

COUNSELING, INTERVENTION AND SOCIAL SERVICES

Section 504 of the Rehabilitation Act of 1973

- Section 504 of the Rehabilitation Act of 1973 is major federal legislation that impacts entities that receive federal funding. It is civil rights legislation for persons with disabilities, designed to prevent any form of discrimination based on disabilities.
- No otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- Eligibility is very broad & covers many different types of disabilities and disabling conditions, many of which are not covered under IDEA.
- **ELIGIBILITY is based on the definition of disability, as defined in Section 504:**
- **Physical or mental impairment which substantially limits one or more major life activities,**
- **Has a record of such an impairment, or**
- **Is regarded as having such an impairment.**
- Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body system: neurological; musculoskeletal; special sense organs, including speech organs; respiratory; cardiovascular; reproductive; digestive; genitourinary; 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.
- It protects: Individuals with disabilities, who are otherwise qualified.
- It applies to: Entities that receive federal funds.
- **MAJOR LIFE ACTIVITIES**
- Major life activities include a wide variety of daily activities. They include functions such as:
 - Performing manual tasks
 - Walking
 - Seeing
 - Hearing
 - Speaking
 - Breathing
 - Reading
 - Concentration
 - Communicating
 - Major Bodily Functions
 - Sleeping
 - Lifting
 - Thinking
 - Interacting with Others
 - Learning
 - Working
 - Caring for One's Self

- **SUBSTANTIAL LIMITATION**
- Unable to perform a major life activity that the average person in the general population can perform, or
- Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life 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.
- **HOW TO DETERMINE SUBSTANTIAL LIMITATION**
- Nature & severity of impairment
- Duration or expected duration of impairment
- Permanent or long-term impact resulting from impairment

Examples Of Students Who May Not Be Eligible Under IDEA But May Be Eligible Under Section 504

- ADD/ADHD
- Cystic Fibrosis
- Spina Bifida
- Mild Cerebral Palsy
- Learning disability (when discrepancy is not severe)
- Sickle Cell Anemia
- Childhood Cancer
- Students with a history of alcohol or drug abuse
- Students with health needs (health plans)
- Students with communicable diseases, such as AIDS

Temporary Disabilities

- Students with broken bones
- Students who become pregnant (problem pregnancies)
- Students with cancer

Examples Of Students Who Are Probably Not Covered Under Section 504

- Slow Learners
- Environmental, Cultural or Economically Disadvantaged
- Primary Language not English

What Must Schools Do According to OCR to Meet Requirements of Section 504?

- Annually identify & locate all children with disabilities who should be served.
- Provide FAPE to each student.
- Ensure each student with disabilities is educated with nondisabled students to the maximum extent appropriate.
- Establish nondiscriminatory evaluation & placement procedures.
- Establish procedural safeguards to enable parents & guardians to participate meaningfully in decisions regarding the evaluation & placement of children.
- Afford children with disabilities an equal opportunity to participate in nonacademic and extracurricular services and activities.

Equal Opportunities

- Same academic curriculum as nondisabled students
- Non-academic & extracurricular activities
- Recreational activities
- Athletics
- Student employment
- Student clubs
- Field trips

When to Refer Students

- Referred for IDEA, but the decision is not to evaluate
- Determined not to be eligible under IDEA
- Suspected of having a disability
- Continues to display behavior problems
- Major health problems
- Expelled or suspended repeatedly
- Problems that can't be explained
- Parents request referral
- Teacher refers
- Referrals for Section 504 mandate evaluation; decisions determining eligibility and services are **committee** decisions; referral does not mandate that eligibility is established or services will be provided.

Section 504 Procedural Requirements

- **Section 504 committees:**
 - Section 504 building coordinator
 - administrators
 - classroom teachers
 - school counselors
 - school nurses
 - school psychologists
 - Special Ed representatives
 - Essentially, a group of people who have knowledge of the child, understanding the meaning of evaluation data, and placement options
- **Process for 504 Plans**
 - Referral
 - Complete referral form/obtain consent for evaluation from parent.
 - Student needs to go through SI-Team/RTi2 Team first to rule out the possibility of SPED services unless there is a physical reason for Section 504 plan consideration (i.e., traumatic brain injury, sickle cell, etc.).
 - Gather data (medical data is helpful, but **not required-do not tell parents they MUST provide medical data**); not all data has the same weight.
 - Multiple data sources – grades, testing, RTI, teacher input form, attendance, discipline and conduct, medical records, health plan, behavior plan, classwork, observations, vision and hearing results, etc.
 - Arrange meeting – 10 days prior notice to parent
 - Send home procedural safeguards with the Meeting Invitation

- **When Team Convenes:**
- Bring DRAFT copies of Eligibility document and Service Plan to the meeting; signature pages will not be DRAFT copies nor display the DRAFT watermark
- Keep minutes
- Give parent Rights/Procedural Safeguards; get signatures that Rights were given
- Determine eligibility – major life activity substantially impacted
- If student is eligible, determine appropriate accommodations
- Read meeting minutes aloud
- Get signatures from all meeting participants
- Makes copies of 504 Meeting paperwork for parent
- When Final copies are created in EASY 504, provide copies of the Final documents to the parent (these will likely be developed after the meeting)
- Fax signature pages to EASY 504 fax number; fax any additional documents that were not uploaded into EASY 504 with EASY 504 Fax Cover Page
- Keep school copies on file
- Advise appropriate teaching staff of 504 Plan and document review by those teachers/get signatures
- Eligibility is good for 3 years; 504 Service Plan is reviewed annually
- For annual review, follow previous steps except the determining eligibility step as that has already been addressed.

WHAT DOES THE OFFICE OF CIVIL RIGHTS LOOK FOR?

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions as long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such student, and due process. Typically, OCR will not evaluate the content of the 504 Plan, rather, defer disagreement which can be resolved through a due process hearing, under Section 504. **BCS Policy #1029** governs Section 504 and ADA grievance procedures.

Important to note, that Health Plans do not have the same procedural protections afforded under Section 504, therefore, Health Plans may not be sufficient for meeting FAPE criteria. In other words, Health Plans may not be the appropriate substitute for 504 Plans. A student may need both.