

The Kent ISD Special Education Department in collaboration with a countywide Section 504 Committee has developed this informational handbook to make the Section 504 process more manageable and user friendly for parents. This document provides an overview of the Section 504 evaluation and eligibility process. It provides information on the evaluation process and development of the 504 Plan and provides frequently asked questions to support parents through this experience.

The Section 504 district/building team and process offers protections and supports accessibility for your child within the general education curriculum and school environment. When parents and schools work together collaboratively, positive experiences, achievement, and results can be realized.

# KENT ISD

## A Parent's Guide To Navigating

# SECTION 504



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## SECTION 504

Section 504 is a part of the Rehabilitation Act of 1973 that prohibits discrimination against individuals with disabilities. Upon eligibility, a Section 504 Plan should “level the playing field” to ensure that equal opportunities exist for students with and without disabilities.

### Why Would My Child Need an Evaluation?

An evaluation is completed to answer the following questions:

1. Does my child have a physical or mental impairment that substantially limits one or more major life activities?
2. Does my child need accommodations/modifications to participate in the general education curriculum and/or school environment, including extra curricular activities?

### What is Child Find?

Child Find is a legal requirement that schools find all children who have disabilities and who may be entitled to specialized services. The school must evaluate any child that it knows or suspects may have a disability. The request for an evaluation generally occurs in one of the following ways:

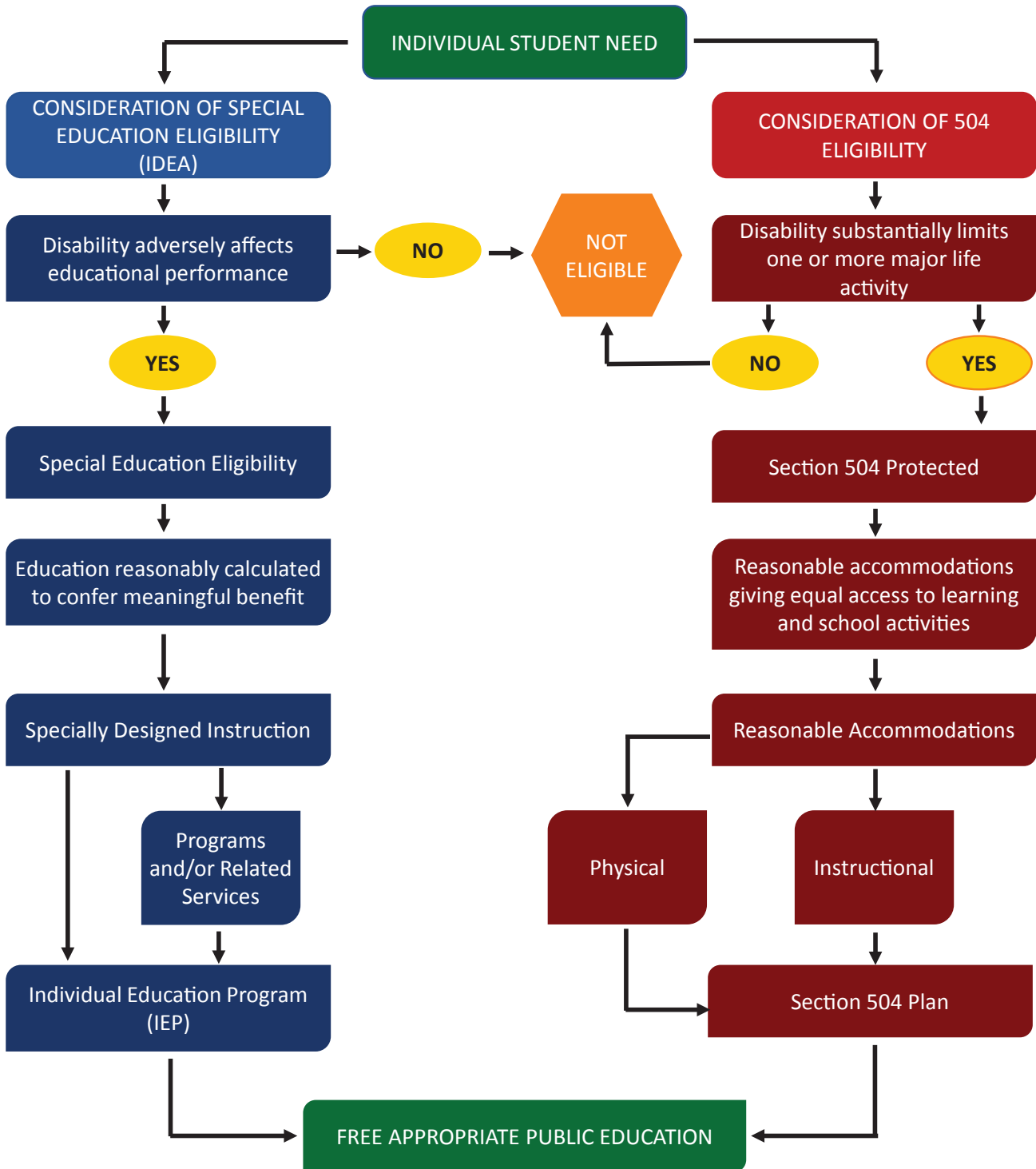
- School districts, including all public and charter schools that receive federal financial assistance, are obligated to refer a student for an evaluation if the student is believed to have a disability and is in need of accommodations.
- A referral can be made by a doctor, parent or school personnel. If a parent feels their child needs an evaluation, a request should be put in writing to the building principal, teacher, 504 coordinator and/or other school personnel.

