

# **Section 504 Handbook**

Easthampton Public Schools  
Revised, June 2023

## OVERVIEW

Section 504 of the Rehabilitation Act of 1973 is a federal statute that prohibits discrimination based upon a disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Section 504 regulations require a school district to provide a free and appropriate public education (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature of the severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

### Who has a Disability?

An individual may be considered disabled under the definition of Section 504 if the individual:

1. Has a mental or physical impairment, which substantially limits one or more major life activities. The term does not cover children disadvantaged by cultural, environmental or economic factors.
2. Has a record or history of such impairment; or
3. Is regarded as having such an impairment.

### What are Major Life Activities?

Major life activities include functions such as (this is not an exhaustive list):

Walking	Seeing
Speaking	Learning
Caring for one's self	Working
Hearing	Breathing
Performing manual tasks	

The above criterion must be justified with evaluative data.

### What does "substantially limits" mean?

Substantially limits means the student is unable to or is significantly restricted as to the condition, manner, or duration under which he/she can perform the major life activity as compared to the average person. The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulatory provision requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

Information from the Office for Civil Rights, based upon the 2008 amendments to the Americans with Disabilities Act (ADA), clarifies that a *temporary impairment* does not constitute as a disability except under certain conditions. Along with the conditions as discussed in the 3-prong eligibility process, the expected duration of the impairment needs to be considered. Through the amendment of ADA, Congress determined that the duration of an impairment expected to last less than 6 months does not constitute a disability.

### **Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?**

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity. Other sources to be considered, along with the medical diagnosis, include aptitude and achievement tests, educator recommendations, physical condition, social and cultural background, and adaptive behavior. Section 504 regulations require school districts to draw upon a variety of sources in interpreting evaluation data and making placement decisions.

### **Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?**

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity. For example, a student who has a physical or mental impairment would not be considered a student in need of services under Section 504 if the impairment does not in any way limit the student's ability to learn or other major life activity, or only results in some minor limitation in that regard.

## **The Process**

Easthampton Public Schools has a district-level Section 504 Coordinator as well as school-based Section 504 Coordinators. For the purposes of this document, Coordinator shall refer to the school-based coordinators unless otherwise noted. The Coordinator will be responsible to implement the eligibility process. The Coordinator will determine a Team for each student based upon the nature of the suspected disability and the presenting questions regarding the student's needs. A 504 Eligibility Team consists of people who have knowledge about (1) the student, (2) the disability, (3) interpretation of the evaluation data, (4) someone who can commit school district resources for accommodations required.

### **Step 1. Referral**

A parent/guardian as well as other individuals like the student's physician, may refer the student for an evaluation under Section 504. This referral shall be made to the building principal. The district requests that this referral be made in writing.

Educators concerned about a student having a disability should first consider referring the student to the Student Support Team (SST). Questions about a 504 referral should be directed to the principal or district level 504 coordinator. It is generally the SST that makes a school referral for a Section 504 Evaluation.

### **Step 2. Evaluation and Documentation**

Evaluations will be proposed after school personnel review the referral information. When the school initiates the referral, the 504 Coordinator shall contact the parent/guardian to review the concerns and the 504 process. An evaluation consent form is provided to the parent/guardian describing the proposed evaluation; this evaluation may include school district assessments and review of other relevant information, e.g. grades, review of records, health information, and classroom participation and performance. The Notice of Parent/Student Rights is included in this mailing. The evaluation process may include formal testing conducted by highly credentialed school personnel.

There are times when a parent/guardian may present to the school district a report from an independent evaluator. Although the Team will consider the findings from independent educational evaluations, the Easthampton Public Schools reserves the right to conduct its own evaluations.

### **Step 3. Team Review to Determine Eligibility**

The 504 Eligibility Team meeting will be scheduled no later than 45 school working days from the receipt of the signed consent to determine eligibility for a Section 504 Plan. The entire Team will consider all provided assessment reports and information from the variety of sources. The 3-pronged eligibility criteria (1. The student has a mental or physical impairment that, 2. substantially limits, 3. a major life activity) will guide the process to determine if a student has a disability under Section 504.

Questions that the Team will consider at the meeting will include:

- What is the nature and severity of the impairment?
- What is the suspected duration of the impairment?
- How has the student responded to any prior interventions?
- Does the student consistently need significant changes made to the curriculum and/or physical school environment?

