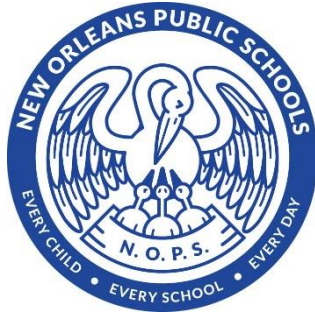


Orleans Parish School Board



Section 504 Handbook

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What is Section 504?

It is federal, civil rights legislation that is part of the Rehabilitation Act of 1973. The purpose of this statute is to prevent any form of discrimination based on disabilities. It is intended to “level the playing field” and to provide “access” for disabled students.

While federally mandated, no federal funding accompanies this mandate. Schools must recognize this mandate. **Compliance is not optional.**

The Office of Civil Rights has ruled in favor of many students whose rights have been violated as a result of Section 504 regulations being ignored or improperly observed.

Section 504 and Title II of the ADA

Section 504 and Title II of the Americans with Disabilities Act (ADA) have similar compliance standards. Section 504 prohibits discrimination on the basis of disability in programs and activities that receive **Federal financial assistance** from the U.S. Department of Education. Title II prohibits discrimination against people with disabilities by **public entities**, including public elementary and secondary schools and state colleges and universities.

The ADA Amendments Act of 2008 became effective January 1, 2009. The definition of disability in both laws was affected by the ADA Amendments Act of 2008. The ADA Amendments Act retained the elements of the term ‘disability’, but changed the meaning of

- “substantially limits a major life activity” and
- “being regarded as” having an impairment.

It also requires “disability” to be construed broadly.

Definition of a Section 504 Disability

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that prohibits discrimination on the basis of a disability in any program receiving federal funds. Section 504 states that:

"No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his 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."

Eligibility is based on the definition of a disability as defined in Section 504. It is not based on clinical categories or based on state or federal laws like those that govern Individuals with Disabilities Education Act (IDEA).

A student is considered to have a disability if the student:

- (1) has a physical or mental impairment which substantially limits one or more of the student's major life activities,
- (2) has a record of such an impairment, or
- (3) is regarded as having such an impairment.

Physical or Mental Impairment

The Act defines a physical or mental impairment as:

- (1) any physical 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
- (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional, or mental illness, and specific learning disabilities.

Any legitimately recognized physical or mental impairment that substantially limits at least one major life activity may qualify a student for services.

Some common disabilities are listed below.

ADHD/ADD	Dyslexia/Dyscalculia/Dysgraphia
Academic Disabilities (not SLD)	Diabetes
Anxiety Disorder	AIDS or Cancer
Asthma	Eye Abnormalities
Medical or psychological conditions (not OHI or ED)	Chronic chemical sensitivities or allergies
Chronic Fatigue Syndrome	Broken Extremities

However, there is no published list of "recognized" or "approved" disabilities

under Section 504.

Section 504 protects the rights not only of an individual with visible disabilities, but also those with disabilities that may not be apparent. *Hidden disabilities* are physical or mental impairments that are not readily apparent to others. They include such conditions and diseases as dyslexia, diabetes, allergies, and asthma.

Major Life Activities

Major life activities include a wide variety of daily activities, including “functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning (including social skills), and working.”

The ADA Amendments Act also includes a non-exhaustive list of major life activities. The list is divided into two categories: *general and major bodily functions*.

The Amendments Act’s non-exhaustive list of *general major life activities* includes all activities in the Section 504 regulations and the following:

eating	communicating
sleeping	reading
standing	concentrating
lifting	thinking
bending	

The Amendments Act’s non-exhaustive list of *major bodily functions* is as follows:

functions of the immune system	
normal cell growth	circulatory
digestive	endocrine
bowel functions	reproductive
bladder	neurological
brain	respiratory

Mitigating Measures

Prior to the Amendments Act, the Section 504 committee was required to consider the effects of “mitigating measures” such as medication and corrective eyeglasses, when determining whether an individual was “substantially limited in a major life activity.”

Under the ADA Amendments Act of 2008 the “ameliorative effects of mitigating measures” must not be considered when determining if an individual is a person with a disability. (e.g., Committees should determine whether students with social/emotional impairments or mental illness have a disability according to Section 504, without considering any medication used to treat or manage that condition.) However, the ameliorative effects of ordinary eyeglasses/contact lenses shall be considered in determining if an impairment substantially limits a major life activity. **With the ADA Amendments Act, students may now be determined to be eligible for Section 504 services, but currently not in need of accommodations.**

Some examples of mitigating measures include:

Medication	Prosthetic limbs and devices
Medical devices/equipment	Mobility devices
Assistive technology	Oxygen therapy
Hearing aids, cochlear implants, and hearing devices	Low vision devices (other than eyeglasses or contact lenses)
Learned behavioral/adaptive neurological modifications	Reasonable accommodations, auxiliary aids and services

“Substantially limits”

The statute does not provide a definition of “substantially limits”.

Generally, substantial limitation refers to:

- (1) the inability to perform a major life activity that the average person in the general population can perform, or
- (2) Significant restriction or limitation as to the condition, manner, or duration, under which an individual can perform a particular major life activity as compared to the condition, manner, or duration, under which the average person in the general population can perform the same major life activity

The Office of Civil Rights (OCR) has allowed individual school districts to establish their own criteria for “substantial limitation” of a life activity.