Additionally, the key to a referral from any source is whether the school district staff suspects that the child has a mental or physical impairment that substantially limits a major life activity and that the student is in need of either:

1. general education with supplementary accommodations, or
2. special education and related services determined through a special education evaluation. In either case, if a parent requests a referral for evaluation and the school district refuses, the school district must provide the parent with notice of their procedural rights under Section 504.

# IDEA/504 FLOW CHART

There are two laws that offer support and services for children identified with a disability: the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. This flow chart will help determine which plan may be appropriate for your child.



# EVALUATION PROCESS

Under Section 504, formalized testing is not required; however, a variety of sources should be considered. A single source of information, such as a doctor's report or clinical evaluation cannot be the only information that is considered. It is the school's obligation to document and consider all information submitted for review when determining eligibility.

The 504 Committee should consider current and historical grade reports, teacher input/reports, information from parents or other agencies, state and district assessments, observations, discipline reports, attendance records, health records and adaptive behavior information if applicable.

## Section 504 Eligibility

Under Section 504, an individual with a disability is defined as a person who:

1. has a physical or mental impairment that substantially limits a major life activity;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on an individual student basis. In addition, when determining if someone meets the definition of a disability, the definition must be understood to provide a broader coverage for students suspected to have a disability.

Section 504 defines a physical or mental impairment as any:

- physiological disorder or condition
- cosmetic disfigurement, or
- anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine or
- mental or psychological disorder such as organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Under Section 504, an impairment may include any disability, long-term illness, or various disorders that "substantially" reduces or lessens a student's ability to access learning in the educational setting. Additionally, many students have conditions or disorders that are not readily apparent to others such as specific learning disabilities, diabetes, epilepsy, allergies, low vision, poor hearing, heart disease or chronic illness. If one or more of these identified conditions substantially limit the student's ability to receive an appropriate education as defined by Section 504, they may be considered to have an "impairment". Section 504 does not set forth a list of exhaustive specific diseases, conditions or disorders that constitute impairments because of the difficulty of ensuring the comprehensiveness of any such list.

## Questions for 504 Eligibility

- ▶ Does the Student Have a Physical or Mental Impairment?
- ▶ Does the Impairment Substantially Limit a Major Life Activity or Major Bodily Function?
- ▶ Does the Student Require Accommodations to participate with Non-Disabled Peers?

If the answer is Yes, then a Section 504 Plan should be developed

## Major Life Activities

The list of major life activities under Section 504 includes, but is not limited to the following:

- Caring for oneself
- Bending
- Performing manual tasks
- Speaking
- Seeing
- Breathing
- Hearing
- Learning
- Eating
- Reading
- Sleeping
- Concentrating
- Walking
- Thinking
- Standing
- Communicating
- Lifting
- Working

Major bodily functions are also major life activities and include functions of the:

- Bowel, bladder, and brain
- Normal cell growth
- Immune, endocrine (thyroid, pituitary, and pancreas), respiratory, reproductive, circulatory, digestive, and neurological systems

Conditions that are episodic or in remission are acknowledged under Section 504 if they result in a substantial limitation in one or more major life activity while they are active.

**\*Under Section 504, students who are currently using illegal drugs or alcohol are not covered or eligible under Section 504.**



## QUALIFYING FOR SECTION 504

Once it is determined that a student has a record of, or is regarded as having a physical or mental impairment, it is up to the 504 Committee to determine if the mental or physical impairment **substantially limits** a major life activity. The determination of whether a mental or physical impairment substantially limits a major life activity is made by a group of persons within the district/charter who are knowledgeable about the child and depends on the nature and severity of the disabling condition. Additionally, when considering eligibility under Section 504, students should be measured against their same age/non-disabled peers in the general education environment without the use of medication or other mitigating measures (e.g. glasses, assistive technology, accommodations).

