

What is Section 504 of the Rehabilitation Act?

Section 504 of the Rehabilitation Act is a federal civil rights law that prohibits discrimination against qualified individuals with disabilities and guarantees them a free and public education (FAPE). Students with a disability are to be provided the same opportunity to benefit from education programs, services and activities as their nondisabled peers. This statute is regarding equal access to educational opportunities for students with medical or mental health impairments.

Section 504 not only prohibits discrimination in providing educational services, but also prohibits discrimination in the form of harassment because of the disability and in the form of retaliation, intimidation, coercion or threats for reporting discrimination based on an individual's disability.

Section 504 provides accommodations within the general education setting. (It does not provide specialized educational services.)

What is Special Education or the Individuals with Disabilities Education Act (IDEA)?

IDEA is a federal statute that authorizes the provision of Special Education services. It provides educational services, and sometimes related services, for students who fall into one (or more) of thirteen educational disabilities. Additionally, accommodations are provided in the special education and general education setting.

What criteria must be met to qualify for a 504 Individual Accommodation Plan (IAP)?

Three criteria

A qualified individual has (1) a physical or mental impairment (2) that substantially limits (3) a major life activity. All three criteria must be met. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry.

How does Section 504 define a physical or mental impairment?

The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) 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; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

U.S. Department of Education, "Frequently Asked Questions About Section 504 and the Education of Children with Disabilities"

Substantial Limitation

The Office of Civil Rights (OCR) does not endorse a formula or a scale to measure substantial limitation. Rather, through individual inquiry, a team familiar with the student and interpretation of the data makes this determination.

“An impairment need not prevent or severely or significantly restrict a major life activity to be considered substantially limiting.”

U.S. Department of Education, “Frequently Asked Questions About Section 504 and the Education of Children with Disabilities”

Major Life Activities

Caring for oneself	Performing Manual Tasks	Bending
Seeing	Speaking	Walking
Hearing	Breathing	Standing
Learning	Concentrating	Lifting
Thinking	Eating	Sleeping
Reading	Communicating	Working

The list of major bodily functions that are now considered major life activities includes, but is not limited to: functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

U.S. Department of Education, “Frequently Asked Questions About Section 504 and the Education of Children with Disabilities”

What is the identification process?

Referral

The request for a review of a student’s needs could come from a variety of sources. The School Nurse may learn of a health condition. The parent or school staff may raise a concern, verbally or through use of the Referral Form: http://speced.mpls.k12.mn.us/documents_for_parents.html

Referral Forms should be submitted to the Building 504 Coordinator. Sometimes a student is referred by the RTI team or the Special Education team (which includes the parent) when a student is evaluated for Special Education but does not meet eligibility criteria. The parent would be contacted by the Building 504 Coordinator or a potential 504 Manager, who will review the concern, provide an overview of Section 504 of the Rehabilitation Act, and furnish a Notice of Rights.

Individual Inquiry/Evaluation

A student is identified through individual inquiry/an evaluation. A parent must give consent (verbal or written) before the evaluation may begin.

Determining Eligibility

Medical documentation of the impairment should be provided to the school. The diagnosis of the impairment(s) must be made by a medical doctor, doctor of osteopathic medicine, psychologist, or master’s level medical or mental health professional and should be dated within three years of the 504 evaluation.

The data used in the evaluation must be gathered from multiple sources and may include a review of existing medical records, existing education records, achievement test scores, standardized test scores, and/or existing psycho-educational evaluations; as well as teacher/staff input, parent interview and/or student interview. Remember, it is not simply medical documentation of an impairment that determines eligibility; the data must come from a variety of sources and the impairment must also substantially impact a major life activity (or activities).

Once consent is given for an evaluation, it is best practice for the school team to complete the evaluation within 30 school days and review the results with the parents, generally at a meeting. Team members include the parent, the student, if appropriate, and people at the school or District who know the student and/or who understand the meaning of the data that was gathered and/or know the options for accommodation based on the identified disability and need. At the summary meeting, the team will review the data and the eligibility criteria together to determine eligibility.