A variety of sources should be used as support data to justify “substantial limitation” of a major life activity. The determination of “substantial limitation” of a major life activity should be the consensus of a group of persons knowledgeable about the student, the evaluation data, and the placement options.

When examining whether the impact of a disability substantially limits a major life activity, the focus should be on the elements of that activity that are of central importance to most people. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when it is active.

Who should be considered for Section 504 eligibility?

The SATeam should consider making a referral to the Section 504 Committee when the following situations occur:

- When a student is referred for an IDEA evaluation, but the team makes the decision not to evaluate for special education services.
- When a student who has not been responsive to intervention is suspected of having any disability but is not expected to meet qualifying criteria under IDEA guidelines.
- When a student has been evaluated for IDEA services and does not qualify but a disability that is substantially limiting is nonetheless evident.
- When a student who may have formerly received Special Education services and has now been declassified to No Exceptionality.
- When a student shows a pattern of not benefiting from instruction (repeated retentions).
- When a student exhibits recurrent behavior problems, has been expelled, or has a pattern of suspensions for disruptive behavior.
- When a student is considered socially maladjusted.
- When a student has a chronic health condition.
- When a student has a history of substance abuse.
- When a student returns to school after a serious injury or illness or while the student is being served by homebound instruction services.

- When a student becomes pregnant.
- When a student has a short term illness or injury that may be substantially limiting and may require accommodations in the educational setting for a period over 6 months.
- When a parent or teacher requests consideration for Section 504 services because of a suspected disability.

Note:

There are more opportunities for students to become eligible for Section 504 services than for services through the IDEA because IDEA guidelines are more defined and more quantitative. (Refer to Louisiana Department of Education, Bulletin 1508, Pupil Appraisal Handbook)

In accordance with Section 504 regulations, a student with HIV or AIDS is considered to be a student with a disability and is entitled to a free and appropriate public education (FAPE). These students must be placed in a regular education environment unless it has been demonstrated that they cannot be educated in that setting.

Limited English Proficient (LEP) Students/ English Language Learners (ELL)

Limited English Proficiency is **not** considered a disability under Section 504. If, for example, a student who exhibits Limited English Proficiency presents with another disability such as ADHD or diabetes that could be supported and documented as “substantially limiting”, then the substantially limiting disability could justify the student receiving Section 504 services.

Special Education Students with Disabilities

An Individualized Accommodation Plan (IAP) should not be used for students with disabilities who receive Special Education Services, including students with Speech or Language Impairments. Instructional and test accommodations for these students should be documented on their Individualized Educational Plan (IEP).

Students with a Gifted and/or Talented Exceptionality

Gifted and/or Talented only students with a “qualified disability” under Section 504 must have a Section 504 report and the IAP should be attached to their IEP.

Eligibility Determinations

Eligibility for Section 504 is very broad and covers many different types of disabling conditions not covered under IDEA or those that are not severe enough to qualify for IDEA. Eligibility/Placement determination should be made by a group of persons knowledgeable about the student, evaluation data, and placement options. Thus, the team will be a ‘fluid’ one.

The most effective way to assess the impact of a disability on educational performance is to use a wide variety of evidence. National percentiles, summative assessments, and teacher observations should be used to support data based decisions. Documented scientifically based interventions should also be reviewed and analyzed by the Section 504 committee.

Placement for most students who are eligible for “Section 504 Only” services is in the regular education setting as the “Most Integrated Setting” should be provided whenever possible. Section 504 services for most students are provided in the form of accommodations often made in the regular education setting. Academic accommodations should typically be provided inside the student’s regular classroom with few exceptions.

Note:

The eligibility/placement decision should never be made by a single individual, not even the principal or the LEA 504 District Coordinator.

Section 504 services are not meant to be used as a tool for assisting students in reaching their highest potential, improving students’ overall weak performance, helping students make “better grades” or helping students to “pass the state standardized tests”. The primary purposes are to prevent discrimination and provide access.

The SA Team/Section 504 Committee should focus on providing the student with equity, not advantage when determining eligibility for services. Section 504 does not require a public school district to provide students with disabilities with potential-maximizing education, only reasonable accommodations that give those students the same access to the benefit of a public education as all other students.

“While parents may honestly believe that a child is not performing to his or her potential, that failure is not sufficient reason for referral and evaluation”...” As a result where the child is already passing his classes (without modifications) he is likely receiving educational benefit and is in no need of Section 504 or IDEA services. “By definition, a person who is succeeding in regular education does not have a disability which substantially limits the ability to learn...” Students with learning disabilities who *pass from grade to grade* while functioning further and further *below standards for their age*, arguably *are not succeeding* in regular education.

Please note that a physical or medical condition may substantially limit one or more of the major life activities without negatively affecting a student’s academic performance.

With the ADA Amendments Act, students may now be determined to be eligible for Section 504 services, but currently not in need of accommodations. All students who are determined to be eligible for services should have this documented on an IAP, even if no accommodations are currently needed. Once determined eligible (within a three year evaluation period), committees may reconvene at any point if it appears that a data-driven decision supporting the need for accommodations should be considered. If accommodations are needed, a new IAP reflecting the appropriate accommodations should be developed. Appropriate annual reviews and three year reevaluations should also be conducted for these students.

