

Section 504 Compliance Manual



2023-24

Exceptional Education Department

Office of Section 504 & ADA Compliance

DeKalb County School District

NOTICE OF NONDISCRIMINATION

The DeKalb County School District does not discriminate in admission or access to, or treatment or employment in, on the basis of race, color, religion, sex, national origin, age, or disability in any of its employment practices, educational programs, services or activities.

District-wide compliance efforts with Titles VI and VII of the Civil Rights Act of 1964, as amended; The Age Discrimination in Employment Act of 1967, and Title IX of the Education Amendments, as amended, are coordinated through the Office of Affirmative Development.

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Section 504 Overview

Section 504 of the Rehabilitation Act of 1973 is a federal law which prohibits discrimination against persons with disabilities. The law provides:

“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....”

29 U. S. C. § 794

Section 504 is based on the principle that students with disabilities shall not be denied access to educational facilities, activities, programs, and opportunities on the basis of their disability or suspected disability.

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal civil rights law that prohibits disability-based discrimination in programs and activities that receive Federal funds from the U.S. Department of Education. The law requires all public and charter schools to provide Free Appropriate Public Education (FAPE) to qualified individuals. The Office of Civil Rights (OCR) enforces compliance for Section 504. The law ensures that students with disabilities have **access** to educational opportunities and benefits equal to those provided to non-disabled students.

Section 504 does **not** require educational benefits or progress for the child. Instead, it is an antidiscrimination law that requires schools to provide eligible students with disabilities the same opportunity to access, participate, and learn as their **average** nondisabled peers. Over the years, schools have come to develop written “504 plans” to document the services and accommodations they provide. While writing a 504 plan is not legally mandated, it is often considered best practice.

A 504 FAPE differs from an IDEA FAPE

Unlike the IDEA, which is a “benefit” or “progress” statute, Section 504 is an “opportunity” statute. 504 Teams must provide what is legally required- no more and no less.

Who is Protected by Section 504?

A student may qualify as a student with a disability under Section 504 if the student has (1) a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) be regarded as having such an impairment. An impairment that is “episodic” or “in remission” is a disability if it would substantially limit a major life activity when active.

Section 504 of the Rehabilitation Act prohibits discrimination based on disability. All staff and administrators have the responsibility of ensuring that qualifying students with disabilities are identified, evaluated, and provided with the necessary supports and services to access his/her educational programming, if applicable.

School District Obligations to Comply with Section 504

- Comply with Child Find obligations and initiate initial evaluations accordingly.
- Provide periodic reevaluations for students with disabilities.
- Provide eligible students with FAPE documented in a Section 504 accommodation plan, if eligible.
- Provide education to students with disabilities in the least restrictive environment (LRE).
- Provide established standards and procedures in the identification and evaluation process.
- Provide special transportation for students with specific individualized circumstances and conditions to ensure access to educational programming.
- Provide equal access to district programs for parents who have a disability (i.e. ASL services).
- Provide students with disabilities equal access to nonacademic and/or extracurricular services.
- Establish and implement a system of procedural safeguards regarding the identification, evaluation, placement, or provision of FAPE to a student.
- Ensure behavior proceedings adhere to guidelines by taking a student's disability into consideration prior to any significant change in placement (i.e. manifestation determination reviews).
- Provide information to stakeholders about the Georgia Special Needs Scholarship (GSNS) for general education students with disabilities. [504 Plan Eligibility Information for GSNS](#)

Section 504 Roles and Responsibilities

504 School Coordinator:

- Oversees efforts to comply with Section 504 regulations by attending all district trainings, facilitating training sessions for faculty, and implementing/monitoring all 504-related processes.
- Establishes school 504 Team and serves as chairperson.
- Guides 504 referral, evaluation, review, and service delivery processes.
- Conducts 504 Reviews on an annual basis, and more often if necessary.
- Generates, maintains, and monitors Infinite Campus reports with a current master list of 504 students.
- Maintains an accurate database in Infinite Campus with current 504 Plans, and supporting documents, uploaded within five days (5) days after the 504 meeting.

- Processes all Section 504 plans and provides a copy to each student's teacher by the first day of each semester, and within five (5) days after the 504 meeting.
- Organizes and provides information for district response to any complaint filed with the Office of Civil Rights
- Consults with District 504 Coordinator, as needed.

Principal:

- Coordinates school efforts to comply with Section 504 procedures, including training of school staff.
- Ensures the designated 504 chairperson(s) have the appropriate knowledge, skills, and abilities to ensure compliant practices in the school (Recommendation- 504 Chairs should **not** be classroom teachers with class assignments)
- Provides oversight and guidance to 504 chairperson and building staff to ensure that all Section 504 requirements are met.
- Ensures that 504 Plans are shared with all staff according to guidelines.
- Supports district professional learning for 504 chairpersons.
- Monitors implementation of accommodations and addresses personnel matters regarding 504 violations.

Building Staff:

- Attends Section 504 trainings at the school level.
- Communicates all suspicions of disability to the 504 chairperson immediately (Referral process)
- Relays parent requests for 504 services to 504 chairperson
- Serves as an active 504 team member as determined by the 504 chairperson
- Implements 504 accommodations with fidelity.

Role of District 504 Coordinator:

- Coordinates 504 implementation in the district by ensuring uniformity of procedures and practices across all school campuses and centers.
- Ensures 504 forms and procedures comply with 504 legal requirements.
- Provides training and support for building 504 chairpersons, case managers, and others as needed.
- Provides technical assistance and problem-solving as needed.
- Monitors and addresses school-based and systemic Section 504 compliance issues.
- Participates in decision-making when district resources are under consideration.
- Provides accurate, accessible information about 504 to the community.
- Participates in school-based 504 meetings, when appropriate
- Addresses and investigates all OCR and District complaints.

Operational Guidelines

The Section 504 Process

The Section 504 Process consists of six steps: (1) Referral; (2) Evaluation; (3) Eligibility Determination; (4) Individual Accommodation Plan; (5) Annual Review; and (6) Reevaluation.



Section 504 regulations outline that students with disabilities be given an equal educational opportunity. This is commonly defined as the provision of a documented plan that includes accommodations or services that level the playing field so Section 504 students can access school programs and services as adequately as non-disabled peers.

Step 1

Referral

A 504 Referral Form is completed by a parent, teacher, other school staff, or the student. The 504 Coordinator will respond to the request within ten [10] school days.

Requirements:

- ✓ Referral Form
- ✓ Parent Permission to Evaluate
- ✓ Notice of Parent and Student Rights
- ✓ Parent Input Forms
- ✓ Teacher Input Forms
- ✓ Clear communication of 504 terms, timelines, and procedural safeguards with opportunity for questions

Timeline: The Initial Evaluation Meeting is held within 30 calendar days from the receipt of the initial referral.

Anyone can make a referral for Section 504; however, parents or teachers typically make referrals. An initial referral to the 504 chairperson begins the Section 504 process for a student. Referral to Section 504 should occur when a school staff member or parent suspects a disability is present (or has knowledge of an identified disability) and the

student may need services due to the disability. Referrals should be captured on a 504 Referral Form and uploaded to Infinite Campus. If the parent makes a verbal request for referral, the 504 chairperson shall document the request by completing the 504 Referral Form. Staff may assist in completing the form if information is received verbally, or through other means.

An evaluation must occur prior to a student receiving services under Section 504. Evaluation procedures are necessary in order to ensure students are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed based on inappropriate selection, administration, or interpretation of evaluation materials.

If the 504 Team suspects that the student is eligible for Section 504 protections as a disabled student, the 504 Team provides the parent with the Parent Permission to Evaluate Form, Notice of Rights and Procedural Safeguards, and refers the student for evaluation.

The 504 chairperson reviews the referral and consults with parent, teachers, the student (if appropriate), and others who may have relevant information. The amount of information required to identify a student for Section 504 is determined by the 504 committee. The committee members must determine if they have enough information to make a knowledgeable decision based on the definition of disability under Section 504. Districts must draw from a **variety of sources** in the evaluation process so that the possibility of error is minimized. A medical diagnosis, alone, should not be the basis for determining eligibility. The information obtained from school records and all other sources must be documented and all significant factors related to the student's learning process must be considered.



A medical diagnosis is NOT required in order for the student to be referred for consideration as a disabled student under Section 504.

Child Find

Schools have a Child Find obligation under Section 504. Schools must locate and identify students with disabilities that may be eligible for Section 504 services. School districts must maintain a process for Section 504 student referral and evaluation. In addition, districts must inform parents and the public of these obligations.

The district should consider a referral to the 504 Team for evaluation if:

- Parent requests a 504 Accommodation Plan
- Parent provides documentation of a condition that may constitute a disability.
- A disability of any kind is suspected.
- Student exhibits persistent academic, learning, or behavioral problems – fails courses, or fails grade promotion criteria.
- Student's discipline history has a pattern of multiple behavior referrals, suspensions, and/or out of classroom consequences.
- Student exhibits a chronic health condition.

- Student transfers into the district with a 504 Plan
- Student is chronically absent due to medical/health issues.
- Student returns to school after alcohol and/or drug treatment
- Student is evaluated and is not eligible for Special Education services.
- Student is no longer eligible for Special Education services and continues to need accommodations.



A student who is found ineligible for Special Education services should be referred back to the 504 Team for consideration of whether the student's difficulties are caused by a disability under Section 504. *The student is not automatically 504 eligible.* The information gathered by the Special Education Team, in addition to any other relevant information, should be shared with the 504 Team considering 504 eligibility.

