



Kerrville ISD

504 Handbook

Superintendent

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General Information

Preface

Section 504 of the Rehabilitation Act of 1973 and the American with Disabilities Act (ADA) requires that the Kerrville Independent School District not discriminate on the basis of disability in any District program or activity. The district will identify, evaluate, and provide an appropriate public education to students who are disabled under Section 504.

Purpose

The purpose of this handbook is to outline Kerrville ISD's process and procedures for serving students with disabilities under Section 504. The information contained within the handbook should serve as a resource to parents regarding the provisions of Section 504 and equal access for students with disabilities. It contains general information and is not intended to address all unique and specific circumstances a student or parent may encounter or to constitute legal advice and should not be relied upon as such. For specific details regarding referral, eligibility and equal access to the district's programs and activities, parents are encouraged and invited to contact their school's 504 Coordinator.

Campus 504 Coordinators

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The Law

What is Section 504?

Section 504 is a part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. Section 504 is an anti-discrimination, civil rights statute (not an education law) that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met. Section 504 has no age limits and serves all disabilities.

Section 504 states: No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, 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.

Who qualifies for Section 504?

Students enrolled in a federally funded educational setting with a physical or mental impairment that substantially limits one or more major life activities*, have a record of such an impairment, or be regarded as having such an impairment, are eligible for Section 504. The impairment does not have to impact the student's learning. An impairment may include any disability, long-term illness, or various disorder that substantially reduces or lessens a student's ability to access learning in the educational setting because of a learning, behavior, or health related condition.

What if a student's health is impaired?

Many medical conditions may be protected under Section 504. School nurses work with parents to develop Individual Health Care Plans and Emergency Action Plans for students as needed. School nurses will work closely with the school's 504 Coordinator to ensure appropriate referrals are made for 504 evaluations.

Who decides whether a student is qualified and eligible for Section 504 services?

According to federal regulations, "placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities." While regulations do not require that parents are a part of the decision-making committee, KISD makes every effort to include them. Parents at minimum will be asked and encouraged to contribute any information they have that would be helpful to the Section 504 educational committee in making their determination of the student's needs. Schools are expected to make sound educational decisions as to what the student needs in order to access their education.

Services

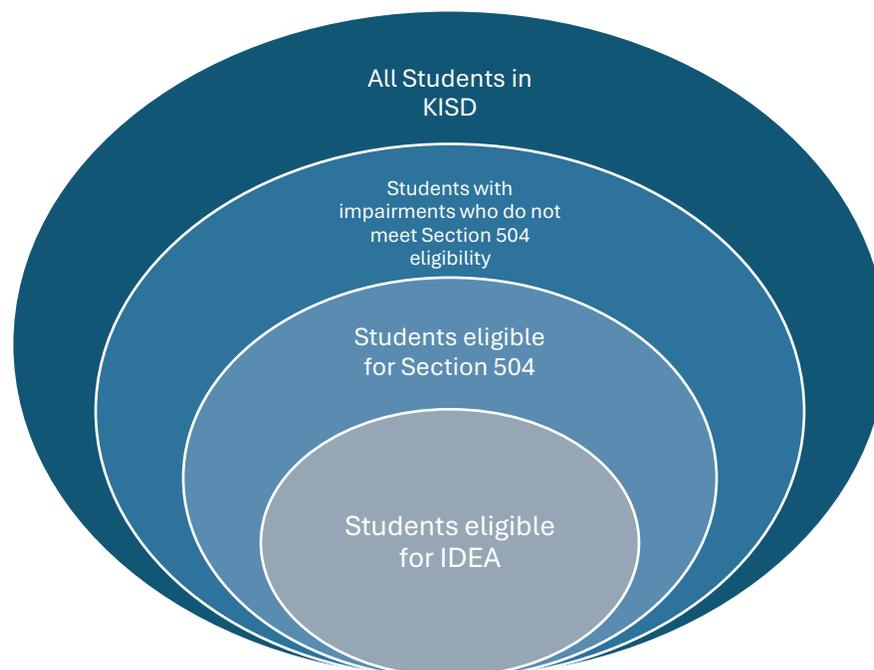
What does an eligible student receive under Section 504?

