

Section 504 Evaluations

A Section 504 plan is designed to provide students with disabilities access to the general education curriculum and environment through accommodations, modifications, and related services. Section 504 of the Rehabilitation Act of 1973 (Section 504) is a broad civil rights law that works to eliminate educational barriers to ensure students with disabilities receive an education comparable to nondisabled peers. To be protected under Section 504, a student must: 1) have a mental or physical impairment that substantially limits one or more major life activities, 2) have a record of such an impairment, or 3) be regarded as having such an impairment. 34 C.F.R. § 104.3(j)(1).

Students who have a mental or physical impairment that substantially limits one or more major life activities are eligible for special education or related services under Section 504. Before determining if a student is eligible, the Local Education Agencies (LEAs) must evaluate them. 34 C.F.R. § 104.35(a). At 34 C.F.R. 104.35(b), the Section 504 regulations require tests and other evaluation materials to be validated for the specific purpose for which they are used and appropriately administered by trained personnel. Tests and other evaluation materials must also include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient. Additionally, tests must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement level, or other factors being measured rather than reflect the student's disability, except where those skills are the factors being measured.

LEAs must establish standards and procedures for evaluation and placement. LEAs 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 Individuals with Disabilities Education Act (IDEA). 34 C.F.R. § 104.35(d). If LEAs choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35.

LEAs are encouraged to provide public notice of their Section 504 evaluation procedures to ensure all referrals are managed in a consistent manner.

1. **Identification and Referral:** Parents, teachers, or other staff members may refer a student for a Section 504 evaluation if they suspect the student has a disability that substantially limits one or more major life activities and needs special education or related services.
2. **Consent:** If the LEA suspects a disability, the LEA must obtain informed parental consent prior to evaluating the student. If a parent refuses consent for an initial evaluation and the LEA suspects a student is eligible, the LEA may use due process hearing procedures to seek to override the parent's denial of consent. If the student is referred by a parent and the LEA does not suspect a disability, the LEA should provide notice to the parent in writing of their refusal to conduct an evaluation including information about the parent's right to challenge the LEA's decision through due process.

3. **Gathering Information and Assessment:** The LEA is required to collect a variety of sources of information, and the assessments must be tailored to evaluate the specific areas of educational need. The LEA may review historical records, aptitude and achievement tests, teacher observations, or existing medical or psychological evaluations. The LEA may also conduct additional assessments, depending on the nature of the suspected disability, including but not limited to, social-emotional or behavioral rating scales, achievement, adaptive, or cognitive assessments.
 - a. Medical or psychological evaluations and diagnoses provided to the LEA by the parent do not automatically qualify a student for a 504 plan. The LEA is obligated to consider the results of any outside evaluations, but they are required and entitled to conduct their own evaluation.
 - b. LEAs may not require parents to obtain an outside medical or psychological evaluation or diagnosis prior to considering the need to evaluate under Section 504. If the LEA suspects a disability that is medical or psychological in nature without any outside evaluations or diagnoses, the LEA should consider including applicable faculty such as school nurse, school psychologist, or school social worker on the 504 team to assist in evaluating. If the LEA requires a parent to obtain a medical diagnosis, the LEA is obligated to ensure it is at no cost to the parent. 34 C.F.R. §104.33(c)(1).
 - c. Screenings conducted individually or as part of the universal screening process do not alone satisfy the evaluation requirements under Section 504. Teams should consider these data along with other sources of information.

4. **Eligibility Determination:** The 504 team, which consists of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options, must then review all the collected data to determine if the student has a disability as defined under Section 504. When making eligibility determinations, LEAs may not rely on one source of data; instead, they should review multiple sources of information.

The role of parents, teachers, and other stakeholders in this process is critical. Parents provide valuable information regarding their child's needs, and teachers contribute essential educational information such as academic progress and behavior compared to nondisabled peers.