 to 21 years
<b>Length</b>	Paperwork can be used as a guide for college	Ends with high school graduation
<b>Committee in School</b>	Required based on DCS policy	Mandatory under law
<b>Dispute Rights</b>	Less recourse	Parents/guardians have due process and procedural safeguards
<b>Parent Involvement</b>	Recommended	Required
<b>Federal Funding</b>	None	Yes

### **Discipline**

Section 504 requires school districts to conduct reevaluations prior to significant changes in placement. In this situation, the reevaluation requirement is met by a Manifestations Determination Review (MDR) being conducted by the 504 team. A MDR is conducted as outlined in DCS disciplinary procedures for students with disabilities. The MDR is held to determine if the conduct is caused by or directly and substantially related to the student's disability(ies).

- OCR considers an exclusion from the educational program (for example, an out-of-school suspension) of more than 10 consecutive school days to be a significant change in placement.
- OCR also considers a series of short-term exclusions (each 10 school days or fewer) from the educational program to be a significant change in placement if the short-term exclusions total more than 10 school days *and* create a pattern of removal.

## **Homebound**

Homebound requests should be submitted following DeSoto County Schools general education homebound procedures. If a student who is 504 eligible is approved for homebound, the 504 team will meet to discuss how the student's accommodations will be provided while they are home.

## **Grievance Procedures**

Conflicts between parents and school personnel about Section 504 issues may be resolved through due process or through the school district's established grievance procedures. School districts are required to establish grievance procedures for resolving complaints related to those cases where the complainants allege that employees, other students, or third parties engaged in discriminatory behavior. See DCS Board Policy IDHDB

## **Notice of Non-Discrimination**

Public school students with disabilities have the right to be free from discrimination based on disability; are entitled to an equal opportunity regardless of disability; and have the right to aids, benefits, or services, equal to and as effective as those provided to students without disabilities. (DCS Board Policy IDHDB)

The Desoto County School District will not discriminate on the basis of disability in admission or access to, or treatment or employment in, its programs and activities to the extent provided by law.

The following person has been designated as the Section 504/Americans with Disabilities Act Coordinator and will handle inquiries regarding the DeSoto County School District's non-discrimination policies, the filing of grievances, and requests for copies of grievance procedures covering discrimination on the basis of disability.

For Employees:

Director of Human Resources  
DeSoto County Schools  
5 E. South Street  
Hernando, MS 38632  
Phone: 662-429-5271  
Fax: 662-429-4198

For Students:

504 Supervisor  
DeSoto County Schools  
5 E. South Street  
Hernando, MS 38632  
Phone: 662-429-5271  
Fax: 662-449-1429

## **Parent Rights for Disputes**

Section 504 as set out in the 34 CFR Part 104 indicates Parents can file a complaint with the Office for Civil Rights (OCR) of the Department of Education.

Office for Civil Rights  
U.S. Department of Education  
Maryland Avenue SW  
Washington, D.C. 20202  
OCR@ed.gov

## **Physical Accessibility**

School districts are required to ensure that students and others with disabilities, including parents, are not denied access to the school's programs or activities because of inaccessible facilities, including academic buildings, walkways, restrooms, athletic facilities, and parking spaces.

## **Prior Written Notice**

School districts must provide notice to parents explaining any evaluation and placement decisions affecting their children and explain the parents' right to review relevant records and contest any decision regarding evaluation and placement through an impartial hearing. Following a 504 meeting, the parent will be provided with copies of the paperwork completed in the meeting along with a Prior Written Notice.



**Procedural Safeguards**

Under Section 504, school districts are required to develop and implement a system of procedural safeguards to address FAPE concerns specifically, such as the identification, evaluation, and educational placement of students with disabilities. Procedural safeguards include notice; an opportunity for records review by parents or guardians; an impartial due process hearing, with an opportunity for participation by the student's parents or guardian and representation by counsel; and a review procedure.

**Temporary Impairments**

"A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one of more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or the expected duration) of the impairment and the extent to which it limits a major life activity of the affected individual. Impairments causing limitations that last, or are expected to last, for six or fewer months may still be substantially limiting, and thus, an individual analysis of each case is required." Esparto (CA) Unified School District, 115 LRP 37669 (OCR 2015).

The 504 team should consider duration, extent of limitation, and are accommodations required on an ongoing basis to determine if the impairment is significant enough to be a disability. If the Section 504 team determines temporary Section 504 eligibility because the impairment substantially limits a major life activity, the team will develop a temporary 504 Services Plan for the anticipated duration of the impairment because the impairment is expected to be temporary in nature.

**Transfers**

When a student with a disability transfers to a new school district, the receiving district has a responsibility to ensure it meets the student's disability-based needs. In determining how to meet those needs, the receiving district must draw upon information from a variety of sources, which would include past evaluations and past Section 504 plans and IEPs. The student's current 504 plan will be implemented, as closely as possible, and an evaluation will be conducted.

## RESOURCES

*Bradley, Anne & Helfrich. Betsey. "Section 504/IDEA Legal Summit." May, 2023*

District, D. C. S. (n.d.). *Desoto County School District > District Policies > Policy Selections > I. Instructional Program.* <https://desoto.msba.org/DistrictPolicies/PolicySelections/IIInstructionalProgram/tabid/8398/Default.aspx>

OCR December 2016, *Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools*  
<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>

*Special Education Citizens Advisory Committee for PGCPs – Advocating for positive changes in special education.* (n.d.). <https://secacpg.org/>