

## Section 504 Frequently Asked Questions

### 1- What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a civil rights statute which prohibits an otherwise qualified individual with a disability from being discriminated against, excluded from participation in or denied the benefits of any program or activity that receives federal financial assistance. Section 504 is enforced by the U.S. Department of Education, Office of Civil Rights (OCR), and the Massachusetts Bureau of Special Education Appeals (BSEA). Students who are eligible for Section 504 Plans are provided with appropriate educational accommodations and/or services designed to meet their individual needs to the same extent as the needs of students without disabilities.

### 2- How is a student qualified under Section 504?

Eligibility for accommodation plans and/or services under Section 504 is based upon a review of documentation from multiple sources to determine whether a student has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment. Each eligibility determination is made based upon an individual inquiry.

### 3- What is a physical or mental impairment?

There is no complete list of impairments that are covered by Section 504. A sampling of physical or mental impairments that may be considered eligible under Section 504 include:

- Emotional, and Behavioral Disorders, (e.g., anxiety, depression, personality disorder, bipolar, eating disorders, Schizophrenia, etc.)
- Developmental Delay (e.g. sensory motor, language, social, emotional delay).
- Attention Deficit Disorder with or without Hyperactivity
- Specific Learning Disabilities
- Physical Disabilities or Impairments, (e.g., orthopedic, neuromuscular, cardiovascular, pulmonary disorders, etc)
- Auditory Disabilities or Impairments (e.g., hearing loss, auditory processing disorder)
- Visual Disabilities or Impairments (e.g., blindness, color blindness, partial blindness)
- Medical Conditions (e.g., asthma, food allergies, seizure disorders, diabetes, etc)

### 4- What are “major life activities”?

Section 504 defines major life activities to include a wide variety of daily activities, such as:

- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing

- Eating
- Sleeping
- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Working
- Reading
- Concentrating
- Thinking
- Communicating
- Operation of a major bodily function

**5- When does impairment “substantially limit a student’s major life activity”?**

In general, “substantially limits” means being unable to perform a major life activity that most people can perform or having considerable difficulty with respect to the condition, manner or duration for which an individual can perform a major life activity as compared to most people. A physical or mental impairment does not constitute a disability for purposes of Section 504 unless its severity or educational impact is such that it results in a substantial limitation of one or more major life activities.

**6- When does Cambridge Public Schools evaluate a student under Section 504?**

- When a parent/guardian requests an evaluation\* (**See note below**)
- When a parent/guardian provides documentation of a disability
- When a student is referred to a school based Team (Response to Intervention (RTI); Teacher Assistance Team (TAT); Student Support Team (SST) and it is determined that a special education evaluation is not warranted
- When a student is determined not to be eligible for services under the Individuals Disabilities Education Act (IDEA)
- When a student shows a pattern of not benefiting from the instruction provided
- When a student returns to school after a serious illness or injury
- When a student exhibits a chronic health condition
- When a student has a temporary or obvious disability (e.g., a broken arm)
- When a student has an episodic health condition (e.g., food allergy)
- If a student already has been determined eligible under Section 504, he or she also is re-evaluated at least every three (3) years

**\*NOTE:** If school administrator, designee, and/or teachers do not suspect that student has a disability and/or the student is performing within the average range, a request can

be denied. The school administrator or designee must inform the parent/guardian of their rights by providing the Procedural Rights and the reasoning for the decision.

**7- Does a school administrator or designee have to consider multiple and varied sources of information (parent/guardian & school documentation) in order to determine if a student is eligible for accommodations and/or services under Section 504?**

Yes. Section 504 requires that “information from a variety of sources be considered and documented” (i.e. aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and observations from parent/guardian, teachers, and school personnel).

**8- Who is responsible for conducting the multidisciplinary assessment and determining eligibility for accommodations and/or services under Section 504?**

The school administrator or designee is responsible to convene a 504 Team that is knowledgeable about the student, the meaning of the evaluation data, and the placement options. The meeting is chaired by the school administrator or designee. The parent/guardian of the student is also a member of the 504 Team. If the student is fourteen (14) years of age or older he/she should be invited to attend the 504 Team meeting. As detailed below in the response to Question 11, once students reach the age of majority – eighteen (18), the student assumes decision making authority unless one of the exceptions detailed in the Question 11’s response applies.

