

## Defining Section 504

### *Introduction*

Pursuant to Section 504 of the Rehabilitation Act of 1973, schools cannot discriminate against people, including students, who are otherwise qualified to participate in school activities but are inhibited from participating to the same extent as a nondisabled person on the basis of disability.

Section 504 of the Rehabilitation Act states in part: “No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Section 504 includes general education accommodations in order to provide a free and appropriate public education (FAPE) to all students with disabilities in pre-school, elementary and secondary levels.

Section 504 defines a person with a disability as anyone who:

- 1) Has a physical or mental impairment which substantially limits a major life activity
- 2) Has a record or history of an impairment which substantially limits a major life activity
- 3) Is regarded as having an impairment which substantially limits a major life activity.

A physical or mental impairment is defined as “any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the body systems...or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.”

Major life activities include, but are not limited to:

- Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
- The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

School districts are responsible for evaluating students who might meet any of the criteria for a disability under Section 504. A multidisciplinary team of school personnel and parents who know the student, interpret evaluation data, and placement options determine Section 504 eligibility. Other parties with pertinent information about the student may also be included as members of the team. The team reviews the nature of the disability, considering how it affects the student’s participation in the district’s programs and services, and determines what accommodations, if any, may be necessary to “level the playing field” for the student.

When considering the eligibility of a student for Section 504 services, the multidisciplinary team will be guided in part by the following:

- The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: (1) medication, medical supplies, equipment, or appliances, low vision devices (which do not include ordinary eye glasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (2) use of assistive technology; (3) reasonable accommodations or auxiliary aids or services; or (4) learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary eye glasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity;
- An impairment that substantially limits one major life activities need not limit other major life activities in order to be considered a disability;
- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and
- The definition of disability shall be construed in favor of broad coverage of individuals under Section 504 and Title II, to the maximum extent permitted by the terms of those laws.

Questions that may be considered by the team when determining eligibility include:

- 1) Does the student have a physical or mental impairment that is medically documented and provided to school personnel?
- 2) Does the physical or mental impairment affect any major life activity? If so, which one(s)?
- 3) If the impairment affects a major life activity, does it substantially limit the major life activity(ies)?
- 4) Does the student need Section 504 accommodations in order for their educational needs to be met as adequately as non-disabled peers?

If a student is determined eligible, team will determine what if any accommodations are required, and a copy of the Section 504 Plan will be provided to parents, teachers, the building 504 coordinator, and the District Section 504 Coordinator.

If a parent disagrees with the identification, evaluation, or placement of the student with a disability or an alleged disability, grievance procedures are available.