Eligible students receive:

- Non-discrimination protection
- Procedural safeguards
- FAPE—a free, appropriate education in the least restrictive environment, which may or may not include a service plan that includes accommodations
- Periodic 504 plan reviews
- Manifestation determination if the student receives a disciplinary consequence that causes them to be out of placement in excess of 10 days.

What is the difference between Section 504 and IDEA/Special Education Eligibility?

In order to receive IDEA/Special Education services, a student must have one of 13 specific qualifying disabilities which affects the student's education performance and/or ability to learn and benefit from the general education curriculum. What is considered a disability under Section 504 is much broader than that of Special Education. The guidelines governing Section 504 eligibility and services are less clearly defined. Section 504 is an anti-discrimination law, protecting all individuals with disabilities, whether or not they need a Section 504 accommodation plan; Special Education students are also protected by Section 504.



Eligibility

Identification and Referral

How are students with disabilities identified by the district?

Kerrville Schools shall endeavor to locate and identify every individual within the district who is not receiving a free appropriate public education due to a physical or mental impairment. District and school-based Section 504 staff will engage in ongoing Child Find activities. Activities may include, but are not limited to, presenting information at parent and school staff meetings, posting information on school and district websites, and reviewing student information upon registration and/or when medical needs arise. In addition to district-based initiatives, individual schools must employ school-based procedures to assist in the identification of students with a suspected disability. Teachers and other staff are obligated to notify the campus Section 504 Coordinator if they suspect that a student may benefit from an evaluation to determine if additional support may be needed. Campus procedures may include a review of student absences, academic progress, incident reports due to ongoing behaviors, students who have health concerns, and students who have been exited from Special Education services.

Who can refer a student for evaluation and consideration under Section 504?

A Section 504 referral can be initiated by a parent, a teacher, MTSS team, an IEP/Eligibility Team (when a student is found ineligible for special education), or by other school staff as appropriate (such as the nurse or counselor). However, while anyone, including parents or a doctor, can make a referral, OCR has stated that “the school district must also have reason to believe that the child is in need of services under Section 504 due to a disability” (OCR Memorandum, April 29, 1993).

What types of referrals can be made?

Academic Referral

In an effort to meet the needs of struggling students as early as possible, and to reduce the over-identification and misidentification of students in Section 504, KISD uses an early intervention process referred to as Multi Tiered Systems of Support (MTSS). The referral to Section 504 based on academic concerns usually begins through the MTSS process. Data from these efforts is shared with parents and will become part of any Section 504 Evaluation. These efforts are available to all students, including students with disabilities. Should general education along with early intervention efforts be insufficient to meet the disability-related needs of the student, the District will seek parental consent for an evaluation under Section 504.

Medical Referral

Most medical referrals to Section 504 are made by parent, school nurses, and outside physicians. Decisions on eligibility and appropriate accommodations are made by the educational committee. Health information will be an essential part of the data considered by the committee. Medical impairments, even within identical diagnoses, can vary greatly from student to student, and therefore any information that a physician can provide that is specific to the individual student, rather than the diagnosis itself, will be the most helpful in decision making. A physician's referral alone does not determine Section 504 eligibility.

Transfer Students

When a student with a Section 504 plan transfers to KISD from another district, KISD will honor the plan from the previous district. Within 30 school days, the campus 504 Committee will initiate a re-evaluation to review the plan and supporting documentation and will revise the plan as necessary to meet the student's needs.

When a student within KISD transfers to a different KISD campus, the Section 504 plan will travel with them, and the normal re-evaluation schedule will be followed.

Referral for Section 504 vs. Special Education Evaluation

The MTSS process guides district intervention decisions and facilitates appropriate referrals for special education and/or Section 504 evaluations. Failure to respond to increasingly intensive interventions is a trigger for Child Find under IDEA. Child Find may also be triggered by the provision of an outside evaluation and/or diagnosis, or the presence of certain medical conditions.

Generally, however, the district should not be expected to have reasonable suspicion of a disability when a student has not needed interventions beyond best practices in classroom instruction.

To qualify for special education services, a student must have one of 13 specific qualifying disabilities and show a need for specialized instruction. To qualify for Section 504, a student must be reasonably suspected of having a disability, but does not require the need for specialized instruction. A student with a potential mental or physical disability that does not qualify for special education services may still be considered for a Section 504 evaluation.

Evaluation

Is an evaluation required for Section 504 eligibility?

