

federal assistance discriminates against a student on the basis of that student's disability. Discrimination claims do not include claims regarding placement or 504 plan content as long as the school followed the procedural requirements. A complaint must be filed within 180 days from the date of the alleged discrimination.

If you wish to file a complaint with OCR, please contact:

Office for Civil Rights, Boston Office
U.S. Department of Education, 8th Floor
5 Post Office Square
Boston, MA 02109-3921
Phone: 617-289-0111, Fax: 617-289-0150
Email: OCR.Boston@ed.gov
www.ed.gov/ocr/complaintprocess.htm

Bureau of Special Education Appeals (BSEA): If the parent and school cannot agree on services for the child, the parent may request either **mediation** or a **due process hearing** at the Bureau of Special Education Appeals (BSEA). The BSEA holds hearings regarding special education disputes between parents and school districts.

Before considering a hearing at the BSEA, the parent should have evidence that the child needs the services the parent desires. Both the mediation and hearing processes are intended to be accessible to families without legal representation. The hearing process is more adversarial and formal than the mediation process. At a hearing, similar to a court trial, parents have a right to present documents and witnesses in support of their position.

The BSEA may be contacted at:

Bureau of Special Education Appeals
14 Summer Street, 4th Floor
Malden, MA 02148
Phone: 781-397-4750
<https://www.mass.gov/orgs/bureau-of-special-education-appeals>

Court: Section 504 may also be enforced through a private lawsuit filed in federal court. It is not necessary to file a complaint with a federal or state agency or to receive a "right to sue" letter before going to court. Section 504 allows courts with the appropriate discretion to award attorney's fees.

What if I need further assistance and information regarding Section 504?

The Massachusetts DESE's **Program Resolution Services (PRS) Office** can provide additional assistance and information regarding the implementation of section 504. The PRS's Educational Specialists also have the capacity to investigate complaints about a school's failure to develop Section 504 plans or to deliver the accommodations called for by the plan.

Concerns must be presented to the PRS within one year from the date of the alleged violation. PRS cannot address issues regarding FAPE and 504 plans at the same time that the issue is the subject of a BSEA proceeding or an OCR complaint.

PRS may be contacted at:

Program Resolution System
Massachusetts Department of Elementary
& Secondary Education
75 Pleasant Street
Malden, MA 02148
Phone: 781-338-3700
www.doe.mass.edu/prs

For more information call:

Children's Law Center of MA
298 Union Street, Lynn, MA 01901
(tel) 781-581-1977 (fax) 781-598-9364
www.clcm.org

Phone Assistance is available during business hours.
Please call 1-888-KIDLAW8 and request to speak with an intake worker.

The CLCM is supported in part by the Massachusetts Legal Assistance Corp., the Cummings Foundation, Massachusetts Bar Foundation, and the United Way of Massachusetts Bay and Merrimack Valley.

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504 PLANS/INDIVIDUAL ACCOMMODATION PLANS



**CHILDREN'S LAW CENTER
OF MASSACHUSETTS**



What is Section 504?

Section 504 is a section of a federal civil rights law, the Rehabilitation Act of 1973, that prohibits discrimination by federally-funded institutions, such as public schools, against individuals with disabilities. Section 504 ensures that a student with a disability has equal access to education by requiring that schools provide accommodations for the student. Students who qualify for a 504 plan must be given the opportunity to receive any help, benefit, and services and participate in activities that are available for students without disabilities. This includes school-sponsored non-academic and extracurricular services and activities.

Who can refer a student for a 504 plan?

The 504 plan process may be started by a parent's written request or the school's referral for an evaluation when the student is having academic, social, or behavioral problems that limit one or more major life activities. Major life activities include walking, seeing, hearing, speaking, and learning. In addition, the district must believe that the student needs additional supports in the regular education classroom in order to access the curriculum. Section 504 requires consent from the parents **before conducting** evaluations.

How does a student qualify for a Section 504 plan?

In order to be eligible for a 504 plan, a student must attend a school that receives federal financial assistance (which includes all public schools in Massachusetts). In addition:

- The student must be of school age;
- The student must have information establishing a mental, psychological, and/or physical disability (including a disability affecting behavior); and
- The disability must substantially limit one or more major life activities.