Medical and Private Evaluations

The results of an outside independent evaluation may be one of many sources to consider. The Section 504 committee must draw from a variety of sources in the evaluation process so that the possibility of error is minimized. All significant factors related to the student's learning process must be considered.

Eligibility/placement decisions should not be made on the basis of a medical report without the consideration of other data such as report cards, classroom observations, standardized test scores, behavior reports, teacher and/or parent interview, or other information that may indicate how the medical condition impacts the student at school.

When documentation is made available, a medical evaluation or physician's statement of such conditions should not serve as the sole determinant of eligibility. For the purposes of Section 504 eligibility, existence of a disability must be accompanied by evidence of substantial limitation. If there is no presence of a physical or mental disability that substantially limits one or more of the major life activities, then the student is not a qualified individual under the Section 504 mandate and the student should not receive Section 504 accommodations.

A medical report is not required for all conditions. If there is sufficient school documentation and observation data supporting the existence of characteristics of certain conditions (e.g., ADHD or Dyslexia), a student may be determined eligible by the committee. Eligibility may be based on data that indicate the presence of characteristics of the student's suspected disability that cause substantial limitation (i.e., characteristics of dyslexia, characteristics of ADHD) as observed and documented in the educational setting.

Schools should not require parents to take their children to receive medical evaluations or medical care unless the school is prepared to pay the cost of those services. Students may not be refused Section 504 services because of the parent's refusal/delay to take the student to visit a doctor for the problematic condition. Even if the parents decide on their own to obtain a medical or private evaluation, the Section 504 committee should request permission to start the school based assessment prior to the receipt of the private evaluation.

Eligibility decisions are at the discretion of the Section 504 Committee. A Section 504 assessment must be conducted to determine if the student has a disability that substantially limits a major life activity. *However, Section 504 services are warranted when a medical report is provided to the Section 504 Committee that indicates a student suffers with anaphylaxis or life threatening allergies.*

Outside independent evaluations must be considered but do not solely determine what happens in Section 504 decisions. Decisions that are scantily supported lead to over-identification and unfair advantages provided to “average” or slightly “below average” students. Eligibility decisions should be data-based and accommodations should be data-driven.

Parental Involvement

It is recommended that schools make every attempt to involve parents in decisions affecting their child. Parents must be invited to all meetings concerning their child.

The Student Assistance Team is a group of knowledgeable people who meet to discuss students’ academic problems. Parents are invited to attend the Student Assistance Team (SAT) meetings to discuss any concerns/problems that their child is having in school.

The invitation to attend the SAT meeting must be made in writing. (Refer to SAT handbook) SAT decisions are documented on the Request for SATeam Consideration Form (*Form 300R*) and the attending participants sign the **Request for SATeam Consideration Form** (*Form 300R*).

Parents’ attendance at scheduled Section 504 meetings are not required and the committee may proceed with decisions in the parents’ absence. However, attempts to involve parents should be documented and maintained in the student’s record using the Parent Participation – Documentation of Effort Form (*Form 13*)

When the SAT/Section 504 committee’s decision is to conduct a Section 504 assessment then the parents must sign the **Parent Permission Form (Form 2)** and receive the **Parent/Student Rights and Grievance Procedures (Form 2a)** before the Section 504 team conducts an assessment.

Note:

- Parents should be given written and timely notification of Section 504 eligibility and placement committee meetings (within 10 days of the decision).
- Consent must be obtained prior to assessment.
- Parents have the right to review educational records, obtain copies, and request reasonable amendments to the record.
- Parents have the right to appeal evaluation and placement decisions through an impartial hearing.

It is advised that requests for Section 504 screenings and/or evaluations of students *be granted* when made by parents, teachers, or administrators.

If the request for an evaluation is denied, the Section 504 committee must be able to show that there was no reason to suspect that the student may have a disability. Written documentation must be provided supporting the decision that there was no reason to suspect that the student may have a disability.

The school must immediately (within 24 hours) contact the OPSB Section 504 Coordinator to review the written documentation so a letter can be sent to the parent within 30 days of this decision.

Parents must receive a copy of the Section 504 Rights and Grievance Procedures whenever the Section 504/SATeam refuses to conduct an evaluation.

When the parent attends the SAT meeting, the receipt of Section 504 Rights and Grievance Procedures is documented on the 300R.

Again, it is strongly advised by the district office that requests for Section 504 screenings and/or evaluations of students *be granted* when made by parents, teachers, or administrators.

The **Parent Participation - Documentation of Effort Form (Form 13)** is used to document the attempts to include the parents in the decision making process of their child. This form is completed and maintained in the student's folder. A variety of methods must be used to contact the parent (e.g., telephone calls, email, US mail, etc.).

The steps in documenting the mailing of letters/forms are:
US mail,
And certified mail return receipt requested,
And write “Sent via US Mail and Certified Mail No. _____” on
top of the document,
And make copy of documents and US mail envelope.

Assessment Procedures

Eligibility/Placement determination should be made by a group of persons knowledgeable about the student, evaluation data, and placement options. Thus, the team will be a ‘fluid’ one. The process begins when a teacher(s), parent, guardian, school-based personnel or other interested persons complete the **Pre-SAT Screening Instruments (Form 3)**, document their concerns on the Pre-SAT section of the **Request for SATeam Consideration Form (Form 300R)**, and submit it to the SATeam chairperson. The meeting should be scheduled within **10 business days** from the initial concern.

The SATeam chairperson invites all relevant personnel including the student’s parent to the SATeam meeting to discuss the child’s problems.

The most effective way to assess the impact of a disability on educational performance is to use a wide variety of evidence. National percentiles, summative assessments, and teacher observations should be used to support data-based decisions. Documented scientifically based interventions should also be reviewed and analyzed by the Section 504 committee.

The review will include but is not limited to:

- Sensory screening (conducted within 24 months)
- Medical/health history
- Cumulative record review
- Academic progress reports
- Standardized test scores
- Informal testing such as universal screenings
- Work samples
- Achievement motivation information
- Additional information from the parent
- Documentation of the use of specialized instructional interventions and strategies that are research based (RtI)

The SATeam will review the data and may come to various decisions which may include conducting additional interventions and/or reviewing the student's progress within the Response to Intervention (RtI) model.

If the decision is to conduct a Section 504 assessment, the Request for SATeam Consideration Form (300R) and all relevant data are given to the school's Section 504 committee (if the Section 504 committee is different from the SATeam).

This team consists of the Section 504 chairperson and two other knowledgeable persons, one of which is the student's teacher. The parent is not a required member but should be *invited to all* meetings using the **Notice of Section 504 Meeting Letter (Form 12)**. The school should document parent invitations to all meetings using the Parent Participation – Documentation of Effort Form (Form 13).

Parent permission (Form 2) is required to start the Section 504 assessment and the parent must be given a copy of the **Parent/Student Rights and Grievance Procedures (Form 2a)** as well as an explanation of the rights. The parent should be given prior notice of any meetings using the Notice of Section 504 Meeting Letter (Form 12) and post-meeting notice of what occurred (Form 300R).

After receiving parent permission, the Section 504 chairperson or designee will conduct an evaluation using a formalized assessment that addresses the area(s) of concern.

If dyslexia is the suspected disability, the appropriate school site personnel will use the **Dyslexia Assessment (Form 5)** to determine if a student has characteristics of dyslexia as defined by Bulletin 1903.

The Section 504 committee must use a variety of data to determine eligibility.

The information may include but is not limited to:

Bulletin 1508 Evaluation (within 3 years)	Dyslexia Assessment (Form 5)
Private Evaluation (within 3 years)*	OT Assessment for Dysgraphia
Medical Evaluation/Diagnosis (within 1 year)	ADHD (e.g. Hawthorne, Conners')
Standardized Test Results	Dyscalculia (e.g. KTEA)
Student work/input	Social/Emotional (e.g. BASC,
ASEBA) Parent Input	Discipline records
RTI/Early Intervening Data results	
Attendance record	
Teacher Input/Observations specific to the identified disability	

* Private evaluations that are used as supporting data are good for three (3) years.

Additional formal assessments, using the current edition, can include, but are not limited to the following:

WRAT	Slosson-R	TOPA	DIBELS
OWLS	PALS	Conners'	TOWL
TOLD	KBIT	GORT	Jordan
DST	PIAT-R	Brown ADD Scales	
KTEA	CTOPP	DRA	
Test of Reading Comprehension		Test of Problem Solving	
Hawthorne ADDES & EBPS			

If the committee determines that the student has a disability, then they will analyze the data to determine if there is a *substantial limitation of one of the major life activities*.

Under both federal laws (IDEA and Section 504), the mere existence of a disability does not create program eligibility. Instead the disability must rise to a level of severity or impact on the student's performance at school.

Section 504 is intended to “level the playing field” and provide “access” for disabled students. It is not meant to be used as a tool for assisting students in reaching their highest potential, improving students’ overall weak performance, helping students make ‘better grades’ or helping students to ‘pass the state standardized tests”.

‘Substantial limitation’ is understood to mean that the disability significantly impacts the student at school, depriving him or her of an equal opportunity to participate in, or benefit from the school’s programs and activities. A variety of sources should be used as support data to justify “substantial limitation” of a major life activity and the determination should be made by the consensus of a group of persons knowledgeable about the student.

When the Section 504 assessment has been completed, the parent is notified of the meeting to determine if the student is eligible under Section 504 and to determine the need for accommodations. **Notice of Section 504 Meeting (Form 12)** is sent to the parent in a timely fashion.

The results of the assessment are documented on the **Determination of Eligibility - Section 504 Report (Form 4a)**. A copy of all evaluation data must be filed within the student’s folder. The student’s **Determination of Eligibility – 504 Report** is good for 3 years.

Once the committee determines that a student meets Section 504 eligibility, an **Individual Accommodation Plan (IAP) (Form 4b)** must be developed. It is best practice to develop the student’s IAP at this meeting by the Section 504 team. Students should promptly begin receiving the appropriate accommodations once the IAP has been developed.

Parents must sign the Determination of Eligibility – Section 504 report (Form 4a) and the **IAP (Form 4b)** when they attend these meetings. Although the parent is not required to attend these meetings, the parent must receive copies of these documents.

