

Newburyport Public Schools



Section 504 Procedural Manual

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Purpose of Section 504

The Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

Some students will also be eligible for educational services under the Individuals with Disabilities Education Act (IDEA). Since IDEA has specific additional requirements, parents and/or students seeking services under the IDEA are referred to the district's special education department and its director.

You have a right to be informed by the school district of your rights under Section 504. (34 CFR 104.32). A copy of your rights is included as Appendix A of this manual.

Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, is designed to eliminate discrimination based on disability in any program or activity receiving federal financial assistance. Section 504 requires that no qualified student who demonstrates a physical or mental impairment that substantially limits one or more major life activities (listed below) shall be excluded from participation in, be denied the benefit of, or be subject to discrimination in any program or activity offered by Newburyport Public Schools.

Section 504 provides a broad spectrum of protections against discrimination on the basis of disability. For example, all qualified elementary and secondary public school students who meet the definition of an individual with a disability under Section 504 are entitled to receive regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of students without disabilities are met.

Section 504 also requires, among other things, that a student with a disability receive an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability

An impairment that is episodic or in remission is a disability if it substantially limits a major life activity when active. A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

Under Section 504, major life activities include, but are not limited to, the following:

- | | | |
|-------------|-----------------|---------------------------|
| • Seeing | • Sleeping | • Communicating |
| • Lifting | • Walking | • Working |
| • Speaking | • Standing | • Bending |
| • Breathing | • Reading | • Learning |
| • Hearing | • Concentrating | • Caring for oneself |
| • Eating | • Thinking | • Performing manual tasks |

Major bodily functions are also major life activities under the law, and these major bodily functions include functions of the bowel, bladder, and brain; normal cell growth; and the immune, endocrine (for example, thyroid, pituitary, and pancreas), respiratory, reproductive, circulatory, digestive, and neurological systems.

When an impairment *does not substantially limit* one or more of the above major life activities, a student does not qualify for classroom accommodations under Section 504. It is important for families and school personnel to have conversations about instructional strategies that are utilized routinely for all students and that meet the needs of diverse learners.

Referral Under Section 504

Anyone may refer eligible students for evaluation under Section 504. Parents of elementary age students may contact the building principal or the Section 504 Coordinator. At the Middle School and High School, parents may contact their child's guidance counselor or the Section 504 Coordinator. The District's Section 504 Coordinator is Brad Brooks, who may be reached at bbrooks@newburyport.k12.ma.us.

Evaluation Under Section 504

Initial Evaluations

Evaluations will be proposed after the Section 504 team reviews the referral information. Prior to taking any action which would result in a significant change in placement in an instructional program for the referred student, the District shall conduct an Evaluation of the referred student. The Newburyport Public Schools will conduct an evaluation that will include school district assessments and review of other relevant information, e.g. grades, review of records, health information, and classroom participation and performance. The District is ultimately responsible for collecting evaluative data concerning a suspected disability, including collecting additional evaluative material when a doctor's note is provided for a diagnosis. Tests and other evaluation materials shall be administered by trained personnel and shall be reliable and valid for the purposes for which they are being used. Evaluations conducted by school personnel will be administered during the school day and may result in the student missing some instructional time.

Section 504 requires informed parental consent for the initial evaluation. Upon receipt of parent consent to conduct the evaluation, the school district has 45 school days to complete the evaluations and hold a 504 Eligibility Meeting.

There are times when families may present to the school district a report from an independent evaluator. Although the Team will consider the findings from independent educational evaluations, the Newburyport Public Schools reserves the right to conduct our own evaluations. The weight of the information from any evaluation is determined by the team given the student's individual circumstances.

Reevaluations

Section 504 requires periodic reevaluations, generally every three years, and more frequently if conditions warrant that suggest the student's existing Section 504 plan may not be providing the student with a FAPE.

Additionally, Section 504 also requires a reevaluation before any significant change in placement. *34CFR 104.35(d)*. Reevaluation can consist of a comprehensive evaluation or a review of the student data and student service/Section 504 plan. Examples of significant changes in placement which require reevaluation include: expulsion; series of suspensions which exceed 10 days (consideration must be given to the frequency of suspensions, the length of each and their proximity to one another); and significantly changing the composition of the student's class (e.g., moving the student from regular education to a special education classroom).