Students may be eligible for a 504 plan if a temporary disability limits a major life activity.

How is a 504 plan different from special education?

In order to be found eligible for special education services and an Individualized Education Program (IEP), a student must be diagnosed with a disability **and** must, as a result of that disability, require specialized instruction and/or related services in order to make effective progress.

Unlike a special education student, a student with a 504 plan is able to make effective progress in school without the need for specialized instruction and/or related services. However, a student with a 504 plan requires accommodations in order to gain equal access to instruction and/or the school facility. A student's 504 plan will provide accommodations that allow a student with an impaired major life

activity to have the same level of access to the instruction, school activities, and school building as students without disabilities.

What kind of evaluations will the school complete?

Schools are required to establish standards and procedures for evaluations and placement. These standards and procedures may be found in your child's student handbook. The tests and evaluations must be administered by trained personnel in the specific areas of need. These tests should be completed within a reasonable period of time.

How often should a student be evaluated for purposes of section 504?

School districts must establish procedures for periodic evaluations of students with 504 plans. The Office for Civil Rights suggests evaluating students every three years or sooner if requested by the parents and/or teachers.

Who determines eligibility?

Each school district must appoint a Section 504 coordinator to assist parents and the school. The eligibility decision must be made by a group of people including individuals who know the child, who can provide meaning to the evaluations, and who can provide information regarding placement/accommodations options. Parents are not required members of this group. However, the parent must receive notice of the school's proposed actions.

What kind of accommodations/placements are available for students with 504 plans?

A student with a 504 plan may remain in the regular education classroom when provided individual accommodations to ensure that the student will have equal access to the same results, benefits, and achievements as students without disabilities. (See back page for examples of accommodations.)

Sample 504 plan accommodations include:

- Modified homework, class work, and tests
- Extra time for homework, class work, and tests
- Extra set of books for home
- Preferential seating close to source of instruction
- Assistance when moving about the building
- Grading based on individual progress or effort
- Test retake for better grades
- Visual aids
- Read test directions orally
- Use of calculator
- Table of facts for reference
- Frequent breaks
- Behavior Intervention Plan

What rights does Section 504 provide for students?

FAPE: The right to a **Free Appropriate Public Education** (FAPE) generally means that children who have disabilities, including children with disabilities who have been suspended or expelled from school, have the right to be educated at public expense, in a manner appropriate to meet their unique needs.

Least Restrictive Environment: The right of students with disabilities to be educated as much as possible with children who do not have disabilities. Federally-funded schools must provide a **free and appropriate public education in the least restrictive environment** to all students who have a disability.

Discipline Rights: A school may discipline a student on a 504 plan for fewer than 10 days in the same way it would discipline a student without disabilities. If a Section 504 student is subject to discipline (i.e. suspensions, etc.) for more than 10 days, a **manifestation determination** meeting must be held.

A manifestation determination meeting brings together the 504 team to assess whether the student's behavior that led to discipline is linked to the student's disability and/or a failure to implement the student's 504 plan. If the student's behavior is a manifestation of the student's disability, the student should be allowed to return to the school placement. If the 504 team determines the behavior is not a manifestation of the student's disability, the school district can take the same disciplinary actions that apply to students without disabilities.

Procedural Safeguards: School districts are required to establish and implement procedural safeguards with respect to identification, evaluation, and placement procedures. The procedural safeguards include:

- **Notice:** Parents have the right to receive prior notice of evaluations and meetings, as well as notice of the results and actions taken by the 504 team.
- **Examine relevant records:** Parents have the right to review the documents and evidence utilized by the 504 team to determine eligibility and placement/accommodations
- **Impartial hearing:** Parents have the right to file a discrimination complaint against the school district. Parents have the opportunity to participate in the hearing and to have representation of an attorney, at the family's own expense.
- **Review:** Right to appeal decision from hearing

Who enforces Section 504?

Office for Civil Rights (OCR): OCR is part of the U.S. Department of Education and enforces Section 504. An individual may file a formal complaint with OCR if a school that receives