Should the 504 Eligibility Team determine a student is eligible for a Section 504 Plan, the Team will develop the plan collaboratively. Accommodations and supports included in the Section 504 Plan will:

- Be considered as necessary.
- Be determined by the Team.
- Not be developed to provide advantage.
- Not fundamentally alter the program, standards, or what students are supposed to know and be able to do.

The 504 Coordinator prepares the written plan for parent/guardian review and consent. The Notice of Parent/Student Rights is included in this mailing.

Upon the district's receipt of the signed plan, it shall be implemented immediately. All educators and other school personnel with a "need to know" status will be informed of the Plan. The principal is designated to determine which educators and school personnel are required to be provided with 504 information.

Should the Team find the student not eligible for a Section 504 Plan, the Team will encourage the student and parent/guardian to discuss with the educators 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 parent/guardian 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.

### **Step 4: Review and Reevaluation**

Review: A 504 plan is reviewed annually. The district believes that parent/guardian attendance is an essential component of the process. The district shall make reasonable efforts to ensure parent participation. A meeting

invitation shall be mailed to the parent/guardian via postal mail. Additional follow up contact may include phone calls and/or email.

Reevaluation: Section 504 requires a periodic reevaluation. Parent/guardian consent is not required for a reevaluation. The 504 Coordinator shall discuss a reevaluation with the parent/guardian before it begins.

### **Reconvening the 504 Team**

When a student with a Section 504 plan has a *substantial change in circumstances*, the Section 504 Team shall convene. These changes can include a sudden change in grades or attendance, a new area of difficulty in school related to social/emotional functioning, or behavioral challenges.

### **Where is the written plan kept?**

The written Section 504 plan is housed in the student's cumulative folder. Educators and providers are also furnished with a copy through the Student Information System.

### **Must parent/guardian consent be obtained prior to conducting an initial evaluation?**

Yes.

### **What if a parent/guardian will not provide written consent to an initial evaluation under the Individuals with Disabilities Education Act (IDEA), but requests a Section 504 plan for a student without further evaluation?**

A school district **must** evaluate a student prior to providing services under Section 504. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and the school district suspects a student has a disability, the IDEA and Section 504 provide that school districts may use due process hearing procedures to seek to override the parents' denial of consent

### **Can the 504 meeting be held if the parent/guardian is not present?**

Yes. Neither Section 504 nor its implementing regulations specifically require that parents/guardians be members of a 504 team. However, the district believes that parent/guardian participation is an essential component of the process. The district shall make reasonable efforts to ensure parent/guardian participation.

### **How is it determined that a student no longer requires a Section 504 Plan?**

If it is suspected that the student no longer requires protections under Section 504, then the Section 504 Coordinator shall take steps to complete a reevaluation. Once the reevaluation is completed and the team is in agreement, a student may exit from a Section 504 Plan.

### **If the parent/guardian wishes to withdraw the student from a Section 504 plan, what can the school district do to ensure continuation of services?**

The school district may initiate a Section 504 due process hearing to resolve the dispute if the district believes the student needs the services in order to receive an appropriate education.

## **What are the responsibilities of the School-Based 504 Coordinator?**

It is the responsibility of the 504 Coordinator to oversee the 504 process which includes:

- Coordinating efforts to comply with Section 504 regulations.
- Guiding all parts of the 504 referral, evaluation, and service delivery process.
- Establishing Section 504 Teams and serves as chairperson.
- Maintaining a master list of students with Section 504 plans.
- Consulting with District 504 Coordinator as needed.

## **Must educators and other school staff comply with the 504 Plan?**

Yes. The Section 504 Plan is developed to provide those accommodations the student with a disability needs in order to access the curriculum and other school activities.

## **Does the law prohibit discrimination or harassment of children with disabilities in schools?**

Yes. There are three federal laws that prohibit discrimination against children with disabilities. The first two are Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA). The third is the Individuals with Disabilities Education Act (IDEA), which is applicable under Special Education.

Section 504 is a law that makes it illegal for programs that receive federal funds to discriminate against people with disabilities. It requires schools to make their classes, programs, and activities accessible to all students.

The ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. It is mentioned/used in the school setting less often than Section 504, but does apply and provides essentially the same rights and protections to students in schools (private as well as public).

## **Who enforces Section 504?**

The U.S. Department of Education's Office for Civil Rights (OCR) is responsible for enforcing the provisions of Section 504 as applied to publicly funded educational institutions. If an individual files a complaint against a school district, OCR will investigate the complaint under both Section 504 and the American Disabilities Act. The party may also file a court action.

