

Section 504 of The Rehabilitation Act of 1973
The American with Disabilities Act of 1990
and
The ADA Amendments of 2008

**Section 504:
A Guide for Parents
and Educators**



South Brunswick School District
July 2014

This guide describes the requirements of Section 504 with respect to public school policies involving students with physical and mental disabilities. It is intended to provide parents and educators with the necessary information to work in partnership in order to provide access to an appropriate education and to develop suitable accommodations for students with qualifying disabilities.

WHAT IS SECTION 504?

Section 504 is part of a Federal law that protects the rights of persons with qualifying disabilities. It requires that recipients of Federal funds, in this case public schools, provide a free and appropriate public education (FAPE) to all persons with disabilities.

In short, it is a civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of non-disabled students. For eligible students, schools must provide accommodations that “level the playing field” so that qualifying disabled students are able to access the same educational benefits as their non-disabled peers.



SCHOOL DISTRICT RESPONSIBILITY

There has been much confusion over the years regarding the relationship between Section 504 and special education laws and regulations. It must be emphasized that Section 504 falls under the **responsibility of the general education program**. Students who have disabilities that limit their ability to access educational programs are entitled to rights under Section 504 even though they may not be covered by special education law.

HOW DOES SECTION 504 DEFINE “DISABILITY”?

Section 504 protects persons from discrimination based upon their disability status. A person is considered to have a disability within the definition of Section 504 if he or she has:

A mental or physical impairment that substantially limits one or more major life activities.

KEY DEFINITIONS

An Impairment may include any disability, illness or disorder that “substantially” interferes with a student’s ability to access learning in the regular school setting.

Substantial Limitation - According to Section 504, a physical or mental impairment does not constitute a disability unless its severity is such that it results in substantial limitation of one or more major life activities. In the case of a public school student, a substantial limitation would prevent access to a free and appropriate education (FAPE).

Major Life Activities include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, bodily functions and working etc. When a condition does not substantially limit a major life activity, the student does *not* qualify for accommodations under Section 504.

A person who experiences no substantial limitation in any major life activity does not meet the definition of a person with a disability and would not be entitled to accommodations under Section 504.



IDENTIFICATION OF STUDENTS

School districts identify students with a Section 504 qualifying disability through observation or notification. Parents or guardians are encouraged to inform the school when their child has a disability.

Under the law, it is the school district’s responsibility to determine eligibility and the student’s needs using multiple evaluation sources. Ultimately it is the responsibility of knowledgeable school staff to determine eligibility and to develop and implement any necessary and reasonable accommodations for the student.

In some instances a physician may recommend a 504 plan, and will *suggest* specific accommodations. While the school district should take this information into consideration, it is important to note that these are suggestions based on the professional’s knowledge of the student outside of the school setting. In these instances, it is appropriate for a physician to provide a medical diagnosis, diagnostic measures, and recommendations. This information can then be incorporated as part of a more comprehensive evaluation by the school.

School staff should consider the potential existence of disabilities and possible need for accommodations for students diagnosed as having blood sugar disorders, attention deficit hyperactivity disorders, epilepsy, cancer, birth defects, tuberculosis, depression or other mental health issues, heart malfunctions, communicable diseases, arthritic conditions, urinary conditions, HIV, chronic fatigue syndrome, etc. Please note that this list is not all-inclusive.

WHO CAN REFER A CHILD FOR CONSIDERATION?

Anyone can refer a child for evaluation under Section 504. However, while anyone can make a referral, such as parents or a doctor, the Office of Civil Rights has stated in a staff memorandum that “the school district must also have reason to believe that the child is in need of services under Section 504 due to a disability”. Therefore, a school district does not have to refer or evaluate a child under Section 504 solely upon parental demand. The key to a referral is whether the school district staff suspects that *the child is suffering from a mental or physical impairment that substantially limits a major life activity and is in need of either regular education with supplementary services or special education and related services*. If a parent requests a referral for evaluation, and the school district refuses, the school district must provide the parent with notice of their procedural rights under Section 504.

EVALUATION

If there is reason to believe that, because of a qualifying disability, a student needs accommodations or services, the school district must evaluate the student to determine eligibility for an accommodation plan.

