

Instruction

Education of Children with Disabilities

The District shall provide a free appropriate public education in the least restrictive environment and necessary related services to all children with disabilities enrolled in the District, as required by the Individuals With Disabilities Education Act (IDEA) and implementing provisions of the School Code, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act. The term "children with disabilities," as used in this policy, means children between ages 3 and 21 (inclusive) for whom it is determined, through definitions and procedures described in the Illinois State Board of Education's *Special Education* rules, that special education services are needed.

It is the intent of the District to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services. Students may be disabled within the meaning of Section 504 of the Rehabilitation Act even though they do not require services pursuant to the IDEA. The evaluation and placement of students with disabilities will be provided at no cost to parents/guardians in accordance with Section 504, and specifically with the Section 504 regulation at 34 C.F.R. §§ 104.3 (definitions), 104.33 (free appropriate public education), 104.34 (educational setting), 104.35 (evaluation, re-evaluation, and placement), and 104.36 (procedural safeguards). In evaluating each student to determine if the student has a physical or mental impairment that substantially limits one or more major life activities, the Section 504 teams will construe the definition of disability broadly and: (i) consider whether a particular mental or physical impairment substantially limits one or more major life activities, not solely learning or the ability to function in the District setting; (ii) not take into account mitigating measures, such as medication being taken by the student or related aids and services or modifications already being provided to the student or used by the student (except for ordinary eyeglasses or contact lenses); and (iii) recognize that, if the student has an impairment that is episodic in nature or in remission, the student is eligible to be a student with a disability under Section 504 if the impairment, when active, substantially limits one or more major life activities. In making these determinations, the Section 504 teams will ensure that tests and other evaluation materials have been validated for the specific purpose used and are administered by trained personnel; tests and other evaluation materials include those tailored to address specific areas of educational need; tests are selected and administered so that they accurately reflect student aptitude or achievement level and not a student's impaired sensory, manual, or speaking skills (except when those skills are factors that the test purports to measure); and testing and medical assessment (if needed for educational purposes) are provided at no cost to a student's parents/guardians. Should the District need test results or medical information in order to complete appropriate educational evaluations, the District will be responsible for obtaining such information at no cost to the student's parent/guardians. In interpreting evaluation data, the Section 504 teams will draw upon a variety of sources as relevant, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The District will ensure that such information is carefully considered and documented.

For students eligible for services under IDEA, the District shall follow procedures for identification, evaluation, placement, and delivery of services to children with disabilities provided in the Illinois State Board of Education's *Special Education* rules. For each student who, because of disability needs or is believed to need special education and related services, the District will develop and implement a plan designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met. For those students who are not eligible for services under IDEA, but, because of

disability as defined by Section 504 of the Rehabilitation Act of 1973, need or are believed to need special instruction or related services, the District shall establish and implement a system of procedural safeguards. The safeguards shall include notice, an opportunity to examine relevant records, and the right to challenge determinations concerning students' identification, evaluation, re-evaluation, and placement through requesting that the District convene an impartial hearing, and a review procedure.

The District may maintain membership in one or more cooperative associations of school districts that shall assist the School District in fulfilling its obligations to the District's disabled students.

If necessary, students may also be placed in nonpublic special education programs or education facilities.

LEGAL REF.: Americans With Disabilities Act, 42 U.S.C. §12101 et seq.
Individuals With Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 et seq.
Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794.
105 ILCS 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b.
23 Ill.Admin.Code Part 226.
34 C.F.R. §300.

CROSS REF.: 2:150 (Committees), 7:230 (Misconduct by Students with Disabilities)

ADOPTED: February 8, 2016

ETHS SECTION 504 RIGHTS AND PROCEDURES

Section 504 of the Rehabilitation Act of 1973 and its implementing regulations prohibit discrimination on the basis of disability by any program or activity that receives or benefits from federal funding. Section 504 requires that disabled students be provided with a free appropriate public education including education with non-disabled peers to the maximum extent appropriate.

The following procedures apply regarding the evaluation, identification, and provision of services to students under Section 504:

I. Definition of Qualified Individual With a Disability Under Section 504

A person has a disability within the meaning of Section 504 of the *Rehabilitation Act of 1973* if he or she has a mental or physical impairment, has a record of such impairment, or is regarded as having such an impairment, which substantially limits one or more major life activities. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures (except for ordinary eyeglasses or contact lenses).

Major life activities include, but are not limited to, functions such as caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also includes the operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

II. Prohibition Against Discrimination

No qualified individual with a disability under Section 504 shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any program or activity.

It is the intent of the District 202 to ensure that students who are disabled within the definition of Section 504 are identified, evaluated and provided with appropriate education aids and services to meet their needs.