Interventions and School Supports

Tier 1 academic and behavioral interventions and supports should be considered and implemented within the general education setting any time the student is having challenges. Such instructional strategies and interventions can be highly successful and may include adjustments in presentation of instructional material, classroom setting, redirection, or direct student support. If appropriate, a Section 504 Accommodation Plan can be implemented in addition to these interventions and school supports.

In cases where the student continues to have difficulty, the student may be referred for Tier 2 or 3 supports through MTSS/RTI (Multi-Tiered Support System/Response to Intervention). The MTSS/RTI Team may develop more intense interventions, including a monitoring plan. If there is also a suspicion of a disability or information is revealed about a documented disability, the student may be referred for 504 eligibility consideration. The MTSS/RTI Team may also determine that a special education evaluation is conducted to determine Special Education eligibility. If the Team recommends Section 504 eligibility, then a Section 504 Referral Form should be submitted to the Section 504 School chairperson.

Participation in MTSS/RTI (Multi-Tiered Support Systems/Response to Intervention) systems does not exclude students from a Section 504 referral, even if a student is showing progress with the interventions.



Using the MTSS/RTI process should not DELAY, DENY, or PREVENT students from a Section 504 evaluation, if there is a suspicion of a disability present.

Step 2

Evaluation

The district must evaluate a student under Section 504 if the Team suspects that the student has a mental or physical impairment that substantially limits a major life activity. The 504 Evaluation consists of gathering data from a variety of sources to allow the 504 Team to make an Eligibility Determination. The Evaluation should be completed within thirty (30) school days of the 504 Referral.

Requirements:

- ✓ Evaluation Report Form
- ✓ Signed Parent Permission to Evaluate Form
- ✓ Completed Input Forms from Parent and Teachers
- ✓ Completed Medical Impairment Form – if returned
- ✓ Clear communication with Parent and opportunity for questions

Timeline: The Initial Evaluation Meeting is held within thirty (30) school days from the receipt of the initial referral.

Under Section 504, school districts must conduct an evaluation in a timely manner of any student who needs or is believed to need special education or related services because of a disability. When a school is aware of a student's disability or has reason to suspect a student has a disability, and the student needs or is believed to need special education or related services, it would be a violation of Section 504 if the school delays or denies the evaluation. In some circumstances, the IDEA evaluation process may provide the school district with the necessary information, required by Section 504, to determine whether a student has a disability, and whether that student needs related aids and services or supplementary aids and services in the regular education environment because of that disability. However, if a school district uses a separate process for evaluating the needs of students under Section 504, it must follow the requirements for evaluation specified in the Section 504 regulations.

The 504 Evaluation involves gathering data from all sources to allow the 504 Team to make an Eligibility Determination and should begin with a thorough review of the student's educational records. **The parent must provide written consent in order for the 504 Team to fully evaluate the student.** The nature and extent of the information needed to make a 504-eligibility decision is determined on an individual basis by the 504 Team, a group of

persons knowledgeable about the student and the relevance of the data.

Evaluation typically refers to a collection and analysis of data from a variety of sources. Generally, the evaluation and assessment procedures under Section 504 are less formal than those under IDEA. The type of suspected disability and the type of accommodations that may be needed dictate the specific data collected and evaluation procedures utilized. Formal and informal tests may be required to make a determination.

Data Sources

The 504 Evaluation Report includes a review of available data from a variety of sources, including the following data sources, as appropriate for the individual student:

- Classroom and school observations
- Attendance, discipline and grades
- Standardized test results and other assessments
- Parent/Teacher/Student input
- Review of intervention data
- Teacher anecdotal records
- Behavior rating scales or other checklists
- Review of existing records (permanent record, medical records, psychological reports, other educational records)
- Special education records
- Other informal evaluation information including information from outside agencies.
- Specific medical information with consideration of a medical diagnosis from a physician or licensed mental health professional (this alone must not be the sole source of determination)
- Medical Information
- Physician's Orders
- Psychological Evaluation
- School Health Information
- Parent/Student Input
- Approved HHB Documents
- Progress Reports/Grades
- Work Samples
- RTI Data
- Attendance
- Hearing/Vision Reports
- Standardized Tests
- Behavior Reports/Referrals
- Teacher/Admin Input
- Motor Assessments
- Observations
- Other

Medical evaluations are not required under Section 504. The district cannot require the parent to provide medical information or evaluations. If the Eligibility Team determines that a medical evaluation is necessary, the district must offer to pay for it.



A medical diagnosis does not automatically determine eligibility under Section 504. The impairment must also substantially limit a major life activity. All eligibility determinations are made by the 504 Team.

Parent Notification and Consent

Office of Civil Rights (OCR) guidelines require that a district obtain informed parental permission for initial evaluations. A Parent Permission to Evaluate (PPE) must be signed by the parent in order for the 504 Team to formally review the student's assessment data. A parent has the right to refuse evaluation.

The district must notify the parent before the 504 Team conducts a reevaluation or recommends a significant change in placement, but parent consent is not necessary. The parent should be fully informed and given opportunity to fully participate as a member of the 504 Team.

Parent Refusal of Permission to Evaluate

If a parent refuses consent for a 504 evaluation, the process ends. Ask the parent to indicate on the Permission to Evaluate Form that consent is denied. If the parent refuses, write a statement on the form documenting the parent's refusal with your signature and date. Document all attempts to get parent consent. Give the parent a copy of the document stating they have refused evaluation, along with a copy of the Notice of Parent and Student Rights.

504 Team

The Section 504 regulations require that the evaluation and eligibility decision be made by the 504 Team. The 504 Team is responsible for decisions involving identification, evaluation, placement, FAPE, eligibility decisions, 504 plans, annual reviews, and manifestation determinations. The committee must include persons knowledgeable about the child, evaluation data, and placement options.



The 504 Team is a multidisciplinary group of persons knowledgeable about the student and implications of the medical impairment, evaluation data, and placement options. The Team should be able to provide information about the student's needs and the classroom environment. The parent is an important member of the Team.

The 504 Team is a multidisciplinary group of persons knowledgeable about the student and implications of the medical impairment, evaluation data, and placement options. **The Team must make every effort to include the parent.** Notice of Meeting should be given at least five (5) days in advance. The parent's schedule and availability should be considered first, and the parent should be given at least one opportunity to reschedule the meeting. The law does not require that meetings be rescheduled for the parent's attendance; however, reasonable attempts to schedule with parent are expected, along with careful documentation of attempts to involve the parent. Parent participation is very important.

Step 3

Disability Determination (Eligibility)

The disability determination (eligibility) should be made by a group of persons knowledgeable about the student.

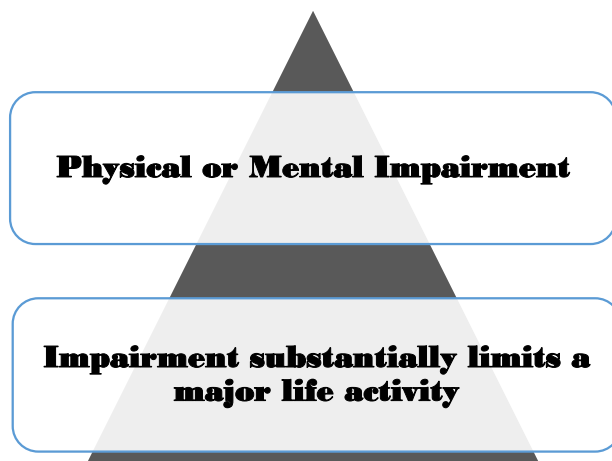
Requirements:

- ✓ **Notice of Meeting - With parent confirmation to attend and/or documented rescheduling opportunities for parent participation.**
- ✓ **Notice of Parent and Student Rights**
- ✓ **Evaluation Report with supporting documents (including forms: Referral, Parent Input, Teacher Input)**
- ✓ **504 Team**

The 504 Team and Disability Determination (Eligibility)

The primary purpose of the 504 Team in determining 504 eligibility is to review the Evaluation Report to determine if the student is considered disabled under Section 504. Eligibility must be based on multiple data points from a variety of sources that support the decision. The 504 Team uses a two-part inquiry to determine if the student is considered disabled under Section 504. Both of the following criteria must be met before a student is eligible for a Section 504 Plan:

- Does the student have a physical or mental impairment?
- Does the physical or mental impairment “**substantially limit**” a major life activity?



Students in both categories are protected from discrimination under Section 504. Only students in the second category may potentially need a 504 Individual Accommodation Plan (IAP).

The 504 Team, using the Evaluation Report and supporting documents, decides whether the student has a physical or mental impairment that substantially limits one or more major life activities under Section 504. If the Team determines that the student is eligible for 504 protections, the Team will decide if accommodations are needed in order to access educational programming. If so, the Team will develop a 504 Individual Accommodation Plan (IAP).



Eligibility Determination is a process. A medical diagnosis does not automatically equate to eligibility under Section 504. The condition must substantially limit one or more major life activities or bodily functions. Section 504 eligibility is a team decision.

Does the student have a physical or mental impairment?

Section 504 defines a “physical or mental impairment” as “any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” This is not an exhaustive list.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must always be made on an individual basis. There is no exhaustive list of specific diseases and conditions that may constitute physical or mental impairments, as lawmakers could not include all potential impairments in such a list.

Examples of physical or mental impairments include:

- Health conditions such as asthma, allergies, diabetes, epilepsy
- Communicable diseases such as AIDS, tuberculosis, hepatitis
- Psychological conditions such as Attention Deficit/Hyperactivity Disorder (ADHD), depression, obsessive-compulsive disorder
- Physical disabilities such as spina bifida, hemophilia, juvenile rheumatoid arthritis, cerebral palsy, hearing or vision impairments.

Does the impairment cause substantial limitation?

