

Section 504 Practice Guide



Idaho Department of Education
SECTION 504

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Disclaimer: The information provided is intended as general guidance; consult with the Idaho Department of Education or your LEA’s attorney for specific legal advice related to compliance with state and federal mandates.

Section 504 Overview

A PRACTICE GUIDE

SECTION 504 OVERVIEW

Section 504 Purpose

Section 504 of the Rehabilitation Act provides protection against disability-based discrimination. The law says that “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 benefits of**, or be **subjected to discrimination** under any program or activity receiving Federal financial assistance” 29 U.S.C. 794(a).

Section 504 is about access to the same programs, activities, and benefits that are available to non-disabled individuals. In schools, this includes but is not limited to academic instruction, non-academic services, extracurricular activities and offerings.

***The law could reasonably be read as:** No student shall be excluded from, denied the benefits of, or be subject to discrimination in academic instruction, non-academic services, extracurricular activities, and other services provided by the school district because of the impact of their disability.*

Students who are eligible for special education and related services through the *Individuals with Disabilities Education Act (IDEA)* are also eligible for protection under Section 504. However, not all students who are eligible under Section 504 are eligible under IDEA. This guide will primarily address the second group.

***IMPORTANT NOTE:** Procedurally, Section 504 is less defined than IDEA. To safeguard the rights of students and parents, it is recommended that Section 504 procedures align closely with those of the IDEA in most cases.*

Every LEA is required to have Section 504 procedures in place, including designating a Section 504 Coordinator. The Coordinator is responsible for implementing these procedures, ensuring legal compliance, and serving as the point of contact for parents and students. This role is crucial in coordinating accommodations, addressing grievances, and training school staff to support the rights and educational needs of students with disabilities.

Section 504 Team

The Section 504 Team is the team of individuals who will participate in the evaluation, determine eligibility, and develop a Section 504 Plan when needed. Section 504 requires that a “group of knowledgeable persons draw upon information from a variety of sources” to make Section 504 decisions. While there are no specific requirements for team membership, it is strongly recommended that teams are comprised of these key members:

- Student (when appropriate)
- **Parent/Guardian** or Adult Student
- General Education Teacher
- Section 504 Case Manager
- Administrative Representative
- Other individuals who are knowledgeable about the student, the disability, assessments or data being reviewed, placement options, or other area of expertise that will help with the decision-making process

(OCR 2016, p. 6; Education Law Solutions 2023, pp. 10-11)

Section 504 Evaluation and Eligibility

SECTION 504 EVALUATION AND ELIGIBILITY REQUIREMENTS

Section 504 Child Find

Districts are responsible for the active evaluation and identification of students with disabilities who may qualify for protection and/or require support under Section 504. (guide 44) Districts may opt to implement Child Find procedures similar to those established by the district to meet IDEA Child Find obligations or develop separate procedures.

Parents may request an evaluation for Section 504 eligibility; however, the District has the primary responsibility for the timely identification of students who may need an evaluation (Education Law Solutions 2023, p.12)

A medical or clinical diagnosis is not necessarily sufficient to trigger a district's Child Find obligations. However, knowledge of such a diagnosis should indicate to the District that the student may need to be monitored.

Section 504 Consent and Evaluation

Consent

Districts are required to obtain informed parent consent for the initial evaluation. Section 504 does not specifically mention which type of consent meets this requirement; however, the *Office of Civil Rights (OCR)* recognizes **written** consent as compliance.

Written consent **is** required:

- before conducting an initial evaluation, and
- before conducting internal assessments.

Written consent **is not** required:

- for reevaluations unless the school will conduct new assessments as part of the evaluation;
- to review existing information from the student's educational record; or
- to review information provided by parents or clinical providers.

(OCR 2016, p. 19; Education Law Solutions 2023, p. 14)

Evaluation

Evaluation is the process of gathering all relevant information about the student, the disability or disabilities being considered, and the impact any disability has on a major life activity. An evaluation includes information from a variety of sources, formal or informal, which may or may not include assessments conducted by the school. The presence of a medical or clinical diagnosis does not take the place of an evaluation. The diagnosis may be considered as one piece of evidence, but it is not sufficient on its own to determine eligibility.