Section 504 eligibility decisions must be made by a group of persons knowledgeable about the child, the disability and the meaning of the evaluation data. **South Brunswick School District ensures sound eligibility determinations by utilizing a district-wide committee of trained administrators to assist individual schools in the 504 evaluation process.**

The type of disability believed to be present determines requirements for the Section 504 evaluation and placement process and the type of services the student may need. The evaluation must be sufficient to accurately assess the nature and extent of the disability, its effect on major life activities and recommended accommodations. **Only when the disability substantially limits the student in a major life activity are they considered eligible for accommodations under Section 504.**

An evaluation is also required prior to any significant change in placement. Re-evaluations must also be conducted on a “periodic basis.” In assessing whether a student has a Section 504 qualifying disability, information should be gathered from multiple sources to better understand the difficulty and needs of the student. Relevant information could include the following:

- Information gathered from school records and direct observations of student
- Information from outside medical and/or mental health providers
- Student work samples and curriculum-based assessments
- Input from the student’s teacher(s) and parent/guardians
- Standardized test scores, attendance records, disciplinary records, hearing or vision screening results, etc.

Understanding how a student functions in different settings can be important in identifying the need for accommodations and services.



WHAT DOES “ACCOMMODATION” MEAN?

An appropriate education for students eligible under Section 504 consists of education in general education classes with the provision of necessary and reasonable accommodations. Accommodations must be individualized and should be designed to meet the individual educational needs of students with disabilities as adequately as the needs of other students are met.

Section 504 requires a plan describing placement and services, commonly referred to as an accommodation plan. Placement decisions must be based upon information drawn from a variety of sources and all information must be documented as considered.

Section 504 accommodation decisions must be made by a group of persons knowledgeable about the child, the disability and the meaning of the evaluation data.

WHAT IF MY CHILD IS NOT ELIGIBLE?

South Brunswick School District is committed to meeting the needs of all students. Each building's Student Support Team is responsible for developing intervention action plans for all struggling students, including those that do not qualify for services under Section 504.

HOW CAN PARENTS HELP?

As with all school matters, parents or guardians of students with 504 Plans can contribute greatly to their child's success in school. In order to form an effective partnership with school personnel, parents/guardians are encouraged to:

- Share any concerns with the administration at your child's school early on.
- Contact your school's Section 504 Coordinator as soon as possible if you have questions or concerns about your child's 504 Plan.
- Share pertinent information with Student Support Teams and/or attend 504 review meetings.
- Assist in developing appropriate accommodations and/or services for your child.
- Encourage your child to cooperate with school staff and do his/her best.
- Become familiar with procedural safeguards for parents or guardians.

WHAT PROCEDURAL SAFEGUARDS DO PARENTS HAVE?

In accordance with Section 504, South Brunswick Township School District provides you, as the parent or guardian, with the following rights and procedural safeguards in relation to your child.

- You have a right to receive a copy of this notice upon the district's identification, evaluation, refusal to provide an evaluation, educational placement, denial of educational placement and any significant change in placement of your child.
- Your child has the right to an appropriate education designed to meet his/her individual needs as adequately as the needs of non-disabled students are met.
- Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents.
- Your child has a right to placement in the least restrictive environment.
- Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students.
- You have the right to an evaluation of your child if the district has reason to believe that your child has a mental or physical impairment that limits a learning or major life activity.
 - before the initial placement or
 - before any subsequent significant change in placement
- This evaluation shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, grades, parent observations and anecdotal reports.
- Placement decisions must be made by a group, including people knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for a least restrictive environment and comparable facilities.
- If eligible, your child has a right to periodic reevaluations, generally every three years.
- You have the right to examine all relevant records of your child.
- You have the right to a grievance procedure and an impartial hearing, with participation by you and representation by counsel, concerning the identification, evaluation or education placement of your child.
- You have the right to appeal the final decision of the impartial hearing officer to a court of competent jurisdiction.
- You also have a right to file a complaint with the Office of Civil Rights. The Regional Office which has jurisdiction for South Brunswick School District appears as follows:

Office of Civil Rights – Region II
US Department of Health and Human Services
Jacob Javits Federal Building
26 Federal Plaza – Suite 3312
New York, NY 10278

For more information contact the 504 Coordinator
at your child's school
or
Raphael Morales
Director of Student Services
(732) 297-7800 Ext. 5101
raphael.morales@sbschools.org

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The content of this guide includes information from the following sources:

<http://www.aea11.k12.ia.us/pdf/504Parent.pdf>

<http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html#A>

<http://www.ed.gov/print/about/offices/list/ocr/docs/hq5269.html>

Zirkel, P.A. Section 504/ADA Student Issues: Legal Requirements and Practical Recommendations.

Workshop handout presented to South Brunswick Township School District Administrators and Section 504 Coordinators

Affirmative Action Policy

In compliance with Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973 and other Federal, State and local laws, South Brunswick School District does not discriminate on the basis of age, race, color, gender, sexual orientation, religion, national or ethnic origin, disability, or status as a disabled or Vietnam-era veteran in any of its employment process or in any other aspects of its Educational programs or activities.