



Section 504 Procedures



**Section 504 of the
Rehabilitation Act of 1973**

Administrative Guidelines
Blue Valley School District
Overland Park, Kansas

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CHECKLIST
BASIC 504 STEPS

- Principal or Principal's Designee receives request for 504 Evaluation. Confirm with the individual requesting the evaluation that the request has been received.
- The Principal/Designee selects school members who could serve on the student's 504. Team, including a potential case manager, and convenes a meeting of school staff to determine whether the 504 Evaluation is the appropriate next step. The request must be responded to within 15 school days.
- If the school members of a 504 Team are uncertain as to whether a 504 Evaluation is appropriate, follow the steps as outlined in C1 on Page 5 of the 504 Administrative Guidelines. (See form letter to request a meeting to discuss a possible evaluation.)
- If the response is a denial, send the "denial" form letter.
- If the school members of the 504 team conclude an evaluation should be conducted, follow steps in C2 on page 5 of the Administrative Guidelines. Evaluations should be completed within 60 school days of the date parent consent is received.
- Complete the 504 Evaluation Report and schedule a meeting with parents to review the data collected for the evaluation and determine if the student: (a) has a disability; and (b) needs accommodations (*i.e.* modifications to the district's policies or procedures), services or specially designed instruction to have equal access to the district's programs and activities.
- If the student has a disability and needs need accommodations (*i.e.* modifications to the district's policies or procedures), services or specially designed instruction to have equal access to the district's programs and activities the student is eligible for and the team should draft a 504 Plan. That plan can be discussed at the meeting scheduled to review the evaluation or a subsequent meeting. Team members and parents must sign the approved 504 Plan.
- Distribute the 504 Plan to all staff members who work with the student or are responsible for implementing the 504 Plan. Each person receiving a copy should sign the "Documentation of 504 Plan Distribution" form.
- Each individual implementing the 504 Plan should evaluate the accommodations on a semester basis using the "Progress Monitoring" form. Any new individuals responsible for implementing the 504 Plan at semester should sign the "Documentation of 504 Plan Distribution form.
- Review the plan on an annual basis. A 504 meeting, including the parents, should be scheduled. A "Notice to Conduct a 504 Meeting" should be sent to the parents.

Introduction

The Rehabilitation Act was passed in 1973 to prohibit entities receiving federal funds from allowing disability discrimination. Subpart C of Section 504 of that act requires school districts to make programs and activities accessible to and usable by all individuals with disabilities. It states: “No otherwise qualified individual with a disability shall solely by reason of her or his 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.” In addition, it is the district's responsibility to identify and evaluate students who, within the intent of Section 504 of the Rehabilitation Act of 1973, need specially designed instruction and/or services so that those students may receive a free appropriate public education.

In compliance with the Rehabilitation Act, the district does not discriminate against any student on the basis of his or her disability or against anyone because he or she is associated with someone who is disabled. In addition, the district identifies and evaluates students as required by law and allows disabled individuals equal access to and participation in its programs and activities.

At each school, the responsibility for insuring Section 504 compliance rests with the building Principal or Principal's Designee. Melissa Hillman coordinates the district's compliance with Section 504. Melissa Hillman can be contacted at 15020 Metcalf, Overland Park, Kansas 66223-0901, 913-239-4000.

Equal Access

Section 504 requires the district to provide students with disabilities with a “free appropriate public education.” This means that the district must provide regular or special education and related services that are designed to meet the individual education needs of students with disabilities as adequately as the needs of nondisabled students are met. An appropriate education for a Section 504 eligible student may require the provision of specific accommodations (*i.e.* modification of the district's policies and/or procedures), related services and/or specially designed instruction. Student referrals are to be reviewed using this process and accompanying forms. The following procedures are implemented at the building level. *All forms completed pertaining to Section 504 are to be maintained in a lockable central office file. Forms should not be kept in a student's cumulative file.*

Referring Students for 504 Evaluations

When a student needs or is suspected to be in need of accommodations because of a medical condition or disability, an evaluation must be conducted by a team to determine the student's eligibility. A request for the evaluation can be made by anyone, but most frequently such requests are made by the student's parent(s), teacher(s), or school nurse.