Important Note: *Remember the distinction between an **assessment** and an **evaluation**. An assessment is a “formal or informal process of systematically observing, gathering, and recording credible information to help answer evaluation questions and make decisions.” An evaluation uses all relevant information available, including information gathered through assessments, to make decisions such as determination of eligibility. (Idaho Special Education Manual, Glossary)*

Evaluation Timeline

Section 504 requires that an evaluation be conducted in “**a timely manner**” but does not provide a specific definition. *IDEA* has established that an initial evaluation must be completed within 60 days of receiving consent from the parent/guardian/adult student. Because *IDEA* has established that 60 calendar days is a reasonable timeline for evaluation, it is safe to assume that 60 calendar days is also a reasonable timeline for the completion of a Section 504 Evaluation. An initial Section 504 Evaluation should also meet this standard. (OCR 2016, p. 17; Education Law Solutions 2023, p. 13)

Section 504 Eligibility

Any student who has a disability as fined by Section 504 that substantially limits one or more major life activity or major bodily function is eligible for protection from discrimination under Section 504. However, not every student who is eligible will require a formal, written plan.

Eligibility Criteria

When determining whether a student is eligible for Section 504 and whether a Section 504 Plan is needed, the team will consider the following questions:

- 1. Does the student have a disability or disabilities?**
- 2. Does the disability or disabilities substantially limit a major life activity or major bodily function for the student?**

If the answers to Questions #1 and #2 are **both** 'YES,' then the student is an eligible student under Section 504.

The team will then consider whether the student needs a Section 504 Plan by answering Question #3.

3. Does the student need accommodations, services, or supports to receive an equal educational opportunity?

1. Does the student have a disability or disabilities?

For the purpose of Section 504, a student with a disability:

- has a **physical or mental impairment** which substantially limits one or more major life activities (or major bodily functions);
- has a **record of such impairment**; or
- is **regarded as having such an impairment**.

This definition is intentionally broad to ensure that no individual with a disability is inappropriately excluded from the definition.

IMPORTANT NOTE: While it is helpful to have medical documentation or records as supporting evidence when determining whether a student is an eligible student under Section 504, a formal diagnosis is not required for a team to consider eligibility, find a student eligible, or provide needed accommodations, services, or supports through a Section 504 Plan. Absence of a medical diagnosis or documentation must not delay or deter the process the Section 504 eligibility process when it is suspected that the student may need special education or related services.

Transitory and minor impairments, defined as those lasting fewer than six months, are not considered disabilities under Section 504. However, schools are not restricted from providing support to these students. Schools are encouraged to offer additional assistance during this period, ensuring that all students receive the support they need to thrive, regardless of Section 504 eligibility. (OCR 2016, p. 8)

2. Does the disability or disabilities substantially limit a major life activity or major bodily function for the student?

The Section 504 Team must consider information from a variety of sources, such as current and past educational records and performance, medical records, parent and student input, observations, assessments conducted inside and outside of the school setting, teacher

input, and any other information that is relevant to determining eligibility and/or developing a plan for the student.

The determination of substantial limitation is:

- case-by-case;
- based on individualized evaluation and information from a variety of sources;
- a team decision; and
- must consider factors such as mitigating measures and episodic impairments.

A clinical or medical diagnosis of a physical or mental impairment does not automatically mean that the student is eligible under Section 504. The impairment must substantially limit one or more major life activities.

If a student is using **mitigating measures** such as medication, mobility devices, hearing aides, prosthetic devices, or other measures that may reduce the impact of the disability while in use, the Section 504 Team must consider whether the disability would substantially limit a major life activity or major bodily function if that mitigating measure was not in use. If yes, the impairment is Section 504 eligible. The student **may** or **may not** need a Section 504 Plan. (OCR 2016, p. 6)

The Section 504 Team must also consider **episodic impairments**. An episodic impairment may occur periodically or be in remission. The Section 504 Team must consider whether the impairment, when active, substantially limits a major life activity or major bodily function. If yes, the impairment is Section 504 eligible. The student **may** or **may not** need a Section 504 Plan. (OCR 2016, p. 7-8)

*If the answer to **either** question is **'NO,'** the student is not eligible under Section 504.*

Parents should be provided notice of this determination.

*If the answers to Questions #1 and #2 are **both 'YES,'** then the student is an eligible student under Section 504.*

The team will then consider whether the student needs a Section 504 Plan by answering Question #3.

