

# **SECTION 504 PARENT GUIDE** **for Schools**

*Revised September 2020*

## **MAISD Constituent School Districts**

**Carson City-Crystal Area Schools**

**Central Montcalm Public Schools**

**Flat River Academy**

**Greenville Public Schools**

**Lakeview Community Schools**

**Montabella Community Schools**

**Tri County Area Schools**

**Vestaburg Community School**

**This guide includes general information about Section 504 of the Rehabilitation Act of 1973. It is not intended to constitute or serve as legal advice.**

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**MONTCALM AREA  
INTERMEDIATE  
SCHOOL DISTRICT**

## Section 504 states:

“No otherwise qualified individual with a disability... shall, solely by reason of his or her 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. . .”

## 29 USC 794

### Nondiscrimination Notice

It is the policy of Montcalm Area Intermediate School District that no person shall be subjected to discrimination in any educational program, service, or activity that it provides, nor in any employment for which it is responsible. As such, MAISD and its Board of Education does not discriminate on the basis of race, color, national origin, sex (including sexual orientation or transgender identity), disability, age, religion, military status, ancestry, or genetic information. Inquiries related to discrimination should be directed to the MAISD Superintendent at 621 New Street, PO Box 367, Stanton MI 48888 or phone at 989-831-5261.

## What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is federal anti-discrimination law that protects the rights of persons with disabilities. The purpose of Section 504 is to provide equal opportunity and equal access by eliminating discrimination based on disability in any program or activity receiving federal funds. Because public schools receive federal funds, they have a duty to locate, refer, and evaluate students to determine if they are eligible for a free, appropriate public education (FAPE) under Section 504. Eligible students in preschool, elementary, middle and high school, and in adult education programs and activities may receive educational services.

Under Section 504, public schools and private schools that receive federal funds directly or indirectly must provide educational services designed to meet the individual needs of eligible students and provide them an equal opportunity to participate in school and school-related activities. It is not the intent of Section 504 for schools to provide services that are fundamentally different from existing opportunities. Section 504 was enacted to “level the playing field” and eliminate barriers to full participation by persons with disabilities.

Regarding 504, it is important for school districts to:

- designate a Section 504 Coordinator;
- provide notice of nondiscrimination on documents and websites;
- adopt policies and procedures aligned with current 504 law including:
  - ◆ location, referral and evaluation of students;
  - ◆ determination of eligibility and provision of services in both school and school-related activity settings;
  - ◆ establishment of procedural safeguards;
  - ◆ the discipline process for eligible students;
  - ◆ a process to resolve disputes in a timely and fair way;
  - ◆ consideration of each student’s situation on an individual, case-by-case basis.

*One way to meet Section 504 requirements for a free, appropriate public education is to follow the requirements of the Individuals with Disabilities Education Act (IDEA).*

## Who is Eligible Under 504?

**Under Section 504, an individual with a disability means a person who:**

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

Section 504 is considered to have a broad definition of impairment. Examples of impairments include, but are not limited to:

- ◆ Allergies
- ◆ Asthma
- ◆ Attention Deficit/ Hyperactivity Disorder
- ◆ Cancer
- ◆ Communicable Diseases such as HIV, AIDS, Tuberculosis
- ◆ Depression
- ◆ Diabetes
- ◆ Drug/Alcohol Dependency
- ◆ Heart Disease
- ◆ High Blood Pressure
- ◆ Learning Disabilities
- ◆ Low Vision
- ◆ Obesity
- ◆ Seizures

Preschool, elementary, middle, high school and adult education students who 2) have a record of such an impairment or 3) are regarded as having such an impairment are not eligible for services under Section 504. In order for eligibility to be considered, there must be reason to believe that the student currently has an impairment that substantially limits one or more major life activities.

However, a student with an impairment that is episodic or in remission that substantially limits a major life activity **when active**, is considered to have a disability under Section 504.

Temporary impairments less than 6 months in duration may or may not meet the requirements for eligibility under Section 504.

*Section 504 does not require a medical diagnosis of an impairment for students to qualify for educational services.*

**Substantially limits** may be interpreted as an “important and material limitation” for a student who is restricted as to the condition, manner, or duration under which major life activities can be performed in comparison to most people. Substantial limitation is determined without regard to mitigating measures, with the exception of ordinary corrective lenses.

