

Jefferson County Public Schools

**P.O. Box 34020
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District Guide

for Implementation
of the Regulations

of

Section 504

of the

**Rehabilitation Act of 1973
November 2002**

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Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act of 1973 is a civil-rights statute that provides that: “No otherwise qualified individual with disabilities in the United States...shall, solely by reason of his/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 or activity conducted by any executive agency or by the United States Postal Service.”

Definitions

Who is an ‘individual with disabilities?’ {34 CFR 104.3(j)}

An individual with disabilities is the same as “a person with disabilities” defined in 34 CFR 104.3(j). That definition is as follows:

(j) “Person with disabilities.” (1) “Persons with a disability” means 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 an impairment, or (iii) is regarded as having such an impairment.

The legal definition contained in Section 504 does not set forth a list of specific diseases and conditions that constitute physical or mental impairment because of the difficulty of ensuring the comprehensiveness of such a list. However, the definition includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; attention deficit disorder (ADD); attention deficit hyperactive disorder (ADHD); acquired immune deficiency syndrome (AIDS); human immunodeficiency virus (HIV) positive; specific learning disabilities; traumatic brain injury; etc.

There are three criteria used to qualify a person as an individual with disabilities under the regulations:

1. A person is considered disabled under Section 504 if he/she has a physical or mental impairment that substantially limits one or more major life activities. A physical or mental impairment does not constitute a disability for purposes of this part of the definition unless its severity is such that it results in a substantial limitation of one or more life activities. Thus, cultural, environmental, or economic factors; age; and homosexuality are not covered. However, if a person who has any of these characteristics also has a physical or mental impairment, the person is included in the definition.
2. A person is considered disabled under Section 504 if he/she has a record or history of such an impairment, has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
3. A person is considered disabled under Section 504 if he/she is regarded as having such an impairment. A person can be found eligible under this section if he/she:
 - a. has a physical or mental impairment that does not substantially limit a major life activity, but is treated by the Jefferson County Public School District as having such a limitation (e.g., a student who has scarring, a student who walks with a limp); or





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- b. has a physical or mental impairment that substantially limits a major life activity, only as a result of the attitudes of others toward such impairment (e.g., a student who has epilepsy and is not allowed to try out for sports or cheerleading); or
 - c. has no physical or mental impairment, but is treated by the JCPS District as having such an impairment (e.g., a student who tests positive for HIV, but has no physical effects from it).

Who is a 'qualified' individual with disabilities? {34 CFR 104.3(k2)}

With respect to public preschool, elementary, secondary, or adult education services, a person with a disability is (i) of any age during which persons without disabilities are provided such services; (ii) of any age during which it is mandatory under state law to provide such services to persons with disabilities, (iii) or is one to whom a state is required to provide a free, appropriate public education under Section 612 of the Individuals with Disabilities Education Act. For school districts, this means all school-age persons with disabilities, ages 3-21.

Section 504 also protects parents who have a disabling condition. Accommodations, such as an interpreter for hearing-impaired parents, allows parents an equal opportunity to participate in school-initiated activities.

What is a 'program or activity?'

The term includes all programs or activities of the Jefferson County Public Schools (JCPS).

What is a 'major life activity?'

Major life activities mean functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working {34 CFR 104.3 (j)}. The disabling impairment need only substantially limit **one** major life activity in order for the student to be eligible to be identified as a "qualified" individual with disabilities. The whole life activity across all domains must be affected (e.g., **learning**; not spelling, mathematics calculation, reading, or writing).

What constitutes discrimination under Section 504?

Discrimination under Section 504 34 CFR 104.4(b) occurs when a recipient of federal funds:

1. denies a qualified individual with disabilities the opportunity to participate in or benefit from an aid, benefit, or service that is afforded students without a disability (e.g., District practice of refusing to allow any student with an Individual Education Plan [IEP] the opportunity to be on the Honor Roll; denial of credit to a student whose absenteeism is related to his/her disabling condition; expelling a student for behavior related to his/her disabling condition; refusing to dispense medication to a student who could not attend school otherwise);
2. fails to afford a qualified individual with disabilities an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded a student without a disability (e.g., applying a policy that conditions interscholastic sports eligibility on the student's receiving passing grades in five subjects, without regard to the student's disabling condition);





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3. fails to provide to a qualified individual with disabilities aids, benefits, or services that are as equally effective* as those provided to a student without a disability (e.g., placing a student with a hearing impairment in the front row as opposed to providing him/her with an interpreter);

*Note: "Equally effective" aid, benefit, or service need not produce identical results or level of achievement for disabled and non-disabled persons, but must afford disabled persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs. {34 CFR 104.4(b)2}.