3. Does the student need accommodations, supports, or services to receive an equal educational opportunity?

The Section 504 Team must consider whether the student needs a formal, written plan to document the needed supports, services, and/or accommodations to receive a **Free**

Appropriate Public Education (FAPE) and to receive an equal educational opportunity. (See Section 504 Plan Development and Implementation.)

*If the Team answers 'YES' to Question #3, then the student is eligible for protection under Section 504, and the Team must **develop a formal Section 504 Plan** to document needed accommodations, supports, or services.*

*If the Team answers 'NO' to Question #3, then the student is eligible for protection under Section 504 but **does not need a formal Section 504 Plan**. The Team must reconsider the need for a Section 504 Plan when appropriate.*

Important Note: *When considering whether an eligible student requires a Section 504 Plan, the team should consider the student's attendance. If the student is chronically absent or tardy for reasons related to the physical or mental impairment and educational performance is negatively affected, the student likely needs a Section 504 Plan to address this.*

ELIGIBILITY DETERMINATION

At the end of the eligibility process, the team will have made one of the following decisions:

- **Student is not eligible under Section 504.** If the student does not have a disability, has an impairment that is transitory and minor, **OR** has a disability that does not substantially limit a major life activity or major bodily function, then the student is not eligible for protection under Section 504. *The team must reconsider Section 504 eligibility if it is suspected that the student may be eligible at any time.*
- **Student is eligible under Section 504 but does not need a formal Section 504 Plan.** The student is eligible under Section 504 because there is a physical or mental impairment that is episodic, in remission, or has mitigating measures, but there is no current need for accommodations, services, or supports. *The student will receive manifestation determination, procedural safeguards, periodic re-evaluation and the nondiscrimination protections of Section 504. Should the need for accommodations, services, or supports arise, a Section 504 Team must convene to develop a Section 504 Plan.*
- **Student is eligible under Section 504 and requires a Section 504 Plan.** The student is eligible under Section 504 because there is a physical or mental impairment that substantially limits a major life activity and accommodations, supports, or services through a Section 504 Plan are required. *The student will receive manifestation determination, procedural safeguards, periodic re-evaluation and the nondiscrimination protections of Section 504.*

If a Section 504 Plan is required for the student, the Section 504 Team will discuss and document a formal plan for the student (see *Developing the Section 504 Plan*).

REEVALUATION

Although Section 504 does not explicitly define requirements for reevaluation, “periodic reevaluation” is required. Best practice would be to conduct a reevaluation at least every three years and annual review as outlined in *IDEA* to ensure that the student’s eligibility documentation and Section 504 Plan address the most current needs of the student.

Reevaluation is also required prior to significant changes in placement. **Significant changes in placement** include:

- Exclusion from the educational program of more than 10 consecutive school days;
- A series of short-term exclusions, including informal removals, of fewer than 10 days each that total (cumulative) more than 10 school days and create a pattern of removal; and
- Removal or assignment to a program or environment more restrictive than the student’s previous environment and/or more restrictive than the educational environment(s) available to non-disabled peers.

(OCR 2016, p. 22; Education Law Solutions 2023, pp. 13, 15, 19)

QUICK STEPS: SECTION 504 EVALUATION AND ELIGIBILITY

Step 1: Consent and Procedural Safeguards

- Provide Section 504 *Procedural Safeguards Notice* to parent/adult student.
- Obtain written consent from parent/adult student for initial evaluation and/or for any new assessments conducted by the district/charter.

Step 2: Gather the Section 504 Team

- Gather a group of individuals who are knowledgeable about the student and/or the disability(s) being considered, to include:
 - Parent/adult student
 - General Education teacher
 - Section 504 Case Manager
 - Administrator
 - Other individuals with knowledge of the student, the disability(s), assessment results, or other circumstances relevant to Section 504 Team decisions.

Step 3: Conduct Section 504 Evaluation

- Use information from a variety of sources, which may include:
 - Assessments conducted by the district/charter;
 - Medical or clinical reports;
 - Parent or teacher input;
 - Observations;
 - Assessment or screening data;
 - File review; or
 - Other relevant sources of information.
- Answer the following questions:
 1. *Does the student have a disability or disabilities?*
 2. *Does the disability or disabilities substantially limit a major life activity or major bodily function for the student?*

If the answers to Questions #1 and #2 are **both** 'YES,' then the student is an eligible student under Section 504. The team will then consider whether the student needs a Section 504 Plan by answering Question #3.