OCR does not specifically define the term “substantial limitation” in its regulations. Each Local Education Agency (LEA) determines what constitutes a substantial limitation in each individual evaluation. The general guidance for determining a substantial limitation is broad and typically references access to participation when compared to the average, same-age, non-disabled peers.

The 504 Team considers the nature and severity of the disability. Simply having a condition or impairment does not automatically qualify a student for Section 504 protections. Successful performance does not rule out the presence of substantial limitation. The academic level of the courses does not rule out the presence of substantial limitation. The amount of time and effort it takes a student to complete the assignments as compared to non-disabled students must be a consideration in the Section 504 evaluation. Therefore, honor students and students taking AP courses are eligible for 504 protections and accommodations, if appropriate.

Indicators of a substantial limitation could include the following if as compared to most students, the student demonstrates:

- a consistent need for more time
- a consistent need for testing accommodations
- frequent behaviors associated with an identified physical/mental impairment that interfere with school performance.
- significant difficulty with planning, organization, and completion of activities and/or assignments
- chronic absences or tardiness related to a physical or mental impairment.
- classroom interventions do not alleviate difficulties.
- an overall steady decline in academic performance

The impairment need only substantially limit one major life activity to be considered a disability under Section 504. The identified physical or mental impairment does not have to prevent or severely restrict the student from performing the major life activity.

Major life activities include basic activities that the average person can perform with little or no difficulty. In the school setting, consideration of major life activities includes, but is not limited to, those basic activities that are necessary to access learning. Even if there are no limitations on the ability to learn, the student may still be eligible if another major life activity is limiting, and that activity is necessary for the student to access opportunities for learning or other typically accessible school activities.

Major Life Activities include, but are not limited to, the following:

Caring for Oneself	Performing Manual Tasks	Seeing	Hearing	Eating	Sleeping	Walking
Standing	Lifting	Bending	Speaking	Breathing	Learning	Reading
	Concentrating	Thinking	Communicating	Working	Major Body Functions	



Students are eligible under Section 504 if they have a physical or mental impairment that *would substantially limit* them in a major life activity *despite* taking advantage of mitigating measures.

Mitigating Measures

Beneficial effects of mitigating measures are **not** considered in evaluations for 504 eligibility when determining whether the student's physical or mental impairment substantially limits a major life activity. Mitigating measures are strategies or supports utilized by the person with a disability. A student with a disability cannot be denied protections under Section 504 because of a mitigating measure.

Common Mitigating Measures

The 504 Team cannot consider a student's use of mitigating measures, such as medications, in determining if the impairment substantially limits a major life activity. Mitigating measures, include, but are not limited to medication; medical supplies, equipment or appliances; low-vision devices (not to include ordinary eye glasses or contact lenses); prosthetics; hearing aids and cochlear implants; mobility devices; other assistive technology; or learned behavioral or adaptive neurological modifications. The

determination of eligibility and the plan must be developed independent of the use of mitigating measures.

When a 504 Team determines that a student is disabled but is not in need of accommodations because the student's educational needs are met as adequately as those of nondisabled students based on the positive effect of mitigating measures currently in use, **a 504 Plan should not be developed.** If the positive effect of mitigating measures currently in use no longer exists, the need for a 504 Plan will be reviewed. In other words, for example, the use of the mitigating measure of medication, may indicate the student does not require a 504 Plan because by having the medication, the student's needs are met, and no accommodations are required to receive FAPE. If the student stops taking the medication, the student may require a 504 plan to address the impact of the medical impairment in the school setting. When the student is not in need of services, it is understood that the student is protected by Section 504's anti-discrimination provisions and cannot be discriminated against on the basis of disability.

The 504 team should review any accommodations already in place by teachers or staff as these may be considered mitigating measures that will need to be set aside when making the determination of substantial limitation. The 504 Team must consider how the student would access and benefit from instruction if the mitigating factors were not available.



If the student takes ADHD medication and performs well in school, the student still has a medical impairment and is entitled to Section 504 protections. While on the medication, the student may not need accommodations (no 504 Plan). However, if circumstances change (for example, declining grades, disciplinary referrals) the 504 Team should reconvene and discuss the need for a 504 Plan.

Interpreting the Data

The 504 Team must determine if enough information is available to make a knowledgeable decision as to whether the student has a disability or not. The Team will carefully interpret evaluation data and draw upon information from a variety of sources in order to maximize the effectiveness of the Team's decision. The information obtained from all sources must be documented and all significant factors related to the student's learning process must be considered.

Other sources to be considered include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior. Districts must draw upon a variety of sources in interpreting evaluation data and making placement decisions. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. For example, a student who has a physical or mental impairment would not be considered a student in need of services

under Section 504 unless the impairment substantially limits the student's ability to learn or participate in any other major life activity.

In many cases, parents provide documentation that trigger the 504 Team to convene in order to determine if an evaluation and/or eligibility determination is warranted. In many cases, the Team will not know except for the parent-provided documentation. The 504 Team cannot delay a 504 Eligibility meeting until the parent provides the medical documentation. Rather, if a parent requests a 504 evaluation/eligibility determination, the 504 chairperson requests the parent to provide that information for the Team's consideration. If the documentation is provided before or at the initial Eligibility meeting, the Team may have enough information to reach an eligibility decision or may request additional information and continue the meeting at a later date.



Supporting information from health care providers is very useful as part of the evaluation process, but families *cannot* be required to provide proof of a diagnosis to determine if a student is eligible under Section 504.

Medical Impairment Documentation

A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity. A medical diagnosis of an illness does not automatically mean a student receives services under Section 504. The 504 Team makes the determination as to whether the impairment meets the eligibility standard of substantial limitation or not.

Special Considerations

Referrals from doctors or mental health professionals: A referral or prescription from a doctor or licensed mental health professional stating that a student has a disability and needs a 504 Plan is not an automatic plan. The student *may* be eligible under Section 504. The 504 Team must meet to consider 504 Eligibility. The 504 Team must determine if the disability substantially limits a major life activity.

Medical Diagnosis: A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment. Medical evaluations are *not* required under Section 504. The district *cannot* require the parent to provide medical information or evaluation. If the Eligibility Team determines that a medical evaluation is necessary, the school district must pay for it.



When making educational decisions about a student's eligibility for a 504 Plan and accommodations, the 504 Team is obligated to *consider recommendations from parents or outside professionals providing a diagnosis, documentation of substantial limitation of a major life activity, and/or recommending a 504 Plan. However, there is no requirement for the 504 Team to accept this information in its entirety.*

Exclusions from 504 Eligibility: Students with limitations in major life activities resulting from environmental, cultural and economic disadvantages are not covered under Section 504, nor does the law cover students who are currently engaging in the illegal use of drugs. The district may take disciplinary action against students with disabilities currently using drugs or alcohol to the same extent as students without disabilities.

Medical Episode or in Remission: An impairment that is episodic or in remission (inactive) should still be considered an impairment by the 504 Team if it would substantially limit a major life activity when active. The 504 Team should evaluate an impairment that is inactive or in remission as if the illness is in full force. A 504 Team may determine that a student is eligible but does not require any services at this time. As a result, no accommodation plan is written. If circumstances change, the 504 Team reconvenes to discuss the need for accommodations.

Typical examples of episodic impairments include allergies, asthma, and migraine headaches. At certain times, such impairments may have little or no impact on the student's major life activities; however, at other times (for example, in hot weather, when the student experiences stress, or when irritants or other trigger factors are present), the impairment can be substantially limiting to the student. When the student is substantially limited by the impairment, the student would be considered a student with a disability under Section 504 and entitled to appropriate accommodations. For example, a student with epilepsy is a student with a disability if, during a seizure, the student is substantially limited in a major life activity such as thinking, breathing, or neurological function. Or a student with bipolar disorder is a person with a disability, if during manic and depressive episodes, the student is substantially limited in a major life activity such as concentrating or brain function.

An example of an impairment that is in remission is a student who has undergone successful treatment for bone cancer or another disease. The student is protected from discrimination under Section 504 because the student has a record of an impairment; however, the student does not require a Section 504 Plan because there is no need for accommodations. If the impairment were to recur and is found to be substantially limiting, the 504 Team would convene, conduct an evaluation, and develop appropriate accommodations.

Record of a disability: To meet the Section 504 definition of an individual with a disability, a student could also have a record of a disability. Having a record of a disability means that a person either has a history of a disability or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities. For example, a person who had heart disease, cancer, or a mental illness, may have a record of a disability, but no longer have the impairment. An example of a misclassification is a school district that incorrectly identified a student as having a learning disability, when further testing revealed the student's issues were caused by the need for ordinary eyeglasses and the student does not have a learning disability. A student who has a record of a disability may or may not need special education or related aids and services. Section 504 does not obligate a school district to provide aids or services that a student does not need. But, even if a student with a disability does not need services, the student is protected from disability-based discrimination under Section 504's general non-discrimination requirements.

Regarded as having a disability: A student could also meet the definition of an individual with a disability by being regarded as a person with a disability. This could mean, for example, that the student does not have any impairment, but is treated by others as having a disability. For example, a person who does not have a physical or mental impairment that substantially limits a major life activity but who is not allowed on the soccer team because of the false belief that the student has the human immunodeficiency virus (HIV) would be regarded as having a disability. Note, as stated previously, although the student with HIV in this instance is not entitled to receive aids and services, the student is nevertheless protected from disability-based discrimination under Section 504's general non-discrimination requirements.

Temporary Impairments: An individual does not fall within the definition as someone regarded as having a disability if the physical or mental impairment is transitory (that is, having an actual or expected duration of six months or less) and minor. For example, if a person has a broken leg but is expected to fully recover within six weeks, and the injury is considered minor, that person is not regarded as a person with a disability even if others treat the person as if he or she has a disability.