III. Designation Of Responsibility

It is the responsibility of the School District to provide a free appropriate public education to each qualified student with a disability who is a resident of the District regardless of the nature or severity of the student's disability.

IV. 504 Evaluation

Referrals for consideration for Section 504 eligibility may be made at any time. A referral must be made in writing and dated at the time the request is made, including the reason for the referral. Referrals may be made by individuals with knowledge of the student's needs and/or educational programming, including teachers, other staff members, parents, etc. Referrals should be directed to the District's 504 Coordinator, Dr. Dondelayo White, Director of Student Support Services, Evanston Township High School, 1600 Dodge Ave., Evanston, IL 60201, whitedo@eths.k12.il.us. Referrals can also be made to the counselor, psychologist, or social worker. Dr. White or her designee will then contact the parents/guardians to discuss the request and next steps relating to the evaluation process.

The evaluation and placement of students with disabilities will be provided at no cost to parents/guardians in accordance with Section 504, and specifically with the 504 regulation at 34 C.F.R. §§ 104.3 (definitions), 104.33 (free appropriate public education), 104.34 (educational setting), 104.35 (evaluation, re-evaluation, and placement), and 104.36 (procedural safeguards). An assessment or evaluation team, consisting of persons knowledgeable about the student, will conduct an individual review of a student initially referred for a Section 504 evaluation. If the team refuses to evaluate a child under Section 504, it will provide a written decision and notice to the child's parent(s) of procedural safeguards, including the right to challenge the refusal to evaluate the child under Section 504. The designated team will review all submitted documentation, current teacher reports, past records and tests. Additional evaluation tests or assessments will be conducted or obtained if deemed necessary by the team. Should the team need test results or medical information in order to complete appropriate educational evaluations, the School District will be responsible for obtaining such information at no cost to the student's parents/guardians. Parental consent will be obtained prior to an initial evaluation completed by the School District.

The 504 evaluation procedures and any needed tests or assessments shall be:

1. Necessary and appropriate to determine the nature and extent of a disabling condition or a suspected disabling condition;
2. Tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient;
3. Validated for the specific purpose(s) for which they are used and administered by trained personnel in conformance with instructions provided by their author/publisher;
4. Free of racial, cultural, language or sex bias;
5. Appropriate for the age and stage of development of each student to whom they are administered;
6. Selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement level or other factor being measured

rather than a student's impaired sensory, manual, or speaking skills (except when those skills are factors that the test purports to measure); and

7. Administered in the student's familiar language or conducted in the mode of communication most familiar to the person being assessed, unless it is clearly not feasible to do so.

No single procedure shall be used by the School District to determine whether or not a student has a disability under Section 504.

V. Determination of Eligibility

The designated 504 team will convene a Section 504 eligibility conference for a student whose 504 evaluation has been completed, within 60 school days of the referral and parent/guardian consent.

The eligibility conference will involve a group of persons knowledgeable about the student, including the student's parents/guardians. The school participants may include the student's teacher, member(s) of the assessment team, 504 Coordinator, school psychologist, and the school nurse (collectively called the "504 team"), as relevant and appropriate.

Notice to attend the eligibility conference shall be sent to all 504 team members, including the student's parents/guardians, at least ten (10) calendar days prior to the conference, unless waived by the parents/guardians.

The 504 team will determine eligibility under Section 504 and determine what services and/or accommodations are needed to meet the student's needs as they relate to the educational setting, if any. The team will base its determination on a variety of sources, including aptitude and achievement tests, school performance, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

In evaluating each student to determine if the student has a physical or mental impairment that substantially limits one or more major life activities, the Section 504 team will construe the definition of disability broadly and: (i) consider whether a particular mental or physical impairment substantially limits one or more major life activities, not solely learning or the ability to function in the school setting; (ii) not take into account mitigating measures, such as medication being taken by the student or related aids and services or modifications already being provided to the student or used by the student (except for ordinary eyeglasses or contact lenses); and (iii) recognize that, if the student has an impairment that is episodic in nature or in remission, the student is eligible to be a student with a disability under Section 504 if the impairment, when active, substantially limits one or more major life activities.

In order to determine that a student who has been evaluated is a student with a disability under Section 504, the team must conclude, that:

1. The student has a physical or mental condition (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, 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, or specific learning disability);
2. The presence of such a physical or mental impairment substantially limits one or more of the student's major life activities; and
3. Because of the identified disabling condition, the student is in need of accommodations/adaptations to the regular education environment or support services (with exception noted below*).

In interpreting evaluation data and in making any placement decisions, the 504 team shall use relevant information from a variety of sources as relevant, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The 504 team will ensure that such information is documented and carefully considered. The 504 team will also ensure that any placement decision is made by a knowledgeable team and ensure the least restrictive educational environment mandate is met.

