

AC Morgan School District

Notice of Rights and Procedural Protections

Section 504

Section 504 is a part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. Section 504 is an anti-discrimination, civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met. To be covered under Section 504, a student must be “qualified ” (which roughly equates to being between 3 and 22 years of age, depending on the program, as well as state and federal law, and must have a disability) [34 C.F.R. §104.3(k)(2)].

Definitions:

An individual with a disability means: any person who: (i) has a mental or physical impairment that substantially limits one or more major life activity; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment” [34 C.F.R. §104.3(j)(1)].

An impairment as used in Section 504 may include any disability, long-term illness, or various disorder that “substantially” reduces or lessens a student’s ability to access learning in the educational setting because of a learning-, behavior- or health-related

Major life activities: Major life activities include, but are not limited to: self-care, manual tasks, walking, seeing, speaking, sitting, thinking, learning, breathing, concentrating, interacting with others and working, reading, concentrating, standing, lifting, bending, etc. This may include individuals with AD/HD, dyslexia, cancer, diabetes, severe allergies, chronic asthma, Tourette’s syndrome, digestive disorders, cardiovascular disorders, depression, conduct disorder, oppositional defiant disorder, HIV/AIDS, behavior disorders and temporary disabilities (e.g., broken writing arm, broken leg, etc.).

Placement

According to the federal regulations: “...placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities” [34 C.F.R. §104.35(c)(3)]. A Section 504 eligible child will always be in the regular classroom unless (according to federal regulations): “... the student with a disability is so disruptive in a regular classroom that the education of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment. Therefore, regular placement would not be appropriate to his or her needs and would not be required by §104.34” (34 C.F.R. §104.34, Appendix A, #24).

Morgan School District Compliance Officer

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Parental Rights under Section 504:

Parent or legal guardian has the right to:

1. Receive notice regarding the identification, evaluation and/or placement of the child;
2. Examine relevant records pertaining to the child;
3. Request an impartial hearing with respect to the district's actions regarding the identification evaluation, or placement of the child, with an opportunity for the parent/guardian to participate in the hearing, to have representation by an attorney, and have a review procedure;
4. File a complaint with the school District Section 504 Coordinator, who will investigate the allegations regarding Section 504 matters other than the child's identification, evaluation and placement.
5. File a complaint with the appropriate regional Office for Civil Rights. For additional information, contact: U.S. Department of Education, Washington, D.C. 20202-1100 (800) 421-3481 www.ed.gov/ocr E-mail: ocr@ed.gov

Parents must always be given notice before their child is evaluated and/or placed under Section 504 (34 C.F.R. §104.36). Parents must also be given a copy of their child's Section 504 accommodation plan if the committee determines that the child is eligible under Section 504. 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. Parents have the right to be notified by the district prior to any action that would identify the child as having a disability, evaluate the child for services under Section 504 or place the child in a program based on a disability.

Evaluation Process

Under Section 504, no formalized testing is required. The 504 Committee should look at grades over the past several years, teacher's reports, information from parents or other agencies, state assessment scores or other school administered tests, observations, discipline reports, attendance records, health records and adaptive behavior information. Schools must consider a variety of sources. A single source of information (such as a doctor's report) cannot be the only information considered. Schools must be able to assure that all information submitted is documented and considered.

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 request a due process hearing or file a complaint with the Office for Civil Rights.

While there are no specific time lines 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 accommodation plan may be revised at any time during the school year if needed.

Types of Accommodations

Each child's needs are determined individually. Determination of what is appropriate for each child is based on the nature of the disabling condition and what that child needs in order to have an equal opportunity to compete when compared to the non-disabled. There is no guarantee of A's or B's or even that the student will not fail. Students are still expected to produce. The ultimate goal of education for all students, with or without disabilities, is to give students the knowledge and compensating skills they will need to be able to function in life after graduation.

Accommodations that may be used, but are not limited to, include:

- Highlighted textbooks
- Extended time on tests or assignments
- Peer assistance with note taking
- Frequent feedback
- Extra set of textbooks for home use
- Computer aided instruction
- Enlarged print
- Positive reinforcements
- Behavior intervention plans
- Rearranging class schedules
- Visual aids
- Preferred seating assignments
- Taping lectures
- Oral tests
- Individual contracts

Discipline

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 the regular setting for longer than 10 days. This does not mean that a student with a disability cannot be sent to a discipline center or that they cannot go to in-school suspension, or be suspended from school.