Note, while Section 504 does not require a school to take specific action if a student has a physical or mental impairment that is transitory and minor, Section 504 also does not prohibit schools from going beyond what the law requires to assist a student. The school district could, for example, allow the student to take a bus to school, when the student with the broken leg typically walks to school, or provide a pass to allow the student to use the faculty elevator—which is typically off-limits for students—while the student uses crutches.

Qualified individual with a disability: Finally, in addition to satisfying the definition of an individual with a disability, a student with a disability must also be qualified for the protections of Section 504 in order to be covered under the law. For students with disabilities at the elementary and secondary level, being qualified under Section 504 is based primarily on whether the person is a certain age.

Specifically, a student with a disability is a qualified individual with a disability if the student is of an age at which: (1) students without disabilities are provided elementary and secondary educational services; or (2) it is mandatory under State law to provide elementary and secondary educational services to students with disabilities.

A student with a disability is also a qualified individual with a disability if he or she is a student to whom a State is required to provide a free appropriate public education (FAPE) under the IDEA, another Federal education law that addresses the rights of students with disabilities.

Gifted/Highly Able Students: Students performing above grade level or enrolled in Advanced Placement or Honors level classes are not automatically precluded from Section 504 eligibility. Highly able students may have a physical or mental impairment that substantially limits a major life activity other than learning. Just like other students with disabilities, highly able students with disabilities may need accommodations to succeed in class. If a student with a disability is receiving accommodations in non-honors courses, there is a good possibility that the student will need those accommodations in all his or her classes. Any accommodations on a Section 504 Plan for such students should “level the playing field,” not provide a means by which the student is eligible for higher-level courses, improve average grades, raise standardized test scores, or reduce homework responsibilities.

In OCR’s investigative experience, school districts sometimes rely on a student’s average, or better-than-average, classroom grades or grade point average (GPA) and, as a result, make inappropriate decisions. For example, a school district might wrongly assume that a student with an above-average GPA does not have a disability and therefore fail to conduct a Section 504 evaluation of that student, even if the school suspects that the student has ADHD or the school is aware that the student has been diagnosed with ADHD outside of school. However, a student with a disability may achieve a high level of academic success but may nevertheless be substantially limited in a major life activity due to the student’s impairment because of the additional time or effort the student must spend to read, write, or learn compared to others.

Section 504 can be likened to a referee -- someone who ensures that all are participating on a level playing field. However, just as a referee cannot bend the rules of play, **Section 504** doesn't require that districts change the fundamental aspects of a program for the sake of accommodating students with disabilities.

In *G.B.L. v. Bellevue School District No. 405*, [113 LRP 7016](#) (W.D. Wash. 02/15/13), the court held that a district did not violate **Section 504** or Title II in failing to reduce homework assignments as an accommodation for a student with ADHD enrolled in a **gifted program**. Citing *Zukle v. Regents of the University of California*, [14 NDLR 188](#) (9th Cir. 1999), the District Court explained that educational institutions are only required to make reasonable, not fundamental or substantial, modifications to programs or standards to accommodate individuals with disabilities.

Attention Deficit Hyperactivity Disorder (ADHD): When considering whether or not a student has attention deficit disorder or attention deficit hyperactivity disorder, a school psychologist, a qualified examiner for the determination of ADHD, should be included as a member of the 504 Team.

Transfer Students: When a student transfers into a school and is qualified as disabled under Section 504, a knowledgeable team in the receiving school shall review the existing 504 plan to determine the plan's appropriateness to the current educational setting. The knowledgeable team may decide to implement the plan as received, write a new plan more appropriate to the current educational setting, or reevaluate the student in order to consider if the student no longer qualifies as disabled under Section 504.

Private Schools: The district is not responsible for requests for 504 plans for private school students.

Charter Schools: DCSD Charter schools shall provide all federally mandated services for students enrolled in the charter school. The charter school shall adhere to all provisions of federal law relating to students with disabilities, including the IDEA, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990, as applicable.

All 504-eligible students must be provided a free appropriate education in the least restrictive environment. Section 504 referrals, eligibility determinations, and evaluations will be completed by the charter school under the direct guidance of the Section 504 Office. Charter school staff should participate in all district 504 training opportunities.

The provision of equal access to educational opportunity is federally mandated. The charter school shall be obligated to provide supports to students with 504 protections to the same extent as all schools in DCSD and to allocate sufficient funds in the annual operating budget to provide those accommodations. The charter school shall provide all instructional materials for each student with an active 504 plan.

A District representative (District 504 Coordinator) should be in attendance at 504 meetings that involve consideration of services or placements in the 504 plan that the charter school is unable to pay for with its allocated funds. The charter school will provide written notice to the district, as the LEA, sufficiently in advance of all 504 meetings to allow for the District 504 representative to attend and participate in those meetings. DCSD District-level Section 504 staff members will be available to consult with the charter school.

504 Meeting Checklist

Before the Meeting:

- Contact parents to explain the purpose of the meeting and address any questions and concerns.
- Schedule meeting: Send meeting notice to parent and participants.
- Provide the parent with an emailed copy of the Parent Input Form, Medical Impairment form, Parent Permission to Evaluate (initial evaluations), and Parent Right's document.
- Provide Teacher Input forms to all classroom teachers on the student's schedule.
- Develop meeting agenda.
- Arrange for any necessary interpreters or accommodations for meeting participants.
- Complete portions of the Section 504 Evaluation Report that can be completed before the meeting.
- Bring all current forms to the meeting.

During the Meeting:

- Introduce participants and their roles.
- Clarify purpose of meeting.
- Review Parent and Student Rights
- Review agenda.
- Identify note-taker for meeting.
- Facilitate student's input or participation (middle school/high school).
- Lead group through agenda – use time checks as needed.
- Encourage participation from all 504 Team members.
- Complete Section 504 Evaluation Report.
- Complete Section 504 Individual Accommodation Plan (if needed) or revise as needed.
- Provide information about the Georgia Special Needs Scholarship (GSNS) if one of the State identified medical conditions is present. [504 Plan Eligibility Information for GSNS](#) (initial eligibility meetings only)
- Provide copies of all documents to parents after meeting or within 5 days.
- Provide Statement of Parent and Student Rights to parent (keep signed copy).
- Review accommodations with the team.

After the Meeting:

- If parents did not receive documents at meeting, provide copies within 5 days of the meeting.
- Maintain copy of all 504 documents in student's working file in Infinite Campus.
- Update the 504 Eligibility panel in Infinite Campus after the meeting.
- Upload 504 Plan, Evaluation Report, and other supporting documents to the student's electronic file in Infinite Campus within 5 days of the meeting. Supporting documents include medical information, parent/teacher input forms, progress reports, achievement data, assessment data, etc. These documents support the need for accommodations.

- Be sure all teachers know and understand their responsibilities under the 504 Plan.
- Provide a copy of the IAP to all teachers and obtain verification of receipt. Upload verification in student's efile.
- Keep log of contacts related to implementation of plan.

Step 4

Individual Accommodation Plan

Upon Eligibility, the 504 Team must develop an Individual Accommodation Plan (IAP) based on accommodations to ensure that the student has an opportunity to receive an education comparable to that of non-disabled students.

Requirements:

- ✓ **Notice of Meeting – Obtain parent confirmation to attend with documented rescheduling opportunities for parent participation.**
- ✓ **Notice of Parent and Student Rights**
- ✓ **Individual Accommodation Plan, including Minutes.**
- ✓ **Completed Evaluation Report**
- ✓ **Completed Parent Input Form(s)**
- ✓ **Completed Teacher Input Forms**
- ✓ **Health Management plans from physician (diabetes, asthma, seizure, etc.)**
- ✓ **504 Team (4 or more knowledgeable team members)**

Timeline: The Section 504 Individual Accommodation Plan development is held immediately following the Eligibility Determination Meeting.

Section 504 Plan

Section 504 and the IDEA contain requirements for FAPE for students with disabilities, but there are some differences. Under the IDEA, FAPE is a statutory term. It requires a school district to develop an individualized education program (IEP) for each eligible student with a disability that sets out, among other information, the student's program of special education and related services. In this section, however, we discuss the FAPE requirements under Section 504 only.

All elementary and secondary school students who are qualified individuals with disabilities, as defined by Section 504, and who need special education and/or related aids and services are entitled to FAPE. Under Section 504, FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and are based on adherence to procedures governing educational setting, evaluation and placement, and procedural safeguards. Implementation of an IEP developed

in accordance with the IDEA is one means of meeting the Section 504 FAPE standard.

Though not explicitly required by the Department's Section 504 regulations, school districts often document the elements of an individual student's FAPE under Section 504 in a document, typically referred to as a Section 504 Plan.

A written Section 504 Plan is often a useful way to document that the school district engaged in a process to identify and address the needs of a student with a disability and to communicate, to school personnel, the information needed for successful implementation. OCR encourages schools to document a student's Section 504 services in a written plan to help avoid misunderstandings or confusion about what Section 504 services the school offered the student. Note, however, that IDEA-eligible students with disabilities who have an IEP are not required to also have a Section 504 plan even though they are protected under Section 504. For these students, the IEP developed and implemented in accordance with the IDEA is sufficient.

The primary focus of Section 504 is to provide access to general education. The 504 Team should not focus on the potential for maximizing performance. Once the student is determined eligible for Section 504 protections, the Team must determine what reasonable accommodations are needed to ensure that the student has an opportunity to receive an education comparable to that of typically developing non-disabled students. The Team, which includes the parent, will develop a written 504 Plan with reasonable accommodations aligned to the medical impairment. The Team members should be a multidisciplinary group of knowledgeable persons familiar with the student and the impairment. The 504 Plan specifies what accommodations and/or services are needed, and how these will be provided. The decisions about Section 504 eligibility must align with the student's 504 Individual Accommodation Plan.



