



**MONROE  
TOWNSHIP  
PUBLIC  
SCHOOLS**

SECTION 504 HANDBOOK

# BACKGROUND



Three federal laws regulate provision of educational services to children and adolescents with disabilities: Individuals with Disabilities Act (IDEA); Section 504 of the Rehabilitation Act of 1973 (§504); and the Americans with Disabilities Act (ADA).

These laws fundamentally mandate that each child with a disability be provided a free education that is appropriate to the child's educational needs in light of his or her particular disability.

The definition of what constitutes a disability, however, is not identical under each of these laws. The information contained in this document focuses mainly on Section 504 and the ADA Amendments Act of 2008.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504 and has needs, to afford access to appropriate educational services through a written accommodation plan.

# PURPOSE



- This handbook provides guidelines to uniformly implement student-related requirements for Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (as amended in 2008) in the Monroe Township Public School District.
- Its focus is the application of Section 504 to students with disabilities in elementary and secondary programs and services. As such, this handbook is a guide, not a regulatory document; hence it does not provide legal advice, nor should it serve in lieu of the entirety of Section 504 of the Rehabilitation Act of 1973 (§504) or the Americans with Disabilities Amendments Act of 2008.
- Teachers and support staff in each school should be aware of Section 504's general requirements. All school stakeholders and teachers should understand the general requirements for IDEA and Section 504. This includes the requirement to implement instructional and behavioral accommodations for students who are IDEA and Section 504 disabled.

# DISCRIMINATION



- Section 504 is a nondiscrimination statute, not a funding statute. It operates as a rider attached to every grant of federal funds. It is not a special education statute, although it addresses the provision of education to qualified individuals with disabilities.
- The school district receives no separate funding to educate or accommodate students qualified as disabled under Section 504. In general, Section 504 prohibits discrimination against persons with disabilities in all programs and activities conducted by recipients of federal financial assistance.
- Programs or activities include all programs and activities of the school district, including extracurricular, nonacademic, transportation, field trips, recreational athletics, employment opportunities, counseling referrals, and recreational activities.
- It is important to note that the protections required by Section 504 are not limited to students with disabilities. Protection against discrimination is also extended to adults with disabilities, including parents, applicants, and school employees with disabilities.

# DISCRIMINATION



- Denies a student with disabilities the opportunity to participate in or benefit from an aid, benefit or service which is afforded non-disabled students (e.g., refusing to allow students with IEP's the opportunity to be on the honor roll; denying credit to a student whose absenteeism is caused by his/her impairment; expelling a student whose violation of the school code is directly caused by his/her disabling condition; refusing to dispense medication to a student who could not attend school otherwise).
- Fails to afford the disabled person an opportunity to participate in or benefit from service that is equal to that afforded others (e.g., applying a policy that conditions interscholastic sports eligibility on students receiving passing grades in five subjects without regard to the student's disabling condition).
- Fails to provide the aids, benefits, or services to the disabled person that are as effective as those provided nondisabled persons (e.g., placing a student with a hearing impairment in the front row as opposed to providing an interpreter). Note: "Equally effective" means "equivalent" as opposed to "identical." Moreover, to be equally effective, an aid, benefit, or service need not provide equal results. It must merely afford an equal opportunity to achieve equal results.
- Provides different or separate aids, benefits, or services unless such action is necessary to be as effective as the aids, benefits, or services provided to non-disabled students (e.g., segregating students in separate classes, schools, or facilities, unless necessary).

# DISCRIMINATION



- Aids or perpetuates discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of a disability (e.g., sponsoring a student organization that excludes persons with disabilities).
- Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of a disabling condition.
- Otherwise limits the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school).
- Makes selection of a site, location, or facility where disabled students are educated that effectively excludes persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination.

# NON-ACADEMIC SERVICES



- Qualified disabled students shall be provided an equal opportunity to engage in counseling services, physical recreational athletics, transportation, special interest clubs, etc.
- Qualified disabled students shall not be counseled toward more restrictive career objectives than non-disabled students (with similar abilities).
- Qualified disabled students shall have an equal opportunity to participate in physical education courses and athletics. Although qualified disabled students may participate in separate activities for the disabled, they shall not be denied the opportunity to compete in courses that are not separate or different.

