



Clarksville - Montgomery County Schools

Section 504
PARENT
MANUAL
2022-2023

It is the policy of Clarksville–Montgomery County School System not to discriminate against any student, employee, or applicant on the basis of sex, marital status, race, color, creed, national origin, religion, age (40 or older), genetic information, sexual orientation, or disability condition.

Dear Parents and Guardians:

Our work in Clarksville-Montgomery County School System is driven by a crystal clear mission: “to educate and empower our students to reach their potential.” We believe that all students deserve equal treatment and access to opportunities in every aspect of education. Therefore, we are committed to embracing all learners, including those with disabilities. Section 504 of the Rehabilitation Act of 1973 guarantees that our diverse student population is offered a free and appropriate public education (FAPE), and we are committed to providing those rights for all students in our District.

That is why we have developed a guide for parents and guardians. This guide is designed to assist in understanding what Section 504 is, which students are subject to protections afforded under Section 504, what is required in terms of FAPE for eligible students, and how Section 504 should be implemented.

Students, families, schools, and communities benefit greatly when the rules governing students with disabilities are applied uniformly and consistently in every school and every program. We must be intentional in ensuring that students with disabilities receive the services they need to grow and thrive – in our schools and in our community.

Sincerely,

Angela Huff Interim
Director of Schools

INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against students because of their disability. The United States Department of Education has issued revisions to the requirements of Section 504 with emphasis on procedural safeguards and other protections that would present discrimination against individuals with disabilities.

The purpose of this guide is to provide support to families of students with disabilities in the Clarksville-Montgomery County School System (CMCSS). Any student, parent, or guardian who believes that the impact of a disability might be helped by assistance from the District, may present a request to the student's zoned school for the consideration of an evaluation or use of the identification procedures. If that disability meets federally mandated criteria, according to Section 504 of the Rehabilitation Act of 1973, the District and school will provide assistance. This guide reflects the commitment of all schools and employees in the District to address the educational needs of all children.

If you have a question related to Section 504 that is not addressed in this guide or if you need further guidance related to a particular concern for your child, you should consult with your School-based 504 Case Manager. You may also contact and request to speak to the District Section 504 Coordinator.

Sincerely,

Jami Skevington

Jami Skevington
District Section 504 Coordinator
1312 Highway 48/13 Clarksville, TN 37040
(931) 553-1157
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SECTION 1: WHAT IS SECTION 504?

I. SECTION 504 OVERVIEW

Section 504 is a federal civil rights law that is designed to eliminate disability discrimination in programs and activities that receive federal funds. Since all public school districts receive federal funds, all public school districts must comply with Section 504. Under Section 504, denying a disabled student a free appropriate public education (“FAPE”) is disability discrimination.

II. STUDENTS ELIGIBLE UNDER SECTION 504

For any school-aged student to qualify for Section 504 protection, the student must: **(1)** have a mental or physical disability or impairment **(2)** which substantially limits **(3)** one or more major life activities. The student must meet all three criteria to be eligible for Section 504.

The term “physical” or “mental” impairment is not limited by a list of specific diseases or conditions. The definition of physical or mental impairment under Section 504 is broad and includes students with life threatening health conditions (conditions that will put a student in danger of death during the school day if a medication or treatment order and a nursing plan are not in place. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made based on an individual inquiry.

There is not a single formula or scale that measures substantial limitation. An impairment is considered to substantially limit a major life activity for a student when the impairment substantially limits the student's ability to perform a the activity as compared to the student's non-disabled age/grade peers. If, however, the impairment is minor, it does not qualify under Section 504. Mere diagnosis of an impairment is not enough; the impairment must be substantially limiting.

As a general rule, a student with a physical or mental impairment who is able to participate in or benefit from district education program, without the provision of special education or related aids or services, is not a disabled student under Section 504 for purposes of FAPE.

A student’s eligibility under Section 504 is not determined by a doctor or psychologist but by a multidisciplinary team convened by the school or District. The school’s Section 504 team must include people who are knowledgeable about the student, any student data, and Section 504 to be considered. When determining eligibility, the team is also required to determine if environmental, cultural, or economic disadvantages are the primary reason for any limitations that the student may exhibit. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified; unnecessarily labeled as having a disability; or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

III. FREE APPROPRIATE PUBLIC EDUCATION

A free appropriate public education (FAPE) is an education that is designed to meet a disabled student's individual educational needs and is based upon procedures that satisfy Section 504's identification, evaluation, placement, and due process requirements. Under Section 504, an appropriate education can consist of education in regular classes or education in regular classes with related aids or services. Related aids and services may include but are not limited to the following: school health services; counseling; environmental, instructional and behavioral accommodations; and transportation.