Parents must be notified and given an opportunity to participate as a member of the multidisciplinary 504 Team in developing the student's 504 Plan.

The 504 Team must use due diligence when developing the accommodations. Accommodations are tools or supports that provide equal access to curriculum, instruction, assessment, and facilities for students with disabilities. Accommodations must be specific, attainable, relevant, and related to the physical or mental impairment. The 504 Team should develop accommodations only as required to provide the student with the same opportunities as non-disabled peers. Parent requests for accommodations should be considered by the 504 Team, **but not mandated**. Information from outside sources is considered and discussed, but current assessments and classroom data are important in making decisions on the extent of the accommodations in the Accommodation Plan.



School staff must implement the 504 Plan as written. Staff may need training in the implementation of the Plan. Teachers are important members of the 504 Team.

If the Team decides to continue the 504 Plan, the Team must develop a *new* 504 Plan even if the information transferred to the new form is essentially the same. It is also critical that the new form reflect the date of the annual review. **Adding signatures and initialing changes to previous 504 Plans is not acceptable.** All previous 504 Plans must also remain in the record.

General Education Placement

Students identified under Section 504 should be educated in the general education setting with accommodations and/or related aids and services which ensure that the student receives a comparable educational opportunity to that of non-disabled peers. Any placement decisions must ensure that disabled students are educated in the least restrictive environment (LRE). Placement decisions under Section 504 must be documented and based on the student's need according to the evaluation.



If the team decides that a student with a disability under Section 504 does *not* need a 504 accommodation Plan, the team should periodically review this decision; the student may need a plan at some point in the future due to changing circumstances.

Accommodations may change *how* something is done but **do not change the learning standard** for the student. Students with accommodations are expected to meet learning targets for the class.

An accommodation might require very brief instruction to the student. For example, if the accommodation is "access to noise-cancelling headphones" for a student with ADHD or a sensory integration disorder who needs this to be able to focus in a noisy room, the teacher would need to instruct the student on where to find the headphones, when they can be used, how to put them away, and who to go to if there is a problem.

Specific Accommodations

Accommodations are determined on an individualized basis to address a student's specific area of need as documented during the Section 504 Evaluation process. Accommodations ensure the student receives an equal opportunity to receive FAPE as adequately as the needs of non-disabled students. Accommodations are intended to reduce or even eliminate the effects of a student's disability; they do not reduce learning expectations. The 504 Team determines what the school must do in order to ensure the student with a disability has an opportunity equal to that of nondisabled students to learn (or otherwise perform or participate, depending on the disability).

Accommodations that may be used include:

- Braille or large print materials
- Access to keyboard, calculator, voice-activated writing program

- Frequent breaks
- Extra time on tests or assignments
- Shortened assignments to demonstrate learning objectives.
- Daily check in/checkout
- Daily reminders of behavioral expectations
- Extended time on tests or assignments
- Peer assistance with note taking.
- Frequent feedback
- Extra set of textbooks for home use
- Computer aided instruction.
- Enlarged print.
- Rearranging class schedules
- Visual aids
- Preferred seating assignments
- Recording teacher-led instruction
- Alternate demonstration of knowledge (oral assessments)
- Small group instruction
- Visual prompts
- Visual schedules
- Copy of class notes provided to student.
- Student seated close to source of instruction.

Any recommended accommodations should:

- Relate to the area of impairment.
- Reflect the unique needs of the student.
- Enable the student with a disability to receive an equal opportunity to participate in all educational programming as nondisabled student.
- Provide the student equal access to the curriculum and equal opportunity to demonstrate achievement.
- Be specific enough in description to indicate when and where it will be implemented.

Data Needed for Accommodations

Accommodations may include related aids and services but only if they are designed to meet individual educational needs of students with disabilities as adequately as the needs of nondisabled peers. The need for a specific accommodation must relate to the area of the identified impairment and is based on **data to support the need for the accommodation**. In cases where an accommodation is requested without adequate data to support the need for the accommodation, the 504 Team may agree to collect the necessary data and convene again to determine the need for the accommodation based on a review of data. The team should also consider whether the student requires accommodations during field trips or extracurricular activities (sports or school-sponsored events) or during an emergency evacuation. These can be documented on the Section 504 plan.



Section 504 accommodations are documented in the written 504 Plan. Accommodations should not change or modify the content or curriculum standards. Passing grades are not guaranteed with a 504 Individual Accommodation Plan.

Remember that the purpose of Section 504 is to level the playing field. If the 504 Team ties each accommodation to data from the evaluation, showing where a disability has negatively impacted the child's ability to access or benefit from the school's programs, it can dramatically reduce the problem of too many accommodations. Where there is no disability-related need, there is no accommodation required by the law.

Common Errors in Writing a 504 Plan

- Writing vague plans
- Using a predetermined checklist with accommodations or services that are not needed.
- Accommodations and services do not match student needs.
- Over accommodating students
- Failing to provide copies to everyone responsible for implementation.
- Staff responsible for implementing the plan do not understand or support the accommodations and services.
- Failing to conduct timely evaluations of the effectiveness of the plan.
- Failing to implement the plan.
- Failing to identify who is responsible for implementing each accommodation.

Related Services

Under Section 504, students are entitled to a free, appropriate public education, which may include related services. Unlike the Individuals with Disabilities Education Act (IDEA), Section 504 does not list specific related services.

If the 504 Team suspects the need of a related service in order to assure equal access and the same educational opportunities provided to nondisabled students, the appropriate related services staff must be consulted. Related service staff will conduct observations and functional evaluations as needed, participate in the Section 504 planning or review meetings, provide training as appropriate to implement the recommended accommodations, and consult with teachers regarding the student's access in the school environment as well as participation in all school activities.

Standardized Testing Accommodations

Decisions on testing accommodations are made by the 504 Team and documented in the 504 Plan. The student's individual needs dictate the appropriate testing accommodations. Accommodations provided to a student during statewide assessments must also be provided during classroom instruction, classroom assessments and district assessments. If a student needs additional time to complete classroom tests, the student may be allowed extended time for standardized tests (if allowable). Conversely, a student could have accommodations on classroom tests and not be eligible for accommodations on

standardized tests if the 504 Team made this determination based on evaluation data or noted that some classroom accommodations may not be appropriate for standardized testing.

Students need training and practice in using accommodations. As a general rule, new testing accommodations should be practiced at least four (4) weeks prior to statewide assessments in order to practice use of the accommodation and minimize a negative impact on student performance. Accommodations used in the administration of standardized tests must be consistent with what is specified in the Georgia Department of Education's Student Assessment Handbook and approved by the school's Testing Coordinator.



Accommodations considered for standardized testing by the 504 Team must be consistent with those used during classroom instruction and assessments throughout the school year. As a general rule, new testing accommodations should be practiced at least four (4) weeks prior to statewide assessments.

Appropriate Testing Accommodations

- Should facilitate an accurate demonstration of what students know or can do.
- Should not give an unfair advantage.
- Must not interfere with the validity of a test.
- Must not change the underlying skills that are being measured by the test.
- Are based on current instructional accommodations and accessible.
- instructional materials used by the student in the classroom.
- Must be necessary for enabling the student to demonstrate skill acquisition.

School Resources

The school should be able to implement accommodations using resources available within the school and school building. Should the 504 Team anticipate a request for or consideration of an accommodation that will require additional resources from the district outside of those available within the building, the 504 Coordinator should contact the 504 District Coordinator for guidance prior to the meeting. On occasion, some services, accommodations, and/or modifications may require additional resources that the school alone is unable to provide.

Field Trips

Schools should not exclude a student from participating in a field trip if the student is otherwise eligible to attend except for reasons associated with the disability. Section 504 does not permit exclusion of a disabled student from a field trip based on:

- the student needs related aids or services (for example, a lift bus, or school nurse to administer meds) in order to participate in the field trip; and/or ^[L]_[SEP]
- the student's parent is unable to attend the field trip, unless the participation of the parent of students without disabilities is required.

Athletics and Extracurricular Activities

School districts must provide non-academic services and activities in a manner that provides students with disabilities an equal opportunity for participation. This requirement includes activities such as extracurricular athletics and special interest groups or clubs sponsored by the school district. School districts must afford qualified students with disabilities an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate to the needs of the student. This requirement means that a school district must make reasonable modifications to its policies, practices, or procedures whenever such modifications are necessary to ensure equal opportunity, unless the school district can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the extracurricular athletic activity. The fact that a student has a disability does not mean that the student must be allowed to participate in any selective or competitive program offered by a school district. Rather, school districts may require a level of skill or ability of a student for that student to participate in a selective or competitive program or activity, so long as the selection or competition criteria are not discriminatory.

The plan should also consider accommodations needed for the student to participate in non-academic and extra-curricular activities offered by the district. Qualified students with disabilities must be given an equal opportunity to participate in non-academic and extra-curricular services and activities, such as recreational and athletic activities, and school-sponsored clubs. Participation in non-academic activities may require accommodations. This includes field trips. The student cannot be left at the school and parents cannot be coerced to attend field trips due to lack of district staff to implement the 504 Plan on the field trip.