# DEFINITION OF A DISABILITY



- Under Section 504, a student with a disability has a physical or mental impairment that results in a substantial limitation in one or more major life activities/major bodily functions.
- In addition, students who have a record of a disability or who are regarded as impaired are protected from discrimination based on disability but do not receive a Section 504 plan.
- **Record of a disability** means having a history of an impairment, i.e., former placement in special education program, diagnosed as ADD or with a mental illness, having had cancer, or being a student in recovery. Misclassified students are also included, i.e., a limited English proficient student mistakenly determined to have a mental disability. Regarded as impaired means a doctor or parent/guardian regards the student as impaired and therefore limited.



# PHYSICAL OR MENTAL IMPAIRMENTS



- Under Section 504, the term "physical or mental impairments" means (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; hemic and lymphatic; skin and endocrine.
- This definition includes such diseases and conditions as orthopedic, visual, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; attention deficit disorder (ADD); attention deficit hyperactivity disorder (ADHD); acquired immune deficiency syndrome (AIDS); and human immune deficiency virus (HIV+); or (b) any mental or psychological disorder, such as cognitive impairment, organic brain syndrome, specific learning disabilities, major depression, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia.

# PHYSICAL OR MENTAL IMPAIRMENTS



- Certain conditions are not considered impairments under Section 504 and the ADA: substance abuse disorders resulting from the current use of illegal drugs, kleptomania, pyromania, exhibitionism, voyeurism, gender identity issues not resulting from physical impairment, and other sexual disorders.
- An episodic impairment or impairment in remission may be a disability if it substantially limits a major life activity when active. (ADA Amendments Act 2008). The definition of a disabled person specifies that only physical and mental disabilities are included. Thus, environmental, cultural, and economic disadvantage are not themselves covered.
- Examples of environmental, cultural or economic factors include divorce, transiency, death of a family member, military deployments, lack of motivation, homelessness, poverty, attendance problems, and ESL or ELL (learning English as a second language) status.

# SUBSTANTIAL LIMITATION



- A substantial limitation is a restriction as to the condition, manner, or duration under which an individual can perform a major life activity as compared to an average person in the general population.
- It would be an error to measure substantial limitation in reference to the child's potential and/or the student's immediate classmates. Instead, the reference should be to the performance of children at the same age or grade in the general population.
- Temporary and non-chronic impairments of short duration with little or no residual effects are not typically substantially limiting. Conditions such as the common cold, seasonal influenza, a sprained joint, minor and non-chronic gastrointestinal disorder, and broken bones that are expected to heal completely are examples of conditions that are not impairments under Section 504.

# MAJOR LIFE ACTIVITIES



- Major Life Activities/Major Bodily Functions (MLA/MBF) include, but are not limited to seeing, hearing, breathing, walking, learning, communicating, thinking, concentrating, reading, or the operation of a major bodily function such as the digestive or immune system as amended by the ADA Amendments Act 2008.

# MITIGATING MEASURES



- Districts must make Section 504 eligibility determinations based upon the student's disability as it would present itself without mitigating measures. Determining that a student is not Section 504-eligible because of the corrective effects of mitigating measures is prohibited, except for the use of corrective lenses or ordinary contact lenses. Mitigating measures include:
- medication
- medical supplies
- equipment, or appliances
- low-vision devices (which do not include ordinary eyeglasses or contact lenses)
- prosthetics, including limbs and devices
- hearing aids and cochlear implants, or other implantable hearing devices
- mobility devices
- oxygen therapy equipment and supplies
- the use of assistive technology
- reasonable accommodations or auxiliary aids or services
- learned behavioral or adaptive neurological modifications In other words, impairment may be a disability within the meaning of Section 504

# FREE APPROPRIATE PUBLIC EDUCATION



- Section 504 requires school districts to provide a free appropriate public education (FAPE) to eligible students with disabilities within the school district's jurisdiction, who have a physical or mental impairment that substantially limits one or more major life activities. This means the district is required to provide appropriate regular education or special education and related aids and services designed to meet the individual education needs of disabled persons as adequately as the needs of nondisabled students are met.
- The FAPE requirements for services mean that evaluations, accommodations, and educational and related services are to be provided without cost to the student with disabilities and their parents or guardian.

