

## **Special Education Fact Sheet**

### **Section 504 Accommodation Plans**

#### **What is Section 504?**

Section 504 of the Rehabilitation Act of 1973 (Section 504 or §504) is a federal law designed to protect the rights of individuals with disabilities in any program or activity that receives federal financial assistance. Section 504 applies to New York City public schools.

#### **How can Section 504 help my child in school?**

Section 504 is designed to ensure that students with certain disabilities can participate in school programs and activities. Section 504 covers academic instruction, nonacademic settings (e.g., lunchroom and library) and school activities (assemblies, graduation, field trips and after-school programs offered by the school).

Even if your child does not have an education-related disability under the Individuals with Disabilities Education Act (IDEA) and does not receive special education services through an Individualized Educational Program (IEP), s/he may still be able to receive accommodations under Section 504. Parents may also qualify for Section 504 accommodations so that they can effectively participate in their child's education.

#### **What kind of accommodations can be provided under Section 504?**

Many accommodations can be provided under Section 504 to assist students with disabilities. For example, if a child uses a wheelchair and needs a barrier-free school or physical assistance at school, a "504 plan" or "accommodation plan" can be developed to permit use of an elevator, assistance carrying school materials, etc. Accommodations may include providing a structured learning environment, repeating and simplifying test instructions, using behavioral management techniques, adjusting class schedules, modifying test delivery, and providing assistive technology, medical and transportation services. All services offered under an accommodation plan must be provided at no cost to students or parents.

#### **How is Section 504 different from the IDEA?**

Students with specifically delineated disabilities are eligible for education-related services under the IDEA. For information regarding eligibility for special education services, please see the New York City Department of Education's publication, "Parent's Guide to Special Education Services for School Aged Children": [http://schools.nyc.gov/NR/ronlyres/0797E0DD-0BD0-4734-9D50-1F5453198287/0/Parent\\_Guide\\_English.pdf](http://schools.nyc.gov/NR/ronlyres/0797E0DD-0BD0-4734-9D50-1F5453198287/0/Parent_Guide_English.pdf)

Section 504's definition of a disability is broader than that of the IDEA. Importantly, the student's disability does not need to affect his or her ability to learn in a general education setting, but can nonetheless interfere with the student's ability to access the offered services at the school. A child who is not considered to have a disability under the IDEA and does not receive special education services may still qualify for accommodations under Section 504.

### **What if my child has an IEP?**

If your child has an Individualized Education Plan (IEP) and you or the school's staff believe that your child needs Section 504 accommodations, the accommodations can be provided as part of the IEP. Requests should be referred to the student's IEP team for consideration.

### **What are the eligibility requirements for Section 504 accommodations?**

For a student to be eligible for accommodations under Section 504, s/he must have a physical or mental impairment that "substantially limits one or more major life activities," as determined by the "504 team." Important terms are defined as follows:

- *Physical or mental impairment* can be any physiological condition that affects a body system, such as the respiratory, musculoskeletal, or neurological systems; any mental or psychological disorders, such as emotional or mental illness and intellectual disabilities; or specific learning disabilities. The definition does not limit the impairments that can qualify a student for Section 504 services.
- *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Again, this list does not limit what kind of activities can qualify a student as having a disability.
- *Substantially limits* means that the impairment results in considerable impairment with a permanent or long-term impact. A substantial impairment prevents or severely restricts a person from performing major life activities. Determining whether a child has a substantial impairment is based on a child's disability without any assistive measures other than ordinary eyeglasses or contact lenses. Eligibility will be reviewed at least annually.

### **How do I request Section 504 accommodations?**

If you believe your child might need an accommodation, you should submit a request for accommodations in writing to your child's School-Based Section 504 Coordinator using a DOE-approved form, which can be requested from the Coordinator or found on the Department of Education website. Often, it is necessary to submit documentation from your child's medical provider.

### **What happens after I make a request?**

Within 30 days of receiving your written request, the Section 504 Coordinator at your child's school will put together a "504 team" and schedule an assessment meeting. The Coordinator will contact you to arrange a mutually agreeable time and place for the meeting, and provide written notice of the meeting. If, after receiving notice, you do not attend the meeting, the team may decide issues related to accommodations without your participation, but to implement a plan, the team requires your consent.

### **Who is a part of the 504 Team?**

In addition to the parents, the team will include other team members who are familiar with your child's abilities. These team members must be able to interpret any reports or evaluations related to the request for accommodations and aware of the available accommodations. Relevant school psychologists, nursing staff, and teachers should participate, and the Coordinator may bring in medical and other professionals if necessary.