Determining Eligibility

The 504 Eligibility Team will schedule a meeting to determine eligibility for a Section 504 Accommodation Plan. The entire Team will consider all provided assessment reports and information from the variety of sources. The team must be composed of group of persons (Section 504 Team), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options. 34 CFR 104.35. The 504 Team meeting may proceed when the parents are not present, but every effort should be made and documented by the 504 coordinator/chairperson to have parents attend the meeting, such as calling them or rescheduling the meeting.

Eligibility for a Section 504 Plan is determined using a three-pronged approach that considers if the student:

1. Has a physical or mental impairment .
2. That substantially limits .
3. A major life activity.

In order to be considered an individual with a disability under Section 504, all three prongs need to accurately reflect the student.

The completed 504 Plan will be implemented immediately. Section 504 Accommodation Plans in Massachusetts do not require a parent/guardian's signature. All teachers and other school personnel with a "need to know" status will be informed of the accommodations included in the Plan.

Should the Team find the student not eligible for a Section 504 Plan, the Team will encourage the student and family to discuss with the teachers the differentiated instructional approaches and District Curriculum Accommodation Plan options that are implemented routinely within the classroom and that may be helpful to the student. Furthermore, if the family disagrees with the findings of the Team, they may ask to reconvene the team or exercise their due process rights in accordance with Section 504 of the Rehabilitation Act of 1973.

Section 504 Plan

The Section 504 Plan developed by the 504 Team is based upon the individual child's educational need(s) and least restrictive environment considerations. The Section 504 Plan will document the 504 Team's decisions and will include the date, student information, accommodations and services, and signatures and recommendations of members present at the meeting. A copy of the Section 504 Plan will be made available to appropriate school personnel when it contains accommodations and supportive service provisions to be implemented at school. The Section 504 Plan will be filed and maintained in each student's education records.

Placement

Placement decisions must be made by a group of persons (Section 504 Team), including persons knowledgeable about your child, the meaning of the evaluation data, and the placement options. Section 504 has a least restrictive environment requirement similar to the IDEA and students with disabilities and students without disabilities must be placed in the same setting, to the maximum extent appropriate.

In interpreting evaluation data and making placement decisions, the 504 Team must:

- Draw upon information from a variety of sources;
- Ensure that all information is documented and considered;
- Ensure that the placement decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options; and
- Ensure that the student is educated with non-disabled peers to the maximum extent appropriate. To the maximum extent appropriate, the District must educate students who are disabled with non-disabled students in the least restrictive environment. In order to remove a child from the regular educational environment, the District must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. *34 CFR § 104.34; 34 CFR 104.35(c).*

Districts must provide FAPE (regular or special education and related aids and services including home tutoring) to a qualified student with a disability in the District's jurisdiction. Instruction must be individually designed to meet the needs of the student as adequately as the needs of non-disabled students. Section 504 does not require Districts to develop an IEP. The District will document that the Section 504 Team convened and specify the agreed upon services in a document called a Section 504 Plan. The quality of educational services provided to students with disabilities under Section 504 must be equivalent to the services provided to non-disabled students. Teachers must be trained in the instruction of persons with the disability in question and appropriate materials and equipment must be available. *34 CFR 104.33(b).*

Transportation

The District must ensure that adequate transportation to and from school and school sponsored activities is provided at no greater cost than would be incurred by the parent if the student did not have a disability under Section 504. If the district provides transportation to all its students within a certain geographic area, it may not discriminate in its provision of transportation to students with a disability. The length of the bus rides for students with disabilities should not be longer than that of non-disabled students. If a District proposes terminating a qualified student's bus transportation for inappropriate bus behavior, the District must hold a Section 504 team meeting and provide the parents with notice of their rights.

Records

Forms documenting the referral, evaluation, qualification, and 504 plan of a student under Section 504 should be maintained in the student's record.

