

Section 504 Guidelines

Section 504

The *Rehabilitation Act of 1973* was enacted into law to protect the rights of individuals with disabilities within programs and activities that receive federal funds. “No otherwise qualified individual with a disability in the United States . . . 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 . . .” Section 504 of the *Rehabilitation Act of 1973*, as amended, 29 U.S.C. 794.

Definition of a Disability

Section 504 requires that all school aged children with disabilities who attend public schools are entitled to a Free and Appropriate Public Education (FAPE). Section 504 regulation defines a person as disabled if the individual i) has “a physical or mental impairment which substantially limits one or more major life activities, ii) has a record of such an impairment, or iii) is regarded as having such an impairment.” Section 504 is intended to ‘level the playing field’ for children with disabilities who do not otherwise qualify for support under the Individuals with Disabilities Education Act (IDEA).

Child Find Responsibilities

It is the responsibility of the school district to conduct Child Find activities as defined by the law. The Orrick R-XI School District meets this requirement by posting public notices, posting procedures to the school district’s website, and annually training administrative and counseling staff that facilitate Student Assistance Teams. It is the responsibility of school personnel and parents to refer a student for a Section 504 evaluation if a disability is suspected that substantially impacts performance within the educational setting. Referrals should be made to the Coordinator of Special Services.

Section 504 Team

Once a student has been referred or has been identified as a student with a disability, a multidisciplinary team will be assembled to make decisions. The team may include the student (as deemed appropriate) parents, teachers, administrators, counselors, social workers, related service providers, nurses, or other individuals that have specific knowledge of the child’s needs. While parental involvement is not required in making the eligibility determination, it is considered best practice by the school district to make every attempt to partner with the parent. The team is responsible for reviewing the nature of the disability, determining how it affects the student’s education, and determining what accommodations, if any, may be necessary.

Eligibility Criteria under Section 504

To qualify as a student with a disability under Section 504, a child must be identified as having a disability. In addition, the disability substantially limits the child's ability to perform a major life activity. Within this section the following four key terms will be defined for further clarity: disability, substantial limitation, major life activity, and mitigating measures.

1. Disability: Section 504 defines a mental or physical 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, genitor-urinary, hemic and lymphatic, skin and endocrine. It may also be defined as any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
2. Substantial Limitation: This particular phrase presents the largest challenge to Section 504 teams. It is otherwise defined as being materially restricted in a major life activity. The Section 504 team must determine whether a student has significantly diminished capacity when compared to average non-disabled peers. When making this determination, Section 504 teams should consider a variety of data and look for trends across multiple settings. Assessment information may include the following: parent input, teacher observations, state and district standardized test scores, attendance records, medical records, health room logs, grades, discipline reports, outside evaluations, and possibly formal assessment.
3. Major Life Activity: With the passage of ADAAA 2008, the term 'major life activity' was greatly expanded. The new law defines this term to include the following activities: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. In addition, it includes the operation of a major bodily function, including, but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
4. Mitigating Measures: A mitigating measure is something that is used that minimizes the impact of the disability. Common examples of mitigating measures include medication, hearing aids, and prosthetics. Eyeglasses are considered an exception within the law and are not considered a mitigating measure. An additional change that transpired with the passage of ADAAA 2008 is the application of mitigating measures. The determination of whether a disability substantially limits a child's performance should be made without the assistance of mitigating measures. This may present additional challenges to the Section 504 team which may only have had experience with a student who has had the assistance of a mitigating measure.

Least Restrictive Environment

It is the intent of Section 504 to educate children within the Least Restrictive Environment (LRE). With the use of classroom strategies or specific accommodations the general educational environment and instructional practices can be manipulated to minimize the impact of the disability. Adaptations increase children's accessibility within the general education environment and assist in offering equal opportunities to all children.

