

SECTION 504 MANUAL & PROCEDURES

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*Elkhorn Area School District
Elkhorn, Wisconsin*

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Elkhorn Area School District

Section 504 Policy

The Elkhorn Area School District (EASD) shall provide a free and appropriate public education (FAPE) to each student identified with a disability and will not discriminate against any student having a record of a disability or who otherwise is regarded as having a disability. The EASD shall make every attempt to locate and identify each student within the district's jurisdiction who may be eligible for accommodations under Section 504 of the Rehabilitation Act of 1973.

Introduction

Section 504 is a federal law which prohibits discrimination against persons with a disability. Section 504 of the Rehabilitation Act of 1973 (commonly referred to as Section "504") prohibits discrimination against students on the basis of disability.

"No otherwise qualified individual with a disability...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..."

29 USC (§) 794

This Manual contains information, procedures, and forms to achieve compliance with Section 504 with respect to the education of EASD students, in a manner consistent with the District's non-discrimination policies.

The EASD expects its employees to be knowledgeable about its Section 504 procedures and will provide adequate resources and training. If you have Section 504 questions concerning either current or prospective students, please contact the District's Section 504 Coordinator:

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Although Section 504 also applies to employment and facility access by individuals with disabilities, this manual only addresses student issues under Section 504.

For additional information visit: the [U.S. Department of Education, Office for Civil Rights website under the Laws and Guidance for Civil Rights tab.](#)

Purpose

The purpose of a 504 is to remove barriers to learning by providing reasonable accommodations

in the general education curriculum in a general education classroom for students who have a physical or mental impairment that substantially limits a major life activity. A student is not substantially limited simply because the student is not reaching his or her potential. The 504 plan identifies accommodations which do not lower the expectation for what a child learns, but changes how the child learns. These accommodations do not mean the student will not receive a failing grade if the student does not meet the minimum course requirements, nor does it mean automatically advancing from grade to grade. These accommodations level the playing field to support the child's learning to the level of students without disabilities.

Accommodations can involve five areas of change in the educational process:

1. Presentation: The way instructions and information are presented.
2. Response: The way a child completes assignments or tests.
3. Setting: Where the child engages in educational tasks.
4. Timing and scheduling: How much time a child has to complete a task or when the task is completed.
5. Access: The child may have increased access to resources.

Definitions

Free and Appropriate Public Education (FAPE): A “free and appropriate public education,” also known as FAPE, is the provision of regular or special education and related aids and services that are designed to meet the individual needs of students with a disability as adequately as the needs of non-disabled students are met and is based on adherence to procedures that satisfy Section 504 requirements pertaining to educational setting, evaluation, placement, and procedural safeguards.

Individual with a Disability: An “individual with a disability” is a person who 1) has a physical or mental impairment which substantially limits one or more of such person'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: A physical impairment is a 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. A mental impairment is any mental or psychological disorder, such as a cognitive impairment, organic brain syndrome, emotional or mental illness, and specific learning disabilities. This is not an exhaustive list of diseases or conditions.

Substantially Limits: A student who has a physical or mental impairment that substantially limits a major life activity is considered a student with a “disability” under Section 504. This determination is made on a case-by-case basis. Neither Section 504 nor its implementing regulations define the term “substantially limits,” but the term is not necessarily synonymous with “unable to perform” or “significantly restricted in” a major life activity.

Except for eyeglasses or contact lenses, the corrective effects of mitigating measures may **not** be considered when assessing whether a student has an impairment that substantially limits a major life activity. “Mitigating measures” include, but are not limited to: medication; medical supplies, equipment or appliances; low-vision devices (devices that magnify, enhance, or

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otherwise augment a visual image); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

A temporary impairment does not constitute a disability for purposes of Section 504 unless it is of such severity that it results in a substantial limitation of one or more major life activities for an extended period of time. If a student has an impairment of a major life activity that is episodic or in remission, the District must consider whether the impairment, when active, would substantially limit a major life activity. If it would, then the student meets the definition of a student with a disability.

Major Life Activities: To be eligible under Section 504, a student’s physical or mental impairment must interfere with one or more “major life activities.” A “major life activity” includes, but is not limited to, functions such as:

Bending	Breathing	Caring for oneself	Communicating
Concentrating	Eating	Hearing	Learning
Lifting	Performing manual tasks	Reading	Seeing
Sleeping	Speaking	Standing	Thinking
Walking	Working		
Operation of a major bodily function (including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions)			

Record of Impairment and Regarded as Having an Impairment: Section 504 also protects students from discrimination who have a record of an impairment or who are regarded as impaired. A student is “regarded as” having an impairment if the District perceives the student as impaired. The District shall not treat students differently based upon a record that shows that the student was disabled in the past, or based upon an assumption or perception of disability. The District is not required to develop a Section 504 Plan for a student who either has a record of an impairment or who is regarded as having an impairment, but who is not otherwise currently eligible under Section 504.

Manifestation determination: An evaluation to determine if the student’s misconduct that led to a suspension or expulsion was the result of the student’s disability.