Discipline

A student eligible for Section 504 accommodations can be subject to disciplinary action. A student in a 504 program is subject to the school's student code of conduct, unless otherwise specified in the student's Section 504 Plan. The student's Section 504 Plan may include a behavior management plan, which outlines disciplinary options to be used. In some cases, inappropriate behavior may cause the student to be removed from classes and/or school for a few days or to be sent to an alternative education program, such as a supervised setting separate from regular classes or in-school suspension. In either case, the student will be given the opportunity to complete assignments and earn course credit. If this exclusion or a pattern of exclusions exceeds 10 days, the Section 504 Team will convene to conduct a manifestation determination.

A Manifestation Determination is a meeting of the 504 Team to determine whether the student's behavior is caused by, or has a direct and substantial relationship to, his/her disability when a student is removed from classes to such an extent that it constitutes a significant change of placement.

If, at the manifestation determination hearing, it is determined that the disabled student's misconduct is caused by his/her disabling condition, the student may not be suspended or expelled from school. The 504 Team will then determine whether the student's current educational placement or accommodation plan is appropriate. The District will provide its notice of procedural safeguards to the parent or guardian prior to a manifestation determination hearing, and before taking any disciplinary action that would constitute a significant change in placement.

If the team determines that the behavior is a manifestation of the student's disability, it must evaluate the student to determine if the student's current placement is appropriate. Parents are

entitled to notice and procedural safeguards when a manifestation determination is conducted. The Team must also determine whether the student's 504 plan is being followed. If not, and the failure to implement the student's 504 plan led to the incident, the student may not be disciplined. The Team should also address whether the Student needs any additional behavioral supports to ensure the student receives a FAPE.

Resource: [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973 \(PDF\)](#)

Newburyport Public Schools

Section 504 of the Rehabilitation Act of 1973

Grievance Procedures

1. As soon as possible following the occurrence of an act alleging a violation of Section 504 of the Rehabilitation Act of 1973 and/or Title II of the Americans with Disabilities Act, the aggrieved party shall submit to Newburyport's Section 504 Coordinator, Brad Brooks, a verbal or written statement describing the circumstances and specifying the nature of the alleged discrimination on the basis of disability. The aggrieved party shall have the opportunity to present witnesses and other evidence regarding the nature of the alleged discrimination. Mr. Brooks may be contacted at 70 Low Street, Newburyport, MA 01950 (978-465-4456). The aggrieved party may request a meeting with Mr. Brooks, who will meet with the aggrieved party within fifteen (15) school-working days. Within a period of time, not to exceed thirty (30) school-working days from the date of the receipt of the report, Mr. Brooks shall investigate the circumstances of the grievance, reply in writing to the aggrieved, and provide notice of the outcome of the grievance.
2. If the grievance has not been satisfactorily addressed by Newburyport's Section 504 Coordinator, the aggrieved party may submit in writing, the basis for the aggrieved party's belief that the District's findings are insufficient and the matter is not resolved to the Assistant Superintendent of Teaching and Learning, Lisa Furlong, who may be contacted at: 70 Low Street, Newburyport, MA 01950 (978-465-4456). Ms. Furlong will conduct a hearing within fifteen (15) school-working days from receipt of the aggrieved party's statement. The aggrieved party shall have an opportunity to present witnesses and other evidence in support of his/her position at the hearing. Ms. Furlong will provide a written response to the aggrieved party regarding the outcome of the appeal within fifteen (15) school-working days following this hearing.
3. In the event that the District finds that discrimination occurred, the District will take steps to prevent reoccurrence and correct discriminatory effects on the aggrieved party and others as appropriate.
4. At any time during this process, or in lieu of this process, a hearing may be requested at the Bureau of Special Education Appeals (BSEA) regarding the identification, evaluation, and/or placement of a student with a disability; a complaint may be filed with the Department of Elementary and Secondary Education's Problem Resolution System (PRS), or a complaint may be filed with the Office for Civil Rights (OCR). The BSEA may be reached at 781-397-4750. PRS may be reached at 781-338-3700. OCR may be reached at 202-453-6020 or www.ed.gov/ocr.



