

MARSHALL PUBLIC SCHOOLS

SECTION 504

PARENT HANDBOOK



SECTION 504 OF THE REHABILITATION ACT

Introduction

This Guide to Section 504 is designed to give an overview of Section 504 of the Rehabilitation Act of 1973 as it pertains to Marshall Public Schools (MPS). While Section 504 defines the equal access requirements for both students and employees, this publication will focus on students. Please note that when working with disabled students, Section 504 serves the same purpose as the ADA (Americans with Disabilities Act). Consequently, this publication focuses solely on Section 504.

Section 504 of the American Rehabilitation Act of 1973 is Civil Rights legislation intended to prohibit discrimination and to protect the rights of individuals with disabilities. Section 504 states, “No otherwise qualified individual with a disability shall solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.” Since MPS receives federal dollars, it is required to provide eligible disabled students with equal access to services, programs, and activities offered by our district. Section 504 is a civil rights statute and not a special education statute. Therefore, it is the responsibility of regular education staff and building administration to implement those practices and procedures necessary for a school to fulfill the requirements of this law. It is also important to understand that schools receive no additional funding to implement Section 504 procedures or accommodations. At each school, the responsibility for insuring Section 504 compliance rests with the building principal or principal’s designee. Each school in our district has a designated Section 504 Contact who implements the Section 504 process and oversees all Section 504 accommodation plans.

Who Is an “Individual with Disabilities?”

Students with a disability, as defined by Section 504, are entitled to a free appropriate public education. An appropriate education for a Section 504 disabled student may require the provision of specific accommodations and/or related services consultation in order to meet the needs of the student. Section 504 focuses on insuring a level of access to educational services and the learning process for qualified disabled students that is equal to that given non-disabled students.

Students eligible for Section 504 accommodation plans must meet three criteria: 1) A mental or physical impairment 2) which substantially limits 3) one or more major life activities as compared to most people in the general population. It is important to understand that all three criteria must be present for a student to be eligible for a

Section 504 accommodation plan. Equally important, this disability must be why the student cannot equally access or receive benefit from the school's programs and services. The following is additional information on each of the three criteria.

1) Mental or physical impairment:

A mental impairment is any mental or psychological disorder such as: mental retardation, organic brain syndrome, emotional or mental illness.

A physical impairment is any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitor-urinary, hemic, lymphatic, skin and endocrine.

This criterion does not limit eligibility to specific diseases or categories of medical conditions. The law was intentionally written this way to avoid limiting the range of diseases or medical conditions that might be considered for Section 504 eligibility.

An impairment may be considered a disability even if it is controlled or managed with measures such as medication, medical devices, or other modifications. An impairment may be considered a disability even if it is intermittent, episodic, or in remission, or if the condition substantially limits a major life activity or major bodily function when it is in an active state.

2) Substantially limits:

The term "substantially limits" means:

- Unable to perform a major life activity that most people in the general population can perform; or
- Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which most people in the general population can perform that same major life activity.

The basis for evaluating this criterion is the impact a disability has on one or more of student's major life activities. It is important to understand that for a student to qualify for Section 504, the impairment must impose a considerable limitation on one or more major life activities. The eligibility team will consider the nature and severity of the disability as well as how long the disability is expected to last. Simply having a condition or disability does not automatically qualify a student for Section 504 protection. The condition must present a barrier to the student's ability to access the same educational

opportunities as a non-disabled student.

3) Major life activities:

Major life activities are considered essential to a person's daily functioning

Major life activities include such things as: seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, working, breathing, learning, reading, communicating, thinking, concentrating, caring for oneself, and performing manual tasks.

The operation of major bodily functions (e.g., the functions of the immune system, normal cell growth, and digestive, bowel, bladder, respiratory, circulatory, endocrine, neurological, brain, and reproductive functioning) count as major life activities.

Please note that this list of major life activities is not exhaustive.

Even if a student's impairment impacts a major life activity, they are only eligible under Section 504 if the disability prevents them from benefiting from the school's programs and activities.

The legal definition contained in Section 504 does not set forth a list of specific diseases and conditions that constitute physical or mental impairment because of the difficulty of ensuring the comprehensiveness of such a list. However, the definition includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; attention deficit disorder (ADD); attention deficit hyperactive disorder (ADHD); acquired immune deficiency syndrome (AIDS); and human immune deficiency virus (HIV) positive.

