

Section 504 Frequently Asked Questions

When should a possible 504 referral be considered?

A 504 plan should be considered appropriate when the individual meets the 504 criteria as having a disability that substantially limits a student's ability to perform activities in school, which includes learning. Other questions to ask might include:

1. Are there tasks the student cannot perform because of a disability?
2. Is a disability hindering the student's ability to be successful?
3. Is retention being considered?
4. Is the student being considered for expulsion?
5. Is the student returning to school after a serious injury?
6. Was the student referred for special education services and found not to qualify?
7. Is the student "at risk" of dropping out of school? The team should ask some of these questions to help determine the appropriateness of a 504 plan.

What information is used in doing an evaluation under section 504?

First and foremost please be reminded that an evaluation cannot be completed without the written permission of a parent/guardian. There are no formal requirements for testing or evaluations under Section 504. The 504 team will look at a variety of data which may include: grades over the past several years, teacher's reports, information from parents or other agencies, state assessment scores or other school administered tests, observations, discipline reports, attendance records, and health records. The team will look at multiple sources, as a single source of information (such as a doctor's report) cannot be the only information considered.

Is there a process that will help place a student on a 504 plan?

Basically, there are seven steps involved in the development of a 504 plan.

1. The student is referred by a teacher, parent/legal guardian, school support staff, physician, or therapist. It is possible for the student to initiate a self-referral.
2. Make parents/guardians aware of the section 504 referral and gain permission to evaluate the student.
3. After gaining permission from parents/guardians collect data and information about the student.
4. A 504 evaluation meeting is planned with the 504 team which includes individuals who are knowledgeable about the student, and may include parents, student, teachers, counselor, and principal to determine if a 504 plan is appropriate.
5. If a 504 plan is appropriate the 504 team will develop the 504 plan.
6. The team sets a plan review date.
7. 504 plan is provided to staff.

When requested in writing by parents, the Section 504 team must conduct an evaluation.

While the team must convene when requested by parents, they don't have to conduct an evaluation. In some cases the request may not fall under Section 504. If the team refuses the evaluation, it should be put in writing along with the rationale for refusal.

Is it required for accommodations to be designed to produce achievement equal to that of non-disabled students.

A Section 504 is designed to provide equal access to the opportunity for a free and appropriate education. Removing barriers does not mean the student will achieve the same success as non-disabled students.

If a parent refuses an IEP and insists on a Section 504 Plan, does a Section 504 Plan have to be written?

If parents refuse an IEP, there is no legal duty to write a 504. However, a section 504 request can be submitted regardless of the outcome of the IEP. In many cases the student does not qualify for an IEP, which leads to a 504 referral by the parent or IEP team.

Are major life activities limited to such things as hearing, seeing, walking, breathing and learning, etc.

The ADA Amendments Act in 2009 has expanded the definition to include more activities, and is not all inclusive so activities not on the list can be used,

Is a physician's diagnosis sufficient to determine Section 504 eligibility.

A doctor's diagnosis and /or report are pieces of information to be considered during the evaluation. In some cases all the information collected may not support the presence of limitations. Information from doctors is very helpful, however the team must have more data points.

Are there specific evaluation materials and assessments that must be used under Section 504 that are tailored to specific areas of education need.

The evaluation for Section 504 is less structured and defined as you will experience for students being evaluated for an IEP. Since 504 evaluations are much broader the assessments and information used are based on the individual students needs.

What are the differences between an Individual Education Program (IEP) and a 504 Accommodation Plan?

Students with disabilities requiring only reasonable accommodation must have a written plan under Section 504. Under Section 504 a student who meets the requirements will be entitled to: a 504 accommodation plan, modifications, accommodations, due process, and reevaluation every three years.

There is a smaller group of students who classify as having a disability under the Individuals with Disabilities Education Act which provides a special education program that represents the child's least restrictive environment and may include placement into special classes. These students are provided an educational program that will best fulfill his/her management, social, academic, and physical needs. A specially designed Individual Education Program (IEP), modifications, accommodations, annual reviews, triennial evaluations, due process, and transition services

What is the difference between qualifying for a Section 504 plan and an IEP (IDEA)?

IDEA is a subgroup of a section 504, which means IDEA only applies to specific disabilities, while Section 504 accounts for all disabilities. So, not only are there less disabilities that will allow a student to qualify for an IEP, but there are also more strict criteria within the disabilities that do apply. A common example we run into is a student that has ADHD. In some cases the disability is not severe enough for an IEP, but a 504 plan may be appropriate. Another example is a student with asthma. This does not fall under an IEP at all, but may fall under Section 504.

Are schools required to have parents on the Section 504 placement team?

Legally, schools are not required to have parents a part of the team, but best-practice would suggest that they should be. Usually a parent may not be a part of the meeting if there are conflicts in schedules, however parents are still consulted, and kept informed. Schools are required to provide notification and document attempts to involve parents.

Can a child be placed under Section 504 without the knowledge of the parent?

No. Parents should always be given notice in writing before their child is evaluated and/or placed under Section 504. Parents must also be given a copy of their child's Section 504 accommodation plan if the committee determines that the child is eligible under Section 504.

Is an impairment that is episodic or in remission that would substantially limit a major life activity when active potentially qualify under Section 504?

This situation should be considered and accommodations can be written to reflect those that will be in place when the disability is active.

How do temporary impairments such as broken leg, broken arm or concussion relate to Section 504?

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 or more major life activities for an extended period of time.

In the Amendments Act, Congress clarified that an individual is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

Although short term impairments may not apply, school can provide regular education interventions and accommodations to support the student.

When necessary, it is a "best practice" for students to have both an IEP and a Section 504 Plan.

This is not necessary, as all accommodations can be reflected in the IEP

Are parents responsible for beginning the Section 504 process?

No. The process can be started by anyone, including the student. Additionally, Child Find obligations dictate that school staff are responsible for considering 504 in cases of suspected disability.

Are students with good grade point averages and high academic skills automatically determined not eligible for a Section 504 Plan.

There are many disability areas that may need to be accommodated even when a student is academically successful. For example a student with a hearing disability may do very well in school, however a Section 504 plan may reduce barriers and help the student.

Are students who have an IEP also protected under Section 504?

Section 504 is a broad civil rights law, so students who have an IEP are protected under 504. This does not mean the student will have a Section 504 plan as the IEP can account for their disabilities.

Does a student have to have a specific medical diagnosis to be considered for under Section 504

There is no legal basis under Section 504 to require a medical diagnosis. However, evaluation processes would typically need to be more thorough and involved if this information does not exist.

What type of information is gathered for a Section 504 evaluation?

Information gathered will vary depending on the situation, however common sources of information come from school history, medical reports, anecdotal records, attendance records, assessment data, class grades, teacher/staff input and parent input.

What do we consider to be “reasonable accommodations”?

Reasonable accommodations are the necessary steps that teachers need to take to ensure that a student with a disability has access to classroom information and instruction. These might include presentation of materials using a different modality or the use of extended time for assignments. These accommodations do not significantly alter the subject matter that is being taught. Some examples may be: Adaptive equipment Additional or alternative textbooks Enlarged print or Braille materials Wheelchair ramp Auditory Trainer

Does a student need a 504 accommodation plan to get reasonable accommodations?

No. Many of the accommodations that parents and students look for when considering a 504 accommodation plan can be met without one through good teaching and differentiated instruction. Parents, students and teachers can work together to develop an individual plan that will help a student succeed. Some examples are: preferential seating, extended times on tests and homework, shortened assignments, ability to excuse oneself from class to address personal or health issues, etc.

Are all students who are referred to special education and do not qualify automatically designated as needing a 504 plan?

No. Again, a student needs to have a diagnosed disability that is impacting the student's ability to access school. Generally, a grade of C is considered to be average, and a student who is receiving mostly C's, performing in the average range on assessments, and completing similar work as their peers is accessing the general education curriculum in an average way and may not require a 504 plan.

Does a diagnosis of ADHD, depression, or other disability mean a student should be identified as eligible for 504 accommodations?

An attention deficit disorder, emotional, or other disability, may or may not meet the criteria for 504 accommodations, depending on whether it substantially limits a major life activity. When compared to the average student, if the student with a disability is significantly restricted from performing the same activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity, they may require a 504 plan. For example, if a student with ADHD is still able to obtain average grades in the same classes that the average student would take in school, then it is likely that they would not require 504 accommodations as the ADHD is not substantially limiting a major life activity (learning).

Will my child still be in the regular classroom or will he be in a “special class”?

A student with a Section 504 plan will always be in the regular classroom. Section 504 students may leave a classroom to receive accommodations such as alternate testing environment, however, they will not take special classes. Also, according to federal regulations: “... the student with a disability is so disruptive in a regular classroom that the education

of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment. Therefore, regular placement would not be appropriate to his or her needs and would not be required by §104.34” (34 C.F.R. §104.34, Appendix A, #24).

If I disagree with the school’s evaluation, will the school district pay for an outside independent evaluation?

Under Section 504, schools are not required to pay for an outside independent evaluation. If a parent disagrees with the school’s evaluation decision, they may request a due process hearing or file a complaint with the Office for Civil Rights.

How often will my child be re-evaluated?

While there are no specific time lines on this issue, students must be re-evaluated at least every three years or whenever there is going to be a “significant change in placement.” 504 plans are generally reviewed each year to make determine any changes that may require a re-evaluation. The accommodation plan may be revised at any time during the school year if needed.

Can my child still be disciplined under Section 504?

Yes. Students under Section 504 are expected to follow the district’s student code of conduct, and are subject to the consequences outlined in the handbook. However, when disciplining a child under Section 504, schools must consider the relationship between the disability and the misbehavior if the child is going to be removed from the regular setting for longer than 10 days.