Appendix A

Newburyport Public Schools

Notice of Section 504 Parent/Student Rights

You have the right to:

1. Have your child take part in and receive benefits from public education programs without discrimination because of his/her disability.
2. Have the school district advise you of your rights under federal law.
3. Receive notification with respect to identification, evaluation and placement of your child.
4. If found eligible under Section 504 of the Rehabilitation Act of 1973, have your child receive a free appropriate public education (FAPE) in the least restrictive environment.
5. Have your child educated in facilities and receive services comparable to those provided for non-disabled students.
6. Have your child receive appropriate support and accommodations if he/she is found to be eligible under Section 504 of the Rehabilitation Act of 1973.
7. Have evaluation, eligibility, and placement decisions based on information from a variety of sources and made by persons who are knowledgeable about your child, the evaluation data, and placement options.
8. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district. This also includes the right to have the school district make accommodations to allow your child an equal opportunity to participate in school-related activities.
9. Examine all relevant records relating to decisions regarding your child's identification, evaluation, eligibility, and placement.
10. File a local grievance. A local grievance may be filed verbally or in writing. Please contact the District's Section 504 Coordinator, Brad Brooks, 70 Low Street, Newburyport, MA 01950 (978-465-4456) if you wish to file a local grievance.
11. Request an impartial due process hearing or mediation from the Bureau of Special Education Appeals (BSEA) at any time related to the District's decisions or actions regarding your child's identification, evaluation, eligibility, or placement. You have the right to participate in the hearing, and you have the right to be represented by counsel at your own expense. The BSEA may be reached at 781-397-4750.
12. File a complaint with the U.S. Department of Education, Office for Civil Rights (OCR) at any time. OCR may be reached at 202-453-6020 or online at www.ed.gov/ocr.

Appendix B

NEWBURYPORT PUBLIC SCHOOLS

70 Low Street

Newburyport, Massachusetts 01950

Tel. (978) 465-4456

Fax (978) 462-3495

Receipt of Parent/Student Rights under Section 504

The Notice of Parent and Student Rights Under Section 504 of the Rehabilitation Act of 1973 document is provided to you so that you will be advised of you and your child's rights under Section 504.

In addition to receiving a written copy of your rights, you may seek clarification or ask additional questions by contacting our District 504 Coordinator, Brad Brooks, at bbrooks@newburyport.k12.ma.us or 978-465-4456.

I have received a copy of Parent and Student Rights under Section 504 of the Rehabilitation Act of 1973.

Student: _____ D.O.B.: ____ / ____ / ____

School : _____ Grade: _____

Signature of Parent/Guardian or Student (if over the age of 18)

Date Signed: _____

Appendix C



SECTION 504 CONSENT FOR EVALUATION FORM **Newburyport Public Schools**

Date:

The District is requesting parental consent for an evaluation to determine whether your student may have a qualifying disability under Section 504 of the Rehabilitation Act of 1973. If the District obtains your consent, evaluations for Section 504 eligibility will be conducted, and a Team will convene to review evaluations and make an eligibility determination under Section 504. As part of this process, the evaluation team will gather and review information about your student from a variety of sources.

We are requesting your consent to conduct a Section 504 evaluation of your student. The District is proposing a review of the following sources of information as part of your student's Section 504 evaluation to determine whether your student has a qualifying disability under Section 504 and to provide necessary accommodations should he/she qualify:

☐ Grades	☐ School Records	☐ Medical Reports
☐ Work Samples	☐ Parent Report	☐ Psycho-educational Evaluation
☐ Classroom Teacher(s) Report	☐ Individual Achievement Tests	☐ Observation
☐ Health Care Plan	☐ IEP	☐ Other (specify: _____)

Section 504 provides you with specific rights concerning this evaluation process, which are designed to keep you fully informed concerning decisions about your student. These rights are summarized in the 504 Parent/Student's Rights, which are attached to this consent form.

Please respond to the District's proposal below and submit this form to the 504 Coordinator, Lauren Gee. Once received, you will be invited to attend a Section 504 eligibility meeting to review your student's evaluation. This meeting will be scheduled within 45 school days from the day the Section 504 evaluation consent form is returned.

Please list concerns or information you may have that could aid in an evaluation for your child, if applicable. (Please include consultations with doctors, medication(s), or other helpful information.)

I hereby give my written consent to have my student evaluated for possible Section 504 eligibility.

--by typing my signature below, I give consent via authorized electronic signature.

Parent/Legal Guardian Signature and Date: