

Wellesley Public Schools

Section 504 of the Rehabilitation Act of 1973

A Guide for Families and Students

Updated August 2018

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal statute that prohibits discrimination based upon a disability. Section 504 ensures that eligible disabled students receive opportunities and benefits and have equal access to facilities in the same manner as their nondisabled peers. School districts must provide an appropriate education for each disabled student with reasonable accommodations that allow access to the benefits of public education.

Students who are protected under Section 504 must be determined to:

- Have a physical or mental impairment that *substantially* limits one or more major life activity;
- Have a record of such an impairment; or
- Be regarded as having an impairment

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) must be made on a case by case basis.

Eligibility Criteria

Eligibility under Section 504 is determined using a 3-pronged approach that considers if the student:

- (1) Has a physical or mental impairment ...
- (2) That substantially limits ...
- (3) A major life activity.

Eligibility for under Section 504 will be determined by a Team of people with knowledge about the student. *In order to be considered disabled under Section 504, all three prongs need to accurately reflect the student within the school setting.*

Physical or Mental Impairment

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.

The Section 504 definition of physical and mental impairment also includes any mental or psychological disorder.

Major Life Activities

Major life activities include certain acts a person does (such as hearing, speaking, lifting) and a person's bodily functions (such as lung disease that affects a person's respiratory system or a traumatic brain injury that affects the function of the brain).

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

- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working
- bending

Major bodily functions are also major life activities under the law, and these major bodily functions include functions of the bowel, bladder and brain; normal cell growth, and the immune, endocrine, respiratory, reproductive, circulatory, digestive and neurological systems.

When an impairment *does not substantially limit* one or more of the above major life activities, a student does not qualify for classroom accommodations under Section 504. It is important for families and school personnel to have conversations about instructional strategies that are utilized routinely for all students and that meet the needs of diverse learners.

Information from the Office for Civil Rights, based upon the 2008 amendments to the Americans with Disabilities Act (ADA), clarifies that a *temporary impairment* does not constitute as a disability except under certain conditions. Along with the conditions as discussed in the 3-prong eligibility process, the expected duration of the impairment needs to be considered. Through the amendment of ADA, Congress determined that the duration of an impairment expected to last less than 6 months does not constitute a disability.

When considering eligibility under Section 504, it is important to note the following:

- 1) A 504 Plan is not designed to fundamentally alter the program, standards, or what students are expected to know and be able to do.
- 2) A 504 Plan is meant to give students *equal access* to their program; it is not designed to equalize outcomes or provide advantage

The Eligibility Determination Process

Each school in Wellesley has a Section 504 Coordinator. The Coordinator will be responsible to implement the eligibility process. The Coordinator will determine a Team for each student based upon the nature of the suspected disability and the presenting questions regarding the student's needs. A 504 Eligibility Team consists of people who:

- Have knowledge about the student
- Have knowledge about the evaluation data and information
- Have knowledge about accommodations that may be discussed

Step 1. Referral

When parents or school staff suspect a student may have a disability, a written referral must be presented to the appropriate school building designee. Parents of elementary age students should discuss this referral process with the building principal or his/her designee. At Wellesley Middle School and High School, parents should contact their child's guidance counselor.

Step 2. Evaluation and Documentation

Evaluations will be proposed after school personnel review the referral information. With prior parent consent, the Wellesley Public Schools will conduct an evaluation that will include school district assessments and review of other relevant information, e.g. grades, review of records, health information, and classroom participation and performance. The evaluation process may include formal testing conducted by highly credentialed school personnel. Evaluations conducted by school personnel will be administered during the school day and may result in the student missing some instructional time.

Should the school district determine that formal evaluations are needed, consent from parents will be required. Upon receipt of parent consent to conduct the evaluation, the school district has 45 school days to complete the evaluations and hold a 504 Eligibility Meeting.

There are times when families may present to the school district a report from an independent evaluator. Although the Team will consider the findings from independent educational evaluations, the Wellesley Public Schools reserves the right to conduct our own evaluations.

As part of the eligibility determination process, Wellesley Public Schools may provide parents/guardians with a release of confidential information form to allow school personnel to speak with outside providers and to share relevant information about the student.