4. provides different or separate aids, benefits, or services than are provided to students without a disability (e.g., segregating students in separate classes, schools, or facilities, unless necessary);
5. aids or perpetuates discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability (e.g., sponsoring a student organization that excludes persons with disabilities);
6. denies a qualified person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disabling condition;
7. otherwise limits the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others (e.g., prohibiting a person with a physical impairment from using a service dog at school);
8. in determining the site or location of a facility, makes selections that effectively exclude persons with disabilities, deny them benefits, or otherwise subject them to discrimination (e.g., allowing students with disabilities to be located in inferior facilities such as trailers, wings in basements, and unnecessarily restrictive classrooms due to a lack of classroom space).

Note: The requirements under Section 504 are consistent with the Americans with Disabilities Act (ADA), although the ADA has a broader coverage.

The Rehabilitation Act Amendments of 1992 amended the Rehabilitation Act of 1973, 29 U.S.C. 701-97 (1988 & Supp. IV 1992), to apply the substantive standards of Title I of the ADA to Sections 501, 503, and 504 of the Rehabilitation Act for non-affirmative action employment discrimination cases. Pub. L. No. 102-569, 106 Stat. 4344 at 4424, 4428 (1992) (codified at 29 U.S.C. 791(g), 793(d), 794(d) (Supp. IV 1992)). (Sections 501, 503, and 504 of the Rehabilitation Act prohibit federal agencies, federal contractors, and programs receiving federal financial assistance from discriminating on the basis of disability.) The ADA definition of the term "disability," therefore, also applies to those sections of the Rehabilitation Act.





Jefferson County Public School District Obligations for Elementary and Secondary Education

Child Find

The Jefferson County Public School District will undertake to identify and locate every qualified disabled person who is residing in the recipient's jurisdiction and who is not receiving a public education and will take appropriate steps to notify persons who are disabled, and their parents or guardians, of the recipient's duty under this subpart (34 CFR 104.32).

The Jefferson County Public School District conducts annual Child-Find efforts through routine and periodic screening; public notice; public-service announcements; and mass mailings to community health, mental-health, and social-services agencies, as well as the private/parochial sector of the educational community. The notice is designed to make the community aware of the availability of services to qualified children and youth with disabilities and the method by which referrals may be made.

Schools conducting periodic screening should carefully document the results of those events and should continue to make referrals to appropriate school personnel when concerns arise as a result.

Educational Setting

The District must educate each qualified person with disabilities with students without a disability, to the maximum extent appropriate to the needs of the students with disabilities. In order to remove a student from the regular educational environment, the District must demonstrate that educating the student in the regular environment, with the use of supplementary aids and services, cannot be achieved satisfactorily (34 CFR 104.34).

Free, Appropriate Public Education

The District must provide a free, appropriate education (regular or special education and related aids and services) to Section 504 qualified disabled school-age children who reside within the District. Instruction must be individually designed to meet the needs of these students as adequately as the needs of students without a disability are met.

The quality of educational services provided to a qualified person with disabilities must be equivalent to the services provided to students without a disability. If the District cannot provide a free, appropriate public education and an alternative placement (including residential) is necessary, it will be provided at no cost to the parents or guardians.

Nonpublic School Placements Made by Parents

If the District has made available a free, appropriate education to a student, one which conforms to the requirements of Section 504, but the parent chooses to place the student elsewhere, the District is not responsible for any costs incurred [34 CFR 104.33(c)(4)}. Disagreements between a parent or guardian and the District regarding whether the District has made such a program available or otherwise regarding the question of financial responsibility are subject to due-process procedures (34 CFR 104.36).





Transportation

If the District provides transportation to all its students within a certain geographic area, the District may not discriminate in its provision of transportation to qualified persons with disabilities.

If the District places a student with a disability in a program not operated by the District, the District must ensure that adequate transportation to and from the program is provided at no greater cost than the parent would have paid to transport the child to the District-operated program {34 CFR 104.33(c)(2)}.

504 Evaluations

If a student with a disability needs or is believed to need special education or related services, the District must evaluate the student prior to initial placement in a “regular or special education program and any subsequent significant change in placement” {34 CFR 104.35(a)}. Section 504 does not provide for an independent evaluation.

The District must ensure tests and other evaluation materials:

1. have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. include those tailored to access specific areas of educational need and not merely those that are designed to provide a single, general intelligence quotient; and
3. reflect aptitude or achievement or whatever else the tests propose to measure and do not reflect the student’s impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular deficits) {34 CFR 104.35(b)}.

Additional Assessment

Components included in an evaluation should reflect teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

504 Placement Procedures

In interpreting educational evaluation data and in making placement decisions, the District must (34 CFR 104.35):

1. draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, medical information, social or cultural background, and adaptive behavior;
2. ensure that information obtained from all such sources is documented and carefully considered;
3. ensure that the placement decision is made by a group of persons, including persons who are knowledgeable about the child; the meaning of the evaluation data; and placement options; and
4. ensure that the student is educated with his/her nondisabled peers to the extent appropriate. The District shall place a student with a disability in the regular educational environment unless it is demonstrated that the





education of the student in the regular environment, with the use of supplementary aids and services, cannot be achieved satisfactorily. The District shall ensure that students with a disability participate with students without a disability to the maximum extent appropriate in the provision of nonacademic and extracurricular services and activities, including meals and recess periods. Any facilities identifiable as being for persons with disabilities must be comparable to facilities, services, and activities provided other students (34 CFR 104.34).

504 Reviews/Reevaluations

Section 504 reviews/reevaluations should be done periodically, but definitely when:

- serial suspensions occur.
- retention is considered.
- the student shows a pattern of not benefiting from instruction.
- the student moves from one educational setting/level to another.
- additional information is gathered that affects the instructional program of the student.
- circumstances change and eligibility is in question.

Section 504 reevaluations are required at a minimum of three-year intervals. All information available regarding the status of the student should be reviewed by a team knowledgeable about the student and similar to the team establishing initial eligibility as Section 504 disabled.

Nonacademic Services

The District must provide equal opportunity in areas such as counseling, physical-recreational athletics, transportation, health services, recreational activities, special-interest groups or clubs, referrals to other agencies, and employment (34 CFR 104.37).

1. **Counseling:** The District must provide personal, academic, or vocational counseling, guidance, or placement without discrimination on the basis of disability. The District shall ensure that qualified students with a disability are not counseled toward more restrictive career objectives than are students without a disability with similar interests and abilities.
2. **Physical Education and Athletics:** The District must provide physical education courses and athletics and similar programs and activities without discrimination on the basis of disability. Qualified students with a disability must be provided an equal opportunity for participation in physical education courses, interscholastic activities, clubs, or intramural athletics.

The District may offer students with disabilities physical education and athletic activities that are separate or different from those offered to students without a disability only if:

1. in separating or differentiating, the student who is disabled participates with students without a disability to the maximum extent appropriate to the needs of the student with a disability in question; and
2. no qualified student with a disability is denied the opportunity to compete for teams or to participate in courses that are not separate or different.





Preschool and Adult Education

The District may not, on the basis of disability, exclude qualified disabled persons from Preschool education or day-care programs or activities or adult education programs or activities and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity (34 CFR 104.38).

Procedural Safeguards

The District has in place procedural safeguards with respect to actions regarding the identification, evaluation, or educational placement of students with a disability. The procedural safeguards include notice, an opportunity for the parents or guardians to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardians, representation by counsel, and a review procedure (34 CFR 104.36). These safeguards are presented in the the "JCPS Notice of Parent/Student Rights."





Notice of Parent/Student Rights

Section 504 of the Rehabilitation Act of 1973

Under Section 504, the federal law grants rights to parents regarding their child's education. The intent of the law is to keep parents/guardians fully informed concerning decisions about their child. Parents must be informed of any action pertaining to evaluation, eligibility, and proposed educational plan prior to any changes in placement.

Persons who are thought to be qualified disabled persons shall have the following rights in accordance with Section 504 of the Rehabilitation Act of 1973.

1. Right to receive a free, appropriate public education in the least restrictive environment that allows your child to participate in school and school-related activities, without discrimination because of a disability
2. Right to have evaluation, education, and placement decisions based on a variety of information sources and by persons knowledgeable of the student, the evaluation data, and placement options
3. Right to examine all relevant records and to request an amendment if there is cause to believe they are inaccurate, misleading, or in violation of the child's privacy or other rights
4. Right to review information and to request information and interpretations of information that is understandable to you
5. Right to request mediation or an impartial due-process hearing and to review related decisions or actions regarding your child's identification, evaluation, and educational program or placement. Parents/Guardians and the student may take part in the hearing and have attorney representation. Mediation or hearing requests must be made to the following:

Compliance and Investigations Director
Jefferson County Public Schools
3001 Crittenden Drive
Louisville, KY 40209
Telephone (502) 485-3341





Procedures for Serving Students with Disabilities Under Section 504 of the Rehabilitation Act of 1973

The following steps provide general guidance in how to proceed regarding the issues of students with disabilities as defined by Section 504 of the Rehabilitation Act of 1973. They are not *exclusively sequential*, as it may not be necessary to address each item each time you consider the possibility of a disability.

Note: After determining ineligibility under the Individual Disability Education Act (IDEA), or release from ECE services, consideration is given to:

1. eligibility under the guidelines of Section 504 would occur; and
2. determination of the existence of a Section 504 disability—in the presence of a Section 504 disability, a Section 504 Adaptation Plan would be developed.

Either plan would then become the responsibility of the designated regular/Comprehensive Program person who would monitor the progress of the student and ensure continued compliance with due process.

Step One—Concern

Parent, teacher, counselor, or administrator, etc., believes he/she is observing in a student **substantially limited** performance in one or more major life activities that is believed to be caused by a physical or mental impairment. Major life activities include functions such as walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks, or

Consider the existence of a disability for 504 eligibility purposes when*:

- serial suspensions occur for a student.
- retention is considered for a student.
- a student shows a pattern of not benefiting from instruction.
- a student returns to school after an extended illness or injury.
- a student returns to school after being released from a treatment center or institution.
- a student is referred for evaluation for IDEA, but it is determined not to do an evaluation under IDEA.
- a student is evaluated and not eligible under IDEA.
- a student exhibits a chronic health condition.
- a student is in danger of dropping out of school.
- substance abuse is an issue.
- other reasons for concern arise.
- student is absent for health issues.

Note: * This is not an exhaustive list.





Step Two—Referral

Does this student need an ECE referral?

In many instances, it is clear that a referral should be made to Exceptional Child Education (ECE) for possible consideration of an IDEA categorical classification: Mild Mental Disability; Functional Mental Disability; Hearing Impairment; Speech-Language Impairment(s); Vision Impairment; Emotional/Behavioral Disability; Specific Learning Disability; Multiple Disability; Autism; Traumatic Brain Injury; Developmental Delay; Orthopedic Impairment; Deaf-Blind; and other Health Impairment. **If the referral is being made for this purpose, follow the guidelines established by the Exceptional Child Education referral process, or, if unsure:**

- the concerned individual should complete the Referral Form and interventions for ECE and forward them to the designated school team to determine the presence of a suspected disability, or
- the appropriate team will determine if the student should be referred to ECE or warrants further review for the purpose of Section 504 eligibility, or
- one can then proceed with ECE referral or continue Section 504.

Step Three—Screening/Record Review/Status Review

Within ten school days of receiving the initial indication of concern, the Section 504 Team reviews the information provided with the referral to include, but not limited to, the student's files, attendance record, suspension record, medical reports, classwork and homework documents and then consults with teachers, parent/guardian, peers, professional, and/or the student, etc.

The Section 504 Team documents current concerns and data presented and determines if a student is a qualified disabled person under Section 504.

Does this student appear to have a disability under Section 504?

If yes:

Provide the parent/guardian with a copy of the Section 504 rights and proceed to develop the Section 504 Adaptation Plan, involving the appropriate staff. Referrals, local screening forms, 504 Screening forms, and 504 Adaptation plans should be maintained in the student's confidential file at the local school. A reference to the existence of this record should be placed in the cumulative file. If a student transfers to another JCPS school, the file shall be forwarded to the new school in accordance with JCPS procedure. The principal/designee is responsible for keeping a record of those students for whom a Section 504 Plan has been developed, with the anticipated review date.

If no:

Provide the record-review results to the source of referral, with accompanying recommendations. Provide the parent/guardian with "Notice of the Parent/Student Rights." Provide written notice to parent/guardian that student does not qualify. Referrals, local screening forms, 504 Screening forms, and 504 Adaptation plans should be maintained in the student's confidential file at the local school. A reference to the existence of this record should be placed in the cumulative file. If a student transfers to another JCPS school, the file shall be forwarded to the new school in accordance with JCPS procedure.





If not sure—(If a determination cannot be made and additional information is needed):

- Provide notice to parents of need for tests/observations and **obtain consent in writing**.
- The team member with the authority to commit resources should identify the staff responsible for obtaining the additional items and proceed.
- Obtain written consent from parent/guardian for an exchange of information as appropriate.

Step Four—Evaluation

If additional information is required to make the decision, conduct all tests, observations, etc., appropriate to determine Section 504 eligibility and for which the parent/guardian has given written permission.

Step Five—Eligibility

Either at **Step 3** or at this point, a meeting of staff, knowledgeable about the student, is needed to review the completed student record and to determine if a disability exists as defined by Section 504. It is recommended that the group be composed of the parent, at least one of the student's teachers, the student's counselor, a building administrator, and persons knowledgeable about the student's concerns and the meaning of the evaluation data and/or instructional options. The team composition may vary according to the needs of the student. The student should always be considered for participation.

Is the student disabled based on the Section 504 definition?

If yes:

Proceed, based as indicated in **Step 3** or

Does the additional data presented now indicate a need for an ECE referral based on the requirements of IDEA?

If yes:

Proceed with ECE referral process.

Step Six—Adaptation Plan

Once eligibility under Section 504 has been determined, a Section 504 Adaptation Plan is to be developed and implemented. One individual should be designated to monitor the implementation of the plan and the progress of the student.

Step Seven—Review/Reevaluation

Each Section 504 Adaptation Plan should be reviewed periodically, but certainly when:

- serial suspensions occur.
- retention is considered.





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- student shows a pattern of not benefiting from instruction.
 - the student moves from one educational setting/level to another.
 - additional information is gathered that affects the instructional program of the student.
 - circumstances change and eligibility is in question.
 - adaptations are no longer needed.
 - chronic absences occur and

at a minimum of three-year intervals, all available information regarding the status of the student should be reviewed by a team knowledgeable about the student and similar to the team establishing initial eligibility as Section 504 disabled.

Step Eight—Procedural Safeguard/Notice

Notification to parents **is required** with:

- determination of eligibility/ineligibility.
- significant change in programming/status.

Rights under federal law are to be made clear to the parent, with the notification that eligibility is being considered. The parent may request mediation or an impartial due-process hearing related to decisions or actions regarding their child's identification, evaluation, or educational program.

Written permission of parents is **required** for additional information/data/tests.

Documentation is necessary at each event, to include, but not be limited to:

- notice of action to be taken.
- permission to gather new data.
- eligibility determination.
- development of the Section 504 Adaptation Plan.
- significant change of programming.





Section 504 Discipline, Suspension/Expulsion Procedures

The procedural framework used with special education students provides guidelines for discipline of students served under Section 504. A Section 504 Committee, members who have knowledge about the student, shall meet to review the Section 504 Adaptation Plan for disciplinary purposes prior to suspending a student for more than ten (10) school days within a school year.

If there is a Behavior Plan with specific options and responses to misconduct, then those options and responses should be implemented according to the plan.

If the misconduct may require a significant change in placement, the Section 504 Committee must conduct a “manifestation determination” to determine whether the student’s conduct was caused by his or her disability.

If the Section 504 Committee determines that the misconduct is not related to the student’s disability, the student can be excluded in the same manner as nondisabled students are excluded.

If the Section 504 Committee determines that the misconduct is related to the student’s disability, the student may not be suspended. The committee shall consider:

- revising the Section 504 Adaptation Plan.
- completing a functional-behavior assessment and Behavior Improvement Plan.
- determining the need for an ECE assessment to determine eligibility for services under IDEA.

Bus suspension is a disciplinary action. If, as the result of a bus suspension, a student “stops coming to school,” then one must count each day as accumulative toward consideration under the rules governing suspensions.

If the suspension is required to protect persons or property or to avoid disruption of the ongoing educational process, the student must first be granted an informal hearing and then may be suspended. The Section 504 Committee shall convene as soon as possible.





Commonly Asked Questions and Their Answers

To be eligible for services and protection against discrimination on the basis of disability under Section 504, a student must be determined, as a result of an evaluation, to have a “physical or mental impairment” that substantially limits one or more major life activities {29 USC 706(8)(b)}.

How is a physical or mental impairment defined under Section 504?

A physical impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; and skin and endocrine.

A mental impairment is any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Generally, impairments are those recognized in DSM-IV or other respected sources, if not excluded under 504/ADA (e.g., illegal drug use).

What are major life activities under Section 504?

Major life activities are functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, **learning**, and working.

Reading and writing are not life activities.

When does an impairment ‘substantially limit’ students’ major life activity?

The limitation on the overall life activity must be substantial, not mild or even moderate. One needs to reference the limitation, not on the individual student’s ability or even the achievement of peers in his school or district, but on the level of performance of the average student in the same age/grade level in the national population. The degree of impact on the life activity must be determined.

NOTE: An ADD/ADHD student who makes academic progress as shown by grades and standardized test scores is not substantially limited in the major life activity of learning.

A student who is succeeding in the Comprehensive Program does not present a disability that substantially limits the ability to learn.





What determines the presence of a disability under Section 504?

All three components must be identified and documented in order to define the presence of a *disability* under Section 504:

- Physical or mental impairment
- Substantial limitation
- An impacted major life activity

When is Attention Deficit Disorder/Attention Deficit Hyperactive Disorder (ADD/ADHD) a disability under Section 504?

ADD and ADHD are impairments that can be the basis of eligibility under either Section 504 or IDEA.

The key is whether the student's ADD or ADHD is sufficiently severe that it substantially limits a major life activity. Generally the life activity would be learning, but it also could be the ability to conform to social norms. The key question is whether the student needs special education with specially designed instruction or if accommodations within the regular/Comprehensive Program will address the limits on the life activity of learning. An ADD or ADHD student may be eligible as "Other Health Impaired," but also may be eligible for services under IDEA on the basis of a "Specific Learning Disability" or "Emotional Behavior Disability."

Can a parent of a student who is eligible under IDEA choose to have the student covered under Section 504 only?

No. According to OCR (1996), the parent does not have that flexibility. The District also does not have the flexibility to use accommodations under Section 504 when the student is IDEA-eligible.

Can a student who was referred under IDEA but found ineligible be automatically covered under Section 504?

A student who does not meet eligibility under IDEA may or may not fit within the Section 504 definition. Section 504 is not an automatic outcome because a student does not meet IDEA eligibility standards.

Can Section 504 be used as a Remedial Plan?

