

SECTION 504



Parent Information Center
54 Old Suncook Road
Concord, NH 03301
(603) 224-7005 / (800) 947-7005
www.picnh.org



Parent Information Center
ON SPECIAL EDUCATION

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The Parent Information Center is not a legal services agency and cannot provide legal advice or legal representation. The information in this presentation is provided as a public service for general information only and is not a substitute for legal advice about the facts of your or your child's particular situation. In addition, the law is always changing, through actions of the courts, legislature and public agencies. If you have a problem or issue that requires legal advice, such advice should be obtained from an attorney.



Office of Special Education Programs
U.S. Department of Education

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SECTION 504

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

➤ civil rights law



SECTION 504

“No otherwise qualified individual with a disability ...

shall solely by reason of 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.”

SECTION 504:

- ❖ eliminates discrimination
- ❖ removes barriers
- ❖ provides reasonable accommodations
- ❖ cannot be used to reduce protections under IDEA

PROGRAM ACCESSIBILITY

504

- **Does not mean that every building or part of a building must be accessible**
- **Prohibits isolation from non-disabled peers**
(but may offer separate programs, such as adaptive recreational programs, as an option)

504 BASIC EDUCATIONAL RIGHTS

- ☛ **Notice**
- ☛ **Consent for initial evaluation/placement**
- ☛ **Establish/use non-discriminatory evaluation and placement procedures**
- ☛ **Individual needs must be met**
- ☛ **Comparable teacher certification**
- ☛ **Equal opportunities provided**
- ☛ **Least Restrictive Environment**
- ☛ **Periodic review**
- ☛ **Due process procedures**

TWO DIFFERENT STANDARDS

I
D
E
A

**“Adversely
affects
educational
performance
...”**

5

0

4

**“Substantially
limits one or
more major life
activities...”**



504

PLANNING GROUP

Persons knowledgeable about:

- ✦ the child
- ✦ the meaning of the evaluation data
- ✦ placement options

No specific requirement for parent participation



ROLE OF THE PLANNING GROUP

- Review and carefully consider information from a variety of sources
- Decide eligibility
- Determine the least restrictive placement

504 DISABILITY SUSPECTED

- Evaluation provided to a child who because of a disability is believed to need special education/related services
- Child Find Requirements
- Consent for the initial evaluation/
placement



EVALUATION



*** To determine if the child has a disability under Section 504 or IDEA**

- 504 procedures are similar to IDEA 2004
- LEA may use IDEA evaluation procedures for 504

EVALUATION

Testing Criteria








- ✱ **Nondiscriminatory**
- ✱ **Validated for use**
- ✱ **Variety of sources/tests**
- ✱ **Conducted by trained personnel**
- ✱ **Given in conformance with instructions**
- ✱ **Accurately reflect achievement or what test is measuring**
- ✱ **Assess specific areas of educational needs**

EVALUATION



504

-  **Teacher recommendations**
-  **Aptitude and achievement tests**
-  **Physical condition**
-  **Social/cultural background**
-  **Adaptive behavior**

EVALUATION

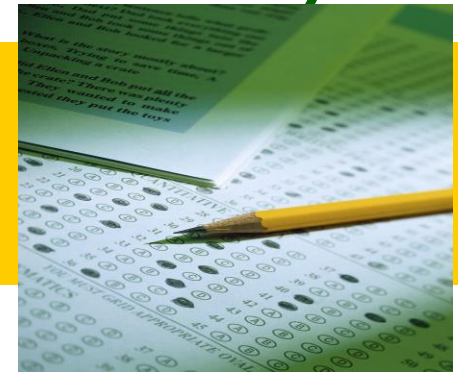


504

- Consider all information carefully
- Evaluations before placement
- No right to independent evaluation
- Procedural safeguards made available
- Parental consent is required for the initial evaluation
- Written parental consent is not required for re-evaluation



REEVALUATION



504

Must be given:

- ✚ Periodically
- ✚ Before significant change in placement
- ✚ Parental consent is not required

IDEA

- ✚ At least once every 3 years
- ✚ Teacher or Parent may request at any time
- ✚ Parental Consent is required



504

ELIGIBILITY






Individual with a disability:

- has a physical or mental impairment which substantially limits one or more major life activities;
- has a record of such impairment;
- is regarded as having such an impairment
- Must meet “requirements” for the program (such as age, grade, residency)

A yellow clipboard with a blue clip and a blue border, featuring the number '504' in black. A green line with a white dot at the end curves from the top right of the clipboard towards the top right of the slide.

