

INTRODUCTION

The Office for Civil Rights (OCR) is charged with the enforcement of Section 504 of the Rehabilitation Act of 1973.

Section 504 prohibits discrimination against individuals with disabilities, including both students and staff members, by school districts receiving federal financial assistance. The regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every school in the United States. Section 504 ensures that the education system provides the full range of special accommodations and services necessary for students with special needs to benefit from public education programs and activities.

There are some students who are not eligible for IDEA (Special Education) services but who are deemed eligible under Section 504, and to whom a district may therefore have responsibilities.

The IDEA defines as eligible for special education and related services a child who has one of several educational disabilities that adversely affects the child's educational performance and results in a need for special education and related services. Specific criteria must be met for each category of educational disability. Section 504 covers all students who meet this definition, even if they do not fall within the IDEA enumerated categories and even if they do not require special education services.

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. If a student is eligible under the IDEA, an Individualized Education Plan (IEP) will be developed and proposed for the student to meet his/her needs. Development of an IEP for such a student satisfies the school district's Section 504 obligations to the student. If a student with a disability or who is suspected of having a disability (as defined in Section 504) is not eligible under the IDEA, but is thought to be in need of educational services in order to receive an appropriate education (as defined in Section 504), the school district shall conduct an evaluation in accordance with Section 504 and determine whether the student is Section 504 eligible. If the student is Section 504 eligible, then the district shall develop a Section 504 plan for the student.

What is required for the Section 504 evaluation and placement process is determined by the type of disability believed to be present, and the type of services the student may need. The evaluation must be sufficient to assess accurately and completely the nature and extent of the disability, and the recommended services. Evaluations more limited than a full special education evaluation (Child Study Team) may be adequate. For example, in the case of the student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's medical records. In cases of ADHD, current psychological evaluations may be used in combination with appropriate medical information if such evaluation diagnosed the ADHD issue. In other cases, additional testing may be necessary. All cases must be presented to the school I&RS Team for discussion and a decision.

A group of persons knowledgeable about the student must make the determination of what services are needed. The group should review the nature of the disability and how it affects the student's education, whether specialized services are needed, and if so what those services are. The decisions about Section 504 eligibility and services must be documented in the student file and reviewed periodically.

Under Section 504, the parent or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of the student and are entitled to an impartial hearing if they disagree with district decisions in these areas.

It is important to realize that Section 504 is NOT an aspect of "special education." Rather, it is a responsibility of the comprehensive general public education system. As such, building administrators and superintendents of schools are responsible for its implementation. This information is specific to the federal legislation referenced. For further information contact the New Jersey State Department of Education or the U.S. Office of Civil Rights.

SECTION 504 POLICY STATEMENT

It is the intent of the district to ensure that students with a disability within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services. Students may qualify as an individual with a disability under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (IDEA).

Due process rights of students with disabilities and their parents under Section 504 will be enforced.

504 COMMITTEE

In our schools, the I&RS (Intervention and Referral Services) team will serve as the 504 Committee. However, it is important, given the legality of a 504 plan that the team include:

- ADMINISTRATOR who can authorize accommodations and/or alternative placement
- COUNSELOR who can interpret scores and offer other insights on the child
- TEACHER(S) who can recognize the child's difficulties and need for accommodations and who are knowledgeable about local programs
- PSYCHOLOGIST, LDTC, SOCIAL WORKER or OTHER SPECIALIST will join when appropriate
- NURSE if any medical information is relevant to the learning situation
- PARENT(S), although not officially a member by law, is invited

PROCESS

- A student is referred for consideration to the 504 Committee by an adult who is knowledgeable about the student's situation. In most cases, the student has been through the I&RS process and attempts at interventions were unsuccessful. In some cases, parents may request a 504 plan based on outside testing/evaluation.
- The 504 Committee reviews the initial request and accepts/rejects need for a 504 evaluation. If accepted, a team member is assigned as case manager. If not accepted, there is an appeal process listed in enclosed Regulation 1510.
- The Parent is advised of the decision in writing by the 504 Committee chairperson or designee.
- Information and data from relevant sources is gathered and reviewed by the 504 team in preparation for the 504 evaluation meeting.

At the determination of eligibility /planning meeting, the following steps are taken:

- The 504 Coordinator for the building will chair the meeting.
- The Chair will follow the district's Determination of Eligibility form, asking all questions and noting where members of the Committee may differ in their understanding of the answer to the questions.
- Once all questions are asked, the Chair will lead the group in determining the specific degree that the impairment limits the major life activity.
- Once the extent of the limitation is determined, the Team will decide if the student is eligible for 504 and if so, develop school and classroom accommodations.

1. When a student with a disability qualifies for a 504 the plan is written which assures accommodations necessary for the student to have opportunities commensurate with peers.