### A 504 PLAN SHOULD:

- Provide specifics on how the modifications or accommodations will be provided and by whom.
- Name the person who will be responsible for ensuring that all components of the plan are implemented (case manager).
- Be distributed to all of the child's teachers, specialists, and support staff.
- Be placed in the child's cumulative file.
- Plans should be revised and updated every year, but each district may decide when the plan will be reviewed.

### Developing the Section 504 Plan

If a student is found eligible under Section 504, a plan will be developed which may include accommodations and/or services to provide equal access to the educational environment.

#### Accommodations may include, but are not limited to:

- Highlighted textbooks
- Extended time on tests or assignments
- Assistance with note taking
- Frequent feedback
- Extra set of textbooks for home use
- Computer aided instruction
- Enlarged print
- Positive reinforcements
- Positive Behavior Intervention Plans
- Rearranging class schedules
- Visual aids
- Preferred seating assignments
- Recorded lectures
- Oral assessments
- Individual contracts
- Breaks provided for medication or otherwise



## FREQUENTLY ASKED QUESTIONS

### 1. Who decides whether a student is qualified and eligible for services under Section 504?

According to the federal regulations [34 C.F.R. §104.35(c)(3)], placement decisions should be made “by a group of persons who are knowledgeable about the child, understand the meaning of the evaluation data, understand placement options, least restrictive environment requirements and comparable facilities”. Parents are encouraged to work collaboratively with the 504 team and contribute any information they have to support a thorough understanding of their child’s needs such as doctor’s reports, outside clinical evaluations, observations in the home, etc.

Unlike Special Education, the federal regulations do not require parents to be a part of the decision-making committee. Collaboration with families is important in the decision making process, yet the decision to include parents is a determination that is made by each school district. It is expected that districts will make sound educational decisions as to what the student needs in order to receive an appropriate education.

### 2. Can my child be placed on a Section 504 Plan without my knowledge?

No. Parents must always be given notice before their child is evaluated and/or placed under Section 504. Parents must also receive a copy of the Procedural Safeguards and their child’s Section 504 Plan with accommodations provided if the committee determines that the child is eligible under Section 504.

### 3. Will my child still be in the regular classroom or will he be in a “special class”?

A student that has a Section 504 Plan should be educated in the general education classroom. If the student’s needs are significant and the student is not making progress in the general education setting, then the parent/district should move forward with a special education evaluation.

### 4. What is the difference between an IEP and a 504 Plan?

An Individualized Education Program (IEP) provides special education programs and/or related services and Specially Designed Instruction for those that are identified as eligible. Section 504 covers students who don’t meet the criteria for special education yet still require some accommodations. Both ensure that students with disabilities have access to a Free and Appropriate Public Education (FAPE).

### 5. Can my child still be disciplined under Section 504?

Yes. Children under Section 504 are still expected to follow the district’s student code of conduct. However, when disciplining a child under Section 504, schools must consider the relationship between the disability and the misbehavior if the child is going to be removed from school for more than 10 days. This does not mean that a student with a disability cannot go to in-school suspension, or be suspended from school. Discipline guidelines exist to protect students who have a disability under Section 504. Your district or district 504 coordinator can assist you in this area should you have additional questions concerning the discipline of students with disabilities.

## 6. If I disagree with the school's evaluation, will the school district pay for an outside independent evaluation?

Under Section 504, schools are not required to pay for an outside independent evaluation. If a parent disagrees with the school's evaluation decision, they may file a complaint with the Office of Civil Rights or request a due process hearing. (Ask your district for a copy of Notice of Parent and Student Rights Under Section 504 of the Rehabilitation Act of 1973.)

## 7. How often will my child be re-evaluated?

While there are no specific timelines on this issue, students must be re-evaluated at least every three years or whenever there is going to be a "significant change in placement." The district/building 504 committee should review your child's plan every year to make sure that his or her accommodations are appropriate and based on their current schedule and individual needs. The accommodation plan may be revised at any time during the school year if needed.

## 8. Will my child still be able to participate in nonacademic services?

Yes. Districts must provide equal opportunity in areas such as counseling, physical education and/or athletics, transportation, health services, recreational activities, and special interest groups or clubs.

## 9. Does my Section 504 Plan transfer to college and/or career?

Section 504 of the Rehabilitation Act protects students from discrimination when they transition to college and/or career. Students can still receive accommodations in college, however, they likely won't utilize or receive a 504 plan like they had in high school. Section 504 also applies to persons with disabilities eligible for employment. With verification of the disability, the employer is responsible for accommodations unless it causes an undue financial hardship.