Yes. A full evaluation of relevant data should be completed for initial eligibility, and then repeated every 3 years or with a major change of placement.

Can a student be placed under Section 504 without parent knowledge?

No. Section 504 requires informed parental consent before a student can be evaluated and/or placed under Section 504. Parent must also be given a copy of their child's Section 504 Accommodation Plan if the committee determines that the student is eligible.

Must a Section 504 evaluation be conducted upon parent request?

No. If the district has reasons to deny an evaluation, then parents must be notified, and due process procedures must be followed. Although verbal requests are recognized, Best practice is that parents put their request in writing and address it to the campus 504 coordinator. E-mail notification is regarded as a written request. If instead, a teacher or other school official receives a written request for an evaluation, the campus 504 Coordinator is notified as soon as possible.

What happens if a parent withholds consent to evaluate for 504?

If parents do not agree to an evaluation, KISD will ask parents to put their refusal for evaluation in writing. If a parent refuses to sign consent for a special education evaluation, KISD will not be required to conduct a Section 504 evaluation in lieu of a special education evaluation.

What information is considered in determining Section 504 eligibility?

Under Section 504, no formalized testing is required. Evaluations must be comprehensive but tailored to the specific needs of each student. OCR requires that Section 504 evaluations draw upon a variety of sources. Sources may include grades over the past several years, teacher reports, information from parents or other agencies, state assessment scores or other school administered tests, observations, discipline reports, attendance records, health records and adaptive behavior information. Schools must consider a variety of sources. A single source of information (such as a doctor's report or parent observation) cannot be the only information considered. A medical diagnosis in and of itself is not enough for eligibility. The scope of the evaluation is determined by the multidisciplinary committee gathered to evaluate the student.

Do individual health plans(IHP) automatically qualify a student for Section 504?

At the time that an IHP is put into place for a student, parents will be given information regarding the determination of Section 504 eligibility and can request an initial 504 meeting. Based on a variety of data sources, if the student is suspected of having a physical or mental impairment that is substantially limiting a major life activity or bodily function, then the student will be evaluated in accordance with Section 504 regulations. A student is not eligible for Section 504 simply based on a diagnosis. There is no impairment that automatically warrants Section 504 eligibility without linkage to a substantial limitation of a major life activity or bodily function.

What if the impairment is episodic or temporary?

Episodic Impairments

Some students have physical or mental impairments that vary in frequency and may be substantially limiting at times and have little impact at other times. Students qualify under Section 504 if their condition, though not constant, episodically rises to the level of substantial limitation of a major life activity.

Impairments in Remission

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Transitory/Temporary Impairments

A transitory impairment is an impairment with an actual or expected duration of 6 months or less. The issue of whether a transitory impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the expected duration of the impairment and the extent to which it limits a major life activity. In most cases, basic informal accommodations may be implemented without a full Section 504 plan. In KISD, if the impairment is considered transitory/temporary, accommodations are provided through general education.

Non-Active Impairment (Qualified, no accommodations recommended)

Students who meet eligibility under Section 504, but do not need an active plan are still carried on the school's caseload and are entitled to all rights and protections under Section 504. The 504 committee will hold periodic reviews; if at any time the student needs support, the Section 504 committee will develop an appropriate plan.

Continued Eligibility

How often is a student re-evaluated?

For all students with 504 plans, a re-evaluation consideration meeting will occur every three years or with a significant change in placement. At this meeting, the 504 committee will review available data to decide if additional evaluations are needed to re-determine eligibility status. If no additional evaluations are needed for the team to conclude that the student is still eligible, then the student will still be regarded as a student with a disability under Section 504, and the plan will continue as appropriate.

What if changes are needed between re-evaluations?

Less-formal reviews of current Section 504 plans will be done between evaluations to make sure that his or her accommodation plan is appropriate based on the current class schedule and individual needs. The accommodation plan may be revised at any time during the school year if needed. Reviews may be called by parents or staff.

Can a student be dismissed from Section 504?

Yes. Upon re-evaluation, a student whose disability is no longer substantially limiting will be found ineligible for Section 504. A parent may also revoke consent for Section 504 services by submitting a written letter of refusal of services.

Accommodation Plans

Development

What are accommodations?

Accommodations are tools that are above and beyond normal classroom instruction needed by the student to access their education and are determined by the needs of the individual student. Appropriateness for each student is based on the nature of the disabling condition and what that student needs to have an equal opportunity to access their education when compared to non-disabled, same age peers.