3. Does the student need accommodations, services, or supports to receive an equal educational opportunity?

Step 4: Determine Section 504 Eligibility and Need for a Formal Plan

The Section 504 Team will make one (1) of three (3) determinations:

- **Student is not eligible under Section 504.** If the student does not have a disability, has an impairment that is transitory and minor, **OR** has a disability that does not substantially limit a major life activity and major bodily function, then the student is not eligible for protection under Section 504. The team must reconsider Section 504 eligibility if it is suspected that the student may be eligible at any time. (Provide **Written Notice** to Parent and STOP HERE).

OR

- **Student is eligible under Section 504 but does not need a formal Section 504 Plan.** The student is eligible under Section 504 because there is a physical or mental impairment that is episodic, in remission, or has mitigating measures, but there is no current need for *accommodations, services, or supports*. The student will receive *manifestation determination, procedural safeguards, periodic re-evaluation and the nondiscrimination protections of Section 504*. Should the need for *accommodations, services, or supports* arise, a Section 504 Team will convene to develop a Section 504 Plan. (Provide **Written Notice** to Parent, discuss how student situation will be monitored and rights ensured, and STOP HERE).

OR

- **Student is eligible under Section 504 and requires a Section 504 Plan.** The student is eligible under Section 504 because there is a physical or mental impairment that substantially limits a major life activity *and accommodations, services, or supports* through a Section 504 Plan are required. The student will receive *manifestation determination, procedural safeguards, periodic re-evaluation and the nondiscrimination protections of Section 504*. (Move to Developing the **Section 504 Plan**).

Developing the Section 504 Plan

SECTION 504 FAPE REQUIREMENTS

Students eligible under Section 504 with or without the need for a formal Section 504 Plan are entitled to **Free Appropriate Public Education (FAPE)**. (Education Law Solutions 2023, pp. 8-9)

At the end of the eligibility process, the team will have made one of the following decisions:

- Student is not eligible under Section 504.
- Student is eligible under Section 504 but does not need a formal Section 504 Plan.
- Student is eligible under Section 504 and requires a Section 504 Plan.

Students eligible under Section 504 but not needing a Section 504 Plan remain eligible for the protections of Section 504. These include manifestation determination, procedural safeguards, and non-discrimination protections. If a student is eligible under Section 504 but does not need a formal plan, the team should discuss and document how the student's situation will be monitored.

Ensuring FAPE to students eligible under Section 504 means that the student is provided aids, benefits, or services that are as effective as those provided to others. To be equally effective, aids, benefits, or services must be afforded an equal opportunity to:

- obtain the same result;
- gain the same benefit; or
- reach the same level of achievement in the **Least Restrictive Environment**

as students without disabilities. These aids, benefits, and services include instruction and support for academics, behavior, communication, motor, social, life skills, and more. They ensure that students have equal access to all facets of the educational experience, including participation in extracurricular activities such as music programs, sports, theater, debate, and other programs and clubs that are available to all students. Special considerations such as transportation, assistive technology, nursing, counseling, and arrangement of the physical environment must also be considered and addressed.

CAUTION: *Although teams often associate classroom accommodations with Section 504 Plans, the regulations do not restrict the types of aids, benefits, and services to only accommodations. Teams should avoid placing unnecessary or arbitrary limits on what may be provided through a Section 504 Plan. Instead, they should work collaboratively to address the unique needs of each student and ensure that all necessary supports are provided.*

SECTION 504 PLAN

Section 504 does not explicitly outline a requirement for a formal Section 504 Plan. However, the provision of special services and supports determined necessary by the Section 504 Team is required. It is best practice and in the best interest of all parties to outline the agreed-upon services and supports in a formal plan so that that parents, the district, and the student understand the plan.