## **PARENT/STUDENT RIGHTS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973**

The following is a description of the rights granted by federal law (**SECTION 504 of the REHABILITATION ACT of 1973**) to students with disabilities.

You have a right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her handicapping conditions.
2. Have the school district advise you of your rights under federal law.
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child receive a free appropriate public education. This includes the right to be educated with nonhandicapped students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided to nondisabled students;
6. Have your child receive special education and related services if s/he is found to be eligible under the Individual with Disabilities Education Act (IDEA) or **Section 504 of the Rehabilitation Act**;
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;
8. Have transportation provided to and from an alternate placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, education program, and placement;
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. A response from the school district to reasonable requests for explanations and interpretations of your child's records;
13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of a right to a hearing;

14. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing requests must be made to:

United States Department of Education  
Office for Civil Rights, Boston Office  
**8th Floor**  
**5 Post Office Square**  
**Boston, MA 02109-3921**  
**617-289-0111**

## **Discipline**

If your child has violated the school's disciplinary code, the school may suspend or remove your child from his or her current educational placement for no more than 10 consecutive school days in any school year. If your child possess, uses, sells, or solicits illegal drugs on school grounds or at a school sponsored event; carries a weapon to school or a school function; or inflicts serious bodily injury upon another person at school or a school-sponsored event, the school district may place your child in an interim alternative educational setting for up to 45 school days. If your child has been placed in an interim alternative education setting as a result of a disciplinary action, your child may remain in the interim setting for a period not to exceed 45 school days. Thereafter, your child will return to the previously agreed upon educational placement unless you or the district have initiated a hearing or civil rights action on the disciplinary action that the district took and a hearing officer or the Office for Civil Rights orders another placement, or you and the school agree to another placement.

Any time the school wishes to remove your child from his or her current educational placement for more than 10 consecutive school days in any school year, or if a student is removed for disciplinary reasons for more than a total of 10 days in any school year when a pattern of removal is occurring is a "change in placement." A change of placement invokes certain procedural protections under Section 504. These include the following:

- (a) Prior to any removal that constitutes a change in placement; the school district must reconvene the 504 Team for a meeting to develop a plan for conducting a functional behavioral assessment that will be used as a basis for developing specific strategies to address your child's problematic behavior. If a behavioral intervention plan has been previously developed, the Team will review it to make sure it is being implemented appropriately, and will modify it if necessary.
- (b) Prior to any disciplinary removal that constitutes a change in placement; the school district must inform you that the law requires that the school district consider whether or not the behavior that forms the basis for your child's disciplinary removal is related to his or her disability. This is called a "manifestation determination." Remember that you, as the parent, always have a right to participate as a member of the group of people making this determination.

Consideration of whether the behavior is a manifestation of the student's disability:



The law provides that the school district and the parent, along with relevant Team members, must consider all evaluation information, observational information, the student's Section 504 Plan and placement; and determine whether your child's behavior that prompted disciplinary removal was a manifestation of his or her disability. The behavior is considered a manifestation of your child's disability, or was a direct result of the school district's failure to implement his or her Section 504 Plan.

If the manifest determination decision is that the disciplinary behavior was related to your child's disability then your child may not be removed from the current educational placement (except in the case of a drug or weapon possession or use, or serious bodily injury to another) until the Section 504 team develops a new Section 504 Plan and decides upon a new placement and you consent to that new placement, or a Hearing Officer orders a removal from the current educational placement to another placement.

If the manifest determination is that the behavior was not related to your child's disability, then the school may suspend or otherwise discipline your child according to the school's code of conduct, except that for any period of removal exceeding 10 days the school district must provide your child with educational services that allow your child to continue to make educational progress. The school district must determine the educational services necessary and the manner and location for providing those services.

In the case of a disagreement with the Team's determination:

If you disagree with the Team's decision on the manifestation determination or with the decision relating to placement of your child in an interim alternative education setting or any other disciplinary action, you have the right to appeal the Team's decision by requesting an expedited hearing from the Bureau of Special Education Appeals or the Office for Civil Rights.

1. Ask for payment of reasonable attorney's fees if you are successful in your claim;
2. File a local grievance.

The person in the Easthampton Public Schools who is responsible for assuring that the school district complies with Section 504 is the Director of Special Education who can be reached at 413-529-1500 ext 129.