Individual Accommodations Plan (IAP)

Eligible students are then considered for a Section 504 IAP. The team then determines whether general 'best practice' classroom strategies will meet the needs of the student. If these practices are insufficient to meet the needs of the student an IAP may be drafted. An IAP includes accommodations uniquely designed to minimize the impact of the disability within the school setting. Therefore, it is plausible to have three outcomes following an eligibility determination: i) a student does not meet eligibility requirements under Section 504, ii) a student may be identified as a student with a disability but does not require an IAP, iii) the student may be eligible and require specific accommodations provided within an IAP.

Once a student has been placed upon an IAP, the team will meet annually to review the accommodations plan and revise as necessary. A copy of the updated IAP will be provided to the parent, administrator, counselor, classroom teachers and any other staff member that has the need to know (i.e. paraprofessional or school nurse). In addition, a periodic reevaluation will occur to determine whether the student continues to meet the criteria for eligibility.

Exceptions

For the purposes of Section 504 eligibility, individuals who are currently engaged in the use of illegal drugs or alcohol would not be entitled to protections under Section 504. A school district is entitled to enforce its rules prohibiting the use, sale, or possession of drugs or alcohol by students, provided the rules are enforced evenly with respect to all students.

Discipline

In the event a student protected under Section 504 is suspended for more than 10 consecutive school days, a Manifestation Determination meeting must be convened to determine if a relationship exists between the disciplinary incident and the student's disability. This determination may be made by the same group of persons who make initial placement decisions in conformance with the requirements of Section 504. If a relationship is found to exist, the student cannot be suspended for more than 10 days.

Parental Grievances

If after an initial placement decision or reevaluation, the parents disagree with the determination regarding the relationship of the behavior to the student's disability, and the subsequent placement proposal. Parent may request that the 504 team reconvene to address their concerns. If conflicts are not remedied at the building level, the parent may request an impartial hearing. Grievance procedures and timelines are specified in the *Orrick R-XI School Board Policy AC-Prohibition Against Illegal Discrimination and Harassment*. To access a grievance form, please refer to the online supporting documents associated with school board policies (www.orrick.k12.mo.us). The grievance form is identified as form AC-AF2 and should be submitted to the designated compliance officer.

The Orrick R-XI School Board has designated the following individual to act as the district's compliance officer:

Elementary School Principal
Orrick R-XI School District
100 Kirkham
Orrick, MO 64077
Phone: 816-770-0094 Fax: 816-496-2306

Review

The Section 504 coordinator will maintain all official documents pertaining to Section 504. Student records will be reviewed annually to ensure that school district procedures are being implemented. Documentation of the review will be maintained by the 504 Coordinator.

Section 504 Process

- A referral form is completed by a parent or staff member and submitted to the 504 Coordinator for an initial 504 evaluation.
- Upon receipt of the referral, a medical documentation form will be sent to the parents to be completed by the diagnosing physician along with a copy of Procedural Safeguards.
- Once the medical documentation has been returned to the 504 Coordinator, an eligibility meeting will be scheduled.
- Parents will be provided a meeting notice which includes the date, time, location, and purpose of the meeting.
- During the eligibility meeting the multidisciplinary team will review parent input, teacher observations, state and district standardized test scores, attendance records, medical records, health room logs, grades, discipline reports, outside evaluations, and discuss the need for formal assessment.
- The eligibility meeting will produce one of three results:
 - The student is not eligible as a student with a disability under section 504 – a notice of action for ineligibility is provided.
 - The student is eligible as a student with a disability but does not require an IAP – a statement of non-discrimination is placed within the student’s cumulative file identifying the child as a student with a disability.
 - The student is eligible as a student with a disability and requires an IAP- continues through the process.
- The team will be convened to develop an IAP with accommodations unique to the student which minimizes the impact of the disability within the classroom setting, a parent is provided another copy of Procedural Safeguards once a student has been placed on an IAP.
- A team will be reconvened annually to review and revise the IAP, meeting notices and procedural safeguards will be provided annually.
- Periodic reevaluations will occur to consider whether the student continues to meet eligibility of a student with a disability under Section 504.