A **Behavior Intervention Plan (BIP)** is also developed for students who have reoccurring behavior problems. For medical disabilities an **Individual**

Health Plan (IHP) is completed by the school nurse. The **Checklist for Medical Disabilities (Form 11)** is also completed by the nurse, the parent and the Section 504 committee.

The parent receives a copy of all documents as well as the **Parent/Student Rights and Grievance Procedures (Form 2a)**.

Parents must sign indicating that they have received their rights at *least once per year*. This can be documented on the **504 Evaluation - Determination of Eligibility Form (Form 4a)** or the **IAP (Form 4b)**. When parents are not in attendance at the IAP meeting, the date they signed for receipt of their rights may be different from the date of the IAP meeting.

The OPSB Section 504 Coordinator shall also maintain a current copy of all Determination of Eligibility - Section 504 Reports for public school students in the district.

Individual Accommodation Plan (IAP)

Once the committee determines that a student meets Section 504 eligibility, an Individual Accommodation Plan (IAP) must be developed. The IAP must be used for providing documentation of accommodations on a written plan for students who need Section 504 accommodations and who may or may not need standardized testing accommodations. Parents must be **invited** to **all** IAP meetings. Students should promptly begin receiving the appropriate accommodations once the IAP has been developed.

Every child who is eligible for Section 504 services must have a current IAP on file even if testing or classroom accommodations *are not* necessary. The disability, support data, and any protections received by the student must be documented on the IAP.

The student's accommodations should be specific to the student's disability. The IAP must indicate accommodations that will be routinely provided in the classroom setting. Also the IAP should show consistency between standardized test accommodations needed and those accommodations routinely provided in the classroom.

IAP accommodations typically are grouped by:

Environment (small group, preferential seating, minimize distractions, allow student to move, et al)

Instructional Strategies (test read aloud, verbal and visual cues to reinforce instruction, copies of notes to accompany instruction, break tasks into less complex chunks, et al)

Materials (alter format, change font, enlarge print, increase white space on page, lineless paper, special writing utensils, use of highlighters, use of electronic speller, et al)

Time Demands (provide timelines for task completion, extended time, allow breaks between tasks, et al)

When developing an IAP:

- Identify the disability and document multiple sources (at least 2) of support data on the IAP.
- Identify the academic areas and subjects in which accommodations are needed.
- Identify accommodations that will be routinely provided in the educational setting and are specific to the student's disability.
- Identify any other services or compensatory services that will be provided (e.g. MSL for Dyslexia).
- Check the appropriate standardized assessment to be administered.
- Identify any testing accommodation(s) required. These must be consistent with accommodations routinely provided in the educational setting.
- Obtain required original signatures.
- Obtain the signatures of the School Test Coordinator and OPSB Section 504 Coordinator if the student requires accommodations on statewide assessment.
- Document any unusual circumstances on the student's IAP or complete a memorandum that is kept with the student's Section 504 records.
- Provide parents with a copy of the Parent/Student Rights and Grievance Procedures and document this provision on the IAP.

IAPs must not be developed for the sole purpose of providing accommodations on statewide assessments.

Required signatures on an IAP:

- Student's teacher
- Principal/Designee
- Section 504 Chairperson
- If the student needs accommodations for standardized assessment:
 - School Test Coordinator
 - OPSB Section 504 Coordinator

Upon agreement to conditions of the IAP, all committee members present at the meeting should sign the IAP. If a committee member(s) does not agree, he/she may indicate with a note and signature on the IAP or with a memorandum for the record that is later attached to the IAP.

If changes to the content of an IAP are advised, the Section 504 committee should schedule a meeting to reconvene and discuss the necessary changes. Should the committee agree that changes are needed, a new IAP should be developed at that time.

'Who-what-where-when' should be specified on the IAP if an accommodation is not to be implemented on a consistent basis. In other words, an accommodation can be indicated 'as needed' **only** when those conditions are specified.

A minor mistake on the IAP may be changed by placing a single line through the error, correcting the error, and then placing the committee member's initials near the error. White-out or correction fluid **shall not** be used on IAPs.

When parents judge that current accommodations are no longer sufficient to meet the needs of their child, they may request that the Section 504 Committee reconvene to discuss possible changes to the student's IAP. However, any change in accommodations should be a committee agreement and be based on observational data and support. Discussion of the parent's concerns should be addressed and documented on the **300R**.

IAPs must be updated on a yearly basis. This will occur at the beginning of the school year to address the student's current grade level, curriculum and state standardized assessment and whenever adjustments or changes warrant it. *The OPSB Section 504 Coordinator shall also maintain a current copy of all IAPs for public school students in the district.*

Implementation of the IAP

When a student is eligible for Section 504 services, all of the student's teachers designated on the IAP shall be notified and provided a copy of relevant data, including a list of accommodations. Teachers must be informed of any changes made whenever IAPs are updated or pertinent information is presented during reconvened meetings. Failure to implement accommodation plans with fidelity is one of the primary legitimate compliance violations reported to both the District and OCR.

The **Compliance and Confidentiality Form (Form 6)** is signed by **all** of the student's teachers and support personnel. The student's teacher(s) and support staff are also provided with the BIP/IHP/Checklist of Medical Disabilities when appropriate. It is essential that teachers are provided with training as well as the documents when appropriate. These documents are confidential, so they should be secured in a safe place.

