

504 Manual

Independent School District 318 Grand Rapids, Minnesota

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Section 1: Introduction to Section 504

Section 504 of the Rehabilitation Act was enacted in 1973. For many years, its main thrust has been in the area of employment for individuals with qualified disabilities and for members of minorities. However, the Office for Civil Rights (OCR) is charged with enforcement of Section 504's requirements to insure the public education system provides the full range of special accommodations and services necessary for students with identified disabilities to participate in, and benefit from, education programs and activities.

Section 504 prohibits discrimination against disabled persons (including students, staff, and community members) by school districts receiving federal financial assistance. This includes all programs or activities of the school district receiving federal funds, regardless of whether the specific program or activity involved is a direct recipient of federal funds. Included in the US Department of Education regulations for Section 504 is the requirement that disabled students be provided with a free appropriate public education (FAPE). These regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States.

All individuals who are disabled under the Individuals with Disabilities Education Act (IDEA) are also considered to be disabled, and therefore protected, under Section 504. However, all individuals who have been determined to be disabled under Section 504 are not necessarily disabled under IDEA. These children require a response from the regular education staff and curriculum.

If a district has reason to believe that, because of a disability as defined under Section 504, a student needs either special accommodations or related services in the regular setting in order to participate in the school program, the district must develop and implement a plan for the delivery of all needed services. Again, these steps must be taken even though the student is not covered by the IDEA special education provisions and procedures. The evaluation and accommodation plan must be developed by the building 504 review team.

Section 2: Who Qualifies for Section 504

Who qualifies:

There are two components to the criteria for qualifying for support under Section 504.

1. The person must have an identified disability.
2. The identified disability is the primary cause of significant impairment in one or more major life areas. For schools, this generally means learning.

Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. An impairment is only a disability under Section 504 if it substantially limits one or more major life activities. An individual must be unable to perform, or be significantly limited in the ability to perform, an activity compared to an average person in the general population in addition to other pertinent information. The regulations provide three factors to consider in determining whether a person's impairment substantially limits a major life activity. These determinations will be made on a case by case basis.

1. Its nature and severity
2. How long it will last or is expected to last
3. Its permanent or long term impact, or expected impact

These factors must be considered because generally it is not the name of an impairment or a condition that determines whether a person is protected by Section 504, but rather the effect of an impairment or condition on the life of a particular person. Some impairments such as blindness, deafness, HIV infection or AIDS are, by their nature, substantially limiting. But, many other impairments may be disabling for some individuals but not for others, depending on the impact on their activities.

Drug and Alcohol Use The Americans with Disabilities Act of 1990 amended Section 504 to provide that the definition of individuals with disabilities does not include an individual who is currently engaging in the illegal use of drugs. However, the definition of an individual with a disability does not exclude an individual who has completed a drug or alcohol rehabilitation program or is no longer engaging in the illegal use of drugs or alcohol.

Requirement to Provide a Free Appropriate Public Education (FAPE) In reference to who is disabled under this law, a school is required to provide FAPE when a student has an identified disability. A school is not required to provide FAPE when a student has a

record of an impairment or is regarded as having an impairment. The school can provide accommodations to students who have a record of, or are regarded as having an impairment but it is strictly optional. If the school decides to provide support when it is not required, it can withdraw that support at any time.

Section 3: Questions to Review

There are times when all school staff ought to be asking themselves and others in the system the questions outlined below. Parent concerns and/or requests for evaluation also trigger Section 504 rights and procedures.

Some of those times or situations could be:

- When a pattern of expulsion is starting to develop
- When retention is being considered
- When new building or remodeling is being considered
- When a student shows a pattern of not benefiting from the instruction being provided
- When a student returns to school after a serious illness or injury
- When a student is referred for evaluation but it is determined not to do an evaluation under IDEA
- When a student is evaluated and is found not to qualify for IDEA services
- When a student exhibits a chronic health condition
- When a disability of any kind is suspected

An appropriate questioning sequence to follow when confronted with any of the situations listed above is outlined below:

1. Does the child have a disability according to Section 504? (See examples listed below.)
2. Is the child experiencing significant impairment in their school based performance?
3. Does it appear the impairment is directly related to the potential disability?
4. Should the district evaluate to determine eligibility for Section 504?

Examples of disabilities that may be considered for Section 504 eligibility:

(Note: This list is not exhaustive; disabilities don't always lend themselves to categorization).