What Does "Appropriate" Mean?

Under Section 504, appropriate means designed to meet the individual educational needs of a disabled student as adequately as the needs of non-disabled students are met. It does not mean that a district must maximize a disabled student's potential or provide "the best" education program that it can design for a disabled student. It means that a district must provide sufficient individualized services to enable a disabled student to receive educational benefit (i.e., not maximum benefit, not minimal benefit, some benefit).

IV. Who Can Refer a Student for a Section 504 Evaluation?

Any person can refer a student for evaluation under Section 504. Parents, guardians, and school staff should refer a student for evaluation if they suspect that, due to a disability, the student needs related aids or services to participate in or benefit from a district's education program.

V. What Should a District Do When it Receives a Section 504 Referral?

After receiving a Section 504 referral, a district should decide whether to evaluate the student and must notify the student's parent or guardian of its decision. As a general rule, an evaluation should be conducted if the district knows or suspects that the student, because of a disability, is not attending school, advancing from grade to grade, meeting the standards of personal independence or social responsibility expected of his or her age or cultural group, or otherwise needs related aids or services to participate in or benefit from a district's education program.

VI. What is an Evaluation Under Section 504?

Evaluations under Section 504 are individually designed. A Section 504 evaluation may be broad (including aptitude and achievement data, medical and psychological data, social and cultural information, and more) or narrow (medical data). A Section 504 evaluation may be conducted by a district or conducted by an outside agency and reviewed by a school-based Section 504 team. As a general rule, the scope of a student's Section 504 evaluation should be broad enough to enable the team to determine whether a student is disabled under Section 504 and, if so, what related aids and services the student needs to participate in and benefit from the district's education program.

VII. What Placement Procedures Does Section 504 Require?

Placement under Section 504 means an education in regular classes or education in regular classes with related aids or services that a student needs to receive FAPE. Placement decisions under Section 504 must be documented, based upon a student's needs, as shown by evaluation, and made by persons knowledgeable about the student. In addition, placement decisions must ensure that disabled students are educated in the least restrictive appropriate placement.

VIII. Must Parents or Guardians Consent Prior to Initial Evaluations and Initial Placements Under Section 504?

Yes. Under Section 504, a district must obtain parent or guardian consent in two circumstances: before a child's initial evaluation (the first time a child is evaluated by any district) and before a child's initial placement (the first time a child is placed on a Section 504 Plan in any district). If a parent or guardian refuses consent to either initial evaluation or placement, a district may initiate a Section 504 due process hearing to override the refusal to consent. A district must notify a parent or guardian, but need not obtain consent, before it reevaluates or significantly changes a student's placement.

IX. What is a Section 504 Plan

A Section 504 plan describes the educational and related aids and services that a district determines a disabled student needs to receive a FAPE. The content of a Section 504 Plan is fluid and may change within a school year or between school years as a student's needs and services change. Once written, the district must provide whatever services it decides the student needs to participate in and benefit from the district's education program. As a general rule, a district is under no obligation to provide a service that a student's parent, guardian or doctor requests.

X. What Is a Section 504 Team?

A Section 504 team makes decisions regarding the evaluation and placement of students under Section 504. The team determines the scope of Section 504 evaluations, decides which students are disabled under Section 504, develops Section 504 Plans, and makes "manifestation determinations" for purposes of disciplinary exclusion from school.

XI. Who Should Be on a Section 504 Team?

The membership of a Section 504 team will vary depending upon the needs of each student. The composition of a Section 504 team is fluid and may change within a school year or between school years as a student's needs and services change. A Section 504 team must consist of at least three people and must include persons knowledgeable about the student, the meaning of the student's current evaluation data, and placement options. Parents, and the child if age appropriate, should be included on the team after district determination of 504 eligibility.

XII. How is Section 504 Enforced?

The U.S. Department of Education enforces Section 504 through the Office for Civil Rights ("OCR"). OCR investigates individual complaints of disability discrimination, including complaints that a district is denying a disabled student FAPE. OCR's focus is on the process a district follows to identify, evaluate, and provide an educational placement to a disabled student, and to provide procedural due process to the student's parent or guardian. Except in extraordinary circumstances, OCR will not review the result of individual placement and other educational decisions, as long as a district complies with Section 504's procedural requirements regarding identification, evaluation, placement, and due process. The proper forum for pure educational disputes, in which a district has followed the correct process to make an educational decision but the parents or guardian disagree with the result of the decision, is a Section 504 due process hearing.