504

ELIGIBILITY

-  Individual determination made of child's needs
-  FAPE provided
-  Regular/special education and related services to meet the child's needs as adequately as non-disabled peers
-  If there is no universal public preschool program, 504 does not require preschool be provided for a child with a disability – but –
-  Preschools that receive Federal funds may not discriminate on the basis of disability

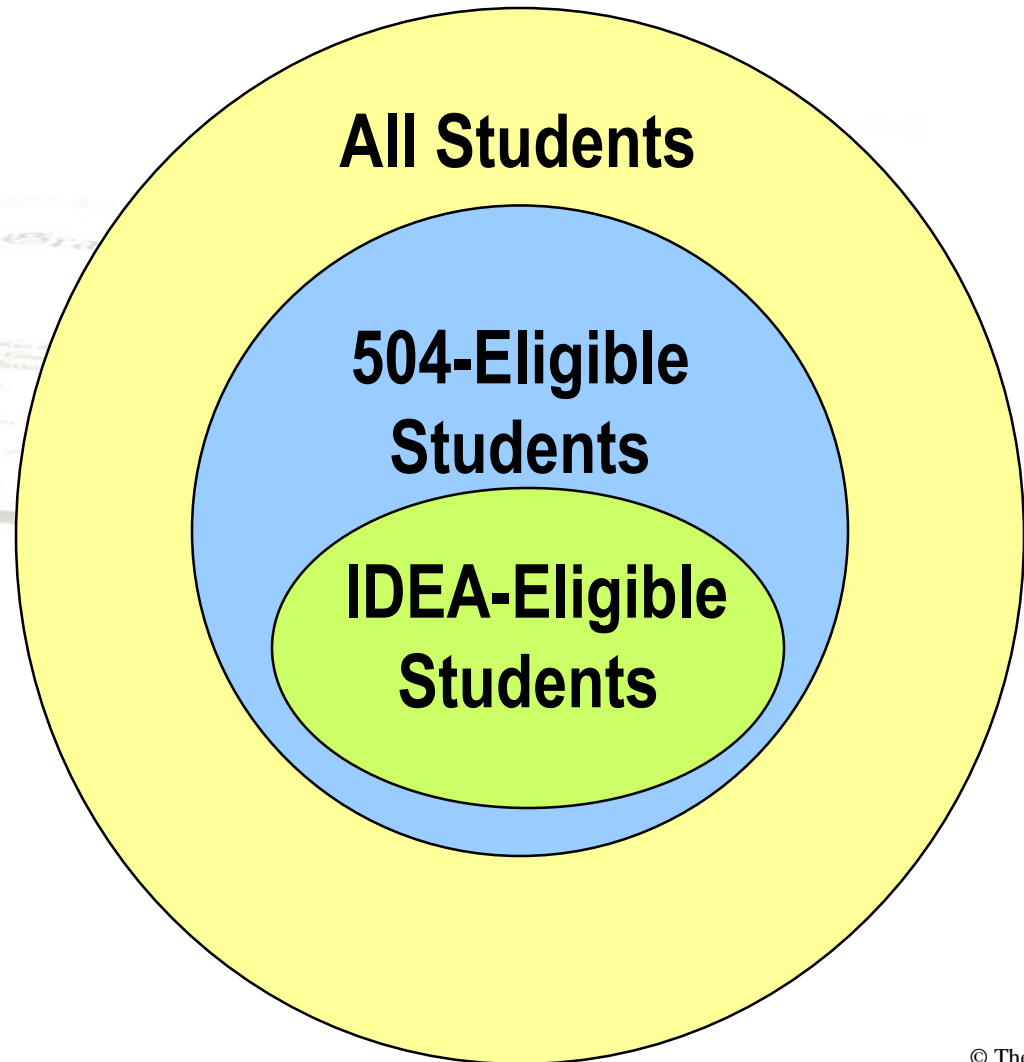


**504/
IDEA**

ELIGIBILITY

“IDEA-eligible students with disabilities who have an IEP are not required to also have a Section 504 plan even though they are protected under Section 504.”

