

SOUTH HADLEY PUBLIC SCHOOLS

SECTION 504/ADA

PROCEDURE HANDBOOK

*Section 504 of the Rehabilitation Act of 1973
Americans with Disabilities Act Amendments Act (ADAAA, 2008)*

*Updated to reflect the Americans with Disabilities Act Amendments Act of 2008 and the most recent
OCR guidance*

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WHAT IS SECTION 504?

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights law that prohibits discrimination against individuals with disabilities in any program or activity receiving federal financial assistance. Public schools, as recipients of federal funds, must comply with Section 504.

Section 504 predates the Individuals with Disabilities Education Act (IDEA) and the Americans with Disabilities Act (ADA). While IDEA provides specialized instruction to students who meet strict eligibility criteria, Section 504 protects **any qualified individual with a disability** from discrimination and ensures **equal access** to educational opportunities and services.

Who is Protected?

A person is considered to have a disability under Section 504 if they:

1. Have a **physical or mental impairment** that substantially limits one or more major life activities;
2. Have a **record** of such an impairment; or
3. Are **regarded as having** such an impairment.

Section 504 protections apply to students, employees, and other individuals participating in or benefiting from school district programs and activities.

Key District Obligations

1. **Child Find:** Actively identify and evaluate students who may have a disability.
 2. **Evaluation and Eligibility:** Use appropriate, non-biased procedures to determine whether a student qualifies.
 3. **Free Appropriate Public Education (FAPE):** Provide accommodations, services, and supports designed to meet individual needs as adequately as the needs of non-disabled students.
 4. **Nondiscrimination:** Ensure equal access to programs, activities, and facilities.
 5. **Reasonable Accommodations:** Make modifications to policies, practices, or procedures to prevent discrimination.
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Definitions

Individual with a Disability

Any individual who:

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record of such an impairment, or

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- Is regarded as having such an impairment
(29 U.S.C. § 705(9)(B); 34 C.F.R. § 104.3(j))

Physical or Mental Impairment

Any physiological disorder, condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems (e.g., neurological, musculoskeletal, sensory, respiratory, cardiovascular, digestive, reproductive, immune, endocrine) or any mental or psychological disorder (e.g., intellectual disability, emotional/mental illness, specific learning disability, ADHD, PTSD, anxiety disorder).

Major Life Activities

Include, but are not limited to:

- Caring for oneself, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working
- Operation of major bodily functions such as immune, circulatory, digestive, neurological, brain, respiratory, reproductive, and endocrine systems.
(ADAAA, 42 U.S.C. § 12102; OCR Guidance)

Substantially Limits

An impairment need not prevent or severely restrict a major life activity to be substantially limiting. Determinations must be made **without regard to mitigating measures** such as medication, medical equipment, learned behavioral adaptations, or assistive technology.

Record of an Impairment

A history of, or misclassification as, having a substantially limiting impairment.

Regarded as Having an Impairment

Being perceived or treated as having a disability, regardless of whether the impairment substantially limits a major life activity.

Eligibility and Accommodation Procedures

Referral

- Any student may be referred by teachers, counselors, related service providers, the Student Assistant Team (SAT), the Special Education Evaluation Team, or parents/guardians.
- The referral form documents the suspected disability and the major life activity affected.

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Notice and Consent

- The 504 Coordinator provides **written notice of rights** and obtains parental consent prior to evaluation.
- Notices and forms must be provided in the parent's primary language or alternative format if needed.

Evaluation

- The evaluation team reviews multiple sources: grades, test scores, medical records, behavioral data, teacher and parent input.
- Formal testing is not always required. Evaluations must be individualized and free from bias.

Eligibility Determination

- A knowledgeable team determines eligibility based on all available data.
- IDEA-eligible students are automatically protected under Section 504.

Accommodation Plan Development

- If eligible, the team develops a **Section 504 Accommodation Plan** outlining necessary accommodations, services, and supports.
- The plan is distributed to parents/guardians, all staff responsible for implementation, and maintained in the student's 504 folder.

Implementation

- Staff are legally required to implement accommodations **with fidelity**.
- Failure to implement accommodations is considered discrimination.

