

Rising Sun Montessori School Section 504 Policies and Procedures:

OVERVIEW

There are two main functions to Section 504.

1. To protect qualified individuals from discrimination based on their disability.
2. To provide students with disabilities a free appropriate public education (FAPE).

There is no additional state or federal funding provided to assist in complying with Section 504. All costs are the obligation of the school.

The Office for Civil Rights (OCR) is the federal agency that monitors Section 504 compliance. In addition, it is also the responsibility of Rising Sun Montessori School to ensure Section 504 compliance and monitoring.

Under Section 504 of the Rehabilitation Act, no student shall, on the basis of race, religion, creed, color, marital status, sex, sexual orientation, national or ethnic origin, or disability, be excluded from participation in, or be denied the benefits of, any district educational program or activity.

GENERAL PROVISIONS

Rising Sun Montessori School has specific responsibilities under the Rehabilitation Act of 1973 that include identifying, evaluating, and if the child is determined to be eligible under Section 504, providing access to and participation in curriculum, buildings, programs and activities.

1. Curriculum: The 504 Plan makes changes as appropriate to the general delivery of instruction so that students with disabilities have equal access to the classroom curriculum. Section 504 requires that student plans be uniquely designed to meet his or her individualized disability-related needs.

2. Buildings and Facilities: The degree to which a facility must be made accessible depends on when the facility was constructed or altered. Facilities constructed or altered after June 3, 1977 must meet the applicable accessibility standards such as the Americans with Disabilities Act (ADA) Accessibility Guidelines or the Uniform Federal Accessibility Standards. Facilities constructed or altered before that date need only ensure that programs and activities located in those facilities are accessible. An alternative method in a school would be the relocation of classes, activities or services to an accessible location. Facility alteration is required to achieve program accessibility only if sufficient relocation of classes, activities or services

cannot be housed in an existing facility. In meeting the objective of program accessibility, the school must take precautions not to isolate or track students with disabilities in settings away from students without disabilities.

3. Programs and Activities: Section 504 concentrates on the notion that students with disabilities should not be denied equal opportunity to access and benefit from programs and activities receiving federal financial assistance. 45 Programs and activities includes school sponsored non-academic and extracurricular activities, such as, but not limited to:

- Counseling services
- Athletics
- Transportation
- Health services
- Recreational activities
- After school programs
- Special interest groups and clubs
- Referrals to agencies that provide assistance to individuals with disabilities

CHILD FIND

Child find is a process that requires districts to locate and identify students with disabilities. Under Section 504, RSMS shall annually “undertake to identify and locate every qualified individual with a disability residing in their jurisdiction who is not receiving a public education.” (34 CFR § 104.32.) Schools must conduct an evaluation of any student “who, because of handicap, needs or is believed to need special education and related services.” (34 CFR § 104.35(a).) Homeless children are also to be included within the school’s child find processes.

A student can be referred to the 504 team for consideration of a 504 plan by anyone. This includes, but is not limited, to a parent, guardian, teacher, or school personnel that suspects that a student has a disability and may need specialized supports in order to access and benefit from their education.

Should the team believe it is necessary, they may conduct an evaluation under IDEA and consider special education eligibility prior to evaluating student need under section 504. However, under child find a district is obligated to identify students with disabilities and determine the most appropriate supports and/or services.

ELIGIBILITY

Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance. Generally, Section 504 requires that districts provide a Free Appropriate Public Education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

QUALIFICATION FOR SECTION 504

1. physical or mental impairment Substantially limits one or more major life activities a record of such an impairment regarded as having such an impairment OR AND Student has... Student has... Student is...
2. 504 defines a person with a disability as one of the following:
 - Has a physical or mental impairment that substantially limits one or more major life activities
 - Has a record of such an impairment
 - Be regarded as having such an impairment Physical Impairment The law does not limit a physical impairment to specific diseases or medical conditions. Therefore a physical impairment may include, but is not limited to: Any physiological disorder or condition, cosmetic disfigurement, anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic skin, and endocrine.
 - Mental Impairment. Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities. The regulations do not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list. A Record of an Impairment or is Regarded of Having an Impairment Under Section 504, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger Section 504 protections that require the provision of a Free and Appropriate Public Education (FAPE). The phrases "has a record of disability" and "is regarded as disabled" are meant to reach the situation in which a student either does not currently have or never had a disability but is treated by others as such. Substantial Limitation: A substantial limitation that affects a person's ability to perform an activity in relation to the average person in the general population. A Major Life Activity.

Major life activities are basic activities that the average person in the general population can perform with little or no difficulty. This may include, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, standing, lifting, concentrating, thinking, interacting with others, sleeping, bending, communicating, reading and writing.