*2016 Parent and Educator
Resource Guide to Section
504 in Public Elementary
and Secondary Schools*



A decorative graphic in the top left corner featuring a purple pen with a green eraser tip, positioned over a light blue notepad. The number '504' is written in black on the notepad. The background of the slide is a yellow banner at the top and a white area below with a faint, repeating pattern of chemical structures.

504

DOCUMENTATION OF NEEDS AND SERVICES

- ✦ Program decisions must be individualized and sufficiently specific
- ✦ Services can begin before written documentation
- ✦ May include regular or special education, related aids and services, and accommodations and/or modifications
- ✦ special education or related aids and services, including modifications, because of a disability



504

SAMPLE DOCUMENTATION OF NEEDS & SERVICES

Child's Name:

Birth date:

Plan dates: (begin & end)

Major Life Activities Affected:

Child's needs related to disability:

Required accommodations/services:

Parent's signature:

504 Coordinator 's signature:



NON-ACADEMIC AND EXTRA-CURRICULAR ACTIVITIES

Participation and nondiscrimination in:

- ★ Physical education
- ★ Extra-curricular activities
- ★ Meals
- ★ Recess
- ★ Transportation
- ★ Health services
- ★ Other services available to children without disabilities



LEAST RESTRICTIVE ENVIRONMENT

504

- ⇒ Includes nonacademic settings: lunch, recess, athletics, recreation, counseling, LEA sponsored clubs, employment/training
- ⇒ Parent consent is required **ONLY** for the initial placement





PLACEMENT

504 & IDEA 2004

LEAST RESTRICTIVE ENVIRONMENT

~ Students with disabilities are to be educated with students who do not have disabilities and removed to other settings only when, even with supplemental aids and services, the student cannot be educated satisfactorily in regular classes

504 PLACEMENT

Private schools that receive Federal funds may not exclude children with disabilities if only minor adjustments are required to provide FAPE

504 AND POST SECONDARY EDUCATION

Programs receiving Federal funds may not discriminate in:

- Recruitment
- Admissions
- Treatment of students
- Course selection
- Admissions testing
- Students may request modifications, accommodations, or auxiliary aids so they can participate in and benefit from all postsecondary educational programs & activities
- Programs must be accessible
- Students with impaired sensory, manual or speaking skills must be provided with auxiliary aids
- Reasonable modifications for academics



504 PROCEDURAL SAFEGUARDS

Right to-

- **Notice, appeal/impartial hearing & review**
- **Inspect/review educational records**

LEA must provide procedural safeguards to challenge:

- **Identification**
- **Evaluation**
- **Placement/program**
- **Attorney's fees**

504 PROCEDURAL SAFEGUARDS



Parents can file OCR complaints if:

- ✖ They disagree with a proposed/refused action which violates 504**
- ✖ They are retaliated against**
- ✖ Their child is discriminated against**

OCR investigates to determine compliance

OCR can withhold federal funds

RESOURCES

- ✦ The U.S. Department of Education website features a fact sheet, ***Frequently Asked Questions About Section 504 and the Education of Children with Disabilities***, at: <https://www2.ed.gov/about/offices/list/ocr/504faq.html>
- ✦ Resource: Office of Civil Rights (Boston Office):
617-289-0111 / Email: OCR.Boston@ed.gov
- ✦ Federal and State special education regulations may be found on the NH Department of Education's website at: https://www.education.nh.gov/instruction/special_ed/laws.htm
- ✦ Visit the Parent Information Center on Special Education's website at: www.picnh.org

Thank you – and Please:

➤ **Don't forget to complete the evaluation**

