

# CASE Collaborative Mandated Legal Training 2023-2024

504 Accommodation Plan



# 504 Accommodation Plan

- A legal document
- Compliance with the Rehabilitation Act of 1973 – a civil rights law to protect people with disabilities by:
  - eliminating barriers
  - allowing full participation in education
- Designed for implementation of general education accommodations, to assist students with impairments who are educated in the regular education setting.
- A 504 plan is not an Individualized Education Program (IEP).
- A 504 plan is not special education

# 504 Accommodations Plan

- What Is the Purpose of Section 504?
  - “Level the playing field”
  - Eliminate/protect against discrimination of persons with disabilities
- What Is the Difference Between Section 504 and IDEA?
  - IDEA - the provision of special education programs and services (e.g., modifications, specialized instruction).
  - 504 Accommodations Plans are developed, implemented, and reviewed by general educators.

# 504 Accommodations Plan

- **Provides:**
  - General education classroom accommodations
  - Short term instructional/remedial/therapeutic services
- **Funding**
  - Rehabilitation Act of 1973 does not provide any money for programs and agencies
  - It carries the threat of withholding federal funds from those that discriminate against students with disabilities.

# Roles and Responsibilities: 504 Committee

The chairperson of the committee is the school principal.

- The 504 Committee :
  - determines eligibility
  - oversees the successful implementation of the 504 Accommodation Plan
  - reviews the plan annually, and determines eligibility at least tri-annually.
- This committee may be configured differently at each school and for each student.
- The committee will include individuals knowledgeable about the needs of the student, the data being reviewed, and appropriate accommodation options.
- Special education administrators and faculty can have a supportive role on the 504 committee, however, 504s are a function of general education.

# Legal Responsibility

- All parties who sign off on the 504 plan are legally accountable for implementing and providing accommodations.
- A person who disagrees with the plan and refuses to sign may still be obligated to make the accommodations as outlined in the 504 plan.

# Roles and Responsibilities

- 504 Accommodations Plans are developed, implemented, and reviewed by general educators.
- The responsibility does not belong to special education.
- General education teachers must:
  - participate in meetings
  - supply pertinent data and documentation such as test scores, discipline referrals, and anecdotal information to assist in the writing of the plan.
  - are legally responsible to implement the designated accommodations and/or strategies on the plan. The classroom teacher and/or other professionals must maintain regular and consistent documentation to display that the school has attempted to implement the plan.

# Roles and Responsibilities

- Speech and language therapists, occupational therapists, physical therapists, psychologists, counselors, vision and hearing specialists, and special educators
  - Provide services: On a short term, or consultation basis
  - If a student requires specially designed instruction (special education) or related services on a regular basis to access the curriculum than an IEP eligibility process must be implemented.
    - Consult with the Student Services Coordinator



# Eligibility

- Student must have a documented impairment that substantially limits a major life activity.
  - 3 steps to determination:
    - 1. Have an Impairment
    - 2. Experience Substantial Limitation
    - 3. Impact on a Major life activity

# 1. Impairment

- In order to qualify for a 504 Accommodations Plan the student must first be a physical or mental impairment.

- May Include:

Autism, developmental delay, intellectual impairment, sensory impairment, neurological impairment, emotional disorder disabilities affecting behavioral controls, communication disorder, physical impairment, specific learning disorder, health impairments (including, but not limited to, ADD/ADHD, AIDS, tuberculosis, asthma, epilepsy, leukemia, arthritis, cancer, and diabetes), Cerebral Palsy, Tourette's Syndrome, Traumatic Brain Injury  
Students who are pregnant  
Students who are recovering from alcohol and/or drug addiction

# 1. Impairment

Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) defines a physical or mental impairment as 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 any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.

# 2. Substantial Limitation

- A student must demonstrate substantial limitation to qualify for a 504 Accommodations Plan.
  - “Unable to perform a major life activity that the average person 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 the average person in the general population can perform that same major life activity.”

## 2. Substantial Limitation

- No quantifiable standard given for “substantially limits.”
  - consider more than the student's grades.
  - both academic and nonacademic activities to be considered.
    - For example, if a student with diabetes is barred by the school from participating in class trips because of the impairment, the student's learning is "limited."

# Temporary Limitation

- Students with a temporary disability may demonstrate a physical impairment that substantially limits a major life activity.
  - The 504 Committee should determine whether the temporary impairment substantially limits one or more major life activities.
  - That determination must be made on a case-by-case basis, considering the nature, severity, duration or expected duration and the permanent or long term impact resulting from the impairment.

# 3. Major Life Activities

- Students with 504 Accommodations Plans have a disability that impacts a major life activity.
- Major life activities include caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

# 3. Major Life Activities

- Also.... eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.
- And.... major bodily functions that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.