XIII. What Due Process Rights Do Parents and Guardians Have Under Section 504?

Section 504 gives parents and guardians the right to challenge district decisions regarding the identification, evaluation, or educational placement of their child. Under Section 504, a district must notify a student's parent or guardian before it takes any action regarding the identification, evaluation, or placement of their child and provide the parent or guardian an opportunity to challenge the action if they disagree. "Any action" includes a decision not to evaluate a student and denial of placement. The minimum necessary due process rights include:

- prior notice of any action;
- a right to inspect records;

- an impartial hearing with a right to representation by counsel; and
- a review procedure.

XIV. Parent Disagreement

If a parent disagrees with a Section 504 plan or has a grievance with accommodation implementation and/or follow through the parent may do the following:

- Contact the building administrator and/or District Section 504 Coordinator
- If resolution is not a result, the parent should follow district Section 504 grievance procedures or due process procedures. Please note there is no requirement to use mediation before using either of these procedures.

XV. Who Conducts a Section 504 Due Process Hearing?

A district should select a hearing officer who is impartial (e.g., has no professional or personal interest that would bias his or her judgment of the case) and has some training in Section 504 and how it applies to FAPE.

SECTION 2:

SECTION 504 VS. IDEA

Many requirements of the regulation implementing Section 504 concerning FAPE parallel the requirements of IDEA. However, in some respects the requirements of the laws are different. Perhaps the most significant is that Section 504 is a civil rights law, and IDEA is an educational benefit law. Students who qualify for services under IDEA have certain specific types of disabilities that require special education and related services. The Section 504 definition of a disability is much broader, including any physical or mental impairment that substantially limits one or more major life activities. Section 504 covers all students who meet this definition, even if they do not fall within a special education category and do not need special education services

	SECTION 504	IDEA
Purpose in public schools	A Federal civil rights law designed to eliminate disability discrimination in all programs and activities that receive Federal funds	A Federal funding law designed to provide funds to educate disabled students
Eligibility	Applies to “school age” children with physical/mental impairment(s) substantially limiting a major life activity	Applies to children ages 3-21 with one of 14 specific disabilities
	SECTION 504	IDEA
FAPE Formulation	Meeting the educational needs of eligible students as adequately as the needs of nondisabled students are met (i.e., standard of equal educational opportunity)	Provision of and individualized educational program reasonably calculated to enable appropriate progress in light of child’s circumstances
Decision-making	Decision-making group must include persons knowledgeable about child, evaluation data, and placement (service) options	IEP team with specifically required members, including the parent; Detailed regulations on IEP team procedures
Evaluations	<ul style="list-style-type: none"> Review and careful consideration of data from a variety of sources (process orientation) If testing used, must be valid, reliable, and non-discriminatory Does <u>not</u> provide for Independent Educational Evaluations (“IEEs”) at District’s expense 	<ul style="list-style-type: none"> Assessment-oriented evaluation process (must meet detailed requirements of IDEA regulations) with specified timelines Provides for Independent Educational Evaluations (“IEEs”) at District expense if a parent/guardian disagrees with the District’s evaluation and the District either agrees to fund the IEE or does not prevail in a hearing to defend its evaluation
Reevaluations	Periodic reviews/reevaluations (at least every 3 years) and prior to significant changes in placement	Three-year reevaluations, unless conditions warrant earlier reevaluation
Programs	504 plans of accommodations, services (regular or special education services), related services, and modifications to policies and practices, as needed to provide a Section 504 FAPE (best practice for plans to be in writing, although not required)	IEP with special education services are funded through part use of IDEA-B funds, continuum of placements, related services, supplementary aids and services, modified curriculum, accommodations, potentially alternate state assessments, various IEP requirements