- ADD-ADHD
- AIDS, ARC, or HIV
- Allergy/asthma
- Arthritis
- Cancer

- Diabetes
- Epilepsy
- Hemophilia
- Hepatitis B carrier
- Heart disease
- High blood pressure
- Kidney or liver disease
- Limp/paralysis/missing limb
- Low vision
- Mental or emotional illness
- Poor hearing
- Obesity
- Spina Bifida
- Stroke victim
- Total blindness/deafness
- Tuberculosis
- Individuals in treatment for drug or alcohol addition (unless they are currently using)

Section 4: Program Accessibility

Section 504 requires that a “program or activity, when viewed in its entirety, is readily accessible to handicapped persons.” The requirement allows school districts to achieve accessibility through a number of methods, including alteration of facilities, but does not require structural changes in existing facilities if accessibility can be achieved through less drastic methods. However, school districts are expected to provide services in “the most integrated setting appropriate.”

In order to make programs fully accessible under Section 504, it is not necessary for a school district to make all older buildings, i.e., all those built prior to 1977, fully accessible. However, the district is required to ensure that services provided in an inaccessible building are also available to disabled persons at an accessible site in a setting that is also used by non disabled persons. In smaller school districts with a single elementary or secondary building, it would be necessary to make that building fully accessible.

1. Districts may not make only one facility or one part of a facility physically accessible to disabled individuals where the result is to segregate disabled persons in a single setting.
2. Physical accessibility requirement applies to all district programs even if they occur at a non district site.

The accessibility requirement applies not only to students but to employees, parents, and patrons who have a right to access certain school services. For example, a school district may need to communicate with a parent who has a significant hearing loss through a telecommunication device for the deaf (TDD), which can be done with the cooperation of the local telephone service. Similarly, programs such as school plays, choral recitals, Christmas programs, and the like may need to be held at the accessible facility so that parents and patrons with disabilities may have access to the function.

The following is a checklist for the purpose of judging compliance with Section 504. Please note, that because the Americans with Disabilities Act contains requirements similar to, but more explicit than, the requirements of Section 504, some of the items on the checklist will be drawn directly from the ADA regulations.

1. The school district has on file a self-evaluation and transition plan which was filed with the Office for Civil Rights. This plan includes information concerning inaccessible facilities and the steps which the school will take in order to make all programs accessible to individuals with disabilities. It also includes an evaluation of school district policies and procedures and plans to bring them into compliance with the requirements of Section 504.
2. The school district is currently in compliance with its Section 504 self evaluation and transition plan.
3. If the self-evaluation and transition plans under Section 504 are not available, or if full compliance with these documents has not been achieved, the school district is undertaking a self-evaluation and transition plan as required under the ADA.
4. All aspects of elementary and secondary programming, including extracurricular, field trips, athletics, etc., are accessible to students with disabilities.
5. Each service, program, or activity conducted by the school district, when viewed in its entirety, is readily accessible and usable by individuals with disabilities.
6. The school district maintains in good operating condition those features of each program which makes the program accessible to individuals with disabilities. The school district has access to a TDD for the benefit of individuals with speech or hearing disabilities.
7. School board meetings or other public meetings conducted by the school district are held in facilities that are readily accessible to individuals with disabilities including, when necessary, the provision of sign language interpreter.

NOTE: The above list is not exhaustive.

In action to the requirement to provide a free appropriate public education to individuals with disabilities, Section 504 requires public school districts to ensure the following:

1. Nonacademic and extracurricular activities must be made available to afford disabled students in “equal opportunity for participation.”

2. Assistance to gain outside employment and employment by the recipient, itself, must be available equally to students with a disability and non disabled students.
3. Students with a disability cannot be counseled toward more restrictive career choices than non disabled students.
4. Students with a disability must have as equal an opportunity to participate in intramural athletics and interscholastic activities as non disabled students.
5. Physical education classes may be separate and different if students with a disability are given the opportunity to compete for teams or compete for courses that are not separate or different.

Section 5: Employment Issues

Section 504 also impacts school districts' employment practices. The regulations prohibit the discrimination of a qualified person with disabilities in employment and require employers to take positive steps to employ and advance in employment qualified individuals with disabilities.

- Section 504 prohibits districts from participating in contractual or other relationships that have effect of discriminating against disabled employees. Furthermore, districts are only obligated to make reasonable accommodations for "otherwise qualified disabled employees." Not all disabled employees are entitled to accommodations. A disabled employee is qualified only if, with reasonable accommodations, the employee can perform the essential functions of the job in question.