**9- Does a physician’s diagnosis of ADD/ADHD automatically result in a student being eligible for Section 504?**

No. A physician’s diagnosis alone does not automatically result in eligibility under Section 504. A physician’s diagnosis should be considered as one piece of evidence when evaluating the student’s eligibility under Section 504 as part of a multi-disciplinary evaluation process. The key to eligibility under Section 504 is whether the student’s disability substantially limits a major life activity (e.g. learning).

**10- If a student with a physical or mental impairment is found ineligible for special education and related services under IDEA, is he/she automatically covered under Section 504?**

No. A student with a disability who does not meet the standards for eligibility under IDEA is not automatically covered under Section 504. The student must be referred to a Section 504 Team to determine if he/she meets eligibility requirements under Section 504.

**11- If a student is age 18 (age of majority) must all Section 504 correspondence be sent to the student rather than to the parents/guardians? Must this student attend Section 504 meetings rather than the parents/guardians?**

Yes. Once the student reaches the age of eighteen (18), all rights accorded to the parents/guardians transfer to the student. As a result, once the student is eighteen (18), he/she must be invited to attend all Section 504 meetings and be given all correspondence, unless the parents/guardians have taken steps to become the student's educational guardian and/or the student has provided express written consent for the parents/guardians to be invited to attend team meetings and/or receive copies of all correspondence. The parents/guardians retain the right to review the student's educational records. The Office of Student Services will mail a letter to all students who will turn eighteen (18) during the upcoming school year. The letter serves as notification to the parents/guardians and student that all rights accorded to parents/guardians under Section 504 law will transfer to the eighteen (18) year old student. The letter reinforces the fact that the parents/guardians retain the right to review the student's educational records. In addition, a copy of the Notice of Rights under Section 504 of the Rehabilitation Act of 1973 will accompany this letter.

**12- Are written Section 504 Plans required?**

Yes. If a student is determined to be eligible for accommodations and/or services under Section 504, the Cambridge Public Schools will generate a written Section 504 Plan detailing these accommodations and services.

**13- What types of modifications to regular education are typically appropriate under Section 504?**

Accommodations are determined on an individualized basis and must be designed to address a student's specific area(s) of need. Examples of accommodations that a 504 Team may consider for a student include :

***Evaluation Accommodations***

- allowing extended time during tests
- allowing extended time to complete assignments
- assessments read aloud
- use of a calculator
- spelling errors being noted but not evaluated
- testing at a specific time of day, etc.
- allowing for verbal responses instead of written responses

***Environmental Accommodations***

- changing a student's seating assignment because they cannot focus in a certain area
- limiting the amount of papers handed out at one time
- providing preferential seating
- providing special lighting or acoustics
- providing a space with minimal distractions

### ***Content Accommodations***

- allowing student to use a word processor for written work
- providing classroom notes from the teacher and/or peers
- accessing books on tapes
- allowing extra guided practice when necessary
- providing written material in large print
- reducing number of items per page or line

### ***Physical Accommodations***

- use of an elevator
- student is allowed to go to the nurse's office to take medication at a certain time each day regardless of his/her class schedule

#### **14- What happens if parents/guardians do not sign a consent form for an Initial Evaluation?**

After three (3) attempts to obtain consent for an initial evaluation from the parents/guardians, no further action with regard to the proposed initial evaluation is required by the school administrator or designee.

#### **15- Are parents/guardians required to sign the 504 Plan before it can be implemented?**

Yes. Parents/guardians' signatures are required prior to the school district implementing the 504 Plan.

#### **16- Can parents/guardians reject certain parts of a 504 Plan?**

Yes. Parents/guardians can reject certain parts of a 504 Plan and accept other parts of a 504 Plan. Parents/guardians can also reject a 504 Plan in its entirety, or accept a 504 Plan in its entirety.

#### **17- What happens if a student refuses an accommodation and/or service from a teacher?**

Teachers cannot force a student to accept accommodations and/or services but teachers are obliged to keep a log of which accommodations and/or services were refused by the student and under what circumstances.

