

SECTION 504 OVERVIEW

Federal and State Law

- Three federal laws
 - Section 504 of the Rehabilitation Action of 1973 (Section 504)
 - Individuals with Disabilities Education Act (IDEA)
 - Americans with Disabilities Act of 1990 (ADA)
- One state law
 - Florida Educational Equity Act (FEEA)
- o Impact the education of Florida's student with disabilities.
- o Provide the foundation for districts to establish guidelines for meeting student needs through the provision of programs and services.
- o Protect students with disabilities from discrimination.

Definition of Disability

A student is protected under Section 504 and eligible for a Section 504 Plan if he/she is determined by a school team to have a *physical or mental impairment* that *substantially limits* one or more major life activities. Under Section 504, major life activities include walking, seeing, breathing, speaking, hearing, caring for one's self, working, performing manual tasks, and learning (includes access to learning). While physical or mental conditions exist in the student population, statistics reflect that ESE eligibility is indicated in about 10-15% of the student population, and Section 504 eligibility is indicated in about 2-3% of the student population.

Section 504 Plan

In different areas of the state or country, the Section 504 Plan might be referred to as an Equal Opportunity Plan, 504 Plan, or Accommodation Plan.

Section 504 Parent/Student Rights

Parents/guardian/students must be provided their rights under Section 504

- o Prior to evaluation
- o When eligibility is determined
- o When a Section 504 Plan is developed
- o Before a significant change in placement
- o When a complaint arises

Section 504 Staff Responsibility

Regulations require that placement decisions are made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and placement options. The role of this group of persons is to facilitate clear problem identification, identify data needed in the evaluation or reevaluation process, interpret evaluation data, and develop and evaluate the effectiveness of accommodations. Within the school setting, key staff includes:

- o Section 504 case manager/counselor – responsible for managing the referral process for identification of Section 504 students, review and monitoring of the Section 504 Plan and the effectiveness of accommodations, ensuring a Manifestation Determination meeting is held when needed, completion of the reevaluation process, and matriculation.
- o Regular Education Teacher – responsible for providing input during the referral, plan review, and reevaluation processes, implementation of Section 504 Plan accommodations in the classroom, and assisting the case manager/counselor in evaluating the effectiveness of accommodations. Classroom teachers must have flexible expectations for students with disabilities, modify the classroom environment, adjust teaching strategies, and make necessary accommodations as specified in the Section 504 Plan. Other tasks include assessment of student progress and effective communication with parents/guardian.
- o Section 504 Coordinator/Child Study Team Chairperson – responsible for being knowledgeable regarding Section 504 regulations and law, eligibility requirements, and the provision of services. Responsibilities also include serving as the school-based Section 504 resource for parents and staff, facilitator of staff training, and coordinator of the Section 504 process in the school.
- o Principal – provides oversight of Section 504 implementation at the school site.

- o Others, as appropriate (school nurse, school social worker, school psychologist, speech therapist, occupational therapist, physical therapist) – responsible for evaluation and interpretation of evaluation data, and understanding of the disability.

A Section 504 referral is considered when:

- o Serial suspensions occur for a student.
- o Retention is considered for a student.
- o A student shows a pattern of not benefiting from instruction.
- o A student returns to school after an extended illness or injury.
- o A student returns to school after being released from a treatment center or institution.
- o A student is referred for evaluation for IDEA, but the IEP Team decides there is no reason to suspect a disability under IDEA, or a student is evaluated and not eligible under IDEA.
- o A student exhibits a chronic health condition.
- o A student is in danger of dropping out of school.
- o Substance abuse is an issue.

Common Errors

Section 504 does not provide services to every student who struggles. Instead, Section 504 only addresses the needs of students who are qualified and disabled as defined by the regulations. Merely having a physical or mental impairment is not enough to make a student Section 504 eligible. The impairment must substantially limit the student in one or more major life activities, and a determination made as to whether the impairment without accommodations denies the student access to the school's program and activities. Common errors include:

- o Ignoring the physical/mental impairment requirement.
- o Ignoring the substantial limitation requirement by granting eligibility based solely on a medical diagnosis or because the student is on medication.
- o Failing to consider mitigating measures and conditions.
- o Basing eligibility on anticipation of future needs.
- o Developing a vague Section 504 Plan or failing to match accommodations to the disability.
- o Failing to review, reevaluate, or dismiss appropriately. (Students who are no longer Section 504 eligible but who receive accommodations are receiving an unfair advantage.)
- o Failing to communicate the Section 504 Plan to all appropriate school personnel including school administrators.
- o Failing to plan for matriculating students (i.e., elementary to middle, middle to high school).
- o Failing to ensure that the Section 504 Plan is implemented from the first day of school.

Discipline

While all students are expected to follow classroom and school rules, a student with a disability may need specialized behavior accommodations to support his or her appropriate behavior during school activities. Students with disabilities are not exempt from consequences for violations of the Code of Student Conduct, but if the behavior was a result of the student's disability (*Manifestation Determination*), the consequences may differ from the school's established discipline matrix. Regardless of whether the student's behavior is a manifestation of his/her disability, a Section 504 student may not be suspended more than 10 days. Instead, consideration is given to alternative discipline consequences, revising the student's Section 504 Plan behavior accommodations, and reevaluation to determine if the current placement and services are appropriate.

Complaint/Grievance

Ongoing communication between parents and school staff will help avoid disagreements and complaints related to the student's Section 504 Plan. However, informal and formal procedures are established to address parent/guardian/student complaints. The school's Section 504 case manager/counselor, Section 504 Coordinator, and school principal are responsible to ensure that procedures in the School District of Manatee County are implemented in their school setting.

Questions regarding Section 504 Parent/Student Rights may be forwarded to the District Section 504 Coordinator, Patricia A. Bernhart, Supervisor of Student Services, P.O. Box 9069, Bradenton, Florida 34206-9069, (941) 708-8770.