# EDUCATIONAL SETTING



- The district must educate each student with disabilities with nondisabled students to the maximum extent appropriate to the needs of the students with disabilities.
- In order to remove a student from the regular educational environment, the district must demonstrate that educating the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.
- This requirement parallels a similar IDEA requirement known as the Least Restrictive Environment requirement.

# THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)



FERPA specifies rights related to educational records. This act gives the parent/guardian the right to:

- Inspect and review his/her child's educational records.
- Make copies of these records.
- Receive a list of all individuals having access to those records.
- Ask for an explanation of any item in the records.
- Ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights.
- A hearing on the issue if the school refuses to make the amendment.



# THE 504 CASE MANAGER



The Section 504 case manager is the school counselors within each of the schools throughout the district. The case manager's responsibilities should not be assigned to special education personnel. The role of the Section 504 case manager is to facilitate the process in order to comply with requirements and to manage services for eligible students. The Section 504 case manager should:

- Provide school personnel an annual overview of Section 504.
- Serve as the school's initial point of contact for Section 504 inquiries and referrals.
- Prepare an agenda for 504 meetings and ensure evaluations and other information are available for review and consideration at team meetings.
- Convene the Section 504 team when needed.
- Invite parents, teachers, and other team members to 504 meetings.
- Work with the building administration to ensure Section 504 accommodations are implemented.
- Consult with the district Section 504 coordinator for clarification and understanding of 504 requirements.
- Provide parents with information about Section 504 evaluations, eligibility, placement, and Parent/Student Rights.
- Ensure 504 referral, evaluation, and placement procedures are followed.
- Notify the principal and the district Section 504 coordinator of unresolved parental issues.

# TEAM MEMBERSHIP



- A group of individuals, known as the Section 504 team, conducts the evaluation and makes the eligibility and placement decisions for the student. The Section 504 team is responsible for receiving the Section 504 referral, securing evaluation information, determining eligibility, and developing appropriate accommodations, related aids, or services for eligible students.
- The team shall be composed of a group of persons who are (1) knowledgeable about the student, (2) understand the meaning of evaluation data, and (3) are familiar with placement options. Typically this means the child's teacher(s), building administrator, and other relevant members can make up the team.
- For example, if a psycho-educational assessment or behavioral assessment is being considered, a school psychologist should be included on the team. When medical or health related issues are of concern, a school nurse should be in attendance. Parents of the student being referred will be afforded the opportunity to participate in Section 504 Team meetings.

# PARENT REQUEST FOR AN EVALUATION



- Under Section 504, schools are not required to provide evaluations of children based solely upon parental request. Only when school personnel have reason to believe that the child has a disability and may need special instruction, accommodations, or related services, must an evaluation be conducted. If a parent disagrees with the school's decision not to evaluate a student for Section 504, school personnel will seek assistance from the Section 504 District Coordinator who will attempt to resolve the issue.

# NOTICE OF PARENT STUDENT RIGHTS



- It is the intent of Section 504 and the ADA to keep parents/guardians fully informed concerning decisions about their child. With respect to the identification, evaluation, or educational placement of students who, because of a disability, need or are believed to need special instruction or related services, Monroe Township Public schools provides notice of parent student rights.
- These Parent/Student Rights include the right to a written notice and the opportunity for parents to examine relevant records.
- Parents should be provided the Parent/Student Rights in Identification, at the initial meeting to discuss possible referral, evaluation, eligibility or placement under Section 504.