Accommodations may be academic, behavioral, environmental, functional, or medical in nature.

Accommodations must be specific to the student, not parent or staff, and must be directly related to the qualifying disability. Accommodations should be reasonable and necessary to provide FAPE while not compromising academic rigor and age-appropriate expectations. Accommodations must be appropriate for the student's current situation and data; as such, the educational committee cannot put accommodations into place based on a prediction of future needs. Reviews are held to ensure that accommodations remain appropriate throughout their education including what is allowable by the Texas Education Agency on state assessments such as STAAR.

How do accommodations affect a student in the classroom?

Accommodations do not provide an advantage or ensure student success. Section 504 does not guarantee a student will make A's or B's, or even that the student will not fail. The ultimate goal of education for all students, with or without disabilities, is to give students the knowledge and compensating skills they will need to be able to function in life after graduation. Accommodations that do a disservice to or limit the ability of a student to access their education will not be provided.

Accommodations under Section 504 provide *access* only; they cannot modify the curriculum, exempt a student from mastering the state TEKS, or fundamentally alter the nature of a program or class. Therefore, accommodations cannot be made to exempt a student from assessments that show mastery, such as STAAR or high school final exams.

Do accommodations affect activities outside of the classroom?

Districts must provide equal opportunity in areas such as counseling, physical education and/or athletics, transportation, health services, recreational activities,

field trips, and special interest groups or clubs. Accessibility to participation in these activities will be considered when creating an accommodation plan. Please note that accommodations in competitive teams cannot fundamentally alter the nature of the program.

Are accommodation plans applicable on state tests such as STAAR?

Yes. Accommodations for classroom assessments as well as for state-mandated tests will be considered by the 504 committee. Most testing accommodations can be used on state tests, but as TEA often changes these rules, it's best to ask the 504 Coordinator about the specific accommodations applicable to the student. A student can only use accommodations on the STAAR exam that are used routinely and consistently in the normal classroom.

Implementation

How are teachers notified of a student's accommodation plan?

Teachers must attend a yearly training on Section 504 law and procedures and sign for receipt and implementation of each 504 plan. At the beginning of each school year, the campus 504 Coordinator gives teachers a copy (paper or digital) of the student's accommodation plan. If a plan is developed mid-year, the teachers are informed shortly after the Section 504 meeting. Communication between parents, teachers, and students are encouraged.

Does a 504 accommodation plan excuse a student's absences that are due to the qualifying disability?

No. The purpose of Section 504 is to ensure access to a student's education, therefore an accommodation allowing a student to be absent would not be appropriate. It can be noted in the 504 plan that administration should take the student's disability into consideration when looking at attendance records. If a student's disability will keep them out of school for more than 4 consecutive weeks, the 504 committee should consider Homebound services.

Can a 504 accommodation plan exempt a student from final exams?

For high school courses, final exams are a test of subject mastery, and therefore a 504 accommodation cannot exempt a student from that test. This includes any attendance-related exemption deals, as these are not guaranteed but an incentive not applicable to all students.

Does a 504 accommodation plan override the UIL No Pass/No Play rule?

No. The "no pass, no play" standard used for students also applies to students under Section 504.

Discipline

Behavior Expectations

Can a student under Section 504 receive consequences?

Yes. Students under Section 504 are still expected to follow the district's student code of conduct. A student's disability will be taken into account when discipline is considered. If the student's consequence will remove them from the regular setting more than 10 cumulative days, schools must consider the relationship between the disability and the misbehavior. This does not mean that a student with a disability cannot go to in-school suspension, be suspended from school or be sent to Kerrville Disciplinary Alternative Education Program (DAEP).

Impairment-Related Behaviors

What is a Manifestation Determination Review (MDR)?

An MDR is the process followed for a student under Section 504 whose disciplinary consequence will remove them from the regular setting more than 10 days. The educational committee will meet within 10 school days of the discipline finding to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability. If there is more than one behavior incident that gave rise to a removal/change of placement, the committee will consider each incident separately. Parents are invited and encouraged to participate in the discussion. All relevant information will be considered, including the nature of the disability, outside evaluations, observations of the student, discipline history, the student's 504 plan, etc.