Review and Reevaluation

- Plans are reviewed at least annually and reevaluated at least every three years or when significant changes in placement or needs occur.

Termination

- If a student no longer qualifies, the team documents the decision, notifies parents, and provides **procedural safeguards**.

Parent/Student Rights

Parents/guardians and students have the right to:

- Be informed of their rights under Section 504;
- Participate in meetings regarding identification, evaluation, and placement;
- Examine educational records;
- Receive notice of decisions regarding eligibility, accommodations, or termination;

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- Request an **impartial hearing** at any time if they disagree with the district's decisions, including the right to legal representation;
 - File a complaint with the **U.S. Department of Education, Office for Civil Rights (OCR)** within 180 days of alleged discrimination.
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Discipline Protections

- Removals constituting a **significant change in placement** (more than 10 consecutive school days, or a series of removals that create a pattern) require a **Manifestation Determination Review (MDR)**.
 - The MDR team determines if the conduct was caused by, or had a direct and substantial relationship to, the disability, or if the conduct resulted from failure to implement the 504 Plan.
 - If the behavior is a manifestation, the district must conduct or review a **Functional Behavioral Assessment (FBA)** and implement or revise a **Behavior Intervention Plan (BIP)**.
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Complaint and Enforcement Procedures

- Parents or students may file **internal complaints** with the District 504 Coordinator.
- Complaints may also be filed directly with the **OCR**.
- OCR investigates complaints and enforces compliance through resolution agreements or findings.

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REFERRAL FOR SECTION 504 ACCOMMODATION PLAN (Example)

Student: _____ **DOB:** _____ **Grade:** _____

Parent/Guardian: _____ **Primary Language:** _____

Address: _____ **Phone:** _____

School: _____ **Email:** _____

Referred by/Position: _____

Statement of Suspected Disability:

- ☐ Physical or mental impairment substantially limits one or more major life activities
- ☐ Has a record of such impairment
- ☐ Regarded as having such impairment

Description of Concern / Impact on Major Life Activities:

Signature of Person Making Referral: _____ **Date:** _____

Received by 504 Coordinator/Designee: _____ **Date:** _____

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Section 504 Parent/Student Rights In Identification, Evaluation and Placement

(Please keep this explanation for future reference)

Notice of Rights & Procedural Safeguards for Disabled Students and their Parents Under 504 of the Rehabilitation Act of 1973 The Rehabilitation Act of 1973, commonly known in the schools as “Section 504,” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, Section 504 (§504) applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered “disabled” if he or she suffers from a physical or mental impairment that substantially limits one or more major life activities. Section 504 also protects students with a record of an impairment, or who are regarded as having an impairment from discrimination on the basis of disability. Students can be considered disabled, and can receive services under §504, including regular or special education and related aids and services, even if they do not qualify for, or receive, special education services under the IDEA.

The purpose of this Notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle eligible student and their parents, to the following rights:

- *1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District’s §504 Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33]. You have the right to refuse consent for services at any time.
3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].
5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled

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students. [34 CFR 104.34].

6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35]. You have the right to refuse consent for initial evaluation.

7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. The District will appropriately consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, statewide assessment scores, and mitigating measures, among others. [34 CFR 104.35].

8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].

9. If your child is eligible under §504, he or she has a right to periodic reevaluations. A reevaluation must take place at least every three years. [34 CFR 104.35].

10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36].

11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].

12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.

13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's §504 Coordinator at the address below.* A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

*14. If you disagree with the decision of the hearing officer, you have a right to seek a review of the decision by making a written request to the District's Section 504 Coordinator, and/or you may seek relief in state or federal court as allowed by law.

15. You also have a right to present a grievance or complaint through the District's local grievance process. The District will investigate the situation, take into account the nature of the complaint and all necessary factors, and respond appropriately to you within a reasonable time. Parents may contact the District's Section 504

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Coordinator for more information about the District's grievance process.

16. You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers this school district is:*

Elizabeth E. Cooke
Director of Student Services
South Hadley Public Schools
116 Main Street, South Hadley, MA 01075
413-538-5072, ext. 2614

Division of Administrative Law Appeals
Bureau of Special Education Appeals
One Congress Street, 11th Floor
Boston, MA 02114
(617) 626-7250