

SECTION 504 GUIDE

for Schools

Revised January 2016

MAISD Constituent School Districts and Public School Academies

Fruitport Community Schools

Holton Public Schools

Mona Shores Public Schools

Montague Area Public Schools

Oakridge Public Schools

Orchard View Schools

Ravenna Public Schools

Reeths-Puffer Schools

Whitehall District Schools

Muskegon Covenant Academy

**Muskegon Heights Public
School Academy System**

**Muskegon Montessori
Academy for Environmental
Change**

Three Oaks Academy

Timberland Charter Academy

**This guide includes general information about Section 504
of the Rehabilitation Act of 1973**

It is not intended to constitute or serve as legal advice.

MAISD



Muskegon Area
Intermediate School District

Section 504 states:

“No otherwise qualified individual with a disability... shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance...”

29 USC 794

Nondiscrimination Notice

It is the policy of the Muskegon Area Intermediate School District that no staff member, candidate for employment, program participant, or recipient of services shall experience discrimination on basis of race, color, national origin, sex (including sexual orientation or transgender identity), disability, age, religion, height, weight, marital or family status, military status, ancestry, genetic information, or any other legally protected category (collectively “Protected Classes”), in its programs and activities, including employment opportunities. The MAISD is an equal opportunity employer.

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is federal anti-discrimination law that protects the rights of persons with disabilities. The purpose of Section 504 is to provide equal opportunity and equal access by eliminating discrimination based on disability in any program or activity receiving federal funds. Because public schools receive federal funds, they have a duty to locate, refer, and evaluate students to determine if they are eligible for a free, appropriate public education (FAPE) under Section 504. Eligible students in preschool, elementary, middle and high school, and in adult education programs and activities may receive educational services.

Under Section 504, public schools and private schools that receive federal funds directly or indirectly must provide educational services designed to meet the individual needs of eligible students and provide them an equal opportunity to participate in school and school-related activities. It is not the intent of Section 504 for schools to provide services that are fundamentally different from existing opportunities. Section 504 was enacted to “level the playing field” and eliminate barriers to full participation by persons with disabilities.

Regarding 504, it is important for school districts to:

- Designate a Section 504 Coordinator;
- Provide notice of nondiscrimination on documents and websites;
- Adopt policies and procedures aligned with current 504 law including:
 - Location, referral and evaluation of students;
 - Determination of eligibility and provision of services in both school and school-related activity settings;
 - Establishment of procedural safeguards;
 - The discipline process for eligible students;
 - A process to resolve disputes in a timely and fair way;
 - A consideration of each student’s situation on an individual, case-by-case basis.

One way to meet Section 504 requirements for a free, appropriate public education is to follow the requirements of the Individuals with Disabilities Education Act (IDEA).

Who is Eligible Under 504?

Temporary impairments less than 6 months in duration may or may not meet the requirements for eligibility under Section 504.

Section 504 does not require a medical diagnosis of an impairment for students to qualify for educational services.

Substantially limits may be interpreted as an “important and material limitation” for a student who is restricted as to the condition, manner, or duration under which major life activities can be performed in comparison to most people. Substantial limitation is determined without regard to mitigating measures, with the exception of ordinary corrective lenses.

For a student to be made eligible under Section 504, his/her impairment must be substantially limit one or more **major life activities** which include but are not limited to the following functions:

Bending	Endocrine	Respiratory
Bladder	Hearing	Reproductive
Bowel	Hemic	Seeing
Brain	Immune System	Skin
Breathing	Functions	Sleeping
Cardiovascular	Learning Lifting	Speaking
Caring for Oneself	Lymphatic	Special Sense Organ
Circulatory	Musculoskeletal	Standing
Communicating	Neurological	Thinking
Concentrating	Normal Cell	Walking
Digestive	Growth	Working
Eating	Reading	

General Procedures

If an educator, parent, guardian, adult-age student or outside agency has reason to believe that a student may be eligible for educational services under Section 504, the student should be referred to the building principal or the Section 504 coordinator.

The school will then:

- 1) Ensure that the parents/guardians
- 2) Determine whether to request written parent/guardian consent for the initial evaluation of the student or give written notice that the student will not be evaluated.