A student's IAP accommodations should be part of the teacher's lesson plans and periodic observations in the class by the Section 504 committee will help to guarantee that the accommodations are being implemented consistently and with fidelity. These observations should be documented.

When principals and/or the LEA Coordinators receive complaints that teachers allegedly fail to provide the necessary and appropriate accommodations as expected or have allegedly disregarded specific provisions on a student's plan, the administrator should meet with the staff member as soon as possible to stress the importance of the employee's compliance as well as to engage in any other actions that may appropriately address the issue of compliance.

Individual accommodations provided to students must be monitored to determine that they are consistently provided as prescribed on students' IAPs. Failure to implement accommodation plan with fidelity is considered a compliance violation according to the Office for Civil Rights.

If a student refuses the accommodation(s) on his/her IAP, the **Student Accommodation Refusal Form (Form 9)** is completed and signed by both the student and the parent. If the parents refuse accommodations for their child, the school must obtain this request in writing on the **Removal from Section 504 Services by Parent Form (Form 7a)**.

IAP and Standardized Testing Accommodations

Students should receive standardized testing accommodations only if those same accommodations are documented and have been provided to the student in the classroom on a routine basis during the academic school year prior to the testing period.

In cases of newly drafted IAPs, accommodations should be documented and provided to students consistently for a minimum of 30 calendar days prior to the testing period.

Deadlines for eligibility of newly identified students eligible to receive Spring state standardized test accommodations are determined by the Louisiana State Department of Education and this information is provided to the schools by the OPSB District office.

IAP testing accommodations should be data-based and specific to the student's disability. The accommodations should not be selected as a convenience for the school. The IAP should show consistency between standardized test accommodations needed and those accommodations routinely provided in the classroom. Accommodations should be implemented consistently and with fidelity.

If an IAP has not been reported during the current academic year, an accommodation plan must be submitted to the district office thirty (30) days prior to the administration of the retest for any student retaking any statewide assessment. For state standardized tests summer/fall remediation and retest, the IAP form must be forwarded to the student's remediation and testing site to ensure the student receives the appropriate accommodations for instruction and assessment.

Temporary Accommodation Plan

Broken thumbs, wrists, hands and other temporary injuries or illnesses **should not** to be documented on the Section 504 IAP. Only disabilities with an expected duration of six (6) months or longer are considered a disability under Section 504. Temporary disabilities may receive accommodations during the standardized assessments when documented using the Louisiana Department of Education **Temporary Accommodation Plan (TAP - (Form 4c).**

The TAP form is signed by the principal/designee, SAT Chairperson, and School Test Coordinator and submitted to the District Test Coordinator. Discontinuation of the accommodations for a temporary injury is documented on the **Exit Notification of Temporary Accommodation Plan (Form 7b)**.

Reevaluations

A reevaluation is conducted every three years, when there is a change/addition of a student's disability, when there is a change in placement, or when it is suspected that the student is no longer eligible under Section 504 as having a disability. Parents are provided notification when a student requires a reevaluation using the Notice of Section 504 Meeting Letter (*Form 12*).

The reevaluation shall consist of the collection and analysis of data through checklists, interviews, record reviews, etc. which support the continuation of the identified disability that substantially limits one of the student's major life activities. This is documented on the **Determination of Eligibility – Section 504 Report (Form 4a)**.

If the Section 504 committee reevaluates a student in accordance with the Section 504 regulatory provision 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.

If upon reevaluation the student is found to no longer be eligible as having a disability under Section 504 or no longer requires accommodations on an IAP, the parent must be given prior written notice of the meeting(s) along with the Parent/Student Rights and Grievance Procedures.

When a student is no longer eligible under Section 504 then the **504 Exit Notification Form (Form 7)** is completed. The form must be signed by the parent, the parent is given a copy, and a copy must be included in the student's Section 504 folder. The parent is also given the **Parent/Student Rights and Grievance Procedures (Form 2a)**.

Beginning of the School Year

Registration forms for new and transfer students should be checked to determine if the student had an IAP, Section 504 report, etc., from the previous school.

A copy of the IAP and/or last Section 504 report should be requested from the parent and/or previous school and a Section 504 meeting should be scheduled once these documents have been received by the school. The purpose of the meeting is to review the IAP and to determine if the accommodations remain appropriate. If the records are incomplete, then an assessment should be conducted to determine eligibility and/or revision of the IAP. The student should continue to receive the accommodations on the IAP until the assessment has been completed.

In addition, existing IAPs for students' who have a current Section 504 report (within 3 years) should be updated to address the student's current grade level, curriculum and state standardized assessment and whenever adjustments or changes warrant it. Also reevaluations for students whose Section 504 reports will expire during the school year (over 3 years old) should be conducted at this time.

Appropriate and relevant teachers shall be notified, trained, and provided with a copy of the IAP. This process is documented using the 504 Accommodations Compliance and Confidentiality Form (*Form 6*). Regular education teachers must implement the provisions of the Section 504 plan as indicated in the IAP.

Advanced Placement Programs

“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.”

OCR has reported that students with disabilities are eligible to take accelerated programs such as advanced placement (AP) and international

baccalaureate classes without forfeiting their right to services.

Denying on the basis of disability, a qualified student with a disability, the opportunity to participate in these programs violates Section 504 and ADA. Students with disabilities must be provided the same opportunity to compete for and benefit from accelerated programs and classes offered to students.

