

**SERIES 300  
INSTRUCTION**

Board Rule 342.11

**SECTION 504 – PROCEDURAL GUIDELINES**

**Section 504 and IDEA**

Although similarities and differences will be referred to throughout this rule, it should be noted that *all students identified as disabled under IDEA are also disabled under Section 504*. The opposite, however, is not necessarily true. Students who are regarded as disabled under Section 504 may not qualify as disabled under IDEA. The purpose of this rule is to describe procedures that shall be followed when referring, identifying, and providing services under Section 504.

**Responsibility for 504**

Unlike IDEA, Section 504 is not a special education law nor does a district receive entitlements for services provided to 504 eligible students. Section 504 is the responsibility of the general education system; therefore, the building principal or his/her designee shall assume the role of 504 Building Coordinator. Managing of individual cases, however, may be delegated to appropriate other staff members, depending upon the needs of individual students.

All schools within the Marshall Public School District utilize a building level multidisciplinary team approach to review the educational needs of individual students. Although these teams may function a bit differently in each school and may have different names (eg.. building support teams, consultation teams, pre-referral intervention teams (i-teams), student support teams, CARE teams, m-teams, etc.) they are consistent in their functioning as group of people who are knowledgeable about individual students and who formulate and implement recommended intervention strategies and techniques. Building administrators are to utilize their building level team to process 504 referrals.

**Referral Process**

Section 504 referrals are to be in writing and forwarded to the building coordinator. Referrals made by non-district staff or parents may require assistance by district staff to complete the referral form.

**Notice of Intent to Evaluate**

Upon receiving a 504 referral, the building coordinator/designee will acknowledge receipt by notifying the student's parents, as well as the student, if age 18 or older, that the referral has been received. Although parental consent is not required in order for all 504 evaluations, it is advisable to obtain written parental consent before conducting any formal evaluations. Parents are to receive copies of their rights, a definition of what 504 disabled means and the completed referral form.

## **Assignment to Team**

The building coordinator will be responsible for selecting a “knowledgeable” group of staff members to determine if the student is disabled under 504. Unlike IDEA, these individuals do not require specific special education DPI “categorical” certifications. Typically, the team will not include EEN staff. Team members may include reading teachers, Title I teachers, nurses, guidance counselors, social workers, psychologists, classroom teachers, non-certified staff and administrators. The members are to have knowledge of the student and are to be able to assess whether the presenting concern is 504 disabling and should also be familiar with various programming options and strategies. The nature of the suspected disability should determine the assignment of the case manager and other team members.

## **Evaluations**

Once the team is assembled and a case manager assigned by the building 504 coordinator, the evaluation should occur in a timely manner. Although specific timelines are not required, a maximum of 90 days (preferably less) would appear reasonable. Evaluations can entail anything from only a review of student records and a group discussion to a comprehensive assessment including non-district staff. For example, the team could make a determination based simply on a single physician’s statement without a formal evaluation by school staff. Another case might require a parent interview, individual testing by several district staff and multiple medical evaluations. It is the responsibility of the knowledgeable group of people to determine what diagnostic information is needed along with how it is to be obtained.

## **Determination and Team Summary**

The term “substantially limits” is not defined by Section 504 and is subject to interpretation on a case-by-case basis. Section 504 provides three factors explaining the term “substantially limits”:

1. the nature & severity of the impairment;
2. the duration or expected duration of the impairment; and
3. the permanent or long-term impact of the impairment.

Upon completion of the evaluation, the team is to meet to determine if the student is 504 eligible. The parents of the child are to be invited to this meeting. Whether or not the student is found to be disabled, the team is required to complete the Team Evaluation Summary form. If the student is found to be 504 disabled, the team shall also complete an Accommodation Plan form.

## **Accommodation Plan**

This plan, similar to an IEP under IDEA, must ensure a free appropriate public education for the student. Section 504 requires accommodations that result in an education that is comparable to that being provided non-disabled students. Reasonable accommodations could include but are not limited to the following: removing architectural barriers, offering voluntary student transfers to barrier-free schools, dispensing medication, using calculators or other assistive devices, providing homebound instruction, implementing behavior management programs, preferential seating, providing additional time to complete district, national and state tests, providing frequent progress reports, extra help from teachers, repetition of directions, etc.

## **Implications for Non-Student Adults**

Section 504 physical accessibility requirements also apply for non-student adults who wish to participate in programs or activities taking place in school facilities. Reasonable accommodations will be made to make facilities accessible, usable and open to persons with disabilities.

## **Consideration for IDEA**

If the student is determined to be 504 disabled, the team is to review the data to determine if there is reasonable cause to suspect a disability under IDEA. If so determined, the team shall be responsible for initiating a referral within the IDEA system. Policies and procedures for this system are outlined in the district's EEN handbook. If the student is not 504 disabled, an IDEA referral is not necessary.

## **Notice/Consent for Accommodations**

If the student requires a written accommodation plan, the building 504 coordinator/designee is to provide the parent/guardian with a copy. If the student does not qualify, written notice of this is also to be provided to the parent/guardian (using the 504 Team Evaluation Summary Form). The district is not necessarily prohibited from implementing the accommodation plan if parent approval is not received. However, good practice dictates a partnership and therefore consent should be sought.

## **Review of Accommodation Plan and Re-evaluation**

There are no specific legal timelines for review or re-evaluation. However, it would seem appropriate to utilize the same timelines as does IDEA, i.e., at least yearly for the review of the accommodation plan and at least every three years for a re-evaluation of 504 eligibility. Termination of the accommodation plan could also be the result of the annual review of the accommodation plan.

## **Definitions – Section 504 of the Rehabilitation Act of 1973**

No otherwise qualified individual with disabilities in the United States shall, solely by reason of her or his disability, as defined in section 706(8) of this title, 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 or under any program or activity conducted by any Executive agency or by the United States Postal Service.” (29 U.S.C. Sec. 794)

**Individual with disabilities:** “any individual who (i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities, (ii) has a record of such impairment, or (iii) is regarded as having such an impairment.” (29 U.S.C. Sec. 706(8))

**Physical or mental impairment:** “(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hermic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” (34 Code of federal Regulations, Part 104.3)

**Major life activities:** “...functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.” (34 Code of Federal Regulations Part 104.3)

**Has a record of such an impairment:** “...has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.” (34 Code of Federal Regulations, Part 104.3)

**Is regarded as having an impairment:** “...(A) has a physical or mental impairment that does not substantially limit major life activities, but is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or (C) has non of the impairments defined but is treated by a recipient as having such an impairment.” (34 Code of Federal Regulations, Part 104.3)

Legal References:      Section 504 of the Vocational Rehabilitation Act of 1973  
                                 Individuals with Disabilities Education Act (IDEA) of 2004  
                                 Americans with Disabilities Act (ADA) of 1990  
                                 Title IX, Education Amendments of 1972  
                                 Title VI, Civil Rights Act of 1964  
                                 Wisconsin Statutes, Sections 111.31, 111.34, 118.13, 119.195

Cross references:      342.11 - Section 504 – Non-discrimination on the basis of disability  
                                 411 – Equal Educational Opportunities  
                                 411br – Student Discrimination Complaint Procedures

Date of Adoption:      December 21, 1994  
Date of Revision:      March 17, 2010