Should the family wish to present information from outside sources, the following checklist will help ensure that all appropriate information is available for the 504 Eligibility Team to review at least 2 school days prior to the eligibility meeting.

- _____ Statement regarding the nature of the suspected disability
- _____ Independent evaluation reports that are current (within one year)
- _____ Professional credentials of the evaluators must be presented
- _____ Relevant educational, developmental and medical history
- _____ Description of how the suspected disability substantially limits the student's ability to learn and/or access his/her school environment (for high school age students, a statement from the student is suggested)

Step 3. Team Review to Determine Eligibility

The 504 Eligibility Team will schedule a meeting to determine eligibility for a Section 504 Accommodation Plan. All provided assessment reports and information from the variety of sources will be considered by the entire Team. The 3-pronged eligibility criteria will guide the process to determine a student has a disability under Section 504. The Team will be conscious that an impairment may not meet the threshold of a disability under the federal eligibility guidelines as mentioned above.

Questions that the Team will consider at the meeting will include:

1. What is the nature and severity of the impairment?
2. What is the suspected duration of the impairment?
3. How has the student responded to any prior interventions?
4. Does the student consistently need extended time to complete assignments?
5. Does the student consistently need significant changes made to the curriculum and/or physical school environment?
6. Does the student demonstrate consistent behavior difficulties?

Should the 504 Eligibility Team determine a student is eligible for a Section 504 Accommodation Plan, the Team will develop the plan collaboratively. Accommodations included in the Section 504 Plan will:

1. Be individualized for the student.
2. Be considered as necessary.
3. Be determined by the Team.
4. Not be developed to provide advantage.
5. Not fundamentally alter the program, standards, or what students are supposed to know and be able to do.

The Plan will be signed by parents and/or student (age 18 or older) and implemented immediately. All teachers and other school personnel with a "need to know" status will be informed of the accommodations included in the Plan.

Should the Team find the student not eligible for a Section 504 Plan, the Team will encourage the student and family to discuss with the teachers the differentiated instructional approaches that are implemented routinely within the classroom and that may be helpful to the student.

Standardized Tests and Accommodations

MCAS

MCAS is untimed for every student; each student receives as much time as s/he needs within one school day. Other MCAS accommodations will be considered for eligible students on a case by case basis and must be in accordance with the Department of Elementary and Secondary Education *Requirements for the Participation of Students with Disabilities in MCAS*.

The College Board & ACT – High School Students

If a student has a Section 504 Plan, s/he may be eligible for accommodations from the College Board or ACT through their Services for Students with Disabilities. Students wishing to receive accommodations on College Board exams (PSAT, SAT, SAT II, AP) or the ACT must apply and be approved for accommodations by the respective testing agencies. Students interested in applying for accommodations through the College Board must first complete the Consent Form for Request for Accommodations. This form is located in the Guidance Office. ACT applications for accommodations are also located in the Guidance Office.

Please Note: Among other criteria, the College Board and ACT ask the following questions when determining eligibility:

- Does the student have a documented disability? Does the documentation support the specific ways in which this disability impacts the student’s daily functioning and ability to participate in the test?
- Does the student frequently request and use the accommodations during his/her school day?
- Has the student been on a 504 Plan for at least four school months?

According to the College Board rules and regulations:

“Note that the use of accommodations in school, or inclusion on an Individual Education Program (IEP) or 504 Plan, does not qualify a student for accommodations on College Board tests.”

College Board Resources

Eligibility and Review:

<http://professionals.collegeboard.com/testing/ssd/application/eligibility-review>

Documentation Requirements:

<http://professionals.collegeboard.com/testing/ssd/application/eligible/requirements>

Basic Requirements for Disability Documentation:

<http://professionals.collegeboard.com/testing/ssd/application/guide/guidelines>

For more information about the process, read the College Board's, 'Dear Parent' letter:

http://www.collegeboard.com/prod_downloads/ssd/Dear_Parent_Letter.pdf

Notice of Parent and Student Rights under Section 504

Parents and students (when age appropriate) will receive written *Notice of Parent and Student Rights under Section 504*. The Wellesley Public Schools encourages parents to review this document thoroughly.