Bulletin 1903 Regulations for the Implementation of the Louisiana Law for the Education of Dyslexic Students (Sept., 2002)

Students who are identified by the school's committee as having Characteristics of Dyslexia typically meet Section 504 eligibility as a student with a disability. However, the Louisiana Dyslexia Law and Bulletin 1903 do not mandate that students qualify for Section 504 accommodations if they are identified with Characteristics of Dyslexia (i.e. in limited cases, a student may meet Bulletin 1903 criteria, but not Section 504 or vice versa. The two provisions are not dependent on each other.

150 minutes per week of instruction in a Multi-Sensory Language (MSL) program must be provided to students identified with characteristics of dyslexia. The parent may sign a waiver exempting the student from participating in the MSL program at the high school level. A copy of the signed waiver should be submitted to the OPSB Section 504 Coordinator and to the OPSB Dyslexia Coordinator.

Dyslexia Assessment as per Bulletin 1903:

- Referral to SAT/Section 504 Committee.
 - a) This written Request for SATeam Consideration (**Form 300R**) marks the beginning of the **60 operational day** timeline allowed to complete the assessment and program implementation.
 - b) The Section 504 committee consists of at least 3 members – the student's teacher and 2 other professional persons knowledgeable of the student and/or suspected condition.
- Parent permission is obtained, and all rights of the parent must be explained.
- Assessment is conducted (**Form 5**):
 - Review of data
 - Review/Assessment of Cognitive abilities
 - Assessment of Language skills
 - Assessment of Mathematics skills
 - Review of general behavioral characteristics
 - Family interview

Determination of Eligibility for Dyslexia:

- The student has adequate intelligence.

The student demonstrates at least five out of six of the following characteristics:

- Lack of or limited phonological awareness
 - Common error patterns in reading and learning behaviors, such as:
 - a) reading, decoding inaccuracies in single words and nonsense words
 - b) slow reading rate
 - c) omissions of or substitutions of small words
 - d) reduced awareness of patterns in words
 - e) difficulties generalizing word and language patterns
 - Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities
 - Errors in spontaneous spelling
 - Spontaneous written language is very simple or poor in comparison to spoken language
 - Spontaneous written language shows poor organization and mechanics
- Report is completed & signed by the 504 committee.
 - IAP is developed and signed by the 504 committee.
 - Multisensory Structured Language Program is routinely provided within the regular school day a minimum of 150 minutes per week.

Individual Health Plan and Checklist for Students with Medical Disabilities

Individualized Healthcare Plans (IHPs) must be attached to the IAP for further verification of students who receive Section 504 accommodations and who need specific medical procedures conducted during statewide assessment. Data listed on IHPs should be used as part of the Section 504 data-based decision making process.

Students with medical disabilities often require special accommodations. The nurse may develop an Individualized Health Plan which is attached to the student's IAP. Documentation of medical accommodations is also made on the **Section 504 Checklist for Students with Medical Disabilities (Form 11)**. The parent must sign this form and all relevant personnel must receive a copy.

Disability Harassment and Retaliation

Districts have an obligation to take sufficient action to prevent teacher and student harassment. Once the administration is made aware of instances of harassment or retaliation on the basis of disability, either by a staff member or peer, **immediate action** must be taken to stop such actions, prevent similar instances from occurring, and address the specific problems associated with the behaviors.

Behavioral/Emotional Problems

It is appropriate for the Section 504 committee to consider adding a Behavior Intervention Plan (BIP) to the IAP for some qualified students. A BIP is required for students who exhibit recurrent behavior difficulties. When a BIP is in place, it is imperative that all aspects of the plan be implemented. A copy of the BIP is attached to the student's IAP.

Discipline

A Section 504 student has the same procedural safeguards as a student who has been identified under IDEA. **(Please Refer to the OPSB Discipline Policy and Procedures for Students with Disabilities)**

A school may suspend a qualified student provided that the school follows procedures for ensuring the student receives FAPE. In the student's current placement, a qualified student may be suspended for no more than 10 consecutive days or a series of suspensions that creates a pattern of exclusion totaling 10 school days before a significant change of placement occurs.

It is often appropriate for the SATeam/Section 504 Committees to consider adding a Behavior Intervention Plan (BIP) to the Individual Accommodation Plan for some qualified students. When a BIP is in place, it is imperative that the plan be shared and implemented with all appropriate school personnel.

Before a significant change in a student's placement, the school must conduct a **Manifestation Determination Review (Form 10)**. The school must convene a group of people that meets Section 504 requirements to determine whether the misconduct is a direct manifestation of the student's disability. The decision

The decision must be based upon evaluation procedures that conform to Section 504 regulations. Documentation of parent notification of the meeting must be kept in the student's folder. This documentation shall include the dates and methods of notifying the parent. Various methods to notify the parent include: sending a notice by the student (have student sign receipt of notice), certified mail, regular mail, email, and phone contact(s).

The committee reviews and considers all relevant data which include the student's Section 504 report(s), current IAP, Functional Behavioral Assessment (FBA), Behavior Intervention Plan (BIP), cumulative and Section 504 folders, interviews from teachers, parents, and students, discipline record, social/cultural background, etc.