An employer may not use any employment test or other selection criteria that screen out persons with disabilities unless the test or criteria are job related and other alternative job related tests that do not screen out disabled persons are not available.

An employer may not make any pre-employment inquiry as to a disability an applicant may have. The employer may, however, inquire as to an applicant's ability to perform the essential functions of a job.

Generally, an employer may not conduct a pre-employment medical examination. However, an offer of employment may be conditioned upon the results of a medical

examination if all other entering employees are subjected to a medical examination regardless of any disability.

For employees with disabilities, an employer must make reasonable accommodations to the known physical or mental limitations of the employees unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of its programs. Examples of some reasonable accommodations are making facilities ready accessible, job restructuring, including providing part time or modified work schedules, acquiring or modifying equipment or devices, and providing readers or interpreters.

In determining whether an accommodation would impose an undue hardship on the employer's programs, some factors that can be considered include the overall size of the employer's programs with respect to the number of employees, number and type of facilities, and size of budget; the type of programs, including the composition and structure of the employer's work forces; and the nature and cost of the accommodation needed.

Section 6: Team Process

1. Parent is notified of concern for the student, usually by the student's teacher or counselor. Otherwise, student's needs are brought to the attention of the team by the teacher, other school personnel, parent or outside agency.
2. The case is discussed and interventions suggested. A copy of the pre-referral form is provided to the referring teacher prior to the next scheduled review of the case.
3. A date is set for the next review by the team. In the interim between meetings, referral interventions should be tried and documented on the pre-referral form.
4. At the next meeting scheduled to discuss this case, the case is reviewed, progress discussed, and a decision made whether to continue with the pre-referral process, refer for special education assessment, assess for 504, or discontinue.
5. If a 504 assessment is recommended,
 - the referral review and assessment determination form is completed (Form 1A)
 - appropriate personnel are assigned for specific areas of assessment

- team members should sign the referral review and assessment determination forms under Section E
 - copies of Form 1A and the pre-referral forms should be made and sent to each person who is to be involved in the evaluation
 - notice of an education assessment/reassessment plan (Form 2) is completed by the committee (a copy is sent to the parent for permission to assess)
 - a date will be set by the team to review assessment results after completion of assessments
6. Once the assessment is completed,
- the team reviews the data, makes the determination whether to write a 504 Accommodation Plan, and if a plan is written, assigns a case manager. This determination is based on whether the student is found to have a disability, has a record of having such a disability, or is regarded as having such disability which substantially limits one or more major life activities, including learning.
 - The 504 Accommodation Plan is written by the case manager with input from the team. Parents should be invited to offer input before the plan is implemented. When complete, a copy of the plan is placed in the student's cumulative folder.
 - Once the plan is in place, it is reviewed by the case manager and the team at least once a year. Reviews should be documented on the plan in the student's folder. The team should keep a list of all students in the building who are on 504 plans and dates of the next review in order to monitor the review process.
 - The team assumes responsibility for seeing the 504 plans are implemented and are brought to the attention of the student's teachers at the beginning of each school year.

Section 7: Evaluation and Accommodation

Students who are thought to need educational modifications or accommodations for a disability will be referred through TAT team for evaluation. A notice of evaluation will be sent to the parent.

The evaluation may include:

- Testing – formal and informal; standardized or individual, teacher evaluations
- Observation of classroom work and functioning in the classroom
- Medical history and physical condition
- Social or cultural background

After reviewing the results of the evaluation, the team decides if the student has an identifiable disability which is severely impacting education performance.

An accommodation plan is written. Parent is invited to attend and give input.

Section 8: Examples of Evaluation Data

Profile of the Total Student

Informal

1. Health information/records
2. Observations (classroom/playground)
3. Anecdotal records
4. Attendance records
5. Parent information
6. Medical records
7. Records of classroom interventions
8. Discipline records
9. Grades
10. Achievement tests
11. Cumulative record information

Section 9: Classroom and Facility Accommodations

As local districts develop policies and procedures for guiding the referral and identification of students determined to be disabled under Section 504, it is critical that information concerning this law and its impact on local school districts be shared with principals and building level staff. The intent of Section 504 is to “accommodate” for differences within the regular education environment. For this to be accomplished, all staff must be provided with awareness activities and given specific information concerning the district’s procedures for dealing with Section 504 referrals. The specific accommodation or modification will depend upon the student in question and all decisions will be made by a team on a case by case basis.