A Section 504 Plan should be:

- Clear—Vague language, such as “preferential seating” should be clarified to ensure that team members and Plan implementers understand the intention.
 - **Example:** The team should clarify whether “preferential seating” for this student means sitting near the teacher’s desk, sitting in close proximity to where the teacher provides instruction, sitting near peer support, or something else.
 - **Example:** The team should clarify what “extended time for assignments” means. It may mean that the student can turn assignments in late, or it may mean that a student is allowed to take an assignment home that would normally need to be completed in class. Or it may mean something else entirely.
- Detailed—Language in the Section 504 Plan should provide enough detail so that the team and those implementing the Plan understand the *who*, *what*, *where*, and *when* for each support and/or service listed.
 - **Example:** If the Section 504 Plan allows for tests to be read to the student, the Plan should also provide the details of *who* will read the test to the student, *what* should be read to the student (just directions or passages as well), *where* this will take place, and *when* this accommodation will apply.
- Individualized—Districts should not propose or offer services or supports based on a predetermined set of accommodations that are “available” to the student, either based on typical practice or the student’s disability. Each Section 504 Plan should be created based on the student’s individual circumstances and unique needs as determined by the team.
 - **Example:** The services and supports needed by one student with ADHD will not be the same as services and supports needed by other students with ADHD. A district should not outline a prescribed set of accommodations or supports available to students with ADHD.
 - **Example:** Services and supports that have been effective for other students may not be effective for all students. Districts may not deny a service or accommodation based solely on the fact that the district “does not provide” it. If it is necessary for the student to access FAPE and receive equal access, then the district must consider that service or accommodation or consider other services or accommodations that will meet the same need.

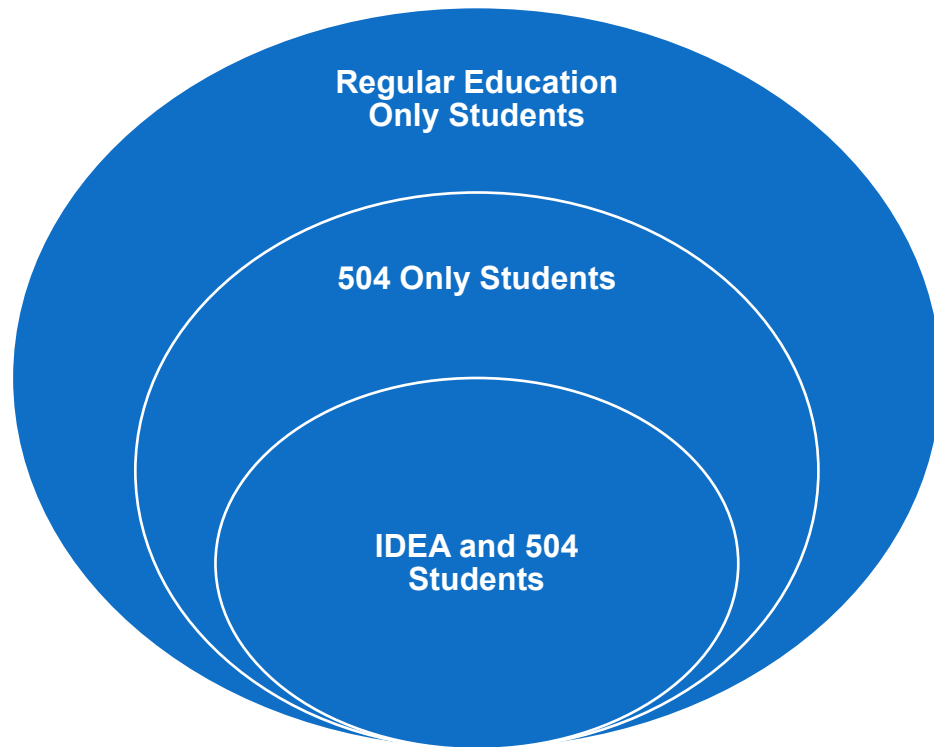
ACCOMMODATIONS, SERVICES, OR SUPPORTS

Section 504 Plans do more than provide accommodations that do not require direct instruction or adaptations. These plans can include a wide range of services such as related services, counseling services, health and nursing services, and educational services. Under Section 504, these services must be provided if they are necessary to ensure a Free Appropriate Public Education (FAPE) for a student with a disability. FAPE under Section 504 encompasses regular education, special education, related aids and services, and accommodations, ensuring comprehensive support for students' diverse needs.