When the nurse and parents develop an initial Emergency Care Plan (ECP) for a student or there is a substantial change to a student's ECP or medical condition, the nurse will notify the building Student Intervention/Care Team. The Student Intervention/Care Team will determine if a 504 evaluation is necessary. If one is necessary, the 504 procedures in section C2 below will be followed to initiate the evaluation process.

- A. The referral is directed to the building Principal or Principal's Designee who is responsible for the implementation of 504 procedures in the school.
- B. The Principal or Principal's Designee will identify school members who could serve on the student's 504 Team, including a potential case manager, and convene a meeting of school staff to determine whether the 504 Evaluation is the appropriate next step. A staff member will be assigned to coordinate the referral and communicate with the parent(s).
 1. The 504 Team will include individuals knowledgeable about the needs of the student, the data being reviewed, appropriate accommodation and placement options. This team can include (but is not limited to) parents/guardians, teachers, problem solving team members, counselors, related service providers, other school staff and administrators, and staff from community agencies. Parents/guardians should be included in this process whenever possible. The team's role is to determine whether the student will be evaluated for a 504 Plan, evaluate the student to determine whether he or she is eligible for a 504 Plan (when applicable), and develop a 504 Plan (when applicable).
 2. The staff member assigned to be the case manager should be the individual who is in a position to address the area of concern, contact the parent(s), and monitor the implementation of the process for the student. For example, if the request for evaluation or 504 Plan involves accommodations the School Nurse would need to supervise/implement, the School Nurse would likely be assigned as the case manager.

3. The Principal will monitor the composition of the 504 Team to ensure that qualified staff participate.
- C. The case manager will respond to a request for a 504 evaluation within a reasonable time, not to exceed 15 school days from the date of the request.
1. If the school members of the 504 Team are not certain whether a 504 evaluation is needed, the case manager will prepare a letter informing the parent(s) that a meeting will be held to discuss the need for evaluation. In addition to the letter, the case manager will complete the Notice to Conduct the 504 Meeting form and send it to the parent(s) along with the Notice of Parent and Student Rights and the Receipt for Notice of Parents and Student Rights.
 2. If the school members of the 504 Team determine an evaluation should be conducted, the case manager will complete the Notice to Conduct a 504 Evaluation. This notice indicates the reason for the 504 evaluation. Current Office of Civil Rights (OCR) guidelines require that a school district obtain parent consent to evaluate a student and give parents prior notice of a Section 504 meeting. Parents should be fully informed regarding their child's rights and safeguards under Section 504. When the Notice to Conduct a 504 Evaluation form is sent home, it should be accompanied with the Notice of Parents and Student Rights form and the Receipt for 504 Notice of Parents and Student Rights form. The case manager is responsible for obtaining a signed Receipt from the parents.
 3. In certain situations, the school members of the 504 Team may conclude that an evaluation is not warranted. In those rare situations, a letter denying the request for evaluation should be sent to the parent(s). The letter should include a copy of the Notice of Parent and Student Rights form and the Receipt for 504 Notice of Parents and Student Rights form. The case manager is responsible for obtaining a signed Receipt from the parents.

Conducting an Evaluation

There are timelines by which the 504 evaluation must be completed and certain information should be considered when conducting the evaluation.

- A. Evaluations will be completed within 60 school days of the date consent is received, unless more time is needed and written notice is given to the parent or student requesting the evaluation. The written notice must identify the reason more time is needed.
- B. If the student was first evaluated to determine eligibility for special education, the 504 evaluation will be completed in an expedited manner, within 30 school days of the date the student was determined not to be eligible for special education or within 30 school days of the date of the request for a 504 evaluation, whichever is later, unless more time is needed and written notice is given to the parent or student requesting evaluation. The written notice must identify the reason more time is needed.
- C. Parents/students may review education records at any time before, during, or after a 504 evaluation.
- D. Section 504 evaluations are not intended to be as comprehensive as an evaluation under the IDEA (special education). However, in every case the specific concern that triggered the request for evaluation must be investigated. Information that might be considered includes (but is not limited to) grades, attendance reports, behavior plans, cumulative file information, psychological evaluations, medical information, observations, standardized testing information, teacher recommendations and parent input/interviews. If existing data is insufficient to determine whether a student needs accommodations (*i.e.* modifications to the district's policies or procedures), services or specially designed instruction to access the district's programs and activities, the team can conduct additional observations and/or assessments to obtain the necessary data. The school team may administer and use other formal and informal measures as deemed necessary. Best practice is to include parents in the evaluation process and to consider any information they provide in addition to the other items already identified.
- E. If the student is suspected to be eligible for special education under the IDEA a referral for a comprehensive special education evaluation must be initiated.