No.





Must schools consider Section 504 for every student who has a medical diagnosis of ADD or ADHD?

It may be a wise course of action, but does not necessarily have to occur.

A medical diagnosis can serve as a trigger to initiate an evaluation. If there is an awareness of patterns of behavior or learning problems and the presence of a medical diagnosis, then the school needs to be proactive and start an evaluation under IDEA or Section 504.

How does a student become eligible to be considered for an Adaptation Plan?

A student must be determined to present a documented physical or mental impairment supported by evaluation data that support that the disability substantially limits one or more major life activities.

What evaluations must be conducted under Section 504?

The District must conduct an initial evaluation before any action is taken for initial placement of a student with a suspected disability. The evaluation consists of a review of existing data on a child, such as information/evaluations provided by parents; current classroom-based assessments and observations; medical information/statements; and other appropriate information. The documentation must provide evidence that the impairment substantially limits a major life activity and the student is determined to have a disability.

The presentation of a medical diagnosis by a parent does not automatically make a student eligible under Section 504. An impairment **is not** a disability.

Can a parent's request for an evaluation obligate the school to do an evaluation?

When the District denies the parent's request, the District must be ready to demonstrate why it did not have reason to suspect that the student might be eligible under IDEA or under Section 504.

Who are eligible team members for a Section 504 meeting?

Any person with knowledge about the child, meaning of evaluation data, and instructional options are eligible committee members. It is the Section 504 meeting's membership that determines if a student is eligible for Section 504 accommodations and develops the Section 504 plan with needed accommodations and related services that are required for the student to have an opportunity commensurate with those of nondisabled peers.





How does Section 504 address a student who has a temporary disability?

The law does not say that a disability has to be permanent. If the temporary disability substantially limits at least one major life activity for such a time that the student's education will be disrupted, then the student may be eligible for Section 504 during the duration of the temporary disability.

Eligibility must be determined case-by-case considering duration of temporary disability and degree of impact on a major life activity. A student undergoing chemotherapy may be determined as having a temporary disability and eligible for Section 504.

When should an Adaptation Plan be reviewed?

The Adaptation Plan should be reviewed when there is a significant change in placement to include, but not be exclusive to progression from grade to grade (Primary to Intermediate, Elementary to Middle, Middle to High); change in school locations; and suspensions totaling more than ten (10) days in one school year. At a minimum, the Adaptation Plan must be updated every three years. A reevaluation may be triggered by "significant change" in placement.

How are a student's grades affected by the Adaptation Plan implemented in the Comprehensive Program?

The student should be graded in accordance with the District's applicable grading policy.

What should every regular/Comprehensive Program teacher ask about the students assigned to his/her class?

- Which students in my class have a Section 504 Adaptation Plan?
- Have I reviewed those 504 plans?
- Do I understand my particular responsibility?
- Am I making a good-faith effort to implement the Adaptation Plan?
- Am I documenting my efforts?

Note: Current Section 504 Issues are often addressed on the Compliance and Investigations Web page.





Compliance and Investigations Office

Computer Identification of Students with Section 504 Adaptation Plans

To Update a Student for the Section 504 Plan:

- Select integrated student data.
- Select entry and withdrawal menu.

Using the Student Name Search:

- Enter the student name and transmit.
- Select the line number for the student and transmit.
- Select medical/miscellaneous update.
- To indicate the student with the Section 504 Plan, enter an “X” in the Section 504 Plan field and transmit. Retransmit to verify and transmit to update.
- To remove the student who no longer has a Section 504 Plan only, space out the “X”.