Given this fact, some teams may find it difficult to determine when a Section 504 Plan is appropriate and when an IEP is the best option. Remember that Section 504 focuses on access to the same programs, activities, and benefits that are available to non-disabled individuals and the prevention of discrimination based on disability. IDEA further ensures that eligible students “have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living” (CFR 300.1). IDEA more clearly defines the rights of parents and students, provides additional protections not available under Section 504, is more closely monitored at the state and federal levels. If a student is meets (or is suspected to meet) all three prongs of eligibility for special education and related services and is eligible under IDEA, then the student should receive services, supports, and accommodations through the IEP.

A few things that teams may consider when making this decision include:

- Students who are eligible for special education and related services under IDEA are also protected under Section 504. The reverse is not necessarily true.
- Does the student meet (or is it suspected that the student meets) all three prongs of eligibility for special education? If yes, then the student is most appropriate served through an IEP.
- Does the student require substantial amounts of time outside the classroom for specialized instruction? If yes, has the team considered whether the student meets the three prongs of eligibility for special education?
- Are the supports and services necessary to ensure equitable access and provide FAPE for the student?



The Office of Civil Rights emphasizes that school districts cannot provide a standardized set of aids and services to all students with a particular disability. A 504 Team must thoroughly review and document evaluative data from various sources to determine each student’s specific needs for regular or special education. The team should focus on whether the services are necessary to ensure that a student with a disability has an equal opportunity to succeed in the classroom, rather than an extra advantage.

HEALTH PLANS AND SECTION 504

A health plan is typically a plan that specifically addresses the health or medical-related needs of a student and is often managed by the school nurse or health staff. A health plan may be developed as part of an IEP, a Section 504 Plan, or as a stand-alone plan. A student should not have a stand-alone health plan if the student also has a Section 504 Plan or an IEP. The health plan should be incorporated into those processes when applicable to ensure that the totality of the student’s needs are addressed in a comprehensive way.

If a student has a Section 504 Plan or an IEP, their health plan should be integrated into these existing plans. The health plan should never be standalone; instead, it must be referenced within the Section 504 Plan or IEP. This integration should address the frequency, intensity, and complexity of the required health services, as well as the health and safety risks to the student

if these services are not provided or are incorrectly administered. Additionally, the health plan should consider the student's need for other services and accommodation from the school.

IMPORTANT NOTE: *Any time a student has a physical or mental impairment that substantially limits a major life activity or major bodily function, the student is eligible for protections under Section 504. Whether the document or plan is named a health plan or a Section 504 Plan is irrelevant. In many cases, the student's health plan may actually be a Section 504 Plan as well.*

EXTRACURRICULAR ACTIVITIES AND SECTION 504

School-sponsored, non-curricular activities and athletics are part of the school's program. This includes clubs, field trips, sports, assemblies, music, theater, art programs, and other offerings. Students with disabilities must be afforded an equal opportunity to participate. If a student is denied the opportunity to participate in or access the benefits of these programs because of a disability, the student may have experienced discrimination in violation of Section 504 of the Rehabilitation Act.

This does not mean that a student with a disability is guaranteed participation in competitive or selective programs offered by the school. In other words, a student with a disability is not guaranteed to "make the team" when tryouts or specific criteria are required for selection. Teams or programs may have competitive criteria as long as the criteria is not discriminatory. (OCR 2016, p. 27).

Examples:

A school team has a policy for participation that includes a grade requirement. Students must have Cs or higher in each class to participate. Johnny has a learning disability and has fallen behind in some of his classes, dropping one grade to a D. The school should consider whether Johnny does not meet the criteria due to the effects of his disability. If so, the school should consider whether a modification to the requirements and/or additional supports for Johnny to meet the criteria might be necessary to ensure that the policy is not discriminatory.

Janie is a student who has a Section 504 Plan. She has been kicked off of the volleyball team for social problems between her and a teammate. These social skills problems are similar to problems that Janie has during the regular school day and are addressed through a social skills group. The problems with her teammate may be related to her disability. Kicking her off the team without a Manifestation Determination would likely be a discriminatory action.

DISCIPLINE

The U.S. Department of Education has issued extensive guidance on student discipline under both Section 504 and IDEA, [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973](#). The majority of IDEA rules for disciplining students with disabilities also apply to 504 students. Notably, neither the statute nor its regulations specifically mention discipline for students with disabilities, and the term "manifestation determination" is not found in Section 504 or its regulations. However, the Office for Civil Rights (OCR) has interpreted the regulations to require an "evaluation" in the form of a manifestation determination whenever a 504 student's placement is significantly changed due to disciplinary removals for violations of the student code of conduct.

