

504 Accommodation Plans

OVERVIEW

Section 504 of the Rehabilitation Act of 1973 is a federal statute that prohibits discrimination based upon a disability. Section 504 ensures that eligible disabled students receive opportunities and benefits and have equal access to facilities in the same manner as their nondisabled peers. School districts must provide an appropriate education for each disabled student with reasonable accommodations that allow access to the benefits of public education.

Students who are protected under Section 504 must be determined to:

- Have a physical or mental impairment that **substantially** limits one or more major life activity
- Have a record of such an impairment
- Be regarded as having an impairment

ELIGIBILITY CRITERIA

Eligibility for a Section 504 Accommodation Plan is determined using a 3-pronged approach that considers if the student:

1. Has a physical or mental impairment
2. That substantially limits
3. A major life activity

Eligibility for accommodations under Section 504 will be determined by a Team of people with knowledge about the student. ***In order to be considered disabled under Section 504, all three prongs need to accurately reflect the student within the school setting.***

Under Section 504, major life activities are considered as the following:

- caring for one's self
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting

- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working
- bending

When an impairment **does not substantially limit** one or more of the above major life activities, a student does not qualify for classroom accommodations under Section 504. It is important for families and school personnel to have conversations about instructional strategies that are utilized routinely for all students and that meet the needs of diverse learners.

Information from the Office for Civil Rights, based upon the 2008 amendments to the Americans with Disabilities Act (ADA), clarifies that a **temporary impairment** does not constitute as a disability except under certain conditions. Along with the conditions as discussed in the 3-prong eligibility process, the expected duration of the impairment needs to be considered. Through the amendment of ADA, Congress determined that the duration of an impairment expected to last less than 6 months does not constitute a disability.

When considering eligibility under Section 504, it is important to note the following:

1. A 504 Plan is not designed to fundamentally alter the program, standards, or what students are expected to know and be able to do.
2. A 504 Plan is meant to give all students **equal access** to their program; it is not designed to equalize outcomes or provide an advantage.
3. Section 504 is an anti-discrimination law...not a service law like IDEA.
4. The concept of a 504 Plan is **not** to help students to do better in school. That is the responsibility of the teacher and parent.
5. Though the definition of Section 504 is broad, the school district must still determine if impairment substantially limits a major life activity.
6. Simply having a disability does not mean a student is 504 eligible. The school district must consider all the data and identify the substantial limitation that has an impact at school.
7. When a school qualifies a student for Section 504, it means he or she has rights.

8. A child's physician cannot make the student automatically eligible. Physicians make diagnoses, but the school district decides 504 eligibility.
9. Section 504 was created to level the playing field. If services are provided to students who are not eligible, the playing field is no longer level.

THE ELIGIBILITY DETERMINATION PROCESS

The 504 Coordinator (Guidance Counselor) at each school will be responsible to implement the eligibility process. The Coordinator will determine a Team for each student based upon the nature of the suspected disability and the presenting questions regarding the student's needs. A 504 Eligibility Team consists of people who:

- Have knowledge about the student
- Have knowledge about the evaluation data and information
- Have knowledge about accommodations that may be discussed

Step 1. Referral

When parents or school staff suspects a student may have a disability, a written referral must be presented to the Student Services office. Parents of elementary age students should discuss this referral process with the building principal or his/her designee.

Step 2. Evaluation and Documentation

Evaluations will be proposed after school personnel review the referral information. With prior parent consent, the North Brookfield Public Schools will conduct an evaluation that will include school district assessments and review of other relevant information, e.g. grades, review of records, health information, and classroom participation and performance. The evaluation process may include formal testing conducted by highly credentialed school personnel. Evaluations conducted by school personnel will be administered during the school day and may result in the student missing some instructional time.

Should the school district determine that formal evaluations are needed, consent from parents will be required. Upon receipt of parent consent to conduct the evaluation, the school district has 45 school days to complete the evaluation(s) and hold a 504 Eligibility Meeting.

There are times when families may present to the school district a report from an independent evaluator. Although the Team will consider the findings from independent educational evaluations, the North Brookfield Public Schools reserves the right to conduct our own evaluations.

Should the family wish to present information from outside sources, the following checklist will help ensure that all appropriate information is available for the 504 Eligibility Team to review at least 2 school days prior to the eligibility meeting.

- _____ Statement regarding the nature of the suspected disability
- _____ Independent evaluation reports that are current (within one year)
- _____ Professional credentials of the evaluators must be presented
- _____ Relevant educational, developmental and medical history
- _____ Description of how the suspected disability substantially limits the student's ability to learn and/or access his/her school environment (for high school age students, a statement from the student is suggested)

Step 3. Team Review to Determine Eligibility

The 504 Eligibility Team will schedule a meeting to determine eligibility for a Section 504 Accommodation Plan. The entire Team will consider all provided assessment reports and information from the variety of sources. The 3-pronged eligibility criteria will guide the process to determine a student has a disability under Section 504. The Team will be conscious that an impairment may not meet the threshold of a disability under the federal eligibility guidelines as mentioned above.