The federal regulations define an individual with a disability as any person who:

1. has a physical or mental impairment which substantially limits one or more major life activities,
2. Has a record of such impairment, or
3. Is regarded as having such an impairment. 34 C.F.R. §104.3(j)(1).

A physical or mental impairment means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:
 - neurological;
 - musculoskeletal;

- special sense organs;
 - respiratory, including speech organs;
 - cardiovascular;
 - reproductive,
 - digestive,
 - genito-urinary;
 - hemic and lymphatic;
 - skin; and
 - endocrine; or
2. Any mental or psychological disorder, such as
- Mental retardation
 - Organic brain syndrome,
 - Emotional or mental illness, or
 - Specific learning disabilities. 34 C.F.R. §104.3(j)(2)(i).

What Is The Individuals With Disabilities Education Act And How Is Section 504 Different?

The Individuals with Disabilities Education Act (IDEA) is a federal law governing special education (34 C.F.R. § 300). Because it is a grant statute, federal funds are provided for the education of students with disabilities who meet the eligibility criteria for one or more of thirteen categories. It requires a school district to provide a free and appropriate education (34 C.F.R. § 300.17).

While both IDEA and Section 504 mandate the provision of FAPE, IDEA defines FAPE as consisting of special education and related services, implemented on the basis of an Independent Educational Program (IEP). Under Section 504, FAPE may consist of either regular or special education and related aids and services, as implemented by any appropriate means, including, but not limited to, an IEP but is generally in the form of a Section 504 Plan (34 C.F.R. § 104.33). If, however, a student does not qualify for an IEP, he or she may qualify for a Section 504 Plan as determined below. IDEA requires that a child’s disability must adversely affect his or her education, requiring special education, whereas, in order to qualify under Section 504, a student must have a physical or mental impairment that substantially limits a major life activity or is regarded as having such impairment.

Section 504 also protects parents who have a disabling condition. For example, a district should provide an interpreter or some equivalent service to a parent who is deaf in order to ensure that the parent has an equal opportunity to participate in school-initiated activities.

What Is a “Major Life Activity?”

Major life activities, under Section 504, include caring for one’s self, performing manual tasks, seeing, hearing, sleeping, walking, standing, lifting, bending, speaking,

breathing, learning, reading, concentrating, thinking, communicating, working, and functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The disabling condition need only substantially limit one major life activity for the student to be eligible. 34 CFR 104.3(j).

Notice of Non-Discrimination

The Marshall Public Schools District does not discriminate against students, parents, employees, or the general public on the basis of race, color, national origin, gender, sexual orientation, disability, religion, or age.

NOTICE OF PROCEDURAL SAFEGUARDS
Notice of Parent/Student Rights in Identification, Evaluation, and
Placement of Individuals with Disabilities

In compliance with the procedural requirements of Section 504 of the Rehabilitation Act of 1973, hereinafter Section 504, the following Notice of Parent/Student Rights in Identification, Evaluation, and Placement shall be utilized in the Marshall Public Schools.

This document is provided to ensure that you are aware of the regulations regarding the identification, evaluation or placement under Section 504 that may pertain to your child. Should you have any questions, contact Mr. Jeremy Williams, the Section 504 coordinator. As the parents/guardians, you may also meet with the superintendent or a designee and/or the local school board to resolve any objections to the evaluation or educational placement of your child.

I. Section 504 is enforced by the U. S. Department of Education, Office for Civil Rights (OCR). If you need information about Section 504, the contact information is as follows:

Office for Civil Rights, Chicago Office (Region V)
U. S. Department of Education
500 W. Madison Street Suite 1475
Chicago, Illinois 60661
(312) 730-1560
FAX: (312) 730-1576
TDD: (312) 730-1609
Email: OCR.Chicago@ed.gov

II. The following is a description of some of the rights granted by this federal law pertaining to students with disabilities who are subject to identification, evaluation or placement under Section 504. (See 34 C.F.R. § 104 for a full compilation of regulations.)