Determining Eligibility for a Section 504 Plan

1. 504 Evaluation Report

A 504 Evaluation Report form will be completed to document the data the team will consider to determine eligibility.

A 504 meeting will be held to discuss the information in the 504 Evaluation Report. After the information collected for the evaluation is discussed, the team members must then determine whether the student: (a) has a disability and (b) needs accommodations (*i.e.* modifications to the district's policies or procedures), services or specially designed instruction to have equal access to the district's programs and activities. Guidelines for making these determinations are included below.

A copy of the final report, including the team's determination regarding eligibility, will be provided to the parent(s).

2. *Determining Whether a Student Has a Disability*

The 504 team must first determine whether the student being evaluated has a disability. To have a disability, the student must meet three criteria: (a) **have a physical or mental impairment** (b) **which substantially limits**, (c) **one or more of the student's major life activities**. It is important to understand that all three criteria must apply to a student before the team considers whether that student requires accommodations to access Blue Valley's programs and activities. Additional detail on each of the three criteria is as follows:

(a) Physical or Mental Impairment: A physical or mental impairment is defined as 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 mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. This criterion does not limit eligibility to specific diseases or categories of medical conditions. The law was intentionally written this way so that the range of diseases or medical conditions that might be considered for Section 504 eligibility is not limited.

(b) Substantially limits: Simply having a medical condition does not automatically mean a student is disabled for purposes of Section 504; it must be one that “substantially limits” a major life activity. Section 504 does not specifically define the term “substantially limits”. The basis on which we evaluate this criterion is the impact the impairment has on one or more of the student's major life activities. It is vital to understand that for a student to meet this prong of the criteria the

impairment must impose a “considerable” limitation or limit “to a large degree” one or more major life activities at the current time. The eligibility team will consider the nature and severity of the disability as well as how long the disability is expected to last. The team may consider the manner, conditions, and duration in which a student performs a task in comparison to how non-disabled students perform the same task. The condition must present a barrier to the student’s ability to access the same opportunities as that afforded a nondisabled student or a substantial limitation does not exist. *With the exception of contacts and eye glasses, the team may not consider what measures have been taken to mitigate the impairment and its actual impact on the student on a day-by-day basis, such as medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications.* This term must be construed in favor of broad coverage of students and should not require extensive analysis.

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

When determining whether a student has a disability, the team cannot consider any ameliorative effects of mitigating measures (with the exception of eyeglasses or contacts). Examples of mitigating measures include: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

3. *Determining Whether the Student Needs Accommodations, Services or Specially Designed Instruction to Access the District’s Programs and Activities*

If the student has a disability, the team must then determine if the student needs accommodations (*i.e.* modifications to the district’s policies or procedures), services or specially designed instruction to have equal access to the district’s programs and activities. For purposes of determining need, the team can consider mitigating measures (*i.e.* medications, prosthetic devices, assistive devices, or

learned behavioral or adaptive neurological modifications that a student may use to eliminate or reduce the effects of his or her physical or mental impairment).

When determining need, it is helpful to consider what the “general rule” is for all students and ask whether the student requires a change to the “general rule” in order to have equal access to the district’s programs and activities. For example, if the school’s general rule is to allow all students unlimited time to complete a Math test, a disabled student who needs more time on Math tests will have equal access to the opportunity for extra time and an accommodation is not necessary. However, if the school’s general rule is for students to have only one class period to complete a Math test, and a disabled student needs more time to complete a Math test in order to demonstrate mastery of the concepts being assessed, the disabled student would not have equal access to the exam and an accommodation would be needed.