The Idaho Department of Education has also provided guidance and resources related to discipline and student with disabilities, such as the [Manifestation Determination Flowchart](#), [Manifestation Determination Practice Guide](#), and the [Educator's Guide to Student Discipline and Supports](#).

WRITTEN NOTICE

School districts must provide notice to parents explaining evaluation and placement decisions affecting their children (OCR FAQ 2023, p. 10). This requirement is similar to the Written Notice requirement under IDEA, although it is less clearly defined. Following IDEA guidelines for Written Notice as it relates to Section 504 would result in compliant practice.

Parents must also be informed of their right to review educational records and appeal any decision related to evaluation and placement. This requirement may be met through the provision of *Section 504 Procedural Safeguards* at the beginning of the eligibility and evaluation process.

PERIODIC REVIEW OF THE SECTION 504 PLAN

While Section 504 does not specifically define how and when a Section 504 Plan must be reviewed or updated, applying the rules of IDEA is the safest option for districts, is recommended in federal guidance, and has been supported by the Office of Civil Rights (OCR). Teams should consider the need to review and/or update Section 504 Plans:

- Annually,
- When changes are needed,
- By request of a team member,
- When current plan is not working, and
- Prior to transitions from grade-to-grade, school-to-school, or district-to-district.

TRANSFER STUDENTS

When a student transfers between schools, districts, and/or states, they continue to have the right to protection under Section 504. When an eligible student transfers into a new school or district, the receiving school must review the documentation, including the Section 504 Plan, if applicable. The school must then either implement the plan or reevaluate the student's eligibility. Districts may benefit from establishing procedures similar to those used for a transfer students with an IEP to ensure compliance.

PRIVATE SCHOOLS

K-12 private schools are obligated to comply with Section 504 only if they receive federal funding. Section 504 regulations say that federal financial assistance includes any grant, loan, contract, or other type of support provided by the U.S. Department of Education. Any private school that receives federal financial assistance must adhere to the regulations outlined in 34 CFR 104.39, which apply to entities operating private elementary or secondary education programs. This includes both sectarian and non-sectarian schools.

Section 504 Key Terms

DEFINITIONS OF KEY TERMS

Terms are listed in the order in which they appear in the guidance document.

Section 504 Team

Section 504 Team refers to the “group of knowledgeable persons” who will “draw upon information from a variety of sources” to make decisions. Although not further defined by Section 504, it is recommended that this team include:

- Student (when appropriate)
- Parent/Guardian or Adult Student
- General Education Teacher
- Section 504 Case Manager
- Administrative Representative
- Other individuals who are knowledgeable about the student, the disability, assessments or data being reviewed, or in any other area of expertise that will help with the decision-making process.

Parent

Parent, according to the *Family Educational Rights and Privacy Act* (FERPA), means natural parents, a guardian, or an individual acting as a parent in the absence of a parent or a guardian. The *Individuals with Disabilities Education Act* (IDEA) defines a parent as:

1. a biological or adoptive parent of a child;
2. a foster parent who has lived with the child for six (6) or more months;
3. a guardian generally authorized to act as the child’ parent, or authorized to make educational decisions for the student;
4. an individual acting in the place of a biological parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
5. a surrogate parent who has been appointed by the school district.

Timely evaluation for Section 504

Idaho’s standard for *IDEA* is that “the time between receiving consent for initial assessment and determining eligibility cannot exceed sixty (60) calendar days, excluding periods when regular school is not in session for five (5) or more consecutive school days.” An initial Section 504 Evaluation should also meet this standard.

Disability under Section 504

For the purpose of Section 504, a student with a disability:

- has a **physical or mental impairment** which substantially limits one or more major life activities (or major bodily functions);
- has a **record of such impairment**; or
- is **regarded as having such an impairment**.

Physical or mental impairment

A physical or mental impairment means any:

- physiological disorder or condition;
- cosmetic disfigurement;
- anatomical loss affecting one of more body systems, including neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or
- mental or psychological disorder.

Record of such impairment

Record of a disability means the student either has a history of a disability or has been misclassified as having a mental or physical impairment that substantially limits a major life activity or major bodily function.

Regarded as having a disability

Regarded as having a disability means that a student who does not have a disability may be eligible under Section 504 if the student is treated by others as having a disability.