- A. Your child is entitled to take part in and receive benefits from public education programs or activities without discrimination because of his or her disability. 34 C.F.R. §104.21
- B. Your child is entitled to receive a free appropriate public education regardless of the nature or severity of his or her disability. 34 C.F.R. § 104.33(a)

- C. Your child is entitled to receive regular or special education and related aids and services that are designed to meet his or her individual educational needs as adequately as the needs of students without disabilities. 34 C.F.R. § 104.33(b) Your child is entitled to receive free educational services except for those fees that are imposed on students without disabilities or their parents. 34 C.F.R. § 104.33(c) Your child is entitled to be educated with students without disabilities to the maximum extent appropriate to the needs of your child. 34 C.F.R. § 104.34(a)
- D. Your child is entitled to be educated in facilities and receive services and activities comparable to those provided to students without disabilities. 34 C.F.R. § 104.34(b)(c)
- E. Your child is entitled to an evaluation prior to an initial placement and any subsequent significant change in placement. 34 C.F.R. § 104.35(a)
- F. Your child is entitled to be evaluated and tested with procedures in accordance with regulations pertaining to evaluation procedures. 34 C.F.R. § 104.34(b)
- G. Your child is entitled to have evaluation data and placement decisions based upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. 34 C.F.R. § 104.35(c)(1)
- H. Your child is entitled to have interpretation of data and placement decisions based on evaluation procedures that ensure information is obtained from a variety of documented and carefully considered sources. 34 C.F.R. § 104.35(b)(c)(2)
- I. Your child is entitled to have placement decisions made by persons knowledgeable about your child, the meaning of evaluation data, and placement options. 34 C.F.R. § 104.35(c)(3)
- L. Your child is entitled to periodic evaluations. 34 C.F.R. § 104.35(d)
- M. Your child is entitled to an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district. 34 C.F.R. § 104.37
- N. You are entitled to notice prior to any action by the district pertaining to the identification, evaluation, or placement of your child. 34 C.F.R. § 104.36
- O. You are entitled to examine relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement. 34 C.F.R. § 104.36

P. You are entitled to request an impartial hearing and an appeal of any decisions or actions taken by the school district regarding your child's identification, evaluation, educational program, or placement. The school district will bear the costs for these due process procedures. You and your child may take part in these proceedings and have an attorney represent you. The following details the procedures:

i. If you disagree with the identification, evaluation, educational placement, or with the provisions of a free appropriate public education for your child, you may make a request for a hearing to the superintendent or the Section 504 coordinator, indicating the specific reason(s) for the request. Upon receipt of the request, the superintendent shall appoint the hearing officer.

ii. The school district may initiate a hearing regarding the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. The school district shall notify you of the specific reason(s) for the request.

iii. The school district shall conduct hearings within twenty (20) instructional days after it receives the request, unless the hearing officer grants an extension, and at a time and place reasonably convenient to you.

Q. You are entitled to request a review (appeal) of the hearing, should you not prevail.

The following details the procedure:

i. You or any party to the hearing may petition to review (appeal) the decision of the hearing officer. The request must specify the objections and be filed with the superintendent and the opposing party within twenty (20) instructional days of the date the hearing officer's decision is received. The school district must appoint an independent appeals officer to conduct an impartial review of the record as a whole. The officer may, at his/her election, conduct the review with or without oral argument. Such review shall be conducted within twenty (20) instructional days of the receipt of the petition to review, unless either party requests an extension of time.

ii. The appeals officer shall ensure that a transcript of the review is prepared and made available to any party upon request.

iii. Any party disagreeing with the decision of the appeals officer may appeal to a civil court with jurisdiction.

iv. A parent/guardian represented by legal counsel during the proceedings of a due process hearing, appeal, or civil action may be entitled to reimbursement of legal fees if the parent ultimately prevails.

This procedure does not deny the right of the grievant to file a formal complaint in federal court or with the U.S. Department of Education. Changes in the law, including timelines for filing a complaint, may affect your rights.

The person in this school district who is responsible for assuring that the school district is in compliance with Section 504 is the Section 504 Coordinator.

Mr. Jeremy Williams
401 S Saratoga
(507)537-6924

This document is not to be a substitute for legal advice. It contains portions of the Section 504 regulations. For a complete compilation of the law, see 34 C.F.R. Part 104.