# 3. Major Life Activities

- A student does not need to have a disability limiting learning to qualify for a 504 Accommodations Plan.
- Students may have a disability that in no way affects their ability to learn, yet they may need extra help of some kind to access learning.
- The phrase “major life activities” includes those basic activities that the average person in the general population can perform with little or no difficulty.

# Eligibility Determination

- Evaluation:
  - Establish whether or not the student has a qualifying disability
  - Most often use current information gathered by the district's evaluators
  - Can use information from other sources, such as classroom data or outside evaluations
  - Parental consent must be obtained prior to evaluation

# Eligibility Determination

- Determination:
  - Does the student have a physical or mental impairment that substantially limits one or more major life activities?
    - Examine data in answering all three questions
      - Does the student have an impairment?
      - Does the student experience substantial limitation due to the impairment?
      - Does the substantial limitation impact a major life activity?
  - If the answer to all 3 questions is yes, then the student is eligible for a 504 Accommodation Plan

# Common Misuses

- A parent and/or doctor presents the school with a disability diagnosis and a 504 Accommodations Plan is written without first determining if the disability causes significant impairment of a major life activity.
- A student is provided with a 504 Accommodations Plan solely because the parent wants the student to have additional time on college qualifying examinations (e.g. ACT, SAT).
- A student fails to qualify for special education support and is automatically signed up for a 504 accommodation plan without first qualifying him or her based on the Section 504 criteria.
- A student is automatically provided with a 504 Accommodations Plan when the student no longer qualifies for special education services without first qualifying him or her based on Section 504 criteria, which are different.
- A student is provided with a 504 Accommodations Plan as an alternative way to receive special education services because the parent refuses to “label” a student by including them in a special education program.

# Re-evaluation

- At least every three years
- Same questions
  - must establish that the student demonstrates a disability that “limits one or more major life activity” and needs classroom accommodations to access the general education curriculum.
- Use data from a variety of sources within and outside of the schools from formal and informal sources.

# Review and Revision

- Annual basis or more frequently if needed
- The purpose of a review is to add, subtract and/or modify student accommodations.
- Attendees:
  - The student's parents
  - Student, if appropriate.
  - General education teachers attend this meeting and contribute
  - Service Providers
- Student may stay on a 504 plan, move from a 504 Plan to an IEP, or be terminated from a 504 plan.

# Termination

- Review the student's needs, conduct current evaluations, and consider the three 504 eligibility criteria
  - (1) A mental or physical impairment
  - (2) which substantially limits,
  - (3) one or more major life activities
- Section 504 Plan Termination Form - this completed form is submitted to the parent for written consent, attached to the front of the accommodation plan.
- Like active plans, a terminated plan is kept in the student cumulative file.

# Parents' Rights

- Notice
  - Parents receive notice of actions regarding the identification, evaluation, and placement of their children.
  - Parents receive a Parents' Rights Statement.
- Consent
  - Schools need written parental consent prior to evaluation.
  - Consent is not required for the implementation of a plan following an evaluation.
  - Written parental receipt of notification is obtained before implementing a plan.
- Impartial Hearing
  - Department of Elementary and Secondary Education (DESE) is authorized to hear and rule on Section 504 issues or claims.
  - Parents can contact DESE to file a complaint or BSEA to request a hearing.



# Medical Interventions

- Students with health impairments, and other disabilities, may require medical interventions at school.
- If this is the case, the 504 Committee includes the school nurse
- Regular, on-going medical care:
  - Individualized Health Care Plan and/or an Emergency Health care plan
  - This is in addition to the 504, or in some cases, the 504 will refer to the Individualized Health Care Plan and/or an Emergency Health care plan

# Therapeutic Interventions

- Districts provides formal and informal therapeutic support
  - Speech and language pathologists
  - Occupational therapists
  - Physical therapists
  - BCBAs
  - Counselors
  - School psychologists
- Often to monitor progress or provide consultation
- Short-term interventions and/or to address needs related to a major life activity

# Therapeutic Interventions

- Students with a disability, who demonstrate a need for regular, long-term therapy to access the general education curriculum may be eligible for special education.
- Students cannot have a 504 Accommodations Plan and an IEP

# Discipline

- Students with 504 Accommodations Plans hold protections related to discipline. These students may not be removed from their general education placement for more than 10 days unless the Section 504 Committee first makes a manifestation determination.
- The 504 Committee must determine that the behavior resulting in the discipline was not linked to the student's handicapping condition or to an inappropriate placement.

# Discipline

- Removals for less than ten days can occur without the 504 Committee's approval. Note, however, a series of small removals (including teacher removals to the office, hallway, or other classroom) over the course of the school year that exceeds ten total days may constitute a pattern of exclusions.
- Note: If a student with a 504 Accommodations Plan is found using or possessing illegal drugs or alcohol, then the school may apply the disciplinary action used with typical students.