**18- If a student transfers from another school out of district, can the team meet to modify the 504 Plan?**

Yes. After the 504 Team has implemented the 504 Plan for a period of time, the 504 Team may meet to add accommodations and/or services if the 504 Team deems it necessary. The 504 Team may also meet to modify the 504 Plan if the 504 Team feels the student does no longer require the specific accommodations and/or services in the 504 Plan.

**19- Are there "stay put" rights under Section 504?**

No. There is no express provision affording students "stay put" rights pending an appeal in connection with a dispute regarding a Section 504 plan, nor, according to OCR, should any stay put requirement be implied.

**20- What can parents/guardians do if they are dissatisfied with the way schools are serving students who are eligible for Section 504 protections?**

Parents/guardians should request to meet with the student's school administrator or designee and/or reconvene the student's 504 Team. If the issues are not resolved the parents/guardians should contact Dr. Victoria Greer, Assistant Superintendent for Student Services. If issues still are unresolved, parents/guardians or students who have reached the age of majority may contact Carolyn Turk, Deputy Superintendent for the Cambridge Public Schools, who also serves as the school district's Section 504 Coordinator. For further details on the rights of a student and parents/guardians under Section 504, see the answer to question number 21 below.

**21- What are a student and/or parents/guardians rights under Section 504?**

Parents/guardians and students have certain rights under Section 504 of the Rehabilitation Act of 1973. These rights apply to parents/guardians and students who have reached the age of majority, which is 18 (eighteen) in Massachusetts. These rights are as follows:

1. The parent/guardian or student who has reached the age of majority has the right to receive a copy of a notice of procedural rights when the school district identifies, evaluates, refuses to evaluate, makes a new educational placement, denies a new educational placement or makes any significant change in the placement of the student because of the student's disability or suspected disability.
2. The parent/guardian or student who has reached the age of majority has the right to an evaluation of the student if the school district has reason to believe that the student has a mental or physical impairment that substantially limits learning or some other major life activity. The parent/guardian or student who has reached

the age of majority has the right to this evaluation before any plan for accommodation and before any subsequent significant change in the educational placement of the child. An example of a significant change in educational placement is a referral for expulsion.

3. The student has the right to a free appropriate public education. The parent/guardian is responsible for the same costs as the parents/guardians of children who are not disabled.
4. To the maximum extent possible, the student has the right to be educated with children who are not disabled.
5. The parent/guardian or student who has reached the age of 14 (fourteen) or older or entered ninth grade has the right to examine all relevant records the school maintains on the student.
6. The parent/guardian or student who has reached the age of majority has the right to an impartial due process hearing if they wish to contest any action of the Cambridge Public Schools with regard to their student's identification, evaluation or placement under Section 504 of the Rehabilitation Act of 1973.
7. If the parent/guardian or student who has reached the age of majority wishes to contest an action taken by a Section 504 Team by means of an impartial due process hearing, a Request for Hearing must be submitted to the Bureau of Special Education Appeals (BSEA), 75 Pleasant Street, Malden, MA 02148-4906 or by fax to the BSEA at 781-338-3398. This written request for a hearing must also be submitted to the attention of the Superintendent of Schools, Cambridge Public Schools, 159 Thorndike Street, Cambridge, MA 02141. If the parent/guardian or student who has reached the age of majority ultimately disagrees with the decision of a hearing officer, they have the right to seek review of that decision by filing a complaint with the federal district court.
8. If the parent/guardian or student who has reached the age of majority has other issues surrounding the student's education that do not specifically involve identification, evaluation or placement, the parent/guardian or the student who has reached the age of majority have the right to present a grievance or complaint to the school district's Section 504 Coordinator, who is the Deputy Superintendent for the Cambridge Public Schools, 159 Thorndike Street, Cambridge, Massachusetts 02141. The telephone number of the Deputy Superintendent is 617-349-6418.

9. The parent/guardian or student who has reached the age of majority also has the right to file a complaint with the Office of Civil Rights of the United States Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109  
Phone: 617-289-0111; Fax: 617-289-0150.