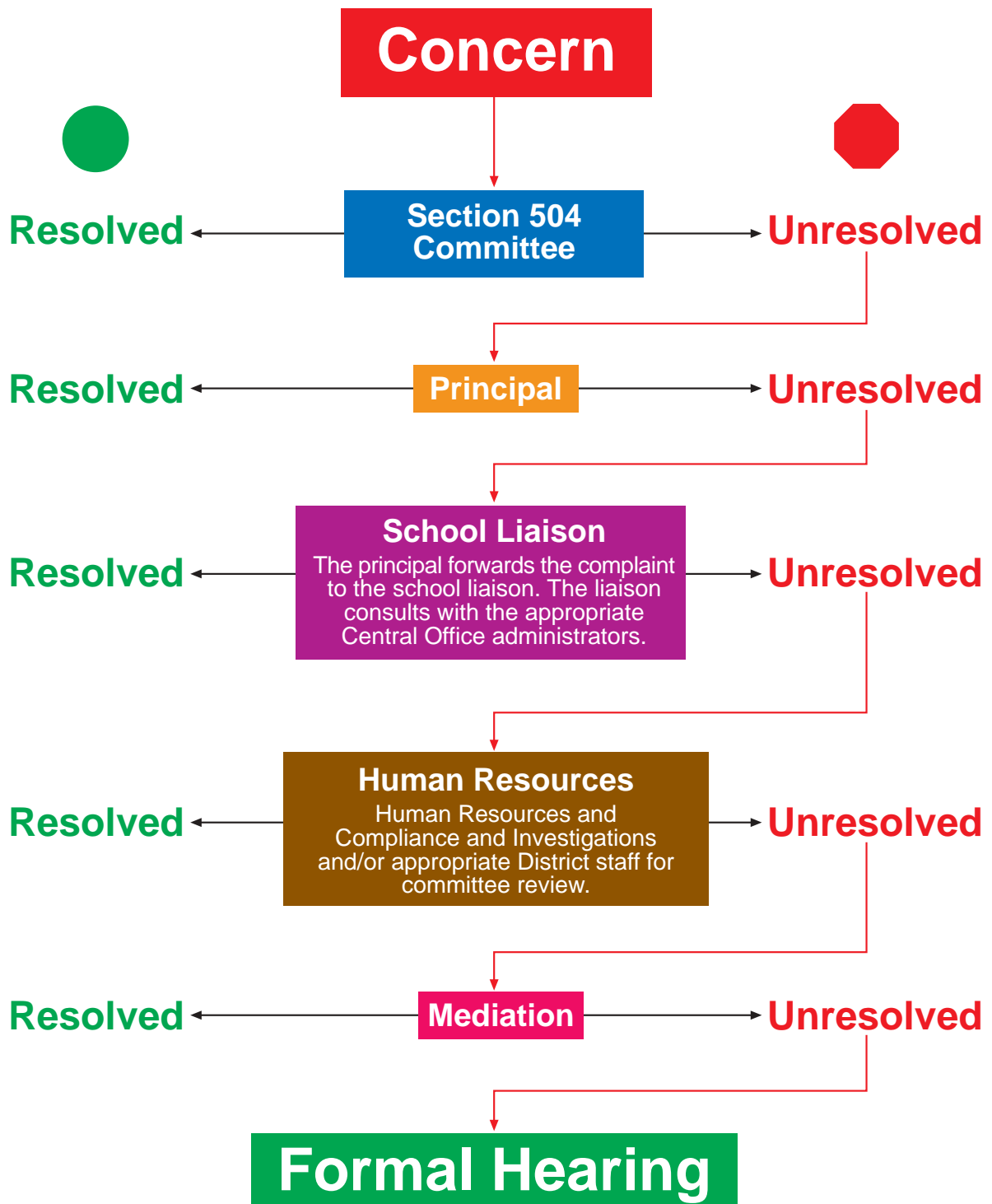
Using the Student Number Search:

- Enter the student number on the medical/miscellaneous update and transmit.
- To indicate the student with the Section 504 Plan, enter an “X” in the Section 504 Plan field and transmit. Retransmit to verify and transmit to update.





Recommended Process for Resolving Disagreements Regarding the Identification, Evaluation, or Placement of Section 504 Students



Student I.D. No: _____



Section 504 Referral Form

(District Guide for Implementation of the Regulations of Section 504 of the Rehabilitation Act of 1973)

Referral to:

Designated School Team: _____ Other (Specify): _____

Student's Name: _____ Parent's Name: _____

Date of Birth: _____ Address: _____

I.D. Number: _____ Grade: _____

School Name: _____

Telephone Numbers: Student: _____

Mother: _____
(Home) (Work)

Father: _____
(Home) (Work)

Homeroom Teacher/Counselor: _____

Statement of Concern:

Describe, as specifically as possible, the nature of your concerns and interventions attempted: _____

(Signature of Referral Source)

(Relationship to Student)

(Date)

Referral Forwarded To:

Designated School Team on: _____ (Designated School Team must act on referral within 10 working days.)
(Date)

Other (Complete remainder of this form.):

Describe Response To Referral: _____

(Signature/Position)

(Date)

(Telephone Number)



Section 504 Student Eligibility Form

(District Guide for Implementation of the Regulations of Section 504 of the Rehabilitation Act of 1973)

Student's Name: _____ School: _____

Date of Birth: _____ Grade: _____ Date: _____

Teacher(s) Name: _____

1. Reason for Referral: _____ has been referred for consideration as a student with a disability under Section 504 of the Rehabilitation Act of 1973 because of the following educational concerns (must be stated):

2. Specify the physical or mental impairment(s): * _____

(As recognized in DSM-IV or other respected sources, if not excluded under 504/ADA)

*An impairment is not a disability.

3. Check the major life activity: Seeing Hearing Walking Learning
 Other (Specify): _____

4. Sources of information considered: Aptitude and/or achievement tests Adaptive behavior
 Teacher recommendations Physician's statement
 Other (Specify): _____

5. Place an X on the following scale to indicate the specific degree that the impairment (described in No. 2 above) limits the major life activity (described in No. 3 above).