For a 504 Team to determine that an impairment substantially limits a major life activity, the impairment need not prevent, or significantly/severely restrict an individual from performing a major life activity. In determining whether an impairment substantially limits a major life activity, the focus of the inquiry is on how the impairment limits the major life activity not on the outcomes the individual achieved. Compare a student to his or her non-disabled age/grade peers to determine whether an impairment substantially limits a major life activity. Mitigating measures used by a student with a disability to manage his or her impairment or lessen the impact of his/her impairment (medications, medical devices, cochlear implants, related aids and services, assistive technology, behavioral modifications, etc.) should be disregarded when determining whether a student's impairment constitutes a disability under Section 504. 67

ENSURING NON-DISCRIMINATION:

The two primary requirements of Section 504 that impact school-aged students who have been determined eligible for protections under the statute are:

1. Non-discrimination: Equal opportunities for students with disabilities (nondiscrimination)
2. Provision of a Free and Appropriate Public Education (FAPE) through a 504 plan In addition to these two major requirements, schools must provide procedural safeguards to children and their families while providing services and protections. Examples of nondiscrimination include:

- Participation in all activities that are available for students without disabilities
- Participation in the same academic curriculum as non-disabled students
- Participation in non-academic and extra-curricular activities
- Equal access to recreational activities
- Equal opportunities to participate in athletics
- Participation in clubs
- Access to specific courses (Seminar, GATE Cluster classes, Advanced Placement)

- Opportunity to participate in field trips FAPE under Section 504 is an education designed to meet the individual educational needs of a student with a disability and is based on an outcome of procedures that satisfy Section 504's identification, evaluation, placement, and due process requirements.

For supporting documents, refer to the Section 504 Forms in Appendix 2E of this petition. There are considerations that fall under ADA laws that need to be made by the school when making decisions for students under section 504.

RSMS has processes in place to address claims for equal access/equal opportunity under both Section 504 and the ADA.

For example, if a student with a disability (under IDEA or 504) makes a request for an accommodation or service, the request and response should be documented. In almost all cases where the student is eligible for an IEP or 504 plan, the IEP/504 process can at least be used as an initial forum in which to address the concern.

SECTION 504 TEAM

Rising Sun assigns a 504 team leader/coordinator, as well as additional team members, to carry out the obligations under Section 504. Section 504 team members will, to the best of their ability:

- Be knowledgeable about the student being considered for placement, and
- Understand the meaning of the evaluation data and the placement options available.

504 Team Members

- Parent(s)
- Student when appropriate
- General Education Teacher
- Special Education Teacher For additional expert input, when necessary:
- School psychologist
- Social Worker/ Counselor
- Other Educational Specialists, as appropriate

DEVELOPING A 504 PLAN REFERRAL

ELIGIBILITY PLAN REVIEW

When a student is exhibiting academic, social, emotional, participation, attendance, and/or behavioral problems, the student may need to be referred to the intervention/student study team. This referral may lead to a referral to assess under Section 504 and/or a referral to assess under IDEA. A referral to either of the above-mentioned teams, can be initiated by, but is not limited to, the following: parent, administrator, teacher, or school personnel. Once a referral is made to assess under Section 504, the team will begin planning for conducting evaluations and a meeting to determine eligibility. Rising Sun Montessori School must obtain prior parental consent for initial evaluations, OCR has concluded such consent is necessary.

Referral for Consideration of Section 504 Eligibility

Once notification and parent/guardian consent for evaluation or re-evaluation has been approved by the parent/legal guardian the 504 team shall determine eligibility. The type of information necessary to determine eligibility under Section 504 will be determined on a case-by-case basis. However, the data must include assessment results that will provide information on whether the student has a mental or physical impairment that substantially limits one or more major life activities. Assessments shall include multiple forms of measurement and may be a combination of both formal and informal measurements. The 504 Team determines whether a student has a disability that requires services under Section 504.

The 504 Team must:

1. Collect and review formal and informal data (i.e., previous 504 documents, work samples, observational data, test results, progress monitoring data, available medical records, and previous special education data, if appropriate).
2. Written parent/guardian consent is required when accessing information from an outside organization, such as a medical provider or counselor, Rising Sun will complete an exchange of information authorization form.
3. Identify and, if necessary, administer assessment instruments that will provide valid information on whether the student has a disability and the impact of the disability on the student's education. If additional assessments are necessary, the 504 Team must include a person with knowledge of assessment instruments, such as the school psychologist. Refer to the following documents:
 - Parent/Guardian Consent for Evaluation
 - Authorization for Use and/or Disclosure of Information

- Section 504 Team Eligibility Determination Worksheet
- Section 504 Eligibility Rubric

Once the evaluation process for a 504 plan has been initiated, the 504 team shall:

- Notify and invite the parents/legal guardians to the 504 meeting.
- Hold the 504 Eligibility Team Meeting
- Provide parent/legal guardians with a copy of their procedural safeguards
- Review the evaluation data and decide as to whether or not the student is eligible for a 504.
- If the student is eligible, complete the 504 Plan. A 504 plan, developed by the Section 504 team, specifies the plan of services (accommodations and or modifications) the student requires for an equal opportunity to succeed in the general education classroom and participate in school programs.

