

## SECTION 504 OF THE REHABILITATION ACT OF 1973

“ No otherwise qualified individual with handicaps in the United States shall, solely by reason of her or his handicap, as defined in section 706(8) of this title, be excluded from the participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.” (29 U.S.C. Sec. 794)

### DEFINITIONS

<b>Individual with Handicaps</b>	“... any individual who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities. (ii) has a record of such impairment, or (iii) is regarded as having such an impairment.” (29 U.S.C. Sec. 706(8))
<b>Physical or Mental Impairment</b>	“... (A) 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; genito-urinary; hermic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” (34 Code of Federal Regulations Part 104.3)
<b>Major Life Activities</b>	“... functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.” (34 Code of Federal Regulations Part 104.3)
<b>Has a record of such an Impairment</b>	“... has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.” (34 Code of Federal Regulations Part 104.3)
<b>Is regarded as having an Impairment</b>	“... (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or © has none of the impairments defined but is treated by a recipient as having such an impairment.” (34 Code of Federal Regulations Part 104.3)

## PARENT/STUDENT RIGHTS UNDER SECTION 504

1. Take part in, have access to, and receive benefits from public education programs without discrimination because of disability;
2. Be advised of your rights under federal law by the school district;
3. As a student, be evaluated and periodically re-evaluated by a multidisciplinary team if you need or are believed to need appropriate regular or special education and related aids and services including the rights to a re-evaluation before any significant change in placement.
4. As a parent, be notified before the school: (a) identifies, assesses, or places the student on grounds of having a disability, (b) changes a student's identification, assessment, or placement: or (c) rejects your request that these actions be taken. Your written consent will be necessary prior to administering any individual evaluations;
5. As a parent, to receive all notices in writing and in the language you speak and understand best. If your native language is not a written language, the school officials will ensure that the notice is explained orally in a mode of communication you understand and that you understand the information given. There must be evidence that this requirement had been met;
6. As a student, receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate and the right to have the school district make reasonable accommodations to allow an equal opportunity to participate in school and school-related activities;
7. As a student, be educated in facilities and receive services comparable to those provided non-disabled students;
8. As a student, receive appropriate regular or special education and related aids and services if you are found to be eligible under S504 of the Rehabilitation Act/ADA;
9. Have educational and placement decisions made based upon information from a variety of sources, and by persons knowledgeable about the student, the evaluation data, and placement options.
10. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district;
11. Be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
12. Examine all relevant records relating to decisions regarding identification, evaluation, educational program and placement.
13. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
14. A response from the school district to reasonable requests for explanations and interpretations of the students records;
15. A description of any program options the school consider for the student, and why these options were not used;
16. Be informed of any other relevant factors school officials considered in their recommendation or rejection decisions;
17. Request amendment of the student's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of the student. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to an impartial hearing;
18. Request mediation and/or an impartial due process hearing related to decisions or actions regarding the student's identification, evaluation, educational program, or placement. You may take part in the mediation or hearing and have an attorney represent you. Mediation and/or hearing requests must be made in writing to Special Education Director or the building principal;
19. Ask for payment of reasonable attorney fees if you are successful on your claim following an Impartial Hearing request;
20. File a local grievance with the district's 504 Compliance Officer.

# COMMONLY ASKED QUESTIONS ABOUT SECTION 504

## **What is Section 504???**

Section 504 is a federal statute that prohibits discrimination against “otherwise qualified handicapped individual(s)” in any program or activity receiving federal financial assistance. Section 504 goes beyond instruction in schools and encompasses employment and any participation in or denial of benefits of a federally funded program or activity.

## **When does a Student qualify as a “handicapped individual” under Section 504?**

A student who (1) has a “physical or mental impairment which substantially limits one or more major life activities”, (2) has a record of such an impairment, or (3) is regarded as having such an impairment is a handicapped individual protected by Section 504.

## **What is a “major life activity”?**

Major Life activities include (1) caring for oneself, (2) performing manual tasks, (3) walking, (4) seeing, (5) hearing, (6) speaking, (7) breathing, (8) working, and (9) learning.

## **What is a “record” of impairment?**

A record of impairment may include a history of impairment and/or a diagnosis or assessment of impairment.

## **When is an individual “regarded” as having such impairment?**

When the district's perception of, response to, reaction or attitude toward the student results in treating the student as having an impairment, that student will be considered handicapped and protected under Section 504.

## **What is the difference between Section 504 and the IDEA (individuals with Disabilities Education Act)?**

Section 504 requires reasonable accommodation to insure nondiscrimination against disabled students. IDEA provides Special Education and related services to students who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, autistic, multi-handicapped, other health impaired, or children with traumatic brain injury or specific learning disabilities who by reason thereof require special education and related services.

## **Why was my child considered for evaluation under Section 504?**

Children who have obvious indicators of a “substantial impairment” are frequently targeted for a 504 evaluation. These indicators may include but are not limited to:

- a pattern of discipline problems resulting in suspensions/expulsions
- behaviors which interfere with academic success
- retention of a student
- receipt of failing grades over consecutive grading periods
- difficulty with academic material despite consistent effort
- existence of a chronic health condition
- at-risk students

## **What does a 504 plan do?**

Every 504 plan looks very different dependant on the individual student's needs. 504 plans can include some of the following types of modifications; a separate location to take tests, use of a calculator or spell checker, priority seating in the classroom, frequent parent contact, minimal distractions, behavioral contract or plan. If your child is eligible for a 504 plan it may include some of these modifications or it may also include others, which are deemed necessary to ensure nondiscrimination.