### **How does the Section 504 Team make its decision?**

To obtain an accommodation under Section 504, a student must have a physical or mental impairment that substantially limits a major life activity. To decide on eligibility, the Team will consider all available relevant information, including reports, evaluations, or diagnoses provided by parents, as well as the child's grades, disciplinary referrals, health information, language surveys, parent information, standardized test scores, and teacher comments.

The Team will notify you of its decision in writing. If the Team determines that your child has a disability under Section 504 that also affects his/her learning, the Team will refer the student to the Committee on Special Education (CSE), who will evaluate your child for special education services. All Section 504 plans are reviewed annually.

### **What if my child has transferred from another school?**

If your child transferred from another public school in New York City, the sending school will forward the 504 plan along with the other school records to the receiving school. The receiving school should implement the plan immediately. If accommodations are not immediately available, the school's 504 Coordinator will notify you in writing to tell you when they expect the accommodations will be implemented. If the school has a reasonable basis to ask for a review of the plan, the Coordinator will notify you in writing and arrange for a meeting to create a new plan.

If your child has transferred from another school district, a private school, or a charter school, the public school is not *required* to provide Section 504 accommodations or implement the sending school's accommodation plan. However, the Section 504 plan will be implemented to the extent possible while your child is being reevaluated by a school-based Section 504 team. This should occur within 30 days of transferring.

### **What if I disagree with the Section 504 Team's assessment?**

You have the right to examine all records that are relevant to your child's referrals, evaluations, and the development or implementation of a 504 plan. You can file a written complaint seeking review by the Network Health Liaison. If you believe that there was discrimination based on your child's disability, you can file a complaint with the DOE's Office of Equal Opportunity.

### **What if I disagree with the Network Health Liaison's decision?**

If you do not agree with the Network Health Liaison's decision, you can proceed to an impartial hearing. An impartial hearing is an administrative proceeding that is similar to a trial.

You can request an impartial hearing by filling out the parent request form, available on the Department of Education Website. You may also send a due process complaint in the form of a letter. Either request must be sent to the Department of Education's Impartial Hearing Office. The information that must be included in the complaint includes:

- the name of the student
- the address of the student
- the name of the school the student is attending
- a description of the problem
- a proposed solution

This letter should be as thorough as possible. Issues that are not raised in the due process complaint cannot be raised at the impartial hearing.

The request must be made within 10 days of receiving the written decision and sent to:

Impartial Hearing Office  
New York City Department of Education  
131 Livingston St., Room 201  
Brooklyn, NY 11201  
(718) 935-3280 (Phone)  
(718) 935-2932 (Fax)

During the hearing, you will have to show that the Network Health Liaison's decision was inappropriate. Unlike cases argued under the IDEA, you do not have the right to appeal that decision to the State Review Officer of the State's Department of Education.

If you have a complaint about a procedural violation, lack of accessibility, failure to provide agreed-upon services, or discriminatory treatment, the U.S. Department of Education's Office of Civil Rights can examine those procedures, but not the individual Section 504 accommodation determination for your child. For more information please refer to the Department of Justice's material at:

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Disability Rights Section - NYAV  
Washington, D.C. 20530  
[www.ada.gov](http://www.ada.gov)  
(800) 514-0301 (voice)  
(800) 514-0383 (TTY)

### **Where can I find more information on Section 504 accommodations?**

New York City Department of Education, Chancellor's Regulation A-710 Section 504 Policy and Procedures for Students

<http://schools.nyc.gov/NR/ronlyres/3293D09D-EA89-4236-9295-933D870130D8/94112/A710regulation.pdf>

Department of Education forms, including Section 504 accommodation guidelines, forms, and other information:

<http://schools.nyc.gov/Offices/Health/SchoolHealthForms/default.htm>

Federal Section 504 Regulations for Preschool, Elementary, and Secondary Education

<http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html#D>

Impartial Hearing information:

<http://schools.nyc.gov/Offices/ImpartialHearingOffice/Parents/default.htm>

### **TIPS**

- **Keep a notebook**
  - **Record all phone conversations and in-person conferences and meetings**
  - **Keep all the papers you received from the DOE**
  - **Keep letters and envelopes**
  - **If documents are not dated, note the date you received the document on the back of the document or envelope**
- **Send all communications by certified mail or hand deliver them, asking the receiver to initial and date your copy**
- **Always**
  - **Keep a copy of everything you give to the DOE**
  - **take the name of the DOE person you're dealing with**
    - **If you can, get title, office, and detailed contact information**
    - **write it all down for future use**

**\*DUE TO THE GENERAL NATURE OF THE INFORMATION PRESENTED, THIS FACT SHEET SHOULD NOT BE REGARDED AS LEGAL ADVICE. \***