Physical Accessibility

School districts are required to ensure that students and others with disabilities, including parents, are not denied access to the school's programs or activities because of inaccessible facilities, including academic buildings, walkways, restrooms, athletic facilities, and parking spaces. The requirements public schools must meet to ensure programs and activities are accessible depends on the date a building (or facility) was built (constructed) or altered (changes made to a building that affect its use for accessibility purposes).¹ Under Section 504, for facilities constructed prior to June 4, 1977, program access is required. In general terms, program access means that, although the facility or parts of the facility may not be physically accessible, the public school must still make its programs and activities available to students with disabilities. For example, if stairs lead to the upper floors of a school and the school does not have an elevator, ramp, or chair lift, and a student with a disability is unable to traverse the stairs, the student will be unable to reach the upper floors. A resolution to this problem could be moving classes that the student needs (or wants) to

take from the upper floors to the accessible ground floor during the time period the student with a disability takes the class.

Under Section 504, facilities (such as buildings) that were built or altered on or after June 4, 1977, are referred to as new construction.¹ Specific construction and design standards apply to these facilities. The construction and design standards provide information, for example, about the required width of bathroom stalls, how steep a ramp may be, and the required height of countertops and tables. The construction and design standards have evolved over time, and the date of construction or alteration determines which accessibility requirements apply. For construction or alteration work that began on public schools on or after March 15, 2012, the 2010 ADA Standards for Accessible Design (2010 ADA Standards) apply. However, when a public school is required to meet the accessibility requirements of a specific design standard, such as the 2010 ADA Standards, compliance with the standard alone may not be sufficient to meet an individual student's needs. When this occurs, the public school has an obligation to provide access for the student. For example, if the main entrance to the school has a ramp that meets all of the required accessibility standards, but a student who attends the school and uses leg braces is unable to traverse the ramp, the school would need to find another way to ensure the student has access to its program and activities. One solution could be to allow the student to use the faculty entrance that has a flat entrance and a short walkway to the entrance door.

IDEA-Eligible Students

A Section 504 plan is not written for a student eligible under the IDEA; all special education and related services and other needed supports are documented on an individual educational plan (IEP) rather than a Section 504 plan for those students. If a student has a 504 plan prior to the special education eligibility, the 504 Team should meet to officially close the plan. The 504 written plan is terminated, however, the antidiscrimination protections from Section 504 continues. It is appropriate for the IEP Team to consider including the accommodations that were listed in the 504 plan.

After the 504 Meeting

1. Lock all important documents.

It is important for you to utilize the lock feature in Infinite Campus for all finalized documents such as the 504 Evaluation Report, Individual Accommodation Plan, Behavior Accommodation plan, etc.

2. Distribute the 504 Plan

If a 504 Individual Accommodation Plan is developed, the 504 Coordinator is responsible for distributing copies of the 504 Individual Accommodation Plan immediately. All teachers who are providing accommodations should receive a copy of the 504 plan and should sign the Section 504 Verification of Teacher Receipt

Form with the understanding that the 504 Plan is a legal document and that all accommodations listed on the Plan need to be implemented. If there are questions or concerns, teachers should contact the 504 Coordinator or Principal immediately.

3. Update Infinite Campus Panels

The 504 Coordinator should update the Infinite Campus student database within five (5) school days.

4. Scan 504 Documents

The 504 Coordinator should upload all 504 documents within five (5) school days of the meeting, or receipt of new information. Follow the 504 Infinite Campus Guide for instructions on uploading and labeling documents.

5. Send Parent Copy

The 504 Coordinator should send the parent a copy of the 504 Plan within five (5) school days of the meeting.



A parent has the right to refuse a 504 Accommodation Plan. Even if a parent refuses, once a student is determined eligible the student is still protected under Section 504, just without accommodations.

Students who typically would not need a 504 Accommodation Plan:

- Students who only need medication administered similarly to other students who take medication at school.
- Students whose conditions do not require individualization beyond standard first aid or emergency procedures.
- Students who do not require an ongoing individualized plan to attend, access or participate in school.
- Students who can access the school environment and instruction with accommodations that are available to all students.
- Students who can access their education with a personal assistive device, such as a hearing aid, glasses, or wheelchair, without other accommodations.
- Students whose conditions are effectively managed by taking medication outside of school who do not need accommodations to access school or instruction.
- Students who have a temporary condition such as a broken arm or mononucleosis, whose needs can be met for a short period of time with standard accommodations.

Step 5

Annual Review

The 504 Plan must be reviewed annually and more frequently when the student is unsuccessful with current accommodations, or medical conditions change.

Requirements:

- ✓ **Notice of Meeting – Obtain parent confirmation to attend with documented rescheduling opportunities for parent participation.**
- ✓ **Notice of Parent and Student Rights**
- ✓ **Individual Accommodation Plan, including Minutes.**
- ✓ **Evaluation Report**
- ✓ **Completed Parent Input Form(s)**
- ✓ **Completed Teacher Input Forms**
- ✓ **Updated Medical Impairment Form (if available)**
- ✓ **Health Management Plan (if needed)**
- ✓ **504 Team**

Timeline: A Section 504 Review Meeting must be held annually, within one year of the date of the Eligibility Determination Meeting or last Annual Review Meeting.

Annual Review

Every student's 504 Plan must be reviewed at least annually to determine if the plan and accommodations continue to be appropriate for the student. The main purpose is to ensure that the 504 Plan and accommodations continue to be appropriate for the student. Parents must be invited to annual reviews.

The purpose of the annual review is not to evaluate whether or not the student continues to be eligible for a Section 504 services and accommodations, but rather to determine if the services and accommodations in the student's current Section 504 Plan continue to be appropriate. The 504 Team reviews the collection of data that allows staff to evaluate the effectiveness of the accommodations. Any accommodations that are no longer useful are removed and not included in the revised Section 504 Plan. All decisions to add or delete any accommodations should be based on data and explained in the minutes of the document.

The parent, along with each of the student's teachers must complete the Section 504 Parent or Teacher Input Forms and submit the completed form to the Section 504 Coordinator prior to the annual review meeting. The status of the student's physical or mental impairment should be updated at the annual review meeting, reflecting any changes.

Step 6

Reevaluation

504 eligibility must be reviewed every three years or more frequently, as necessary to determine if the student remains eligible for 504 protections and/or accommodations.

Requirements:

- ✓ **Notice of Meeting - Obtain parent confirmation to attend with documented rescheduling opportunities for parent participation.**
- ✓ **Notice of Parent and Student Rights**
- ✓ **Individual Accommodation Plan, including Minutes.**
- ✓ **Evaluation Report**
- ✓ **Completed Parent Input Form(s)**
- ✓ **Completed Teacher Input Forms**
- ✓ **Updated Medical Impairment Form (if available)**
- ✓ **Health Management Plan (if needed)**
- ✓ **504 Team**

Reevaluation

The purpose of the reevaluation is to determine if the student continues to qualify as disabled under Section 504 services. Each student's Section 504 Eligibility **must** be reevaluated every three years and before any significant changes are made in the 504 Plan. Significant changes include expulsion, series of suspensions which exceed 10 days (consideration should be given to frequency of suspensions, length of each suspension, and their proximity to each other, transferring student to homebound instruction, etc.) The 504 Team reviews the effectiveness of the accommodations and related services if the student continues to have an impairment that substantially limits a major life activity. The reevaluation is completed by the 504 Team, including the parent. The Team should review information from a variety of sources, including current data, and data indicating the effectiveness of the 504 Plan. The Team may decide to close the 504 Plan if it is no longer needed.

Disability Documentation

As a part of the reevaluation process, it is important to gather updates about the medical condition and/or current medical information to assist the 504 Team in correctly assessing eligibility for a 504 Plan and in determining accommodations. School personnel may offer to send a request to the health provider to obtain the documentation to validate the disability. A written parental release of information form is required.

All mental health conditions need an updated medical diagnosis annually, if available. Over time, mental health conditions may change to include additional diagnoses. Updated medical documentation does not require a comprehensive reevaluation.

Review Meetings

The 504 Plan may be reviewed more frequently when the student is unsuccessful with current accommodations, or medical conditions change. The effectiveness of the student's 504 Plan should be monitored throughout the year by the 504 Team. A 504 Review meeting can be convened at any time to review the effectiveness of the Plan or other concerns.

Dismissal Meetings

When a 504 Plan is discontinued or closed, a dismissal meeting must be held. The parent may elect not to attend. In that case, the parent must provide written documentation that the Team can meet without the parent's presence in order to close the 504 Plan. The 504 Team must be composed of a group of persons with knowledge of the student's disability and accommodations.

A student should be dismissed from a 504 plan and no longer qualifies for Section 504 protections in these situations:

- Student no longer has a qualifying impairment.
- Student no longer needs accommodations to access the general education program or facilities.
- Parent revokes consent for the 504 plan.
- Student becomes eligible for special education and the parent gives consent for special education services.

The school must give written notice to the parent that the student is being dismissed from a 504 plan, along with the copy of the Notice of Parent and Student Rights under Section 504.

504 Plan instead of IEP

Parents may not refuse Special Education services for a Section 504 Plan. Once the Special Education eligibility committee has determined that the student is eligible for IDEA services and an IEP, the district must offer those services and cannot substitute a 504 Plan. When a student requires IDEA services, substituting a 504 Plan would represent a denial of a Free Appropriate Public Education (FAPE).

After the Meeting

1. Distribute the 504 Plan

If a 504 Individual Accommodation Plan is developed, the 504 Coordinator is responsible for distributing copies of the 504 Individual Accommodation Plan immediately. All teachers who are providing accommodations should receive a copy of the 504 plan and should sign the Section 504 Verification of Teacher Receipt Form with the understanding that the 504 Plan is a legal document and that all accommodations listed on the Plan need to be implemented. If there are questions or concerns, teachers should contact the 504 Coordinator or Principal immediately.