# SOURCES OF EVALUATION INFORMATION



- Prior to making Section 504 eligibility and placement decisions, information from a variety of sources must be considered.
- An evaluation may include cognitive and achievement tests, teacher recommendations, social or cultural background information, adaptive behavior data, etc.
- Formal evaluations are required when necessary to determine eligibility and accommodations.
- Much of the evaluation data considered by the 504 team will come from "informal" sources. Examples of both formal and informal evaluation information include:
  - Scholastic record
  - Report cards
  - Student work samples
  - Behavioral evaluation
  - State proficiency assessments
  - Psychological evaluation
  - Norm-referenced educational assessments
  - Curriculum-based assessment

# SOURCES OF EVALUATION INFORMATION



- Structured academic and behavioral interventions
- Social and health history
- Information provided by parent
- Teachers' anecdotal notes, impressions and charting data
- Parent-provided information
- Medical and health evaluations
- Observation data

# ELIGIBILITY



- The Section 504 team will consider evaluation data, both formal and informal, from a variety of sources to determine if the student has a mental or physical impairment that substantially impairs a Major Life Activity/Major Bodily Function.

# ACCOMMODATION PLAN DEVELOPMENT



- Section 504 requires an appropriate educational program be designed to meet the individual educational needs of qualified disabled students. The 504 team, consisting of members knowledgeable of the student, the evaluation data, and the placement options is responsible for the development of an accommodation plan.
- Accommodations, services, and related aids must focus on the identified substantial limitation(s). For example if a student's impairment results in a substantial limitation in the major life activity of reading, then accommodations that address motor limitations, etc., would not be appropriate. Accommodations must be designed to meet individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met.



# PLAN AND SERVICE IMPLEMENTATION



- The Section 504 Accommodation Plan form is used to record accommodations and services. The Section 504 case manager must provide teachers and other staff responsible for implementing the plan with student information via the frontline student information system that includes all pertinent information.
- The Section 504 case manager monitors the implementation of the plan and the progress of the student.

# ANNUAL REVIEW



- Each student with accommodations and/or services shall have their plan reviewed annually. The review may occur more often if the student's rate of progress changes significantly, if there is a noticeable change in behavior, or upon parental request.
- Attendees at annual reviews are generally the student's teachers and other Section 504 team members. Recognizing that some teachers may not be able to attend due to schedule conflicts, teachers should provide the team with information about the student's classroom performance.
- The review should address the need for additional evaluation information, whether the student continues to have a qualified disability, and the effectiveness of the accommodations. All pertinent information will be collected ( i.e., medical assessments, therapist updates, progress reporting).

# TRANSFER STUDENT SECTION 504 PLAN



- When a student transfers into the Monroe Township Public Schools from another school district with an existing Section 504 Plan, the team must meet to review the plan. If there are no concerns about the transfer student's eligibility or the accommodation plan, the transfer plan should be implemented without delay.
- On the other hand, if the Section 504 team does not agree with the decision and/or plan from the previous district, the student should be promptly evaluated to determine eligibility and the need for accommodations. In this case, the existing plan will be followed until the reevaluation and eligibility determination are completed.

# STUDENT DISCIPLINE



- When a student commits a violation of the school's code of conduct for which a suspension, e.g. in-school, out-of-school, bus suspension, expulsion, etc., is considered which could result in more than 10 cumulative days for the school year, the Section 504 team must meet first to determine if the behavior is directly caused by the student's disability or the failure of the district to provide FAPE.
- If it is determined that the behavior is caused by the disability, the 504 team shall modify the current educational placement or provide, if appropriate, an alternative educational placement.
- On the other hand, if the team determines that the violation of the school code of conduct is not caused by the disability, the relevant disciplinary procedures applicable to students without disabilities may be applied. This means that Section 504 eligible students may be suspended without educational services if non-disabled students would not receive services during the same suspension. If nondisabled students are offered enrollment in an alternative school during the suspension, the same offer must be made to Section 504 eligible students.

# ENFORCEMENT



- The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504, to afford access to appropriate educational services through a written accommodation plan.
- The school district must also provide notice and due process. If the parent/guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to a hearing with an impartial hearing officer.
- The United States Department of Education's Office of Civil Rights (OCR) is charged with the responsibility of ensuring compliance with Section 504 in order to: 1) protect qualified disabled students from denials or exclusions from educational opportunities based on a disability; 2) prohibit unequal treatment of qualified disabled students based on their disability; and 3) protect qualified disabled students when IDEA protection is not applicable or available.
- Regulations grant OCR the authority to investigate individual complaints of discrimination. It has virtually no discretionary power not to investigate complaints. Unlike IDEA, where the federal government's impact on local schools is mediated through the state department of education, OCR's regulatory authority to investigate complaints places the federal government face-to-face with local administrators.