Questions that the Team will consider at the meeting will include:

1. What is the nature and severity of the impairment?
2. What is the suspected duration of the impairment?
3. How has the student responded to any prior interventions?
4. Does the student consistently need extended time to complete assignments?
5. Does the student consistently need significant changes made to the curriculum and/or physical school environment?
6. Does the student demonstrate consistent behavior difficulties?

Should the 504 Eligibility Team determine a student is eligible for a Section 504 Accommodation Plan, the Team will develop the plan collaboratively. Accommodations included in the Section 504 Plan will:

1. Be considered as necessary.
2. Be determined by the Team.
3. Not be developed to provide advantage.
4. Not fundamentally alter the program, standards, or what students are supposed to know and be able to do.

The completed Plan will be implemented immediately. Section 504 Accommodation Plans in Massachusetts do not require a parent/guardian's signature. All teachers and other school personnel with a "need to know" status will be informed of the accommodations included in the Plan. The guidance counselor will write the 504 Accommodation Plan.

Should the Team find the student not eligible for a Section 504 Plan, the Team will encourage the student and family to discuss with the teachers the differentiated instructional approaches and District Curriculum Accommodation Plan (DCAP) options that are implemented routinely within the classroom and that may be helpful to the student.

Furthermore, if the family disagrees with the findings of the Team, they may ask to reconvene the team or exercise their due process rights in accordance with Section 504 of the Rehabilitation Act of 1973.

NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504

Parents and students (when age appropriate) will receive written *Notice of Parent and Student Rights under Section 504*. The Melrose Public Schools encourages parents to review this document thoroughly.

Standardized Tests and Accommodations

MCAS

MCAS is untimed for every student; each student receives as much time as s/he needs within one school day. Other MCAS accommodations will be considered for eligible students on a case-by-case basis and must be in accordance with the Department of Elementary and Secondary Education's *Requirements for the Participation of Students with Disabilities in MCAS*.

The College Board & ACT – High School Students

If a student has a Section 504 Plan, s/he may be eligible for accommodations from the College Board or ACT through their Services for Students with Disabilities. Students wishing to receive accommodations on College Board exams (PSAT, SAT, SAT II, AP) or the ACT must apply and be approved for accommodations by the respective testing agencies. Students interested in applying for accommodations through the College Board must first complete the Consent Form for Request for Accommodations. Please check with the Guidance Department for the required SAT/ACT forms.

Please Note: Among other criteria, the College Board and ACT ask the following questions when determining eligibility:

- Does the student have a documented disability? Does the documentation support the specific ways in which this disability impacts the student's daily functioning and ability to participate in the test?
- Does the student frequently request and use the accommodations during his/her school day?
- Has the student been on a 504 Plan for at least four school months?

According to the College Board rules and regulations:

“Note that the use of accommodations in school, or inclusion on an Individual Education Program (IEP) or 504 Plan, does not qualify a student for accommodations on College Board tests.”

STUDENT AND PARENT RIGHTS IN IDENTIFICATION, EVALUATION AND PLACEMENT

The following is a description of student and parent rights granted by federal law. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

YOU HAVE THE RIGHT TO:

1. have your child take part in and receive benefits from public education programs without discrimination based on a disability.
2. have the school district advise you as to your rights under federal law.
3. receive notice with respect to identification, evaluation or placement of your child.
4. have your child receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. have your child educated in facilities and receive services comparable to those provided to students without disabilities.
6. have your child receive special education and related services if she/he is found to be eligible under the Individuals with Disabilities Education Act (IDEA) (PL101-476), or to receive reasonable accommodations under Section 504 of the Rehabilitation Act.

7. have evaluation, educational and placement decisions made based upon a variety of information sources, and by individual who know the student, the evaluation data and placement options.
8. have transportation provided to a school placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the school district.
9. give your child an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district.
10. examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement.
11. obtain copies of educational records at a reasonable cost if the fee would effectively deny you access to the records.
12. receive a response from the school district to reasonable requests for explanations and interpretations of your child's records.
13. request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request, it shall notify you within a reasonable time and advise you of the right to a hearing.
14. request mediation or an impartial due process hearing related to decisions regarding your child's identification, evaluation, educational program or placement. You and your child may take part in the hearing and have an attorney represent you.
15. ask for payment of reasonable attorney fees if you are successful on your claim.
16. file a local grievance.