If the committee determines the behavior was a direct result of the impairment, or a result of the school's failure to follow the IAP (Individual Accommodation Plan), appropriate discipline options will be considered. If the committee finds the behavior is not a direct result of the impairment, the student will be subject to the same consequences as a student without a disability.

If a behavior is directly related to an impairment, can a student still be removed from the regular setting?

Yes. Even with a causal relationship, a student can be removed if any of the following situations are true:

1. the parent agrees to the removal
2. the incident involved illegal drugs
3. the incident involved weapons
4. the incident caused Serious Bodily Injury

Enforcement and Rights

Jurisdiction

Who enforces Section 504?

The Office for Civil Rights (OCR) enforces civil rights laws prohibiting discrimination in federally funded education programs on the basis of race, color, national origin, disability, sex, and age. OCR is part of the U.S. Department of Education and is headquartered in Washington, DC. OCR has a regional office in Dallas, Texas.

Will Texas Education Agency (TEA) intervene with complaints about Section 504?

No. TEA has no direct jurisdiction over Section 504 implementation. Complaints may be addressed to KISD's Section 504 Coordinator or OCR.

Rights under Section 504

Will details about a student's disability remain confidential?

Yes. The Family Education Rights and Privacy Act (FERPA) is a federal statute that protects the privacy rights of parents and students by limiting access to records without parental consent. Teachers, related service providers, and others who work with the student must have easy access to the student's Section 504 plan (IAP) so that the adults will know the student's needs and what the adults need to do to meet the student's needs. Those not working with the student directly, including other students, are not privy to that information.

How are parents protected under Section 504?

Parents or legal guardians have the right to:

- Receive notice regarding the identification, evaluation and/or placement of their child;
- Examine relevant records pertaining to their child;
- Request an impartial hearing with respect to the district's actions regarding the identification, evaluation, or placement of their child, with an opportunity for the parent/guardian to participate in the hearing, to have representation by an attorney, and have a review procedure;
- File a complaint with the District Section 504 Coordinator, who will investigate the allegations regarding Section 504 matters other than their child's identification, evaluation and placement.

- File a complaint with the appropriate regional Office for Civil Rights.

If a parent disagrees with the school's evaluation, will KISD pay for an outside independent evaluation?

Under Section 504, schools are not required to pay for an outside independent evaluation. If a parent disagrees with the school's evaluation decision, they may request a due process hearing or file a complaint with the Office for Civil Rights.

Frequently Asked Questions

Is a student under Section 504 in a special class or the regular classroom?

A Section 504 eligible student will always be in the regular classroom unless (according to federal regulations) “the student with a disability is so disruptive in a regular classroom that the education of the other students is significantly impaired; then the needs of the student with a disability cannot be met in that environment.”

Are academic expectations reduced for 504 students?

Section 504 is not a statute of reduced expectations for students. The expectation is grade-level performance with no exceptions. Students are responsible for the state-required curriculum. Section 504 is not about reducing academic rigor or age-appropriate expectations, but for providing the types of accommodations that will compensate for the disability so the students have an equal opportunity to access their education.

What if a student is too sick to go to school?

If a student will be bound to home or hospital for 4 weeks or more, the student may be eligible for homebound instruction. For the 504 committee to consider homebound services, parents will need to give the school consent to speak directly with the student’s licensed physician. The campus 504 Coordinator will facilitate this process.

Are accommodation plans applicable on National Tests such as SAT or ACT?

No. Nationally-normed assessments are owned and run by private companies. There are some accommodations available, but students must apply for them with the help of the Campus 504 Coordinators.

Will colleges know a student has a 504 plan?

Not unless the student gives the college that information. There is no indicator on transcripts, nor are Section 504 records sent to post-secondary institutions.

Are accommodations available in college?

Yes. Students can apply for accommodations through the college’s office for disabilities. Plans in college are generally much less comprehensive.

Steps in the 504 Process

Where do I begin?

The general education Multi Tiered Systems of Support (MTSS) team is usually the starting point to consider whether or not a student needs to be evaluated for accommodations.

When a student has not responded positively to research-based interventions in an intervention plan and/or has a suspected disability, the team may determine to conduct an evaluation for special education and/or Section 504.

Who makes up a Section 504 Team?

Responsibility for considering and developing a Section 504 Accommodation Plan consists of a core group that may include the parent, the principal or administrator, referring and/or general education classroom teacher, campus 504 representative, and/or academic specialists who are working with the student.