If a student does not need any accommodations, (*i.e.* modification of the district’s policies and/or procedures), related services and/or specially designed instruction, then the student is not eligible for a 504 Plan. However, the student still has certain rights described in the Notice of Parent and Student Rights form. And, if the student’s needs or the “general rules” change, the district should start the 504 Evaluation process again.

Developing a 504 Plan

If the school members of the team believe that the student’s impairment substantially limits a major life activity and that the student needs accommodations (*i.e.* modifications to the district’s policies or procedures), services or specially designed instruction to have equal access to the district’s programs and activities, they can draft a proposed 504 Plan that outlines the necessary accommodations, services or specially designed instruction in advance of the meeting at which the Evaluation Report will be reviewed.

Accommodations for academics, physical education, field trips, extracurricular activities, and other programs sponsored by the district should also be included if the student requires such accommodations to gain equal access to them.

A 504 Plan may also be drafted initially during the meeting scheduled for the purpose of reviewing the Evaluation Report.

Notice To Conduct a 504 Meeting

A 504 Evaluation Report and any draft 504 Plan should be reviewed at a 504 meeting. The case manager is responsible for scheduling a meeting at a time that is mutually convenient for the school staff members and the student's parents. Once a meeting date is selected, the case manager should send to parents the Notice To Conduct a 504 Meeting form at least 10 calendar days before the meeting will be held, whenever possible. If parents cannot attend a meeting, every effort should be made to reschedule. If several attempts to reschedule the meeting are unsuccessful, the meeting may be held without parents present.

Along with the Notice, the case manager should, if possible, send home a copy of the draft 504 Evaluation Report and draft 504 Plan several days ahead of the meeting. These documents may also be presented for the first time at the 504 meeting.

504 Accommodation Plan

Once the draft 504 Plan is reviewed and changes are made at the 504 meeting, team members, including the parent(s) will sign the 504 Plan indicating that they participated in the discussion/development of the 504 Plan. The parent also will be given the opportunity to consent or not consent to implement the 504 Plan. If the parent consents to the 504 Plan, a copy of the signed plan will be distributed to all individuals who work with the student or are involved in implementing the 504 Plan. Each individual reviewing the 504 Plan with the case manager will sign the Documentation of 504 Plan Distribution Form after the review is complete.

Progress Monitoring

All individuals responsible for implementing the 504 Plan for a student must evaluate the effectiveness of the 504 Plan on a semester basis using the Progress Monitoring Form.

Annual Review

The 504 Plan must be reviewed and rewritten (if necessary) on at least an annual basis. The case manager must schedule a meeting and send the Notice to Conduct 504 Meeting form to the parent(s). The plan may be reviewed more frequently, such as if the student's needs or the "general rules" change. The Progress Monitoring/Annual Review form should be used when reviewing whether the student remains eligible for the 504 Plan and whether any changes to the 504 Plan are needed.

File Storage

All paperwork associated with the 504 process shall be maintained electronically in Synergy. Any documents that previously existed in a paper files must be frozen in the paper files and travel with the students through their Blue Valley Schools attendance and ultimate archival. The full directions for electronic file management are available via Canvas. Access to 504 files will be restricted to personnel who have a legitimate education interest in the information contained in the file and other reasons allowed by FERPA and/or other applicable law.

Reevaluations

At least once every three years and also before any significant change in the 504 Plan is made, the case manager should request a parent's consent for a reevaluation. If consent to reevaluate is given, a new Evaluation Report form should be completed, updating information contained in the previous Evaluation Report. All evaluation information should be maintained with the student's 504 Plan in a lockable office file (separate from the cumulative file folder).

If consent to reevaluate is not given, education records should be reviewed to determine whether changes to the 504 Plan are needed.

Transition Guidelines

Clear communication between sending and receiving grade levels and/or schools is essential for successful transitions of students with 504 Plans. The consequences of poor communication/transition of 504 materials between the sending and receiving grade levels and/or schools are numerous and include such things as inappropriate student accommodations, dissatisfied students, parents, teachers, and administrators as well as legal proceedings against the district. For this reason, special care should be given to preparing each of the student's learning and school-sponsored environments for success. When a student is moving from grade to grade, level to level (elementary to middle; middle to high school), or from one school to another it is recommended that the following steps are taken:

If moving from grade to grade within the same building:

Consider whether the student's next learning environment will be different than the current one, creating the possibility that more or less accommodations, related services or specialized instruction will be needed.