- Discount from the analysis subpar performance due to factors such as normal moods, lack of motivation, and the immediate situation or environment. Similarly, make an educated estimate with the mitigation of medication.
- Make sure the team focuses on the major life activity as a whole (e.g., learning), not in a particular class (e.g., mathematics) or for a particular sub-area (e.g., socialization).
- Use the average student in the general population as the frame of reference for purpose of comparison.

5	_____	Extremely
4	_____	Substantially
3	_____	Moderately
2	_____	Mildly
1	_____	Negligibly

For an X at 4.0 or above, fill in specific information evaluated by the team that justifies the rating:



Section 504 Student Eligibility Form (Cont.)

(District Guide for Implementation of the Regulations of Section 504 of the Rehabilitation Act of 1973)

Note: To define a disability under Section 504, all three conditions must be met (Please check as each condition is evidenced.):

- The student must have a physical or mental impairment, which
- Impacts one or more major life activity, and
- Substantially limits the student's opportunity to access programs and activities provided by the school district.

6. Disposition: The Designated School Team has completed eligibility determination and concluded that: (Check one.)

- this student meets the conditions necessary to be considered an individual with a disability under Section 504 of the Rehabilitation Act of 1973 as it pertains to programs provided by Jefferson County Public Schools.
- this student does not meet/no longer meets the conditions necessary to be considered an individual with a disability under Section 504 of the Rehabilitation Act of 1973 as it pertains to programs provided by Jefferson County Public Schools.
- the decision was deferred for the following information (Specify):

Designated School Team:

(Team Name)	(Signature)	(Title)
(Team Name)	(Signature)	(Title)
(Team Name)	(Signature)	(Title)

Others in attendance:

(Name)	(Signature)	(Title)
(Name)	(Signature)	(Title)



Student I.D. No: _____



Section 504 Adaptation Plan Form

(District Guide for Implementation of the Regulations of Section 504 of the Rehabilitation Act of 1973)

Student's Name: _____ School: _____

Date of Birth: _____ Grade: _____ Date: _____

Review Date: _____ Teacher's Name: _____

This student qualifies as an individual with a disability under Section 504 of the Rehabilitation Act of 1973. This Section 504 Plan contains only those accommodations necessary to address this student's identified impairment.

1. Instructional adaptations such as curriculum modifications, lesson accommodations, environmental accommodations, modifications to assignments, and/or testing procedure: (List required accommodations to access general education curriculum. You may attach additional pages.):

2. Other adaptations such as support services, physical/health accommodations, organizational and study-skills assistance, and/or behavior management:

3. This section needs to be completed for students whose Section 504 Adaptation plans **require** adjustments during testing:

- (a) Will participate fully in all components of District-/state-mandated assessment **with no** adaptations.
- (b) Will participate in all components of District-/state-mandated assessment **with some** adaptations. (Only those adaptations provided routinely in the course of a student's instructional process and listed in No. 1 and No. 2 above may be considered.)

Section 504 Committee Members:

_____	_____	_____
(Team Name)	(Signature)	(Title)

_____	_____	_____
(Team Name)	(Signature)	(Title)

_____	_____	_____
(Team Name)	(Signature)	(Title)

Others in attendance:

_____	_____	_____
(Team Name)	(Signature)	(Title)

_____	_____	_____
(Team Name)	(Signature)	(Title)

Copy: School File Parent/Guardian Teacher Compliance and Investigations



Student I.D. No: _____



Section 504 Consent for Individualized Assessment Form

(District Guide for Implementation of the Regulations of Section 504 of the Rehabilitation Act of 1973)

Student's Name: _____ Date: _____ Date of Birth: _____

School: _____ School Telephone No.: _____

Date of Birth: _____ Grade: _____

Teacher's Name: _____

Dear Parent/Guardian:

The designated school team is requesting that individual evaluation(s) be conducted with your child. The purpose of requesting these evaluations is to help us in understanding your child's current educational needs.

The evaluation(s) will take place only after we have received your written consent. The granting of your consent is voluntary. The results of the evaluation(s) are considered to be confidential. You have the right to review your child's educational records, and you may contact the staff member listed below if you wish to discuss the evaluation results. Enclosed is a copy of the "Parent's Rights" as defined by Section 504 of the Rehabilitation Act of 1973.

Your permission is requested for the following evaluation(s):

If you have any questions or wish to discuss the process further, you may contact:

(Principal/Staff Designee)

(Telephone Number)

Please return this form, indicating your approval/disapproval and receipt of the "Parent's Rights" to the school office as soon as possible.

I **agree** to the proposed evaluation(s), and I have received a copy of the "Parent's Rights."

I **do not agree** to the proposed evaluation(s), and I have received a copy of the "Parent's Rights."

(Parent/Guardian Signature)

(Date)

Enclosure: Cover Letter—"Parent's Rights"

Copy: School File