2. Update Infinite Campus Panels

The 504 Coordinator should update the Infinite Campus student database within five (5) school days.

3. Scan 504 Documents

The 504 Coordinator should upload all 504 documents within five (5) school days of the meeting, or receipt of new information. Follow the 504 Infinite Campus Guide for instructions on uploading and labeling documents.

4. Send Parent Copy

The 504 Coordinator should send parent a copy of the 504 Plan within five (5) school days of the meeting.

Confidentiality

The district ensures that individual school-based 504 procedures regarding confidentiality are in accordance with the Family Educational Rights and Privacy Act (FERPA). Parents have access to any documentation involving their child, including Section 504 records.

College Entrance Exams

Students with disabilities under Section 504 who are planning to take the PSAT, SAT, ACT, or AP exams must apply to the College Board (AP, PSAT, SAT) or ACT for approval to test with accommodations. The College Board and ACT provide a broad range of accommodations to eligible students with documented disabilities. Students must apply directly for approval to test with accommodations.

The College Board and ACT require parental permission to submit an application to request approval to test with accommodations. Parents should contact the Section 504 School Coordinator or their child's counselor to inquire about the application process.

504 Plans and Behavior

Students requiring intensive behavioral supports, should be referred to the MTSS/RTI process to address specific behaviors requiring progress monitoring. If a disability is suspected, the student may be referred to the 504 chairperson to schedule an eligibility determination meeting. The behavior accommodation plans template is an optional document to assist 504 Teams with identifying supports for eligible students. Rather, behavior supports can be used as accommodations within Section 504 Individual Accommodation Plans. Behavior supports are fluid and can be reviewed and adjusted based on the student's behavior and needs. If the 504 Plan is primarily for a mental health behavior disorder, such as Oppositional Defiant Disorder (ODD), the accommodations in the plan may primarily focus on addressing the behaviors resulting from the behavior disorder.

Students defined as having a disability under Section 504 with suspensions totaling more than ten (10) cumulative days during a school year may be considered a significant

change in placement by the Office of Civil Rights (OCR). Suspending a disabled student more than ten (10) days (OSS and ISS) triggers procedural safeguards that may deem the district non-compliant with federal guidelines. Every effort should be made to use school-based interventions as alternatives to suspensions to serve the student in the school setting.



Suspending a student under Section 504 more than ten (10) days (OSS and ISS) triggers procedural safeguards that may deem the district non-compliant with federal guidelines.

Manifestation Determination Review

Schools should conduct a Manifestation Determination Review meeting on any student with a 504 Plan when the student has three (4) or more discipline referrals in a school year or will exceed 10 suspension days (OSS and ISS) within a school year. A Manifestation Determination Review meeting is used to evaluate the student's present levels of academic and behavioral performance. The Team analyzes the discussion of the antecedents, perceived motives, reactions, and outcomes of the behavior resulting in the disciplinary infractions. The Team specifically determines whether the student's actions in the disciplinary event were directly related to the medical impairment. Recommendations are made to reduce inappropriate behavior and encourage/model/teach replacement behaviors. Recommendations may also include other behavior supports, including MTSS/RTI, and behavior assessments.

The Section 504 student may be disciplined under the regular discipline code for up to ten (10) cumulative days (ISS and OSS) in a given year. Suspensions from school bus transportation because of behavior also count toward the student's out-of-school suspension days if the student is unable to attend school as a result.



A Manifestation Determination Review meeting should be conducted on any student with a 504 Plan when the student has four (4) or more discipline referrals in a school year or will exceed more than 10 suspension days (OSS and ISS) within a school year.

If the Section 504 student is being considered for suspension beyond ten (10) days **cumulative** for the school year (OSS and ISS), or expulsion, the following procedures are used:

- Consult with the District 504 Coordinator.
- Schedule a Manifestation Determination Review (MDR) meeting immediately to determine the impact of the disability under Section 504 on the student's actions in the disciplinary infraction. The parent must be notified and invited to attend the meeting. Attendees should also include the school psychologist and the district 504 Coordinator.

- If the Manifestation Determination Review meeting's decision is that the behavior was a manifestation of the disability, the 504 student may not be further suspended or expelled. The 504 Team must determine appropriate services/accommodations.
- If the Manifestation Determination Review meeting's decision is that the behavior was not related to the disability, the 504 student is disciplined under regular discipline procedures.
- If a 504 student is being considered for a disciplinary hearing, a Manifestation Determination Review meeting must be conducted prior to the disciplinary hearing.
- A Manifestation Review Determination is required before a Discipline Team Meeting (DTM) can occur as well.

Some disciplinary procedures that apply to students with disabilities under IDEA also apply to students with disabilities under Section 504. There are also exceptions. The following exceptions to IDEA discipline requirements are indicated for students with disabilities under Section 504:

- Expelled students do not have to be provided with educational services.
- There is no "stay put" requirement under Section 504.
- Students are not removed to an alternative setting for up to 45 school days for serious bodily injury or for drug or weapon violations.
- Current users of illegal drugs are treated as non-disabled students.
- These requirements also apply to a student who is eligible under Section 504 but does not currently have a 504 accommodation plan.

Virtual 504 Meeting Procedures (TEAMS)

School Section 504 Coordinators will follow the procedures below when scheduling 504 meetings virtually. Section 504 meetings are defined as:

- Initial Eligibility Meetings
- Annual Review Meetings/Reevaluation Meetings
- Additional Review Meetings
- Manifestation Determination Meetings

Planning for Virtual 504 Meetings

Prior to scheduling virtual meetings, please adhere to the following guidance:

- Contact all members of the Section 504 Committee, including parents, teachers, school psychologist, nurse, or other relevant members and determine a mutually agreed upon date/time when committee members are available.
- Send the Notice of Meeting, Parent Permission to Evaluate (initial meetings), Parent Input Form, Medical Impairment Form (if appropriate), Parent and Student Rights and copy of the most current *Individualized Accommodations Plan (IAP)*.

- Send Teacher Input forms at least 5 days before the meeting to collect additional information concerning the student.
- Collect and organize sources of data (information) that will be reviewed in the upcoming meeting.

Scheduling Virtual 504 Meetings

- Secure dates/times for the meeting that allow all knowledgeable members of the 504 Committee to participate via phone or video conferencing.
- Allow adequate planning time for all contributing members.
- Ask parents/guardians if they can access the meeting via the approved virtual platform (e. g Microsoft Teams, Zoom, etc.). If not, there is an option for conferencing in the Teams meetings via phone. You may also utilize a regular conference call dial-in number if that is more convenient.
- Documentation is extremely important during this time. Please utilize the minutes template to document meeting details, including if meeting had to be rescheduled, if parents request meeting to be held without their presence, etc.

Procedures during the Virtual 504 Meeting

- Be present for virtual meeting at least 10 minutes early to prepare to greet meeting participants as they join the meeting.
- As the facilitator, ensure your camera is on, when using the online platform, especially to open the meeting and facilitate introductions, review of Parent Rights and purpose of the meeting.
- Clearly state the purpose of the meeting and provide agenda, when possible.
- Allow for introduction of meeting participants, direct them to state their title.
- Briefly review Parent Rights and check for understanding of rights.
- Provide parents an opportunity to meaningfully participate in the meeting and discuss concerns with the 504 Committee.
- Utilize the Evaluation Report to guide the meeting. Verify student information is accurate.
 - Facilitate discussion of the medical impairment and review multiple sources of information regarding the student and the impact of the disability. A medical diagnosis alone, does NOT guarantee 504 protections, supports or services.
 - Proceed through the Eligibility section of the Evaluation Report to determine eligibility or ensure student continues to be eligible for protections, supports or services.
 - Document the major life activities that are impacted by the disability/impairment AND include a statement that summarizes how the disability impacts the major life

- activity.
- o 504 Committee will determine if a substantial limitation is present (comparing disabled student to the average, same-age, non-disabled peer) and if accommodations are necessary to ensure access to the district's educational programs and activities.
 - o Committee will determine the accommodations and supports that are necessary for equal access to district's educational programs and activities.
 - o Accommodations must be specific, clearly written, and describe how school personnel will meet the needs of the student.

Procedures after the 504 Meeting

After each 504 meeting, update the 504 Eligibility panel in Infinite Campus by completing the following:

- Check No Accommodation plan if no supports or services are needed.
- Annual Review Date (date of most current meeting)
- 504 Eligibility Date (Initial date student became eligible)
- 504 Plan Date (Original date of plan)
- 504 End Date (Only use after the 504 plan has ended)
- Sped Eligibility (Date student became eligible for Special Education)
- Medical Impairment(s)
- Status (E=eligible, N=ineligible, R=referral, D=draft)
- Ensure student has a 504 flag, if eligible. The flag will appear 24 hours after completion of the eligibility panel.
- Upload all 504 documents into Infinite Campus within 5 days of the meeting. You may print as PDF, save to computer, and upload to student file in Infinite Campus.

Virtual Meeting Norms

- Video recording of 504 meetings is not permitted.
- Dress Appropriately - Professional and work appropriate.
- All cameras should be on for DCSD employees.
- Be aware of your surroundings – Others in your work area and background images that can be viewed on camera.
- Be on time for the meeting and prepared to participate.
- Mute your microphone when you are not speaking.
- Speak up and clearly.
- Eat before or after the virtual meeting.
- Stay seated and stay present.
- Familiarize yourself with Microsoft Teams or conference call platforms

prior to holding your meeting.

- Consider practicing with a colleague to ensure ease of use and comfort.
- Develop an agenda.