- Consider whether the student's participation in extracurricular activities or other school sponsored events will change with advancement to the next grade.
- Establish a planning meeting with the student's current and next teacher or teachers prior to the transition.
- Include other appropriate team members in the planning meeting (including parents and the student, if appropriate).
- Rewrite/revise the plan to meet the student's needs at the next grade level, review the revised plan at a 504 meeting and request parent's consent for the revised 504 Plan.

If moving from level to level or transferring to another building:

Each level (elementary, middle, and high school) designs plans that reflect the way in which that school level operates. That is, "general rules" at the elementary level are often different than "general rules" at the middle school level, etc. Consequently, 504 Plans developed at an elementary school may include accommodations, related services or specialized instruction that need to be adjusted for middle school. In addition, 504 Plans may need to be revised to include items available to all students in elementary school because such items would constitute accommodations, related services or specialized instruction in middle school.

The current school should provide a copy of the current 504 Plan to the appropriate school personnel at the next level. The case manager at the current school and the case manager at the new level will determine who will be invited to attend a meeting to discuss whether a reevaluation is warranted to determine if the student needs accommodations at the next level or whether any changes to the 504 Plan are necessary when the student begins attending the next level. The case manager at the new level will contact the parents to schedule the meeting and invite the necessary team members.

Once the student attends the next level, a meeting can be held at the request of parents or school staff to discuss any additional changes that may be warranted after the staff at the new level has had the opportunity to work with the student and reflect on the effectiveness of the 504 Plan.

Terminating a 504 Plan

If, in the professional opinion of school staff, a student no longer demonstrates a need for a 504 Plan, a meeting should be held with the student's 504 Team (including the parents) to discuss the possibility of terminating the 504 Plan. Parents should be given written notice of this meeting, using the Notice to Conduct 504 Meeting form. At this meeting, the Progress Monitoring/Annual Review form should be completed, and the team should determine whether the student continues to be eligible for a 504 Plan.

If a parent desires to withdraw consent for a 504 Plan, the parent must give written notice of this withdrawal. The case manager must acknowledge in writing that the withdrawal of consent was received and notify the parent that accommodations will cease as of a specific date.

Grievance Process

The District has an internal grievance procedure providing for prompt and equitable resolution of complaints which cannot be resolved at the building level. An individual student, or parent/guardian on behalf of the student, who feels they have been discriminated against on the basis of a disability may file a grievance.

The grievance procedure is intended to address claims of harassment, disparate treatment, lack of accessible facilities, etc. The grievance procedure may also be used to address identification, evaluation, or placement issues, if parents desire. The grievance process is separate and distinct from the impartial due process hearing procedure.

A grievance should be initiated through the Section 504 Compliance Officer, Melissa Hillman.

Address: 15020 Metcalf Overland Park, KS 66223

E-mail: mhillman@bluevalleyk12.org Phone: 913-239-4000

1. A complaint should be in writing, containing the following information:
 - a. Name, address and phone number of person making the complaint.
 - b. Whether the person represents an individual or group.
 - c. Whether the person making the complaint has discussed the problem with the building administrator.
 - d. A summary of the complaint.

2. The Section 504 Compliance Officer will conduct an informal investigation of the complaint which may include a meeting with the student and/or parent(s), meetings with school staff, as appropriate, and a review of the file and supporting documentation.
3. Based on this review, the Section 504 Compliance Officer will make a determination.
4. Within ten (10) days after receiving the written determination, the complainant may request an impartial hearing regarding the complaint. A hearing with the opportunity for participation by the student's parent/guardian shall be conducted upon request.

Impartial Due Process Hearing Procedure

An impartial due process hearing will be utilized to resolve differences involving the education of a Section 504 qualified student when such differences cannot be resolved at the building level. Individual students and/or parent/guardian on behalf of student, are entitled to an impartial due process hearing with respect to actions relating to the identification, evaluation or placement of their student with disabilities. Individual students, and/or parent/guardian on behalf of student, have the right to obtain a Section 504 due process hearing without going through the grievance procedure. The informal hearing will be presided over and decided by an impartial hearing officer.