If written consent for evaluation is obtained, the school will:

- 1) Conduct the evaluation;
- 2) Review all evaluation data, including information from the parent; and
- 3) Share evaluation data with the parents in order to determine whether the student has a physical or mental impairment that substantially limits, without regard to mitigating measures, one or more major life activities.

If a student is determined to be eligible under Section 504, a group of persons who are knowledgeable about the student, including the parent/guardian/adult age student, will develop a written plan of educational services. It is recommended that the student's plan of educational services be reviewed and updated at least annually.

Eligible students must be periodically reevaluated. A reevaluation must be conducted in order to find a student ineligible.

If the parties cannot reach agreement regarding the student's identification, evaluation, and/or educational services, meeting facilitation and mediation services are available through Mediation and Restorative Services, 231-727-6001.

General Procedures

Initial Evaluation

A school district must evaluate if it believes a student may have a disability. The school must obtain written consent prior to evaluation and must obtain parent consent for initial parent placement.

Reevaluation

Once a student is eligible under Section 504, the school must periodically reevaluate the student. It is recommended that this reevaluation be conducted at least every three years. A reevaluation may be conducted sooner than three years if requested by a parent or the school district.

Section 504 also requires a school to conduct a reevaluation prior to a significant change of placement. The OCR considers the following to be significant changes of placement:

- An exclusion from the educational program of more than 10 school days
- Transferring a student from one type of program to another;
- Significantly reducing or terminating a student's educational services under 504.

Notice

The school should give written notice to the parent/guardian:

- When proposing to initially evaluate or reevaluate the student;
- When refusing to initially evaluate a student;
- When making a determination of eligibility or ineligibility under Section 504;
- When planning the student's educational services and placement;
- Prior to implementing any change in the student's educational services and placement.

Discipline

Under Section 504, eligible student may not be disciplined for behavior that is a manifestation of their disability. Schools must hold a manifestation determination review before suspending a student more than 10 cumulative days during a school year.

Section 504 Procedural Safeguards

The intent of the procedural safeguards (rights) granted by Section 504 is to keep parents, guardians and adult-age students fully informed concerning:

- Educational decisions made about the Section 504-eligible student, and
- Their rights if they disagree with those educational decisions.

Parent(s)/Guardian(s)/Adult-Age Student(s) have the right to:

- Have the school district/public school academy advise them of their rights under Section 504;
- Receive notice with respect to identification, evaluation, reevaluation, planning and/or placement of the student;
- Have evaluation, educational and planning decisions made based upon a variety of informational sources by a group of individuals that is knowledgeable about the student, the evaluation data and the types of educational services available;
- Have the student receive a free appropriate public education (FAPE), including the right to be educated with non-disabled students to the maximum extent appropriate;
- Have the school district/public school academy provide educational services to allow the student an equal opportunity to participate in school and school-related activities;
- Have the student be provided with an equal opportunity to participate in non-academic and extracurricular activities offered by the school district;
- Have the student educated in facilities and receive services comparable to those provided to non-disabled students;

Section 504 Procedural Safeguards

- Examine relevant records regarding the student's identification, evaluation, educational services/placement;
- Request an impartial hearing related to decisions or actions regarding the student's identification, evaluation, and/or educational services; the parent/guardian and/or student have the right to attend the hearing and be represented by an attorney;
- File a local complaint (grievance) with the district 504 coordinator;
- File a formal complaint with the state office for civil rights:
Michigan Department of Civil Rights
Capitol Tower Building
110 W. Michigan Avenue, Suite 800
Lansing, MI 48913
Phone: 800-482-3604
- File a formal complaint with the regional office for civil rights:
Cleveland Office, Office for Civil Rights
U.S. Department of Education
600 Superior Avenue East, Suite 750
Cleveland, OH 44114-2611
Phone: 216-522-4970; FAX: 216-522-2573

Provision of Procedural Safeguards

Parents/guardians and adult-age students who are eligible under 504 must be provided with a printed copy of their procedural safeguards (rights):

- At least once per year;
- When a school district refuses to evaluate and
- Prior to any manifestation determination.

Definitions

AMERICANS WITH DISABILITIES ACT (ADA) - Federal law that protects qualified individuals with disabilities from discrimination.