Procedural Safeguards	<ul style="list-style-type: none"> Basic safeguards—Prior notice, access to records, local grievance process, due process hearing, review procedure Consent for initial evaluation (parent/guardian can also decline Section 504 placement) 	Detailed and extensive safeguards—prior written notice, access to records, mediation, intricate due process hearing, appeal to federal or state court, complaints, and independent evaluations. Consent for initial evaluation, placement, and reevaluations
Extracurricular and Nonacademic Services	Requirement of equal opportunity to participate, including reasonable accommodations needed for participation; Accommodations cannot fundamentally alter activity	Requirement of equal opportunity to participate, including reasonable accommodations needed for participation (determined through IEP team process and included in IEP)
OCR Complaint	Allowed within 180 days of alleged violation	Allowed within 180 days of alleged violation (but investigated with respect to compliance with Section 504 requirements only)
Mitigating Measures Analysis	2008 ADA Amendments Act requires that beneficial effect of mitigating measures (such as medication, technology, strategies, accommodations, interventions), except eyeglasses, not be considered in making eligibility determination (i.e., beneficial effect must be “subtracted”)	Mitigating Measures Analysis
Discipline	<ul style="list-style-type: none"> Manifestation determination review (“MDR”) prior to disciplinary changes in placement (removals of >10 consecutive school days) Limits on excessive accumulations of short-term removals (“patterns of removal”) past total of 10 school days in a school year (also require MDR) 	<ul style="list-style-type: none"> Manifestation determination requirement prior to disciplinary changes in placement (removals of >10 consecutive school days) Limits on excessive accumulations of short-term removals (“patterns of removal”) past total of 10 school days in a school year (also require MDR)
Placement	<ul style="list-style-type: none"> Must be made based upon a review of data and information from a variety of sources, by a qualified multidisciplinary team, ensuring that the student is educated with his/her nondisabled peers to the maximum extent appropriate (the least restrictive environment) Requires a re-evaluation before any substantial change in placement 	<ul style="list-style-type: none"> Must be made based upon a review of data and information from a variety of sources, by a qualified multidisciplinary team, ensuring that the student is educated with his/her nondisabled peers to the maximum extent appropriate (the least restrictive environment) An IEP meeting must occur before any change in placement is made. Any material or substantial change in placement must be based upon current evaluative data
Enforcement Authorities	Enforced by the U.S. Department of Education, Office for Civil Rights (“OCR”) through Complaint Investigations and Compliance Reviews	Enforced by the U.S. Department of Education, Office of Special Education Programs (“OSEP”) through Compliance Reviews and by OSPI, through Citizen's Complaints and Compliance Reviews

SECTION 3:

SECTION 504 ADDITIONAL INFORMATION**NOTICE OF RIGHTS and PROCEDURAL SAFEGUARDS****Section 504 The Rehabilitation Act of 1973**

The Rehabilitation Act of 1973, commonly referred to as Section 504, is a federal nondiscrimination statute. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to nondisabled students. An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment which substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working and performing manual tasks. The purpose of this Notice is to delineate the rights assured by Section 504. The enabling regulations for Section 504 at 34 Code of Federal Regulations Part 104, entitle students to the following rights:

1. To have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disability;
2. To have the school district advise you of your rights under federal law;
3. To receive notice from the school with respect to identification, evaluation, educational program or placement of your child;
4. According to the Department of Education's 504 Regulations, to have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to reasonable accommodations, modifications, and related aids and services necessary for your child to benefit from his or her educational program;
5. To have your child educated in comparable facilities and receive comparable services to those provided non-disabled students;
6. To have decisions regarding your child's evaluation, program and placement based upon a variety of information resources, and made by persons familiar with the student, the evaluation data, and the placement options;
7. To have your child reevaluated periodically, to the extent necessary, including before any significant changes are made to your child's educational program and placement options;
8. To have your child receive an equal opportunity to participate in extra-curricular school activities;
9. To examine all relevant educational records relating to decisions regarding your child's identification, evaluation, education program and placement;
10. To obtain copies of educational records at a reasonable cost unless the fee would

effectively deny you access to the records;

11. To receive a response from the school district to reasonable requests for explanations and interpretations of your child's records;
12. To request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise are 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 the right to a hearing;
13. To file a grievance through local grievance procedures regarding any alleged violation of the Rehabilitation Act; - See Policy HUM-P010: Discrimination Complaints Procedure or contact the district's compliance officer listed below.
14. To request an impartial hearing, to be conducted by a person who is not an employee of the district, to dispute decisions or actions regarding your child's identification, evaluation, educational program or placement as a student with a disability. You and your child may take part in the hearing and have an attorney represent you at your expense. Questions about how to request a hearing may be forwarded to the person responsible for the district's compliance with Section 504 listed below;
15. To have the decisions made by hearing officers or others reviewed in state or federal court.

Jami Skevington
District Section 504 Coordinator
1312 Highway 48/13
Clarksville, TN 37040
Phone: (931)553-1157
Email: jami.skevington@cmcss.net

16. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 CFR 104.36.
17. You also have a right to file a complaint with the Office of Civil Rights. The address of the Regional Office, which covers Tennessee, is:

Office for Civil Rights
U.S. Department of Education
61 Forsyth St. S.W., Suite 19T10
Atlanta, GA 30303-8927
www.ed.gov/OCR
email address: OCR.Atlanta@ed.gov
telephone: 404-974-9406; TDD: 877-521-2172



XVI. DEFINITIONS OF FREQUENTLY USED TERMS

Accommodation: Provision provided/allowed for someone to be able to accomplish a task or participate in an event/activity.