For each student who, because of disability needs or is believed to need special education or related services, the 504 team will develop and implement a plan designed to meet the student's individual educational needs as adequately as the needs of students without disability are met. The evaluation findings, eligibility, and the educational services/accommodations to be provided shall be generated by the team and documented on the "Section 504 Plan." This Plan or a relevant summary thereof shall be provided to each of the student's teachers. Parents shall receive a copy of this Plan as notice of the student's eligibility and services.

The Plan shall include the following:

- 1) A description of the identified disability that substantially limits a major life activity;
- 2) A description of how the identified disability needs to be addressed in relation to school, the education setting, and extracurricular activities;
- 3) A list of the recommendations/accommodations designed to address the needs; and
- 4) The names of the people responsible for ensuring that the accommodations and/or modifications are put into effect.

The services and reasonable accommodations described in the Section 504 Plan shall be based on a composite understanding of the student's characteristics and how the physical or mental condition substantially limits one or more major life activities. *It is possible for the 504 team to determine that a student otherwise meets the eligibility standards for

disability under Section 504 but does not require any educational accommodations or services. If so, the latter would be stated in the Plan.

If it is determined that the student is not disabled and will not receive any special services or accommodations, a written notice of the findings shall be provided to the parents/guardians along with a notice of procedural safeguards, including notice of the right to challenge the 504 team's conclusion that a child is not eligible for a Section 504 plan and services under Section 504.

VI. Educational Services

The School District shall provide an appropriate program of regular and/or special education and related aids and services that are designed to meet individual educational needs of students with disabilities under Section 504. These students shall be educated with students who do not have disabilities to the maximum extent appropriate to meet the identified educational needs of the student with disabilities. The student will be placed in the regular education environment unless it is demonstrated that the education of the student with a disability in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily.

Disabled students shall be afforded the opportunity to participate with individuals who do not have disabilities in nonacademic and extracurricular activities to the extent appropriate and reasonable.

VII. 504 Re-Evaluation

Periodically, or before any significant change in placement occurs, but at least every three years, a group of persons knowledgeable about the disabled student shall re-evaluate the Section 504 Plan for each eligible student to determine continued eligibility and services. This group need not be the same group of persons who determined initial eligibility. A "significant change in placement" includes an exclusion from the educational program of more than ten (10) school days (*i.e.*, due to an expulsion or pattern of suspensions), the transferring of a student from one type of program to another, or terminating or significantly reducing a related service. A notice will be sent to the parents/guardians informing them of the intent to conduct a Section 504 re-evaluation. Parental consent shall be obtained before any additional evaluation tests are conducted as part of the re-evaluation.

VIII. Procedural Safeguards

1. The parent/guardian of a qualified disabled student shall be notified of all School District actions concerning the identification, evaluation, or educational placement of the student made under Section 504.
2. The parent/guardian has a right to review the student's records.

3. The parent/guardian has a right to file a grievance under the School District's Uniform Grievance Procedure regarding any complaints that allege action prohibited by Section 504.
4. The parent/guardian has a right to an impartial hearing and representation at the hearing if he/she is unable to resolve disagreements with the School District relative to the identification, evaluation, or educational placement of their child.
5. The parent/guardian may seek review of the impartial hearing officer's decision by a court of competent jurisdiction.
6. Complaints regarding Section 504 also may be filed with the U.S. Department of Education Office for Civil Rights, Illinois Regional Office, Citigroup Center, 500 West Madison Street, Suite 1475, Chicago, IL 60661.

IX. Impartial Hearing Procedures

If parents/guardians disagree with the district relative to their child's identification, evaluation, or educational placement, including any special services, or change or termination of services, under Section 504, they should notify the School District's 504 Coordinator and attempt to resolve their differences informally. If informal procedures fail, the parents/guardians may request a hearing before an impartial hearing officer. The due process review procedures set forth in the IDEA and in Article 14 of the Illinois School Code shall not be employed unless the parents are contesting or asserting a right to special education services under Article 14 or IDEA. The parents' request for a hearing shall be submitted in writing to the School District's Superintendent within ten (10) days of the date of the decision to be reviewed. The Superintendent shall then appoint the impartial hearing officer, who may be an employee of the District not familiar with the student or a qualified person from outside the School District.

The parents/guardians shall be provided with written notice of the hearing, which shall include the time, date, and location of the hearing and the identity of the hearing officer. Generally, the notice shall be sent at least five business days in advance of the hearing. The notice shall inform the parents/guardians that they have the right to review any relevant records before the hearing. The parents/guardians shall have the right to be represented by counsel at the hearing and shall have the opportunity to participate in the hearing. The decision of the impartial hearing officer shall be in writing and shall be rendered within ten (10) days of the hearing.

Either party may seek review of the hearing officer's decision by a court of competent jurisdiction.