

504 Eligibility Considerations

For the purpose of determining whether a student is in need of 504 accommodations, using a problem-solving method will facilitate the identification of the severity and impact of the disability on the major life activity. Under 34 CFR Section 104.35, a district has the obligation to evaluate students who need, or are believed to need, special education or related services because of a disability. In most circumstances, the obligation to evaluate a student for problems related to a suspected disability is triggered by a request for evaluation from the parent or a referral resulting from observation by the classroom teacher.

School districts must consider “mitigating measures” used by a student in determining whether the student has a disability under Section 504. Mitigating measures are devices or practices that a person uses to correct for or reduce the effects of that person’s mental or physical impairment. Examples include corrective eyeglasses and medications. A person who experiences no substantial limitation in any major life activity when using a mitigating measure does not meet the definition of a person with a disability and would not necessarily require accommodations under Section 504. However, if a student’s needs require storage and administration of medication during the school day, such accommodations may be required for purposes of providing access to school activities. Such activities could be documented on a student’s health plan.

The following steps are required when making eligibility decisions:

- Assemble a Child Study Team. The team should consist of the following members, as appropriate to the situation: Administrator(s); Equity Coordinator; Parents; Guidance Counselor; Teacher(s); Nurse; Social Worker; Psychologist; ESOL representative; and Coach. Section 504 requires eligibility and placement decisions be made by a group of individuals knowledgeable about the student, evaluation data, and placement options.
- Gather all available information. Data used for the evaluation and determination of a disability and required accommodations can be broad and includes but is not limited to medical records, school records, standardized test results, classroom observations, and anecdotal records. (A medical diagnosis or a medication prescription does not by itself establish eligibility).
- Examine non-school factors. Conditions resulting from environmental, cultural, and economic disadvantages alone are not necessarily disabilities. However, information from all aspects of a student’s life should be considered.
- Identify the student’s actual physical or mental impairment.
- Clearly identify and record the major life activity or activities (i.e. caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning) being substantially limited by the disability. There may be no substantial limitation in learning, but access to learning may be impaired by other limitations. What are the limitations? Learning does not have to be impacted for a student to have a disability in order to be eligible for 504 accommodations that are non-instructional in nature.

- Verify substantial limitation. Using evaluation data, determine whether the learning and/or accessibility to other school activities is limited and to what extent as compared to the learning and accessibility provided to the average population? What must school personnel do to provide equal access for this student?
- Consider mitigating factors. Teams must consider mitigating factors when determining eligibility. A student experiencing no present substantial limitation for which an accommodation is necessary when using a mitigating measure is not a student with a disability. Services and/or accommodations cannot be refused in the absence of mitigating factors.
- Determine eligibility. Following review and discussion of the data, what accommodations must be provided in order for the student to have equal access to school activities? Will failure to provide the accommodations result in the student having less than equal educational opportunities?

Section 504 does not provide an operational definition of “substantial limitation.” However, the Americans with Disabilities Act (ADA) has set forth the following definition of “substantial limitation” to mean “significantly restricted as to the condition, manner, or duration under which the student can perform a particular major life activity as compared to the condition, manner, or duration under which the average student of the same age/grade level in the general population can perform the same major life activity.”

Once the school has identified the educational accommodations and/or related services needed by the qualified student with disabilities, it must provide those services.

Common Errors in Identification and Eligibility Decisions

- Ignoring the physical/mental impairment requirement
- Ignoring the substantial limitation requirement
- Basing eligibility on anticipation of future needs
- Failing to review or dismiss appropriately
- Basing eligibility solely on a medical diagnosis with no substantial impairment