As individual students are identified, the classroom teacher may need specific training in the area of the identified handicap (e.g., training from the school nurse on danger signs of

an impending asthma attack, training from a physical therapist on correct positioning of a wheelchair-bound student at his/her desk, etc.). The following classroom/facility accommodations are presented as examples of ways in which Section 6504 handicaps may be successfully addressed within the regular education environment.

Communication

There may be a need to modify parent/student/teacher communications, for example:

- Develop a daily/weekly journal
- Develop parent/student/school contacts
- Schedule periodic parent/teacher meetings
- Provide parents with duplicate sets of texts

There may be a need to modify staff communications, for example:

- Identify resource staff
- Network with other staff
- Schedule building team meetings
- Maintain ongoing communication with building principal

There may be a need to modify school/community agency communication with parent consent, for example:

- Identify and communicate with appropriate agency personnel working with student
- Assist in agency referrals
- Provide appropriate carryover in the school environment

Organization/Management

There may be a need to modify the instructional day, for example:

- Allow student more time to pass in hallways
- Modify class schedule

There may be a need to modify the classroom organization/structure, for example:

- Adjust placement of student within classroom (e.g., study carrel, proximity to teacher, etc.)
- Increase/decrease opportunity for movement
- Determine appropriate classroom assignment (e.g., open versus structured)
- Reduce external stimuli

There may be a need to modify the district's policies/procedures.

- Allow increase in number of excused absences for health reasons
- Adjust transportation/parking arrangements

- Approve early dismissal for service agency appointments

Alternative Teaching Strategies

There may be a need to modify teaching methods.

- Adjust testing procedure (e.g., length of time, administer orally, tape record answers)
- Individualize classroom/homework assignments
- Utilize technology (computers, tape recorders, calculators, etc.)

There may be a need to modify materials.

- Utilize large print
- Utilize materials that address the student's learning style (e.g., visual tactile, auditory, etc.)
- Adjust reading level of materials

Student Precautions

There may be a need to modify the classroom/building climate for health purposes.

- Use an air purifier in classroom
- Control temperature
- Accommodate specific allergic reaction

There may be a need to modify classroom/building to accommodate equipment needs.

- Plan for evacuation for wheelchair-bound students
- Schedule classes in accessible areas

There may be a need to modify building health/safety procedures.

- Administer medication
- Apply universal precautions
- Accommodate special diets

Section 10: List of Possible Accommodations

The accommodations listed below are intended to be examples of such for schools to use in developing a plan to address a student's needs.

Physical Arrangement of Room

- Seat student near the teacher
- Seat student near a positive role model
- Stand near the student when giving directions or presenting lessons
- Avoid distracting stimuli (air conditioners, high traffic area, etc.)
- Increase the distance between the desks

Lesson Presentation

- Pair students to check work
- Write key points on the board
- Provide peer tutoring
- Provide visual aides
- Provide peer note taker
- Make sure directions are understood
- Include a variety of activities during each lesson
- Break presentations into shorter segments
- Provide written outline
- Allow students to tape record lessons
- Have child review key points orally
- Teach through multi-sensory modes
- Use computer assisted instruction

Assignments/Worksheets

- Give extra time to complete tasks
- Simplify complex directions
- Hand worksheets out one at a time
- Reduce the reading level of the assignments
- Require fewer correct responses to achieve grade
- Allow student to tape record assignments/homework
- Provide a structured routine I written form
- Provide study skills training/learning strategies
- Give frequent short quizzes and avoid long tests
- Shorten assignments; break work into smaller segments
- Allow typewritten or computer printed assignments
- Use self-monitoring devices
- Reduce homework assignments
- Not grade handwriting

Test Taking

- Allow open book exams
- Give exam orally
- Give take-home tests
- Allow extra time for exam
- Read test item to student
- Use more objective items (fewer essay responses)
- Allow student to give test answers on tape recorder
- Give frequent short quizzes, not long exams

Organization

- Provide peer assistance with organizational skills
- Assign volunteer homework buddy
- Allow student to have an extra set of books at home
- Send daily/weekly progress reports home
- Develop a reward system for in-school work and homework completion
- Provide student with a homework assignment notebook

Special Considerations

- Suggest parenting program(s)
- Monitor student closely on field trips
- Inservice teacher(s) on child's handicap
- Provide social skills group experiences
- Alert bus driver
- Suggest agency involvement
- Provide group/individual
- Develop intervention strategies for transitional periods (e.g., cafeteria, physical education, etc.)