What is the process for writing an Individual Accommodation Plan (IAP)?

Timeline

If a student is found to be eligible for Section 504 protections, the next step is to determine if they need an Individual Accommodation Plan (IAP). If so, the team will review the student's needs and write accommodations to provide access to the education setting, as well as review any need for accommodation in District or State testing. (Students who do not need accommodation on classroom tests will not receive accommodation on District and State testing.)

Consent

Parents participating in drafting an IAP are essentially giving consent. However, MPS will offer a parent the option to give verbal consent or written consent. With verbal consent, the plan will go into effect as soon as the 504 Manager can distribute it to the parties responsible for implementing it, which should be within 10 school days of the meeting. With written consent, the plan will be sent to the parent/guardian within 10 school days of the meeting and it goes into effect the day after the parent returns the signed IAP to the 504 Manager.

Reviewing and Revising IAPs

IAPs are reviewed annually. This may happen in person, via email or over the phone. However, plans that are not found to be effective or plans for students whose medical or mental health needs have changed dramatically should be reviewed when the need arises.

What goes on an IAP (often known as a "504 Plan")?

The IAP will have accommodations that allow the student equal access to the educational setting (the learning process and/or District programs, activities and services) to that of their non-disabled peers. A free and appropriate education (FAPE) must be assured. This includes the right to be educated with non-disabled peers to the maximum extent appropriate.

How does a student with a 504 receive behavioral support?

Accommodations can be written to address unique behavioral needs. A student may have a personalized behavior plan to support his/her appropriate behaviors. Everyone who is responsible

for implementing the student's IAP will receive a copy and be expected to follow the specified accommodations.

How does discipline work for a student with a 504 IAP?

Students with IAPs are subject to the Minneapolis Public Schools Citywide Discipline Policy. If a suspension is being considered for a student with a 504, the 504 Manager should be consulted.

If a student reaches 10 cumulative days of suspension or is given 10 consecutive days of suspension, a Manifestation Determination meeting needs to be held with the 504 team. The District 504 Coordinator should be invited. Supervised homework needs to be provided, starting by at least day six of the suspension.

If a student with a 504 IAP is being recommended for Administrative Transfer or for Expulsion, a Manifestation Determination meeting needs to be held with the team by the 5th day of the suspension. The District 504 Coordinator needs to be invited.

What are the procedural safeguards?

Under Section 504, parents have the right

- To receive notice regarding the identification, evaluation, and placement of their child
- To receive prior notice when the school is changing or discontinuing services for their child
- To review their child's records
- To participate in an impartial hearing and review process with or without representation by counsel

The procedural safeguards are outlined in the Notice of Rights, provided in English, Hmong, Somali and Spanish at this link: http://speced.mpls.k12.mn.us/documents_for_parents.html

What are the procedures for filing a grievance?

Minneapolis Public Schools urges that all grievances be resolved with the individual closest to the issue, usually the 504 Manager for their student, the Building 504 Coordinator and/or building administrator. If these attempts have been unsuccessful, the parent can contact the District 504 Coordinator Amber Spaniol Director, Nursing Services to work on resolving the issue(s). She may be reached at 612/668-5343 or amber.spaniol@mpls.k12.mn.us.

A parent has the right to file a grievance at any time, either through the District 504 Coordinator, the Office of Civil Rights or the Minnesota Department of Human Rights. Please see the Formal Grievance Procedure for Section 504, provided in English, Hmong, Somali and Spanish at this link:

http://speced.mpls.k12.mn.us/documents_for_parents.html

Who do I contact to explore Section 504 further?

The District 504 Coordinator, Amber Spaniol, would be happy to answer any questions. Additionally, each site has a Building 504 Coordinator; the list is on the Special Education website, under Section 504:

<http://speced.mpls.k12.mn.us/resources.html>