To initiate an impartial due process hearing, please contact the Section 504 Compliance Officer, Melissa Hillman:
15020 Metcalf, Overland Park, KS 66223
mhillman@bluevalleyk12.org
913-239-4000

1. The party requesting a hearing shall do so in writing, providing the following information:
 - a. Name, address and phone number of person making the complaint.
 - b. Whether the person represents an individual or group.
 - c. Whether the person requesting the hearing has discussed the problem with the building administrator.
 - d. A summary of the issues to be addressed at the hearing.
2. Once a request for hearing is received, the District will select an impartial hearing officer to preside over the hearing.

3. The hearing officer shall send notice to the parties of the date, time and place of the hearing.
4. The parties have the right to be represented by counsel at the hearing, and each party is responsible for its attorney's fees.
5. During the hearing, each party will have an opportunity to present evidence and testimony relevant to the issue.
6. The hearing officer will issue a written determination within a reasonable period of time following the conclusion of the hearing.
7. If either party is not satisfied with the hearing officer's decision, they may appeal the decision to federal court.

Individuals with Disabilities Education Act

Relief sought under Section 504/Title II may also be available under the Individuals with Disabilities Education Act. Please review the Individuals with Disabilities Education Act to determine your student's rights.

Department of Education -- Office for Civil Rights

Parents can file a complaint, at any time, with the Regional Office of Civil Rights with respect to Section 504 matters U.S. Department of Education, Office of Civil Rights, One Petticoat Lane, 1010 Walnut, Suite 320, Kansas City, Missouri 64106-2106; Telephone: (816) 268-0550; Facsimile: (816) 268-0599; or Email OCR.KansasCity@ed.gov.

Disciplining a Student with a 504

As with special education students who are subject to IDEA, a student with a 504 Plan may not be suspended for more than 10 days, unless a manifestation determination meeting is first held to determine if the student's misconduct is related to the student's disability and/or a direct result of a failure to implement the 504 Plan. Likewise, a manifestation determination may be required if the student is to be suspended for less than 10 days, but that proposed suspension in combination with prior suspensions would result in total suspensions of more than 10 days during the school year.

In deciding whether a manifestation determination is required under those circumstances, school personnel must consider the length of each suspension, the proximity of the suspensions to one another, the nature of the misconduct giving rise to each suspension, and the total amount of time the student has been or will be excluded from school. If, after considering these

factors, school personnel conclude that the proposed suspension will amount to a “pattern of exclusion,” then a manifestation determination is required.

Those involved in a manifestation determination meeting need to be knowledgeable about the student and the meaning of the data being reviewed. When possible, it is beneficial to convene those individuals who designed the student’s 504 Plan. When this is not possible teachers, parents, health professionals, counselors, etc. can serve on the team that makes a manifestation determination provided they have knowledge of the student and the data being reviewed. The Office of Civil Rights indicates that those making the manifestation determination must have available information that professionals would require when making such a decision. Examples might include attendance and academic records, psychological evaluation data, behavior plans, discipline records, staff observations, annotative records, etc. It is important that the information considered is recent enough to afford an understanding of the student’s current behavior.

As with IDEA, if the student’s misconduct is found to be a manifestation of the student’s disability, the student cannot be suspended for more than 10 school days. The major difference between IDEA and 504 is that if a student with a 504 Plan commits an infraction that is not a manifestation of his or her disability, and is suspended for more than 10 school days, there is no obligation to provide any educational services to the student with the 504 Plan during the period of the suspension.

It is vitally important that the student with the 504 Plan be punished no more severely than a non-disabled student would be punished under the same circumstances.

Frequently Asked Questions

1. Are there any impairments that automatically qualify as a disability under Section 504?

No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

2. Can a medical diagnosis constitute an evaluation for purposes of determining whether a student is eligible for a 504 Plan?

No. A physician’s medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment that substantially limits a major life activity. Other sources

include, but are not limited to, assessments administered by the district, teacher recommendations, physical condition, social and cultural background, adaptive behavior, parent input, and outside evaluations provided by parent(s).