MTSS and Section 504

The multi-tier system of supports is an umbrella of academic, behavioral, and social-emotional interventions for students who are struggling in school. However, the fact that a student is receiving interventions through **MTSS** does not dismiss our obligation to evaluate the student for Section 504 for a suspected disability.

If the student is eligible for a **Section 504** plan, **MTSS** data can help teams during the evaluation process. **MTSS** interventions and data may be used to help support a suspected disability for purposes of a 504. It can also support the use of certain interventions and accommodations. Also, if a student has a 504 with an active accommodation plan that does not seem to be enough support for a student, it may trigger additional **MTSS** tiers of intervention support and sometimes an evaluation to determine eligibility for special education services.

MTSS should never be used to delay an evaluation for 504, similar to an evaluation for special education.

Bullying and Harassment

Section 504 prohibits disability-based harassment by peers that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's education programs and activities (in other words, creates a hostile environment). When a school district knows or reasonably should know of possible disability-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that the harassment created a hostile environment, the recipient must take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent the harassment from recurring, and, as appropriate, remedy its effects.

Bullying and harassment of a student by his or her peers, based on disability, may deny a student equal educational opportunities. Note, however, the label used to describe an incident (for example, bullying, hazing, teasing) does not determine how a school is obligated to respond. Rather, the nature of the conduct itself must be assessed for civil rights implications.

Harassment of a student by another student (peer-on-peer) on the basis of his or her disability may take many forms, such as a student remarking out loud to other students during class that a student with dyslexia is retarded or dumb and does not belong in the class, or students repeatedly placing classroom furniture or other objects in the path of a classmate who uses a wheelchair, impeding the classmate's ability to enter the classroom. Note that harassment does not have to include intent to harm, be directed at a specific targeted student, or involve repeated incidents in order for it to be considered discriminatory.

Under Section 504 and Title II, students with disabilities are also protected from bullying or harassment by teachers, other school employees, and third parties. Such bullying can trigger a school's obligation to address disability-based harassment, remedy a denial of FAPE, or both.

A school is responsible for promptly and effectively addressing harassment about which it knows, or reasonably should have known. In some situations, harassment may be in plain sight, widespread, or well-known to students and staff, such as harassment occurring in hallways, during academic or physical education classes, during extracurricular activities, at recess, during lunch, on a school bus, or through graffiti in public areas. In these cases, the obvious signs of the harassment are sufficient to put the school on notice. In other situations, the school may become aware of a single incident of misconduct that triggers an investigation that could lead to the discovery of additional incidents that, taken together, may contribute to the creation of a hostile environment. In all cases, schools must provide

notice of their policies prohibiting harassment and procedures for reporting and resolving complaints that will alert the school to incidents of harassment.

For example, any separation of the targeted student from an alleged harasser should be designed to minimize the burden on the targeted student's educational program (for example, not requiring the targeted student to change his or her class schedule). In addition, depending on the extent of the harassment, the school may need to provide training or other interventions not only for the perpetrators, but also for the larger school community, to ensure that all students, their families, and school staff can recognize harassment if it recurs and know how to respond.

Disputes and Disagreements Regarding FAPE and non-FAPE Matters

Conflicts between parents and school personnel about Section 504 issues may be resolved through mediation, due process, the school district's established grievance procedures.

School districts are required to establish and implement a system of procedural safeguards for parents to appeal district actions regarding the identification, evaluation, or educational placement of students with disabilities.

Notice of Parent and Student Rights under Section 504

Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of Section 504 is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

For more information regarding Section 504, or if you have questions or need additional assistance, contact DeKalb County School District's Section 504 Coordinator:

Watina April
1040 King Way Drive
Lithonia, GA 30058
(678)676-2161
(678)676-1817
watina_f_april@dekalbschoolsga.org

The implementing regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or students with the following rights:

1. Your child has the right to an appropriate education designed to meet his or her individual educational needs as adequately as the needs of non-disabled students. 34 C.F.R. §104.33
2. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties who provide services not operated by or provided by the recipient are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 C.F.R. §104.33
3. Your child has a right to participate in an educational setting (academic and nonacademic) with non-disabled students to the maximum extent appropriate to his or her needs. 34 C.F.R. §104.34
4. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 C.F.R. §104.34
5. Your child has a right to an evaluation prior to a Section 504 determination of eligibility. 34 C.F.R. §104.35
6. You have the right to not consent to the school district's request to evaluate your child. 34 C.F.R. §104.35
7. You have the right to ensure that evaluation procedures, which may include testing, conform to the requirements of 34 C.F.R. §104.35.
8. You have the right to ensure that the school district will consider information from a variety of sources as appropriate, which may include aptitude and achievement tests, grades, teacher recommendations and observations, physical conditions, social or cultural backgrounds, medical records, and parental recommendations.

34 C.F.R. §104.35

9. You have the right to ensure that placement decisions are made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 C.F.R. §104.35
10. If your child is eligible under Section 504, your child has a right to periodic reevaluations, including prior to any subsequent significant change of placement. 34 C.F.R. §104.35
11. You have the right to notice prior to any actions by the school district regarding the identification, evaluation, or placement of your child. 34 C.F.R. §104.36
12. You have the right to examine your child's educational records. 34 C.F.R. §104.36
13. You have the right to an impartial hearing with respect to the school district's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 C.F.R. §104.36
14. You have the right to receive a copy of this notice and a copy of the school district's impartial hearing procedure upon request. 34 C.F.R. §104.36
15. If you disagree with the decision of the impartial hearing officer (school board members and other district employees are not considered impartial hearing officers), you have a right to a review of that decision according to the school district's impartial hearing procedure. 34 C.F.R. §104.36
16. You have the right to, at any time, file a complaint with the United States Department of Education's Office for Civil Rights.

Section 504 Procedural Safeguards

1. Overview: Any student or parent or guardian (“grievant”) may appeal the local school’s system’s actions or inactions regarding your child’s identification, evaluation, or educational supports under Section 504. Appeals must be in writing to the school system’s Section 504 Coordinator.

1. Appeal Request: The Request for an appeal must include the following:

- a. The name of the student.
- b. The address of the residence of the student.
- c. The name of the school the student is attending.
- d. The decision that is the subject of the appeal.
- e. The requested reasons for review of 504 decisions.
- f. The proposed remedy sought by the grievant.
- g. The name and contact information of the grievant.

Within 10 business days from receiving the grievant’s Request for an appeal, the Section 504 Coordinator will acknowledge the Request and schedule a time and place for the meeting. If the written Request for an appeal does not contain the necessary information noted above, the Section 504 Coordinator will inform the grievant of the specific information needed to complete the request.

2. Mediation: The school system may offer mediation to resolve the issues detailed by the grievant in his or her Request for an appeal. Mediation is voluntary and both the grievant and school system must agree to participate. The grievant may terminate the mediation at any time. If the mediation is terminated without an agreement, the school system will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

3. Hearing Procedures:

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within forty-five (45) calendar days from the receipt of the grievant’s Request for Hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by the grievant or school system, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
- c. The grievant will have an opportunity to examine the child’s educational records prior to the hearing.
- d. The grievant will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the grievant is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at

least ten (10) calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.

- e. The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the
 - f. recipient to defend its position/decision regarding the claims (i.e. A recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §104.34). One or more representatives of the school system, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the grievant testimony and answer questions posed by the review official.
 - g. The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
 - h. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
 - i. The hearing shall be closed to the public.
 - j. The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
 - k. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
 - l. Testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.
 - m. Unless otherwise required by law, the impartial review official shall uphold the action of school system unless the grievant can prove that a preponderance of the evidence supports his or her claim.
 - n. Failure of the grievant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial review official.
- 5. Decision:** The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorney's fees.
- 6. Review:** If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations.

Georgia Special Needs Scholarship 504 Plan Eligibility Information

To qualify for the Georgia Special Scholarship award with a 504 Plan for the current school year the student must meet all three requirements:

1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one calendar year however, that the one-year requirement shall not apply if the student's parent is an active-duty military service member stationed in Georgia within the previous year; AND

2) The student had a 504 Plan in effect during the previous school year relating to one or more of these conditions:

- Attention deficit hyperactivity disorder (ADHD), attention deficit disorder (ADD);
 - Autism spectrum disorder;
 - Bipolar disorder;
 - Cancer;
 - Cerebral palsy;
 - Cystic fibrosis;
 - Deafness;
 - Down syndrome;
 - Drug or alcohol abuse;
 - Dual sensory impairment;
 - Dyslexia;
 - Emotional or behavioral disorder;
 - Epilepsy;
 - Hearing impairment;
 - Intellectual disability;
 - Muscular dystrophy
 - Specific learning disability;
 - Spina bifida;
 - Traumatic brain injury
 - Visual impairment; or
 - Any rare disease identified by the National Institutes of Health's Genetic and Rare Diseases Information Center's list of rare disease disorders.
- ; AND

3) The student spent the prior school year in attendance* at a Georgia public school.

***Prior school year in attendance** - the student was enrolled and reported by a public school system or school systems for funding purposes at the time of both FTE program counts, conducted each school year in October and March. See OCGA 20-2-2112 (5)

Prior school year in attendance shall not apply if:

- The student's parent is an active-duty military service member stationed in Georgia within the previous year; OR
- The student has been adopted or placed in a permanent guardianship from foster care pursuant to an order issued by a court of competent jurisdiction within the previous year; OR
- The student previously qualified for a scholarship as provided in state law.

*Please note that previously qualified only waives the prior school year in attendance provision, all other requirements including having a 504 Plan during the previous school year and enrollment in a public school are still in effect.

For more information, visit:

<https://www.gadoe.org/External-Affairs-and-Policy/Policy/Pages/Special-Needs-Scholarship-Program.aspx>