Adaptation of Materials

–Provide the Following

- Reading materials at _____ grade level
- Peer to read materials
- Peer to take notes
- Peer or small group discussion of materials
- Tape recording of required readings
- Highlighted materials for emphasis
- Altered format of materials
- Study aids/manipulatives
- Outlines and study guides

- Exams of reduced length
- Oral exams
- Open book exams
- Tests to be given by Content Mastery teacher
- Written review for exams
- Preview of test questions
- Study carrel for independent work
- Frequent feedback
- Immediate feedback
- Checks for understanding
- Minimize auditory distractions
- Encourage participation
- Extended “wait time”

Modification of Instruction

–Provide the Following

- Shortened, simplified instruction
- Repeated instructions
- Opportunity to repeat instructions
- Opportunity to write instructions
- Written instructions
- Visual aids (cues, tapes, etc.)
- Auditory aids (cues, tapes, etc.)
- Instructional aids
- Multi-sensory information
- Extra time for oral response
- Extra time for written response
- “Over learning”

Behavior Management

- Clearly defined limits
- Frequent reminders of rules
- Frequent eye contact
- Private discussion regarding behavior
- Seating near the teacher
- Opportunity to help teacher
- Supervision during transition
- Ignore minor infractions
- Implementation of behavior contract
- Positive reinforcement
- Emphasis on student’s special talents
- Secretary signal between teacher and student

General Modifications

- Structured learning environment
- Computer-aided instruction

Section 11: Section 504 Rehabilitation Act, Procedural Safeguards

1. **Notice** is required with respect to actions regarding the identification, evaluation or educational placement of students eligible for 504. This means the district will secure parent permission prior to conducting an evaluation to determine if a student is eligible for 504. If the student is eligible, the district will obtain parent permission prior to initiating services. Parent permission will be secured for a re-evaluation when it is connected to a significant change in program.

2. **Opportunity** to examine relevant records: A parent can request to see the relevant records regarding their child’s 504 plan. This includes the evaluation plan, the eligibility determination, any test protocols from the evaluation process and the 504 plan itself.

3. Local Grievance Process:

- a) An alleged grievance must be filed within twenty school days in writing, fully setting out the circumstances giving rise to the grievance.
- b) Such claims must be filed with Josh Robinson, Section 504 compliance coordinator. In case a claim is filed against the current coordinator, claims should be filed with Jim Smokrovich, Grand Rapids High School principal, or Scott Patrow, Bigfork High School principal.
- c) The coordinator will contact the district representative who will set up a review committee to evaluate the validity of the grievance. This process will be completed within thirty school days after the district representative receives notice of the grievance.
- d) The district will give the parent, student, or employee at least five calendar day's notice of the date, time, and place of the review.
- e) The hearing will be conducted by an individual who does not have a direct interest in the outcome of the hearing and is knowledgeable about Section 504.
- f) The hearing officer will give the parent, student, or employee a full and fair opportunity to present evidence relevant to the issues raised. The parent, student, or employee may, at their own expense, be assisted or represented by individuals of his/her own choice, including an attorney.
- g) The hearing officer will make a decision, in writing, and present it to the school board and the grievant within fifteen school days after the hearing.
- h) The decision of the hearing officer will be based solely on the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

4. **Hearing:** If the parent, student, or employee doesn't agree with the results of the local grievance procedure, they can request an impartial due process hearing. Also, there is no requirement to utilize the local grievance procedure prior to requesting a due process hearing. If there is a request for a hearing the following information applies:

- a) A request for a hearing must be filed with Josh Robinson, Section 504 compliance coordinator. If there is a request to proceed directly to a hearing without utilizing the local grievance procedure, the alleged grievance must be filed with 20 school days in writing, fully setting out the circumstances giving rise to the grievance. If the request for a hearing follows the outcome of the local grievance process, the same process applies.
- b) The coordinator will have a hearing officer appointed who will conduct the hearing within thirty school days after the request is requested.
- c) The district will give the parent, student, or employee at least ten calendar day's notice of the date, time, and place of the hearing.
- d) The hearing will be conducted by an individual who does not have a direct interest in the outcome of the hearing and is knowledgeable about Section 504.

- e) The hearing officer will give the parent, student, or employee a full and fair opportunity to present evidence relevant to the issues raised. The parent, student, or employee may, at their own expense, be assisted or represented by individuals of his/her own choice, including an attorney.
- f) The hearing officer will make a decision, in writing, and present it to the school board and the grievant within fifteen school days after the hearing.
- g) The decision of the hearing officer will be based solely on the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

Formal

1. Psycho-educational assessment
2. Adaptive behavior instruments
3. Intelligence testing