3. Does a medical diagnosis automatically mean the student qualifies for a 504 Plan?

No. A medical diagnosis does not automatically guarantee a student a 504 Plan. The student's impairment must substantially limit a major life activity *and* the student must need accommodations (*i.e.* modification of the district's policies and/or procedures), related services and/or specially designed instruction to be eligible for a 504 Plan.

4. How should the district view a 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 limitation of one or more major life activities for an extended period of time. This must be resolved on a case-by-case basis, taking into consideration the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the student.

5. Is an impairment that is episodic or in remission a disability under Section 504?

Yes, under certain circumstances. A 504 Team can develop a 504 Plan for the student that contains accommodations available to the student when the impairment is active.

6. Are there situations when it is inappropriate to offer a 504 Plan?

Yes. Whether a student has a disability that may entitle him or her to a 504 Plan is always decided by evaluating and determining that the student has a disability and that the student needs accommodations (*i.e.* modification of the district's policies and/or procedures), related services and/or specially designed instruction to have equal access to the district's programs and activities. Common **misuses** of the 504 review request process include the following examples:

- A parent and/or doctor presents the school with a medical diagnosis and a 504 Plan is written without first determining if the medical condition causes substantial limitation of a major life activity and whether the student needs accommodations (*i.e.* modification of the district's policies and/or procedures), related services and/or specially

designed instruction to have equal access to the district's programs and activities.

- A student is placed on a 504 Plan solely because the parent wants the student to have additional time on college qualifying examinations (e.g. ACT, SAT).
- A student fails to qualify for special education support and is automatically signed up for a 504 Plan without first qualifying him based on Section 504 criteria.
- A student has an IEP (unless it is a gifted IEP).
- A student is automatically placed on a 504 Plan when the student no longer qualifies for special education services without first utilizing the process for determining whether the student is eligible for a 504 Plan.

7. What should you do if a transferring student has a 504 Plan created by another school district?

If a student with a disability transfers into Blue Valley with a 504 Plan developed by another school district, a 504 Team should review the plan and supporting documentation. If a group of persons, including those knowledgeable about the meaning of evaluation data and knowledgeable about available accommodations determines the 504 Plan is appropriate, the 504 Plan must be implemented and the 504 Plan information transferred into Synergy. If the district determines the 504 Plan is inappropriate, the evaluation process should be initiated.

8. Are students who are found to be ineligible for a 504 Plan still protected by Section 504?

Yes. Students who do not qualify for a 504 Plan may still be protected by Section 504. The law prohibits discrimination against students who have a disability. In addition, the law prohibits discrimination against students who have a record of an impairment or are regarded as having an impairment.

(a) “Has a record of such an impairment” means that a person has a history of, or has been misclassified (by a recipient of federal funding) as having a mental or physical impairment that substantially limits one or more major life activities.

(b) “Is regarded as having an impairment” means that an individual has a physical or mental impairment that does not substantially limit major life activities but that is treated (by a recipient of federal funds)

as constituting such a limitation; or has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such an impairment.

Thus, in the case of “has a record of” and “is regarded as having” an impairment, individuals receive Section 504 protection not necessarily because they have a qualifying disability, but to protect them from being injured by the prejudice or stereotypic attitudes of others. Schools have no obligation to identify these students or provide them with a Section 504 Plan. However, schools are prohibited from discriminating against these students in all programs and activities.

9. If a 504 includes accommodations included in an Emergency Care Plan that has been developed between the parent and nurse, and may require small adjustments from time to time, how should this information be included in the 504 plan?

It depends. Sometimes teams decide to include the contents of the ECP within the 504 Plan itself. If this is the case, the entire 504 Team would need to come together to discuss any change to the ECP/504 Plan before implementation. Another option is to include a statement in the 504 Plan that addresses the need for small adjustments to the ECP between 504 meetings based upon a doctor’s recommendation or parent request. For example, the 504 Plan could include the following accommodation: “The school will implement the most recent Emergency Care Plan developed in consultation with and approved by the parents/guardian.” In this circumstance, the entire 504 Team would not need to meet to discuss a change to the ECP/504 Plan before implementation, but they could meet if either the parent or another member of the 504 Team believes the input of other team members is necessary. When referencing an ECP in a 504 Plan, 504 teams should consider both options and choose the most appropriate option to meet the student’s needs.