504 Roles/Responsibilities

Parent/Guardian: The parent, by law, is an equal partner in the evaluation and development of a 504 plan. The parent has the right to participate in the 504 Team meeting to determine eligibility, program, placement and discipline related issues.

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Student: The student's role in the Section 504 process is to participate in any meetings as appropriate to the age and maturity of the child, as well as engage in self-advocacy to promote their own learning.

All EASD employees: Responsibility for the school district's compliance with Section 504 is shared by all building level professionals. The District expects its employees to be knowledgeable about Section 504 procedures and will provide adequate resources and training.

District Coordinator: The Section 504 District Coordinator is the Director of Pupil Services. The role of the District Coordinator is to assist the district in meeting requirements under Section 504 of the Rehabilitation Act, by providing resources and guiding employees in the implementation of Section 504 procedures, and review all Section 504 paperwork.

Building Coordinator: A building administrator will act as Section 504 Building Coordinator to ensure that qualified students with disabilities under Section 504 are identified, evaluated, and provided the accommodations consistent with the student's Section 504 Plan. The Building Coordinator coordinates the annual reviews and three-year reevaluations and is responsible for completing all paperwork associated with the 504 process.

School Counselor: The school counselor's role in the 504 process is to monitor the impact of the disability on the student's school participation and Academic and Career Plan (ACP), as well as act as advocacy coach for the student.

School Nurse: The school nurse's role in the 504 process, if it is a physical health-related impairment, is to interpret the student's health status, explain the impairment in terms of possible major life activities affected, and recommend health-related accommodations or support.

School Psychologist: The role of a school psychologist in the 504 process is to act as a consultant. In conjunction with the District Coordinator, the school psychologist is responsible for conducting a manifestation determination when a student is accused of violations of the EASD Code of Conduct if it results in a change of placement.

School Teacher(s): At least one of the student's teachers is required to attend the 504 Team meeting, however, all teachers are required to provide accommodations in the regular education setting as outlined in the 504 Plan. The role of the teacher in the 504 evaluation is to discuss the student's strengths, behaviors, participation in the curriculum, and the possible impact of the disability on the student's school performance. While writing the 504 plan, the teacher should provide input regarding the effects of the current accommodations provided to the student, as well as recommendations for any changes.

Pupil Services Secretary: The role of the Pupil Services Secretary is to coordinate all 504 related paperwork, including: accepting the original paperwork from the Building Coordinator, entering the 504 information into EASD's computer management system, scanning all 504 transfer paperwork into the computer management system, and placing all original documents in the student's Pupil Services file, housed in the Pupil Services Office.

EASD 504 Procedures

Referral: A student can be referred for a Section 504 evaluation by a parent, guardian, teacher, other school employee, the student if 18 years of age or older, or other concerned adult individual (504-1). Once a referral is made, the parent will be notified in writing by EASD (504-2) and will receive a copy of their Parental Rights (504-4).

Upon receipt of referral, parents need to indicate whether or not they give consent for the 504 evaluation. This can be done by returning Form 504-3 to the 504 Building Coordinator. Lack of consent by the parent brings the 504 referral to a close.

Initial Evaluation & Eligibility Determination: The District's evaluation and the development of a Section 504 Plan should be completed no later than 60 calendar days following the District's receipt of the parent's consent to evaluate. If an extension of time is required, the parent must be notified in writing of the extension, the reason for the extension, and the expected date of completion of the process. The parent is not entitled to postponement of the 504 Team meeting but may request one.

The nature and extent of the information needed to make a Section 504 eligibility decision is determined on a case-by-case basis by a Section 504 Team, knowledgeable about the student, the meaning of evaluation data, and the placement options. The parent should be included in this process and be given a meaningful opportunity to provide input for his/her child and must be invited (504-5) to attend any meeting in which eligibility is determined. The eligibility determination meeting must be documented on the Section 504 Eligibility Determination Form (504-6).

The evaluation must draw upon information from a variety of sources that may include:

- School records review
- Observations of the student
- Standardized tests or other assessments by school staff
- Parent/Student/Teacher interviews
- Behavior rating scales or other checklists
- Pertinent medical information
- Information provided by the parent

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A medical diagnosis of a physical or mental impairment does not, in and of itself, determine Section 504 eligibility. The District may request, but cannot require, a parent to provide or authorize the release of the student's medical information as part of the evaluation process. If medical information is not available or provided, the District must proceed to make its eligibility determination based on the other information it has obtained.

Initial 504 Plan: If a student is found eligible under Section 504, an accommodation plan (504-7) will be written by the 504 team, indicating any accommodations needed by the student for him/her to gain access to a free and appropriate public education. The parents will be provided with a Notice of Section 504 Eligibility and Accommodation Plan (504-8A) if the student is found eligible. If the student is not found to be eligible then the Notice of Ineligibility of Section 504 Services (504-8B) should be completed. A copy of the 504 Accommodation Plan will be provided to each of the student's teachers and should be reviewed and acknowledged in Skyward.