The Manifestation Determination Review meeting must be held to determine if the behavior for which the disciplinary action is being taken is a manifestation of the student's disability. The decision of the MDR committee is documented on the **Manifestation Determination Review Form (Form 10)**. The parent must be given written notice (48 hours in advance) to attend this meeting along with the Parent/Student Rights and Grievance Procedures.

After the data is reviewed, the Manifestation Determination Committee determines if the conduct in question was caused by or had a direct and substantial relationship to the student's disability. If so, then the behavior is related to the student's disability.

If the misconduct **is** a direct manifestation of the student's disability, the student may not be suspended, and an appropriate educational program must be developed. Parents have a right to request a due process hearing.

If the misconduct **is not** a direct manifestation of the student's disability, the student may be excluded from school in the same manner that similarly situated students without disabilities are excluded. Again, the parents have a right to request a due process hearing.

However, if the conduct in question was a result of the school's failure to implement the student's Behavior Intervention Plan, then the conduct must be determined not to be related to the student's disability.

An exception to Section 504 states that schools may take disciplinary action in situations where Section 504 students are “currently engaging (in) the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against non-disabled students.”

Records

All Section 504 documentation is maintained in the student’s Section 504 folder. These records must be maintained in a secure and confidential manner.

As listed in the Parents Rights and Grievance Procedures, the parent has the right to:

- examine all relevant records,
- obtain copies of the educational records,
- request explanations and interpretations of the records,
- and request reasonable amendments of the records.

When a student transfers to another school, the student’s Section 504 folder should be sent to the receiving school and documented on the **504 Student Withdrawal Form (Form 8)**. The Receipt of Records is also used to document the receipt of Section 504 folders from another school.

Records submitted to OPSB Section 504 office:

Within a week of their completion, the following documents are to be submitted to the OPSB Section 504 office for review:

- a. Updated *IAPs* – original documents
- b. Updated *Section 504 reports* (3 year reevaluation) – original documents
- c. New Section 504 students – their new original *Section 504 report* and new original *IAP*
- d. *Exit Notification* forms – (*Form 7 or 7b*)

Once the documents are reviewed and signed, the original documents are returned to the school and copies are kept on file in the district office. Make copies of any documents sent to the Section 504 office and destroy/shred the copies when the originals are returned to the school.

Reminders

Parents are invited and given written notice to **all** Section 504 meetings. Parents also receive a copy of the Rights and Grievance Procedures at these meetings.

- Parents sign when in attendance:
 - 300R
 - Section 504 Evaluation-Determination of Eligibility – *Form 4a*
 - IAP - *Form 4b*

- Parents **must** sign:
 - Parent Permission for evaluation – *Form 2*
 - Parent/Student Rights and Grievance Procedures – *Form 2a*
 - 504 Exit Notification – *Form 7*
 - Section 504 Checklist for Students with Medical Disabilities – *Form 11*
 - Manifestation Determination Review Summary Form – *Form 10*
 - Student Accommodation Refusal – *Form 9*

- Parents receive copies of:
 - Invitation to SAT meeting & Invitation to Section 504 meetings
 - 300R
 - Parent Permission – *Form 2*
 - Parent/Student Rights and Grievance Procedures – *Form 2a*
 - Notice of Section 504 Meeting – *Form 12*
 - Section 504 Evaluation-Determination of Eligibility – *Form 4a*
 - IAP – *Form 4b*
 - Exit Notification or Removal from 504 by Parent – *Form 7 or 7a*
 - Section 504 Checklist for Students with Medical Disabilities – *Form 11*
 - Student Accommodation Refusal - *Form 9*
 - Manifestation Determination Summary Form – *Form 10*

Resources

La. State Department of Education
<http://www.louisianabelieves.com/>

La State Department of Education – Bulletin 1903 Regulations and guidelines of Education of Dyslexic Students
<http://bese.louisiana.gov/documents-resources/policies-bulletins>

Office for Civil Rights
www.ed.gov/ocr

Contacts

OPSB Contact Information:

Dr. Shayla Guidry Hilaire, Executive Director
Section 504 Coordinator
(504) 304-4988
shayla_guidry@opsb.us

State Contact Information:

Special Education Policy Team
SpecialEducation@la.gov

Appendix

Form 300R – Request for SA Team Consideration Form

Form 2 – Parent Permission

Form 2a - Parent/Student Rights and Grievance Procedures Under Section 504

Form 3 – Referral Packet

Form 3a – Screening Instruments

Form 4a – 504 Evaluation – Determination of Eligibility

Form 4b – Individual Accommodation Plan (IAP)

Form 4c - Temporary Accommodation Plan (TAP)

Form 5 – Dyslexia Assessment

Form 6 – 504 Accommodations Compliance and Confidentiality

Form 7 – 504 Exit Notification

Form 7a – Removal from Section 504 Services by Parent

Form 7b – TAP Exit Notification

Form 8 - 504 Student Withdrawal Form – (moved out of LEA/state)

Form 9 – Section 504 Student Accommodation Refusal Form

Form 10 - Manifestation Determination Review Form

Form 11 – Section 504 Checklist for Students with Medical Disabilities

Form 12 – Notice of Section 504 Meeting

Form 13 – Parent Participation – Documentation of Effort Form

Form 14 - Section 504 Folder Checklist

Form 15 – Section 504 Flowchart