Transitory and minor impairment

A transitory impairment means that the physical or mental impairment has an actual or expected duration of six (6) months or less. If an impairment is transitory and minor, it is not considered a disability even if that student is treated by others as having a disability during this time. This impairment would not be Section 504 eligible. However, nothing prevents schools from going above and beyond to assist and support a student.

Substantial Limitation

Substantial limitation is determined on a case-by-case basis by the Section 504 Team drawing from a variety of sources of information.

Major life activity

Major life activities include*:

- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working

Regulating impulses, attention, emotional responses, and other executive skills can reasonably be considered to be “major life activities.”

Major bodily function

Major bodily functions include*:

- bowel
- bladder
- brain
- normal cell growth
- immune system
- endocrine system
- respiratory system
- reproductive system
- circulatory system
- digestive system
- neurological system

IMPORTANT NOTE: *Neither of these lists includes every possible list of major life activities or major bodily functions. Section 504 Teams must not inappropriately limit eligibility for Section 504 and must consider major life activities and major bodily functions that are not listed, when appropriate.*

Mitigating measures

Mitigating measures means devices, equipment, modifications, learned behavior, medication, adaptations, or other methods that an individual might use to reduce the effects of an impairment. When determining whether an impairment substantially limits a major life activity or major bodily function, the Team must consider the impact of the disability if the mitigating measures were not in use. If substantial impacted would be present if the mitigating measures were not in use, the impairment is Section 504 eligible. The student **may** or **may not** need a Section 504 Plan.

Episodic impairment

Episodic impairment refers to an impairment that occurs periodically or is in remission. It is a disability if, when in an active state, it substantially limits a major life activity or major bodily

function. If the impairment substantially limits a major life activity or major bodily function when in an active state, the impairment is Section 504 eligible. The student *may* or *may not* need a Section 504 Plan.

Free Appropriate Public Education (FAPE)

The definition of FAPE under the IDEA means special education and related services that:

- are provided at public expense (free);
- are provided in conformity with an appropriately developed individualized education program, or IEP (appropriate);
- are provided under public supervision (public); and
- include an appropriate preschool, elementary, and secondary education that meets the education standards, regulations, and administrative policies and procedures issued by the State Department of Education (education).

[*Idaho Special Education Manual*](#), Chapter 2, Section 1

Ensuring FAPE to students eligible under Section 504 means that the student is provided aids, benefits, or services that are as effective as those provided to others. To be equally effective, aids, benefits, or services must be afforded an equal opportunity to:

- obtain the same result;
- gain the same benefit; or
- reach the same level of achievement in the Least Restrictive Environment.

Significant Change in Placement

- Exclusion from the educational program of more than 10 consecutive school days;
- A series of short-term exclusions, including informal removals, of fewer than 10 days each that total (cumulative) more than 10 school days and create a pattern of removal; or
- Removal or assignment to a program or environment more restrictive than the student's previous environment and/or more restrictive than the educational environment(s) available to non-disabled peers.

Section 504 Plan

A formal, written plan documenting the services, supports, and accommodations required for an eligible student to achieve equal access to education.

Least Restrictive Environment

Students with disabilities must be educated with students who do not have disabilities to the maximum extent appropriate to the needs of the student with the disability.

References and Resources

- Education Law Solutions. 2007-2023. [Student Rights Section 504](#)
- Education Law Solutions. 2023. [Student Rights Section 504](#) ppt
- Idaho Department of Education. 2023. [Manifestation Determination Flowchart](#)
- Idaho Department of Education. 2024. [Manifestation Determination Practice Guide](#)
- Idaho Department of Education. 2020. [The Educator's Guide to Student Discipline and Supports](#)
- Richards, Lindsay, & Martin L.L.P. 2017. [An Overview of Section 504](#)
- US Department of Education Office for Civil Rights (OCR). December 2016. [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#)
- US Department of Education Office for Civil Rights (OCR), July 2023. [Protecting Students with Disabilities: Frequently Asked Questions about Section 504 and the Education of Children with Disabilities.](#)
- US Department of Education Office for Civil Rights (OCR). July 2022. [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973](#)

For Questions Contact

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This guide was adapted from the [Parent and Educator Guide to Section 504 in Public Elementary and Secondary Schools](#) from the U.S. Department of Education Office for Civil Rights.