Annual Review and Reevaluation: The Building 504 Coordinator, teachers or other person(s) shall monitor the student's progress and the effectiveness of the student's plan. The 504 Team will meet with the parent at least annually to determine whether the 504 Plan continues to be appropriate or whether any changes are necessary. If there are no changes in the area of major life activities, a 504 Accommodation Plan (Form 504-7) is completed. If changes are identified in the area of major life activities, or if the student is no longer eligible for a 504 Plan, the Section 504 Team must complete a reevaluation using the 504 Evaluation Summary Report (504-6). Parents are invited to attend but not required. Parents must sign the 504-7.

Once every 3 years, a reevaluation should be completed to redetermine eligibility under Section 504. The 504 Team may determine further testing is unnecessary and current information is sufficient to redetermine eligibility. If no further evaluation is required, the 504 Team will complete the Section 504 Eligibility Determination form (Form 504-8A, Notice of Section 504 Eligibility) and Form 504-7 Accommodation Plan. If the 504 Team determines additional testing is necessary, the District will request parent permission for a re-evaluation by submitting Notice and Consent form (Form 504-3). The District will have no more than 60 calendar days following the District's receipt of the parent's consent to complete the re-evaluation and, if necessary, develop a Section 504 plan.

Transfer: Upon transferring into EASD, the building 504 coordinator will start the re-evaluation process (504-3, 504-4, 504-6, 504-7, 504-8). A transfer meeting is to be held within 2 weeks of the student's arrival into the school.

504 Dismissal: If the 504 team determines the student does not qualify with a disability under section 504 or the student does not require an accommodation plan, the student becomes ineligible for a 504 Plan and is dismissed (504-6, 504-8b).

Due Process: Should a parent have any concerns or questions concerning rights, the process, or any other related issue, the parent is encouraged to contact the Building 504 Coordinator. If the issue is not resolved at the building level and the parent wishes to discuss the matter further, the parent may contact the District 504 Coordinator. In the event of a disagreement between the parent/guardian and the School District in regard to the identification, evaluation, procedural guidelines, or educational placement of a student under Section 504, the parent/guardian has the right to file a District complaint with the District Coordinator, request an impartial hearing, or file a complaint with the Office for Civil Rights.

Child Find: Every year, the District will attempt to identify and locate every student residing in the District who may be a student with a disability under Section 504, as outlined in the District's Child Find Procedures, regardless of whether he or she is receiving a public education. The District will notify parents of those students of the District's Section 504 obligations.

Current Users of Illegal Drugs or Alcohol: A student who is currently engaging in the use of alcohol or illegal use of drugs is not eligible for services or protection under Section 504 when the District takes disciplinary action on the basis of such drug or alcohol use even if the student is otherwise a student with a disability. A student who is a former drug or alcohol user or who is participating in a rehabilitation program, however, may be eligible for Section 504 services and protection if the student otherwise meets the definition of an "individual with a disability" as described above.

Suspension/Expulsion of 504 Students: Students who are eligible under Section 504 have additional protections when charged with a violation of the EASD Code of Conduct which may result in a suspension or expulsion that constitutes a significant change in placement. Similar to suspension or expulsion of a student with a disability under the IDEA, it is necessary to conduct a manifestation determination for a student under Section 504 when:

- The suspension or expulsion will be for more than 10 consecutive school days; or
- The student has been subjected to a series of suspensions that total more than 10 school days in a school year and a pattern of exclusion exists.

The following factors should be taken into account when determining whether or not to conduct a manifestation determination: whether or not the suspensions create a pattern of exclusion, the length of each suspension, the proximity of the suspensions to one another, the similarity of the behavior that resulted in the removals and the total amount of time the student is excluded from school.

If any of the situations above apply, then the District is required to conduct a manifestation determination before any significant change in student's placement may occur. The EASD 504

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Coordinator and the school psychologist are responsible for assuring the manifestation determination occurs. The manifestation determination should be conducted within 10 school days of the decision to change the student's placement. The parent must be invited to participate in the meeting. The purpose of the manifestation determination is to review whether the student's misconduct was caused by, or had a direct and substantial relationship to the student's disability; or whether the conduct was a direct result of the District's failure to implement the student's Section 504 Plan. (Form 504-7).

This determination should be made by a group of persons knowledgeable about the student, the meaning of evaluation data, placement options, the student's Section 504 Plan, and the disciplinary incident. In making its determination, the 504 Team must review all relevant information in the student's file, the student's Section 504 Plan, any teacher observations of the student, and relevant information provided by the parent.

If the 504 Team concludes that the student's conduct is a manifestation of the student's disability, the student must remain in (or be returned to) his/her current educational placement unless the parent and the District agree to change the student's placement. If the 504 Team concludes the student's conduct is not a manifestation of the student's disability, the District may apply the disciplinary procedures applicable to all students. Unlike the IDEA, there is no requirement to provide a student whose conduct is not a manifestation of the student's disability educational services during a disciplinary change in placement unless services are provided to similarly situated non-disabled students. A student under Section 504 who is in violation of the Code of Conduct due to current illegal use of drugs or alcohol is able to be disciplined without going through the manifestation determination review process. A student under Section 504 who carries or possesses a weapon to or at school, or at a school function, may be placed in an alternative educational setting for up to 45 school days.

LEGAL REFERENCE: Section 504 of the Rehabilitation Act of 1973, as amended

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