

Section 504 of the Rehabilitation Act of 1973

Both schools and parents have been struggling with issues related to 504 Plans, eligibility, accommodations, etc. Section 504 of the Rehabilitation Act of 1973 makes vague references to educational services for people identified as having a disability. They have left much of its interpretation up to the school districts. This Question and Answer sheet is an attempt to supply some important information about eligibility/services under Section 504.

Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) states that a person with a disability is, “any person who (i) has a physical or mental impairment which *substantially limits* one or more major life activities, (ii) has a record of such impairment, or (iii) is regarded as having such an impairment.” {§ 104.3(j)(1)}.

Questions and Answers

- Q** Who determines my child’s eligibility for services under Section 504?
- A** Teachers, parents, counselors, and/or administrators may refer a student eligibility consideration. If referred, a 504 committee will be assembled that may include the following: teachers, parents, counselors, administrators, medical personnel, child study team members, and therapists. The committee will review the documentation to determine eligibility for 504 services. The committee will draw upon information from a variety of sources and assure that all information is documented and considered. A student who is deemed eligible for services will be provided with a 504 Accommodation Plan designed by the 504 committee to meet his or her specific needs.
- Q** What is a *substantial limitation*?
- A** Section 504 regulations do not define the word *substantial*. They have left that up to individual districts to identify. Maple Shade Schools has determined that students who make academic progress as shown by grades and standardized test scores are not *substantially limited* in the major life activity of learning.
- Q** I have heard the words “accommodations” and “modifications” used while inquiring about services under Section 504 or special education. What do they mean and what is the difference?
- A** Accommodations are changes in course/standards/test presentation, location, timing/scheduling and/or other attribute that **do not fundamentally alter or lower the standard or expectation of the course/standard/test**. Modifications, on the other hand, allow changes that **may** fundamentally alter or lower the standard or expectation of the course/standard/test. 504 Plans allow accommodations only. Modifications to curricula are only done through an IEP under a special education classification. With a 504 Plan, a student may be given the accommodations he needs to demonstrate achievement, but the course content requirements are not reduced or altered in any way.
- Q** But my son/daughter could be doing better if he/she didn’t have this problem and/or received accommodations.
- A** Section 504 regulations do not guarantee that a child will work to his or her potential. They guarantee that he or she will be given an opportunity to learn. Students who are making academic progress as shown by grades and standardized test scores are learning.

Q My son/daughter has been diagnosed with ADHD. Doesn't that make him/her automatically eligible for accommodations under Section 504?

A No, the child must demonstrate that his disability *substantially limits* his ability to learn. In determining a student's eligibility, the critical inquiry is to determine whether the student's impairment adversely affects educational performance, creating the need for accommodations. Students who are making academic progress are not considered adversely affected by an impairment.

Q My child had a 504 Plan in elementary school and middle school. Why is his/her eligibility in question?

A In the early stages of a diagnosis, there is not enough data to determine what *substantial* impact, if any, the child's diagnosis has on his or her ability to perform in the classroom. Often schools, including Maple Shade, will err on the side of caution and make a student initially eligible for 504 services until this impact is monitored and documented. That is why 504 Plans are reevaluated each year.

Q My child has been determined eligible under Section 504. Why can't he have all the services my doctor recommends?

A The 504 committee determines accommodations in a 504 Plan. Recommendations from all sources are considered, but the committee makes the final decision on any and all accommodations. Schools are not bound to accept and/or supply the specific recommendations of any one individual. The committee is given this responsibility.

Q My child had a 504 Plan, but during his annual review, the committee determined that he is no longer eligible. What happened?

A For a student to remain eligible for 504 accommodations, he or she must always meet the requirements for eligibility. These eligibility requirements as well as an on-going needs assessment are usually evaluated annually by a committee, but they could be assessed more frequently if needs dictate. Although a student may have a documented, diagnosed disability, a 504 Plan is only appropriate if the eligibility requirements remain. Other mitigating factors, such as the effective use of medication, intervention plans, student maturity and growth and development often have a positive influence on learning. Remember, 504 regulations state that a student's disability must substantially limit his or her ability to learn in order to be eligible. If the committee determines that other mitigating factors outside of the 504 Plan reduce the impact on learning to less than "substantially limiting," that student no longer meets the eligibility requirements for a 504 Plan.

Q Who do I contact if I have more questions about 504?

A Parents requesting more information can contact the school counselor in the Elementary Schools or Anthony Ferrante, Director of School Counseling at the High School. The 504 Compliance Officer for the Maple Shade Schools is Joseph Langowski, Assistant Superintendent.