## 10. What are my rights as a parent under Section 504?

The following is a brief summary description of the rights provided by Section 504 of the Rehabilitation Act of 1973 to students with disabilities, or suspected disabilities, and some related rights provided by Title VI of the Civil Rights Act of 1964 and the Family Educational Rights and Privacy Act. The intent of the law is to keep you fully informed about decisions concerning your child and to inform you of your rights in the event you disagree with any decisions concerning your child. You have the right to:

1. Have the District advise you of your rights under federal law;
2. Receive notice with respect to Section 504 identification, evaluation, educational program and/or placement of your child;

3. Have an evaluation, educational and placement decisions made for your child based upon information from a variety of sources and by a team of persons who are knowledgeable about the student, the meaning of evaluation data, and placement options;
4. A Free and Appropriate Public Education (FAPE), which is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of your child as adequately as the needs of students without disabilities are met;
5. Have your child be educated with non-disabled students to the maximum extent appropriate;
6. Have your child take part in and receive benefits from the District's education programs without discrimination on the basis of disability;
7. Have your child educated in facilities and receive services comparable to those provided to non-disabled students;
8. Examine all relevant records of your child, including those relating to decisions about your child's Section 504 identification, evaluation, educational program, and placement; and obtain copies of those records at a reasonable cost, unless the fee would effectively deny you access to the records;
9. Receive a response from the District to reasonable requests for explanations and interpretations of your child's records;
10. Receive information in your native language and primary mode of communication;
11. Have a periodic re-evaluation of your child, including an evaluation before any significant change of placement;
12. Have your child given an equal opportunity to participate in nonacademic and extracurricular activities offered by the District;
13. Request and participate in an impartial due process hearing regarding the identification, evaluation, or placement of your child, including a right to be represented by counsel in that process and to appeal an adverse decision;
14. File a complaint in accordance with the District's grievance procedures or with the U.S. Department of Education, Office for Civil Rights.

## 11. Do I contact the Michigan Department of Education (MDE) if I have a complaint concerning Section 504?

No. The Michigan Department of Education has no direct jurisdiction over Section 504 implementation. Complaints may be addressed to your local District 504 Coordinator or to the Office for Civil Rights.

### **One note of caution:**

*Please do not substitute this information for independent and individual legal advice. Such advice should be sought from a licensed, qualified attorney in the field of Section 504 disabilities. Every situation is different, and a good assessment of the risks involved in your particular situation can only be determined by consulting with your attorney and providing him or her with all of the relevant factual data. Sometimes just one "minor" detail can make a material difference in the outcome of a case.*

# GLOSSARY OF TERMS

## **ACCOMMODATION/SERVICES:**

Supports that are provided to level the playing field and provide equal access—for example, providing an audiobook version of a textbook.

## **AMERICANS WITH DISABILITIES ACT (ADA):**

This federal civil rights law prohibits discrimination against individuals with disabilities. It covers schools, many workplaces, and anyone who offers goods or services to the public. See additional examples on page 5 of this manual.

## **DISABILITY:**

A physical or mental impairment that substantially limits a person's ability to participate in a major life activity.

## **EPISODIC IMPAIRMENTS:**

If an impairment only occurs periodically or is in remission, it would be considered a disability if or when it is in an active phase and would substantially limit a major life activity.

## **FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE):**

Ensures that students with disabilities attending public elementary and secondary schools receive regular or special education and related aids and services so that their needs are met as adequately as those of students without disabilities.

## **GENERAL EDUCATION CURRICULUM:**

The knowledge and skills that all students are expected to master. The goal of a 504 plan is to make sure a student with a disability has access to, or can take part in the general curriculum.

## **LEAST RESTRICTIVE ENVIRONMENT (LRE):**

As much as possible, students with disabilities must learn in the same setting as other students.

## **MITIGATING MEASURES:**

When determining if a person has a disability, a school cannot consider the ameliorative effects of mitigating measures when determining how the impairment impacts the major life activities that are being considered. The Amendments Act provides a non-comprehensive list of mitigating measures such as medications, prosthetic devices, assistive devices, learned behavior, and adaptive neurological modifications that a student may be using to eliminate or reduce the effects of an impairment.

## **MODIFICATION:**

A change in what a student is expected to learn. For example, instead of reading a book at grade level, a child might read a book written for two grade levels lower. In general, a child who needs modifications would have an IEP, not a 504 plan.

## **RELATED SERVICE:**

Related service means a service to a student with a disability that is needed to attend school, achieve passing grades, or advance from grade to grade. Related services include, but are not limited to school health services, counseling/social work services, audiology services, speech-language services, physical and occupational therapy, assistive technology device and/or service orientation and mobility services.


## **SECTION 504 OF THE REHABILITATION ACT OF 1973:**

A civil rights law that is the source for 504 plans. Section 504 prohibits disability discrimination by any program that gets federal money, including public schools. Public K–12 schools must offer 504 plans. Colleges don't have 504 plans, but they must still provide accommodations.

## **SUBSTANTIAL LIMITATION:**

This determination must be made on a case-by case basis with respect to each individual student by a group of knowledgeable staff that draw upon information from a variety of sources.



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