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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

#### Overview of Section 504

The Rehabilitation Act of 1973, commonly known in schools as “Section 504,” is a federal law passed by the United States Congress to prohibit discrimination against individuals with disabilities who participate in, or receive benefits from, programs receiving federal financial assistance. In public schools, Section 504 ensures that eligible students with disabilities are provided with educational benefits and opportunities equal to those provided to their non-disabled peers.

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. Students may 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.

In determining whether a student has a substantial limitation, the Section 504 Team considers the student’s functioning **without regard to mitigating measures**, consistent with the ADA Amendments Act of 2008 (ADAAA).

**Major life activities include, but are not limited to:** learning, reading, writing, concentrating, thinking, communicating, speaking, hearing, seeing, walking, standing, lifting, bending, breathing, eating, sleeping, caring for oneself, working, performing manual tasks, and the operation of major bodily functions, including immune, digestive, respiratory, endocrine, neurological, circulatory, and other bodily systems.

**This list is non-exhaustive**, as required by the ADAAA.

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#### How the DCAP and Section 504 Work Together

The District Curriculum Accommodation Plan (DCAP) is required by Massachusetts General Law c. 71 s. 38Q1/2 and describes General Education instructional supports and classroom-based strategies available to all students. These supports are designed to help students access the curriculum, but are not disability-based accommodations.

- The DCAP is not a substitute for a Section 504 evaluation or plan.
- A DCAP may not be used to delay, discourage, or replace a Section 504 referral or evaluation.
- Students suspected of having a physical or mental impairment that may substantially limit one or more major life activities must be referred for Section 504 evaluation, regardless of any DCAP interventions.
- Students who require disability-based accommodations or related aids and services will receive them through a Section 504 Plan, not through the DCAP.

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#### The Purpose of This Notice

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

## **Your Procedural Rights Under Section 504**

### **1. Right to Be Informed About Your Rights [34 CFR 104.32]**

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. Right to an Appropriate Education [34 CFR 104.33]**

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. Right to Free Services [34 CFR 104.33]**

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 who becomes eligible for services under §504. [34 CFR 104.33].

### **4. Right to Educate with Non-Disabled Peers [34 CFR 104.34]**

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 their educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].

### **5. Right to Comparable Facilities, Services, and Activities [34 CFR 104.34]**

Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].

### **6. Right to Evaluation [34 CFR 104.35]**

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. Right to Appropriate Assessment Procedures [34 CFR 104.35]**

If formal assessment instruments are used as part of an evaluation, the procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper administration methods, 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. Right to Placement by a Knowledgeable Team [34 CFR 104.35]**

Placement decisions regarding your child must be made by a group of persons (a §504 team) 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. Right to Periodic Reevaluation [34 CFR 104.35]**

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. Right to Notification [34 CFR 104.36]**

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. Right to Examine Records [34 CFR 104.36]**

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. Right to Impartial Due Process Hearing [34 CFR 104.36]**

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. Right to Request a Hearing**

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. Right to Review Hearing Officer Decision**

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. Right to File a Grievance**

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

**16. Right to File a Complaint with OCR**

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:

Megan C. Finnegan, MA, CAS, NCSP  
Interim Director of Student Services  
Ipswich Public Schools  
1 Lord Square, Ipswich, MA 01938  
978-356-2935

Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1475  
Telephone: 202-453-6020  
FAX: 202-453-6021; TDD: 800-877-8339  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)