

Brookings School District Section 504 Procedures

Students Protected Under Section 504

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on the basis of an individual inquiry. The Section 504 regulatory provision at 34 C.F.R. 104.3(j)(2)(i) 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; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The regulatory provision 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.

Major life activities, as defined in the Section 504 regulations at 34 C.F.R. 104.3(j)(2)(ii), include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. In the Amendments Act (see FAQ 1), Congress provided additional examples of general activities that are major life activities, including eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Congress also provided a non-exhaustive list of examples of "major bodily functions" that are major life activities, such as the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. The Section 504 regulatory provision, though not as comprehensive as the Amendments Act, is still valid – the Section 504 regulatory provision's list of examples of major life activities is not exclusive, and an activity or function not specifically listed in the Section 504 regulatory provision can nonetheless be a major life activity.

At the elementary and secondary educational level, a "qualified student with a disability" is a student with a disability who is: of an age at which students without disabilities are provided elementary and secondary educational services; of an age at which it is mandatory under state law to provide elementary and secondary educational services to students with disabilities; or a student to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA)

Child Find

The Brookings School District ensures the identification of students with potential disabilities through teacher observations of student academic performance. The procedures utilized under the Individuals with Disabilities Education Act (IDEA) also provide a mechanism to

potentially identify eligible students under Section 504. Parents may refer a child as being a child potentially in need of accommodation under Section 504 by making either a written or verbal referral to the administrator of their child's attendance center.

Evaluation

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

The Brookings school district may use the same process to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA.

The Brookings school district individually evaluates a student before classifying the student as having a disability. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

The amount of information required for appropriate evaluation and determination of eligibility is determined by the multi-disciplinary committee gathered to evaluate the student. The committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The school district will draw from a variety of sources in the evaluation process so that the possibility of error is minimized. The results of an outside independent evaluation may be one of many sources to consider. The information obtained from the sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504.

If a parent disagrees with the determination, he or she may request a due process hearing.

Parental Consent for Evaluation

A school district must evaluate a student prior to providing services under Section 504. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and a recipient school district suspects a student has a disability, the IDEA and Section 504 provide that school districts may use due process hearing procedures to seek to override the parents' denial of consent

Reevaluation

Periodic re-evaluation is required. This may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and public agency agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and public agency agree otherwise).

Section 504 specifies that re-evaluations in accordance with the IDEA is one means of compliance with Section 504. Section 504 also requires a school district to conduct a re-evaluation prior to a significant change of placement. An exclusion from the educational program of more than 10 school days is a significant change of placement. Transferring a student from one type of program to another or terminating or significantly reducing a related service is also a significant change in placement.

Ineligibility

The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

Notice to Parents

The Brookings School District provides notice to parents explaining any evaluation and placement decisions affecting their children and explaining the parents' right to review educational records and appeal any decision regarding evaluation and placement through an impartial hearing.

Services

The Brookings School District is required to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services. Upon determination of a student being eligible for a Section 504 plan, the team will develop a written plan to address the individual educational needs of the student. This plan will be reviewed periodically by a team comprised of members knowledgeable about the student.

Ineligibility

The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a recipient school district re-evaluates a student in accordance with the Section 504 regulatory provision at 34 C.F.R. 104.35 and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

Parent withdrawal

If the parent wishes to withdraw the student from a Section 504 plan, the school district may initiate a Section 504 due process hearing to resolve the dispute if the district believes the student needs the services in order to receive an appropriate education

Students moving into the district on a 504 plan

If a student with a disability transfers to a district from another school district with a Section 504 plan, the Brookings School District should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student. There is no Section 504 bar to the Brookings School District honoring the previous IEP during the interim period.

Opportunity to Review Relevant Records

Parents are able to review relevant records in the Brookings School District upon request, during normal posted business hours. Requests for copies of record may result in a copy charge of ten cents per page.

Brooking School District Section 504 Grievance Process

Section 1

If any person believes that the district or any of the district's staff have inadequately applied the regulations of (1) Title VI of the Civil rights Act of 1965, (2) Title IX of the Education Amendment Act of 1972, (#) Section 504 of the Rehabilitation Act of 1973, or (4) The Americans with Disabilities Act, he/she may bring forward a grievance to the school's Section 504/ADA Coordinator. It should be understood by the individual(s) involved that a complaint can be made to the Office for Civil Rights without going through the school's grievance procedures. The grievance procedures are to provide for a prompt and equitable resolution of a complaint.

Section II

The district 504 coordinator, on request will provide a copy of the schools grievance procedure and investigate all complaints in accordance with this procedure. Copies of each of the acts and regulations on which this notice are based may be found in the coordinators office.

The person who believes he/she may have been discriminated against based on disability shall discuss the grievance and give the completed grievance form to the district Section 504/ADA coordinator who shall in turn investigate the complaint and reply with an answer to the complainant.

Step 1

A written grievance form signed by complainant shall be submitted to the district Section 504/ADA coordinator. The coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10 business days.

Step 2

If the complainant wishes to appeal the decision of the district Section 504/ADA coordinator, he/she may submit a signed statement of appeal to the superintendent within 10 business days after receipt of the coordinator's response. The superintendent shall meet with all parties involved, formulate a conclusion and respond in writing to the complainant within 10 business days.

Step 3

If the complainant remains unsatisfied, he/she may appeal through a signed written statement to the school board of education within 10 business days of his/her receipt of the district's response in Step 2. In an attempt to resolve the grievance, the board shall meet with the concerned parties and their representative within 30 days of the receipt of such an appeal. A copy of the boards' disposition of the appeal shall be sent to each concerned party within 10 business days of this meeting.

Step 4

The complainant may file a complaint with the Office for Civil Rights at any time before or during the grievance procedures.

Brookings School District
Section 504/ADA School Grievance Form

Parent name: _____ Date: _____

Student: _____

Address: _____

Phone: _____

1. Summary of grievance – what is the problem?

2. How can the problem be resolved?

Please describe any corrective action you wish to see taken with regard to the possible violation. You may also provide other information relevant to this grievance.

If others are affected by the possible violation, please list their names and positions:

IGBB

Signature of Parent

Date: _____

Received by Section 504 Coordinator _____

Date: _____