For a student to be made eligible under Section 504, his/her impairment must substantially limit one or more **major life activities** which include, but are not limited to the following functions:

- ◆ Bending
- ◆ Cardiovascular
- ◆ Digestive
- ◆ Immune System Functions
- ◆ Neurological
- ◆ Seeing
- ◆ Special Sense Organ
- ◆ Bladder
- ◆ Caring for Oneself
- ◆ Eating
- ◆ Learning
- ◆ Normal Cell Growth
- ◆ Skin
- ◆ Standing
- ◆ Bowel
- ◆ Circulatory
- ◆ Endocrine
- ◆ Lifting
- ◆ Reading
- ◆ Sleeping
- ◆ Thinking
- ◆ Brain
- ◆ Communicating
- ◆ Hearing
- ◆ Lymphatic
- ◆ Respiratory
- ◆ Speaking
- ◆ Walking
- ◆ Breathing
- ◆ Concentrating
- ◆ Hemic
- ◆ Musculoskeletal
- ◆ Reproductive
- ◆ Speaking
- ◆ Working

## General Procedures

If an educator, parent, guardian, adult-age student or outside agency has reason to believe that a student may be eligible for educational services under Section 504, the student should be referred to the building principal or the Section 504 coordinator.

The school will then:

- 1) ensure that the parents/guardians are notified of the referral and
- 2) determine whether to request written parent/guardian consent for the initial evaluation of the student or give written notice that the student will not be evaluated.

If written consent for evaluation is obtained, the school will:

- 1) conduct the evaluation;
- 2) review all evaluation data, including information from the parent; and
- 3) share evaluation data with the parents in order to determine whether the student has a physical or mental impairment that substantially limits, without regard to mitigating measures, one or more major life activities.

If a student is determined to be eligible under Section 504, a group of persons who are knowledgeable about the student, including the parent/ guardian/adult age student, will develop a written plan of educational services. It is recommended that the student's plan of educational services be reviewed and updated at least annually.

Eligible students must be periodically reevaluated. A reevaluation must be conducted in order to find a student ineligible.

*If the parties cannot reach agreement regarding the student's identification, evaluation, and/or educational services, meeting facilitation and mediation services are available through Mediation and Restorative Services, 231-727-6001.*

### **Initial Evaluation**

A school district must evaluate if it believes a student may have a disability. The school must obtain written consent prior to evaluation and must obtain parent consent for initial parent placement.

### **Reevaluation**

Once a student is eligible under Section 504, the school must periodically reevaluate the student. It is recommended that this reevaluation be conducted at least every three years. A reevaluation may be conducted sooner than three years if requested by a parent or the school district.

Section 504 also requires a school to conduct a reevaluation prior to a significant change of placement. The OCR considers the following to be significant changes of placement:

- an exclusion from the educational program of more than 10 school days;
- transferring a student from one type of program to another;
- significantly reducing or terminating a student's educational services under 504.

### **Notice**

The school should give written notice to the parent/guardian:

- when proposing to initially evaluate or reevaluate the student;
- when refusing to initially evaluate a student;
- when making a determination of eligibility or ineligibility under Section 504;
- when planning the student's educational services and placement;
- prior to implementing any change in the student's educational services and placement.

### **Discipline**

Under Section 504, eligible student may not be disciplined for behavior that is a manifestation of their disability. Schools must hold a manifestation determination review before suspending a student more than 10 cumulative days during a school year.

## Section 504 Procedural Safeguards

The intent of the procedural safeguards (rights) granted by Section 504 is to keep parents, guardians and adult-age students fully informed concerning:

- educational decisions made about the Section 504-eligible student, and
- their rights if they disagree with those educational decisions.

Parent(s)/Guardian(s)/Adult-Age Student(s) have the right to:

- ◆ have the school district/public school academy advise them of their rights under Section 504;
- ◆ receive notice with respect to identification, evaluation, reevaluation, planning and/or placement of the student;
- ◆ have evaluation, educational and planning decisions made based upon a variety of informational sources by a group of individuals that is knowledgeable about the student, the evaluation data and the types of educational services available;
- ◆ have the student receive a free appropriate public education (FAPE), including the right to be educated with non-disabled students to the maximum extent appropriate;
- ◆ have the school district/public school academy provide educational services to allow the student an equal opportunity to participate in school and school-related activities;
- ◆ have the student be provided with an equal opportunity to participate in non-academic and extracurricular activities offered by the school district;
- ◆ have the student educated in facilities and receive services comparable to those provided to non-disabled students;
- ◆ Examine relevant records regarding the student's identification, evaluation, educational services/placement;
- ◆ Request an impartial hearing related to decisions or actions regarding the student's identification, evaluation, and/or educational services; the parent/guardian and/or student have the right to attend the hearing and be represented by an attorney;
- ◆ File a local complaint (grievance) with the district 504 coordinator;
- ◆ File a formal complaint with the state office for civil rights:  
Michigan Department of Civil Rights  
Capitol Tower Building  
110 W. Michigan Avenue, Suite 800  
Lansing, MI 48913  
Phone: 800-482-3604
- ◆ File a formal complaint with the regional office for civil rights:  
Cleveland Office, Office for Civil Rights  
U.S. Department of Education  
600 Superior Avenue East, Suite 750  
Cleveland, OH 44114-2611  
Phone: 216-522-4970; FAX: 216-522-2573

### **Provision of Procedural Safeguards**

Parents/guardians and adult-age students who are eligible under 504 must be provided with a printed copy of their procedural safeguards (rights):

- at least once per year;
- when a school district refuses to evaluate and
- prior to any manifestation determination.