Section 504 requires that the Section 504 committee or “group of knowledgeable people” contain persons with knowledge of the following:

1. The child,
2. The meaning of the evaluation data, and
3. The placement options.

In Kerrville ISD, the principal designates who will serve as the Section 504 Coordinator for each campus. At a minimum, the 504 committee will include the parent, a campus administrator, and a teacher of the student. While parents are invited and encouraged to attend, they are not required to attend. The 504 team will meet periodically to review the student’s Section 504 Accommodation Plan, and to ensure that plan is appropriate based on the current class schedule and individual needs.

Helpful Terms

ADA

The Americans with Disabilities Act (ADA) of 1990 provides protection from discrimination in employment, public education, transportation and public accommodations. Although the ADA provides civil rights protections for our students as well, compliance with the requirements of Section 504 will ensure compliance with the ADA. Accordingly, the district looks to our Section 504 procedures to ensure equal access to education for our students with disabilities.

Child Find

The purpose of Child Find is to locate, identify, and evaluate children from birth to 21 years of age and their possible need for special education and related services.

Committee

A Section 504 Committee is made up by a group of persons knowledgeable about the student, the meaning of the evaluation data, and placement options. This could include classroom teachers, administrators, counselors, and other professional staff. In KISD, the student and his or her parents are also encouraged to participate in the meeting.

Disability/Impairment

Section 504 offers a very broad and inclusive definition of disability. Under Section 504, a person may be considered disabled if the individual has a record of or is regarded as having a physical or mental impairment which substantially limits one or more major life activities. Section 504 regulations do not specify a list of specific diseases and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list. However, examples include ADHD, cancer, low vision, poor hearing, chronic illness, diabetes, asthma, life-threatening allergies, HIV/AIDS, depression, and learning disabilities. Students who are currently using illegal/controlled substances including drugs or alcohol are not covered or eligible under Section 504.

FAPE

The law requires that public elementary and secondary schools provide a Free and Appropriate Public Education (FAPE). This may include accommodations and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of a student without a disability are met, and are based upon adherence to evaluation, placement and procedural safeguard requirements.

IAP

Under Section 504, an Individual Accommodation Plan (IAP) includes specific accommodations, supports or services for the student needed to access his or her education.

IEP

Under IDEA/Special Education, an Individualized Education Program (IEP) sets learning goals for a student and describes the services the school will provide.

Major Life Activity

Examples of major life activities include, but are not limited to: caring for one-self, performing manual tasks, walking, seeing, hearing, sitting, standing, lifting, bending, breathing, speaking, learning, reading, eating, sleeping, concentrating, thinking, writing, communicating, interacting with others, and the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, circulatory and endocrine system, etc. This list is not exhaustive.

Mitigating Measures

“Mitigating measures” are devices or practices that a person uses to correct or reduce the effect of a person’s mental or physical impairment. Examples of mitigating measures include, but are not limited to, medication, prosthetics, hearing aids, cochlear implants, mobility devices and assistive technology. The law requires that the ameliorative effects of mitigating measures (except glasses and contacts) not be considered by schools in determining whether an impairment substantially limits a major life activity. However, the negative impact of any mitigating measures is a consideration in determining whether the impairment substantially limits a major life activity.

OCR

The U.S. Department of Education Office for Civil Rights (“OCR”) enforces the law. Both the education and legal systems have increasingly focused attention on Section 504 requirements to ensure education systems do not discriminate on the basis of a qualified disability and do provide qualified students with disabilities equal access to public education programs and activities.

For additional information, contact:

Dallas Office
Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201-6810
214-661-9600
OCR.Dallas@ed.gov

MTSS

Multi Tiered Systems of Support is a multi-tier approach to the early identification and support of students with learning and behavior needs. MTSS begins with high-quality instruction and differentiation in the classroom. Struggling learners are provided with interventions at increasing levels of intensity to accelerate their rate of learning. MTSS is designed for use when making decisions in general and special education, guided by student outcome data.

Substantially Limiting

Although not defined in the federal regulations, the Office for Civil Rights states that “this is a determination to be made by each local school district and depends on the nature and severity of the person’s disabling condition.” Students must be measured against their same age, non-disabled peers in the general population and without the benefit of mitigating measures.