2. Appoint a plan monitor, establish date(s) for review/re-evaluation, have parents sign 504 plan.

INFORMATION REGARDING SECTION 504 REHABILITATION ACT OF 1973

Section 504 is an Act, which prohibits discrimination against persons with a disability in any program receiving Federal financial assistance. The Act defines a person with a disability as anyone who:

1. Has a mental or physical impairment which substantially limits one or more major life activities; for example, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;
2. Has a record of such an impairment; or
3. Is regarded as having such impairment.

In order to fulfill its obligation under Section 504, the Haddon Heights Public School District recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and to afford reasonable accommodations to any child/employee determined to be eligible.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to an impartial hearing. If an employee disagrees with the determination made by the professional staff of the school district or district consultants, he/she has a right to an impartial hearing.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to: 1) inspect and review the child's educational record, 2) make copies of these records, 3) receive a list of individuals having access to those records, 4) ask for an explanation of any item in the records, 5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights, and 6) a hearing on the issue if the school refuses to make the amendment.

EVALUATION GUIDELINES (SECTION 504 OF THE REHABILITATION ACT OF 1973)

1. If a child needs or is believed to need general education accommodations, related services, and/or supplemental aids under Section 504 of the Rehabilitation Act of 1973, the school district must evaluate the child.
2. Notification and informed written consent of the parent/legal guardian is required for an initial Section 504 evaluation and re-evaluation. The person responsible for the Section 504 referral should communicate in person or by telephone with the parent/legal guardian in addition to sending the Receipt of Section 504 Referral Notice, the Parent/Student Rights in Identification, Evaluation, Accommodation and Placement, and a copy of the Request for Section 504 Services.
3. The Section 504 evaluation:
 - should be based on information from a variety of sources; e.g. teacher(s), other school staff members, parent/legal guardian, physician, nurse, other professionals or persons in the community with relevant information
 - should document and consider all available pertinent information; e.g. records, assessment data, medical reports related to the suspected physical or mental impairment which may be substantially limiting a major life activity
 - should be conducted by a team or group of persons knowledgeable about the child, the suspected condition, evaluative procedures, the meaning of the evaluative data, and possible and appropriate accommodation/placement options
 - should utilize assessment materials, tests, and/or evaluation procedures, which are tailored to assess specific areas of educational need, are not racially or culturally discriminatory, and are validated for the specific purposes for which they are used.
4. Section 504 evaluation procedures may include:
 - review of school records, including testing, attendance, and discipline
 - interviews with persons knowledgeable about the child's functioning
 - observations in the school, home or community environments
 - statements and information from physicians and other professionals when appropriate and available.
5. The parent/legal guardian must be invited to participate in the Section 504 Evaluation Meeting where the determination of whether a student is an individual with a disability, and possible accommodations/services will be discussed. Reasonable effort should be made to hold this meeting at a time when the parent/legal guardian is able to attend.
6. In order to determine Section 504 eligibility during the evaluation meeting, the team should consider the following steps:
 - Discuss relevant collected data
 - Determine whether a physical or mental impairment can be identified
 - Determine whether the impairment or condition substantially limits one or more major life activities.
7. If the student is determined to be eligible under Section 504, the evaluation team develops a written Section 504 Education Plan which documents in the general education accommodations and/or related services that will be provided in order to meet the educational needs of the student with a disability.
8. Periodic reevaluation is required by Section 504 regulations. Reevaluation of Section 504 eligibility plan will occur at least once a year, upon significant change in school placement or program.

NOTICE TO PARENT OF RIGHTS AFFORDED BY SECTION 504 OF THE REHABILITATION ACT OF 1973

The following is a description of some of the rights granted by federal law to students with disabilities. The intent of the manual is to keep you fully informed concerning decisions about your child and to inform you of your rights should you disagree with any of these decisions.

You have the right to:

- Have your child take part in, and receive benefits from public education programs without discrimination because of a disabling condition
- Have the school district advise you of your rights under federal law
- Receive notice with respect to identification, evaluation, or placement of your child
- Have your child receive a free and appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities
- Have your child educated in facilities and receive services comparable to those provided non-disabled students
- Have evaluation, educational, and placement decisions based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options
- Have transportation provided to and from an alternative educational placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district
- Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district
- Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement
- Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records
- A response from the school district to reasonable requests for explanations and interpretations of your child's records
- Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school district refuses this request it shall notify you within a reasonable time, and advise you of the right to a hearing
- File a local grievance with the person in the district that is responsible for assuring compliance.
- Request mediation or an impartial due process hearing with the Office of Special Education Programs related to decisions or actions regarding your child's identification, evaluation, educational program, or placement. You and the student may take part in the hearing and have an attorney represent you.
- File a written complaint with the Office of Civil Rights.