# ENFORCEMENT



- Enforcement of Section 504 is the responsibility of the Office for Civil Rights. The Headquarters is located at:
- U.S. Department of Education Office for Civil Rights Customer Service Team 400 Maryland Avenue, SW Washington, D.C. 20202-1100 OCR National Office Contact Information: Telephone: 800-421-3481 TDD: 877-521-2172 FAX: 202-245-6840 Email: [OCR@ed.gov](mailto:OCR@ed.gov)

The regional OCR office serving the district is located at:

- Michael Carter, Regional Manager, Office for Civil Rights US Department of Health and Human Services Jacob Javits Federal Building 26 Federal Plaza – Suite 3312 New York, NY 10278 Voice Phone (212) 264-3313 Fax (212) 264-3039 TDD (212) 264-2355

# GLOSSARY



- **Accommodations** —Adaptations and services made by classroom teachers and other school staff to enable the students with disabilities to benefit from their educational program. Changes "how" services are delivered, e.g., shortening assignments, allowing extra time, reading tests aloud, etc.
- **Americans With Disabilities Act (ADA)**—A civil rights law that prohibits discrimination against persons with disabilities in the areas of accessibility, employment, public services, public accommodations, transportation, and communication.
- **Barrier-Free Environment** — A barrier free environment is a school/work environment free of obstacles preventing access and use by individuals with disabilities.
- **Consent - 504** — OCR policy interpretation requires parental consent prior to conducting the initial Section 504 evaluation. Although the OCR on-line Q & A's imply consent is required prior to a Section 504 placement, neither Section 504 nor its regulations require consent prior to Section 504 placement.
- **Cultural, Environmental, And Economic Factors (CEE)** — Cultural, Environmental, and Economic Factors (CEE) include conditions such as transiency, divorce, death of a close family member, military deployment. CEE may be the cause of student learning and/or behavioral problems. (CEE) disadvantages such as limited English proficiency, transiency, and divorce. Because CEE factors are not mental or physical impairments, resulting learning problems or behavior problems are not disabilities under Section 504.
- **Equal Access** – Equal opportunity of a qualified person with a disability to participate in or benefit from educational aide, benefits, or services.

# GLOSSARY



- **Family Educational Rights and Privacy Act (FERPA)** — The federal law and accompanying regulations that address students' educational records and confidentiality.
- **Free Appropriate Public Education (FAPE)**—Related aids and services that are designed to meet individual, educational needs of students with disabilities as adequately as the needs of nondisabled persons are met.
- **Individuals With Disabilities** — Under Section 504, an individual with a disability is anyone (1) who has a physical or mental impairment which substantially limits one or more major life activities, (2) who has a record of such an impairment, or (3) who is regarded as having such an impairment.
- **Major Life Activities/Major Bodily Functions** — Functions such as caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Also, included are major bodily functions including, but not limited to, functions of the immune system, bowel, brain, endocrine, normal cell growth, respiratory, reproductive, digestive, neurological and circulatory systems. The list of examples is not exhaustive; other functions may be considered major life activities.



# GLOSSARY



- **Maximum Extent Appropriate** - The maximum integration of children with and without disabilities in the instructional and noninstructional setting consistent with the avoidance of harmful effects.
- **Mitigating Measures** — Mitigating measures are measures that eliminate or reduce the symptoms or impact of impairment. Examples of mitigating measures include, but are not limited to, such things as medication, medical equipment and devices, prosthetic limbs, low vision devices, reasonable accommodations and behavioral modifications. The corrective effect of mitigating measures may not be used to rule out Section 504 eligibility.
- **Office for Civil Rights (OCR)** —This federal agency has three, primary responsibilities: (1) investigating complaints, (2) conducting compliance reviews, and (3) providing technical assistance. In addition to its national office, 10 regional OCR offices are located throughout the United States.