EDUCATIONAL SERVICES – Reasonable modifications of policies, procedures and practices, including accommodations, designed to enable the student who is eligible under Section 504 to participate in school and school-related activities.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE) – FAPE is the provision of educational and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

MAJOR LIFE ACTIVITY – Major life activities, as defined in Section 504 regulations at (34 C.F.R. 104.3(j)(2)(ii)0, and the ADA of 2008 include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working and major bodily functions. This list is not exhaustive; other functions can be major life activities for purposes of Section 504.

MITIGATING MEASURES – These are devices or practices that a person uses to correct for or reduce the effects of that person’s mental; limitation of major life activity without taking mitigating measures into consideration. Examples of mitigating measures include, but are limited to: medication, medical supplies, prosthetics, hearing aids, low vision devices (ordinary eyeglasses or contact lenses are not mitigating measures), oxygen therapy equipment and mobility devices. For more information on mobility devices check your school district policy; additional information can be found at the Information and Technical Assistance on the American with Disabilities Act website.

Definitions

OFFICE FOR CIVIL RIGHTS (OCR) – This federal agency enforces Section 504 in programs and activities, including schools that receive federal funding from the U.S. Department of Education.

PHYSICAL OR MENTAL IMPAIRMENT –The Section 504 regulations (34 C.F.R. 104.3(j)(2)(i)) define a physical or mental impairment as (a) 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 (b) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulation 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. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504.

QUALIFIED STUDENT WITH A DISABILITY- Section 504 covers qualified students with disabilities who attend school receiving federal funding. To be protected under Section 504, a student must be determined to have a physical or mental impairment that substantially limits one or more major life activities.

SECTION 504 – The portion of the Rehabilitation Act of 1973 (29 U.S.C. §§705(20), 794, 794a), as amended, that guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Subpart D of Section 504 deals with preschool, elementary and secondary education.

Definitions

SERVICE ANIMALS – A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability. Only dogs are recognized as service animals under Titles II and III of the ADA. For more information on service animals check you school district policy. Additional information can be found at the Information and Technical Assistance on the American with Disabilities Act website.

TEMPORARY IMPAIRMENT – A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial imitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually substantially limits one or more major life activities of the affected individual.

Resources

Office for Civil Rights

<http://www2.ed.gov/about/offices/list/ocr/index.html>

504 Regulations – Subpart D

<https://www2.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html>

Frequently asked Questions About Section 504

<https://www2.ed.gov/documents/news/section-504.pdf>

Americans with Disabilities Act

<http://www.ada.gov/>

Dear Colleague Letter and the ADA

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.html>

Dear Colleague Letter regarding Extracurricular Activities

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.html>

Dear Colleague Letter regarding Bullying

www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf

Dear Colleague Letter regarding Disability Discrimination and Harassment

www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf

Dear Colleague Letter regarding Retaliation

www2.ed.gov/about/offices/list/ocr/letters/colleague-201304.html

For more information, contact your Section 504 Coordinator.

District 504 Coordinators

For further information regarding Section 504, please call the contact person for your local school district or public school academy.

District	Contact	Phone
Fruitport Community Schools	Greg Bodrie	231-865-4012
Holton Public Schools	Jason Kennedy	231-821-1701
Mona Shores Public Schools	Julie Nastold	231-780-4711 ext. 8461
Montague Area Public Schools	David Erickson	231-893-1515
Muskegon Public Schools	Rodney Walker	231-720-2006
Muskegon Area ISD	Carolyn Smith-Gerdes	231-767-7249
N. Muskegon Public Schools	Curt Babcock	231-719-4100
Oakridge Public Schools	Greg Bodrie	231-865-4012
Orchard View Schools	Greg Bodrie	231-865-4012
Ravenna Public Schools	Greg Bodrie	231-865-4012
Reeths-Puffer Schools	Steve Edwards	231-744-4736
Whitehall District Schools	Jerry McDowell	231-893-1005
Muskegon Hts. Public School Academy System	Glenda Robinson-Scott	231-830-3773
Muskegon Covenant Academy	Mia Clark	231-720-3104
Muskegon Montessori Academy for Environmental Change	Tracey Jensen	231-766-7500
Three Oaks Academy	Mark Brunger	231-767-3365
Timberland Charter Academy	Kathy Smith	231-767-9700