Assistive Technology: Any device that will help the student access their education. Ex: hearing aid, squish ball, bumpy seat, etc.

Discrimination: Section 504 forbids organizations and employers from excluding or denying individuals with disabilities the equal opportunity to receive, participate in, and have access to program benefits and services.

Eligibility: A student is eligible for Section 504 if they have a disability that substantially limits a major life activity, has a record of such impairment, or are regarded as having such impairment.

Equal access: Equal opportunities of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services.

Evaluation: A Section 504 evaluation may be broad (including aptitude and achievement data, medical and psychological data, social and cultural information, etc.) or narrow (medical data).

Free Appropriate Public Education (“FAPE”): A free appropriate public education is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of disabled persons as adequately as the needs of non-disabled persons are met.

Individual with a Disability: Any person who have been identified as having an impairment:

- Has a physical or mental impairment which substantially limits one or more major life activities;
- Has a record of such an impairment (has a history of or has been misclassified); or
- Is regarded as having such an impairment.

Individuals with Disabilities Education Improvement Act (“IDEA”): Individuals with Disabilities Education Improvement Act of 2004, original passage in 1975; latest reauthorization 2004, federal statute relative to education and services to students with disabilities ages 3 through 21.

Individualized Health Plan (“IHP”): A written document developed by the certified school nurse which includes a nursing diagnosis and action plan, specific goals and interventions individualized to the student’s health needs, delegated procedures, and student’s role in self-care.

Intervention: Specialized activities that target students' individual needs to develop their knowledge or skills in their area of weakness.

Least Restrictive Environment ("LRE"): A student who has a disability should have the opportunity to be educated with non-disabled peers, to the greatest extent possible.

Major Life Activity: Any function of the human condition that defines us, such as: thinking, learning, concentrating, breathing, walking, seeing, hearing, etc.

Manifestation Determination: Meeting required of the 504 committee to determine if a child's behavior is a direct result of his/her disability. The meeting must be held prior to a significant change of placement due to behavior.

Mitigating Measure: Any measure taken to lessen the severity or effects of a disabling condition. Examples include but are not limited to: medication, medical devices, related aids and services. Determination of eligibility must be made without regard to mitigating measures with the exception of corrective lenses (glasses & contacts) to correct vision.

Physical or Mental Impairment: A physical or mental 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; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. A physical or mental impairment does not constitute a disability unless its severity is such that it results in a substantial limitation of one or more major life activities.

Placement: Refers to regular and/or special educational program in which a student receives educational and/or related services.

Regarded as having an impairment: Any person who has:

- a. A physical or mental impairment that does not substantially limit major life activities but that is treated by a school district as constituting such a limitation;
- b. A physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such an impairment; or
- c. None of the impairments defined in this section, but is treated by the school district as having such an impairment.

Related Services: Developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.

Section 504 District Coordinator: The District Coordinator is a staff member that oversees the provision of a free appropriate public education for students with disabilities under Section 504, provides all training related to Section 504 FAPE, and coordinates all School-based Coordinators.

Section 504 School-Based Case Manager: The school-based case manager is a certificated staff member at each school who is designated to coordinate all Section 504 activities within the school and is responsible for coordinating all aspects of the Section 504 referral and evaluation process. In most instances, schools will designate staff members such as a school nurse, counselor, psychologist, or administrator to serve as the school-based case manager.

Significant Change in Placement: A substantial and fundamental change in a student's educational program including age/grade related promotion, suspensions totaling 10 days, or expulsion/remandment to alternative school.

School-Based Section 504 Team: The team makes decisions regarding the evaluation and/or placement of students under Section 504. The membership of any particular student's Section 504 team will vary depending upon the needs and/or services of each student. The team must consist of at least two people and must include persons knowledgeable about the student, can interpret the meaning of the student's current evaluation data, and have authority to make placement options. It is the team that determines the scope of evaluations and if students qualify for Section 504, develops Section 504 plans, and makes "manifestation determinations" for purposes of disciplinary exclusion from school.

Substantial Limitation: Refers to the extent that a disability impacts the student's manner or duration of a major life activity compared to the average student in the general population.



Clarksville-Montgomery County School System

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