Section 504 Plan Will Address the Following Five Components:

1. Nature of the student's disability and major life activity it limits (34 CFR. 104.3(j));
2. Basis for the disability determination, often accomplished through evaluations (34 CFR. 104.35(b));
3. Educational impact;
4. Accommodations/services (34 CFR. 104.33(b)(1)(i)); and
5. FAPE placement in the least restrictive environment ("LRE"). (34 CFR. 104.34)

Written Consent

The Section 504 regulations do not specify the degree of parent/guardian participation. Best practice is to involve parents at every step along the way in their child's education. It is required that parents receive notice when their child is recommended for evaluation, eligibility or service delivery. Consent shall be obtained before evaluation and/or services begin. Rising Sun will invite parents to participate in all Section 504 team meetings regarding their child. If a parent/guardian disagrees with the outcome of 504 meeting, s/he may follow the school's grievance or due process procedures.

Implementation of a 504 Plan

General education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' instruction and provision of accommodations of students for whom

they are responsible. Failure to implement the plan can cause the school to be in non-compliance with Section 504.

General Review

The 504 team shall review the plan annually or sooner as needed, and whenever there is a significant change in placement or student need. When a student with a 504 Plan transfers into a new district/school, the receiving district/ school shall review the plan within the first 30 calendar days and make revisions if necessary. This includes the beginning of the school year and students transitioning between elementary to middle/junior high to high school. It is important that parents are informed of and invited to the 504-team meeting wherein these revisions are made. Periodic reevaluation is required. This may be conducted in accordance with IDEA regulations, which require reevaluation at three-year intervals or more frequently if conditions warrant, or if the child's parent/guardian or teacher requests a reevaluation.

COMPLIANCE

The U.S. Department of Education, Office for Civil Rights (OCR) has been given administrative authority to enforce Section 504. Section 504 is a federal statute that may be enforced through the OCR's administrative process or through the Federal court system. If a school refuses to meet its Section 504 obligations, parents are afforded the right to file a local grievance with the school, request a due process hearing, or file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR). Section 504 Compliance Complaints It is always best when a complaint is resolved at the local level. Rising Sun Montessori has a complaint process in place. Every attempt will be made to resolve the complaint at the school level. Should a parent/guardian not be satisfied with the school's proposed resolution, the parent/guardian may file a complaint with the Office of Civil Rights. An OCR complaint must be filed, in writing, within 180 days following the alleged violation. Should a parent/guardian not agree with the school's identification, evaluation, or placement of student, they have the right to an impartial hearing.

PROCEDURAL SAFEGUARDS UNDER SECTION 504 OF THE REHABILITATION ACT

- Parental notice of due process rights
- An opportunity for parents to review relevant records
- An impartial hearing with the opportunity for participation by the student's parents or guardians
- Representation by counsel and a review procedure
- The right of the child to have access to equal academic and non-academic school activities

- The right to free, appropriate public education (FAPE) in the least restrictive environment (LRE), including accommodations, modifications and related services
- The right to notice regarding referral, evaluation and placement
- The right to an appeal process Refer to the following document listed in Appendix J
- Parent/Guardian and Student Rights and Procedural Safeguards

DISCIPLINE

Students with a 504 Plan may be suspended or placed in an alternative interim setting to the same extent these options would be used for children without disabilities. School personnel may also consider any unique circumstances on a case by-case basis when determining whether a change in placement (in this context a disciplinary removal) is appropriate for a child with a disability who violates a code of student conduct. This change of placement may be to an appropriate interim alternative education setting, another setting, or suspension.

MANIFESTATION DETERMINATION

After a child with a disability has been suspended from his or her current placement for ten (10) school days in the same school year, during any subsequent days of suspension, child is entitled to a manifestation determination meeting within ten (10) school days of Rising Sun's decision to suspend further. The child's parent/guardian must be invited to participate as a member of this manifestation determination meeting. At this meeting, the team will determine (based upon a review of all relevant information in the student's cumulative files, the student's Section 504 Plan any teacher observations, and any relevant information provided by the parent/guardian) whether the student's alleged behavior was a manifestation of his/her disability.

Manifestation Determination questions to be addressed:

- Was the conduct in question caused by, or had a direct and substantial relationship to the student's disability?
- Was the conduct in question the direct result of the school's failure to implement the student's current Section 504 Plan?

If the team answers yes to either question, the alleged misconduct shall be determined to be a manifestation of the student's disability. However, if the team answers no to both questions, the alleged misconduct shall be determined not to be a manifestation of the student's disability and the school may take disciplinary action against the student, such as expulsion, in the same manner as it would with a child without disabilities. If the student's behavior is determined to be a manifestation of his or her disability, the school must ensure that the student has a behavior intervention plan in place for the student. In this situation, if a behavioral intervention

plan has already been developed, the school will review the plan and modify it as necessary to address the behavior in question. However, regardless of whether a student's behavior was a manifestation of the student's disability, the school may determine, following assessment, that a change of placement is appropriate for the student. The school may proceed with this change of placement following notice to the parents; it is always preferable to obtain parent consent, when possible. In addition, an assessment shall occur under Section 504 prior to any significant change of placement.