## Definitions

**AMERICANS WITH DISABILITIES ACT (ADA)** - Federal law that protects qualified individuals with disabilities from discrimination.

**EDUCATIONAL SERVICES** - Reasonable modifications of policies, procedures and practices, including accommodations, designed to enable the student who is eligible under Section 504 to participate in school and school-related activities.

**FREE APPROPRIATE PUBLIC EDUCATION (FAPE)** - FAPE is the provision of educational and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

**MAJOR LIFE ACTIVITY** - Major life activities, as defined in Section 504 regulations at (34 C.F.R. 104.3(j)(2)(ii)), and the ADAAA of 2008 include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working and major bodily functions. This list is not exhaustive; other functions can be major life activities for purposes of Section 504.

**MITIGATING MEASURES** - These are devices or practices that a person uses to correct for or reduce the effects of that person's mental or physical impairment. A school district must determine a substantial limitation of major life activity without taking mitigating measures into consideration. Examples of mitigating measures include, but are limited to: medication, medical supplies, prosthetics, hearing aids, low vision devices (ordinary eyeglasses or contact lenses are not mitigating measures), oxygen therapy equipment and mobility devices. For more information on mobility devices check your school district policy; additional information can be found at [www.ada.gov/](http://www.ada.gov/)

**OFFICE FOR CIVIL RIGHTS (OCR)** - This federal agency enforces Section 504 in programs and activities, including schools, that receive federal funding from the U.S. Department of Education.

**PHYSICAL OR MENTAL IMPAIRMENT** - The Section 504 regulations (34 C.F.R. 104.3(j)(2)(i)) define a physical or mental impairment as (a) 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 (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulation does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list. An impairment in and of itself does not qualify a student for protection under Section 504. The impairment must substantially limit one or more major life activities in order to qualify a student for protection under Section 504.

**QUALIFIED STUDENT WITH A DISABILITY** - Section 504 covers qualified students with disabilities who attend schools receiving federal funding. To be protected under Section 504, a student must be determined to have a physical or mental impairment that substantially limits one or more major life activities.

**SECTION 504** - The portion of the Rehabilitation Act of 1973 (29 U.S.C. §§705(20), 794, 794a), as amended, that guarantees specific rights in federally funded programs and activities to people who qualify as disabled. Subpart D of Section 504 deals with preschool, elementary and secondary education.

**SERVICE ANIMALS** - A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability. Only dogs are recognized as service animals under Titles II and III of the ADA. For more information on service animals check your school district policy. Additional information can be found at [www.ada.gov/](http://www.ada.gov/)

**TEMPORARY IMPAIRMENT** - A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually substantially limits one or more major life activities of the affected individual.

## Resources

Office for Civil Rights

<http://www2.ed.gov/about/offices/list/ocr/index.html>

504 Regulations - Subpart D

<http://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html>

Frequently Asked Questions About Section 504

<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

Disability Rights Enforcement Highlights

<https://www2.ed.gov/documents/news/section-504.pdf>

Americans with Disabilities Act

<http://www.ada.gov/>

Dear Colleague Letter and the ADA

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.html>

Dear Colleague Letter regarding Extracurricular Activities

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>

Dear Colleague Letter regarding Bullying

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/bullyingdcl-8-20-13.pdf>

Dear Colleague Letter regarding Disability Discrimination and Harassment

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>

Dear Colleague Letter regarding Retaliation

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201304.html>

## District 504 Coordinators

For further information regarding Section 504, please call the contact person for your local school district or public school academy.

Carson City-Crystal Area Schools	John Sattler	989-584-3175
Central Montcalm Public Schools	Amy Meinhardt	989-831-2015
Flat River Academy	Hilary Karnatz	616-754-9360
Greenville Public Schools	Amy Wierzbicki	616-754-1996
Lakeview Community Schools	Kelly Nielsen (Elem) Tim Erspamer (MS) Kevin Griffin (HS)	989-352-8021 989-352-8016 989-352-7221
Montabella Community Schools	Jamie Eldred	989-427-5175
Tri County Area Schools	Melissa Clegg	231-937-4391
Vestaburg Community School	Emily Groulx	989-268-5284
Montcalm Area ISD	Kyle Hamlin Daniel Brant	616-225-6148 616-225-6158