



Tip Sheet Section 504 Evaluations

What Does the Office for Civil Rights (OCR) say about Section 504 Evaluations?

Recipient school districts must establish standards and procedures for initial evaluations and periodic reevaluations of students who need or are believed to need special education and/or related services because of disability. The Section 504 regulatory provision at 34 CFR Section 104.35(b) requires school districts to individually evaluate a student before classifying the student as having a disability or providing the student with special education.

Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. The tests and other evaluation materials must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

What Does All That Mean?

First, in New Mexico, the Student Assistance Team (SAT) is the starting point to consider whether or not a student needs to be evaluated for a Section 504 Accommodations Plan. Therefore, a student who is suspected of having a physical or mental impairment that requires some sort of accommodations or services in the school setting is referred to the school's SAT.

What Steps does the SAT Take?

The SAT (who also wears the hat of the Section 504 Team, as necessary) meets and determines if an evaluation is necessary, and what kind. In some cases, the SAT may determine that conducting a full, comprehensive IDEA evaluation to rule out the need for special education services may be appropriate. In other cases, the SAT may conclude that only a Section 504 evaluation is appropriate.

Is Parent Consent Required for a Section 504 Evaluation?

Yes. Written, *informed*, parental consent for an initial Section 504 evaluation is required. (The concept of *informed* consent under Section 504 is the same as described in the IDEA at 34 CFR Section 300.9.) If a parent refuses consent for an initial evaluation and a school district suspects a student has a qualifying impairment, Section 504 regulations provide that school districts *may*, at their discretion, use due process hearing procedures to override the parents' denial of consent.

What Does a Section 504 Evaluation Include?

No formalized testing is required, unless the team determines that it is necessary. The team determines what and the amount of information it needs. However, the evaluation must include information from a **variety of sources** sufficient to determine the presence of a disability. A

single source of information cannot be the only information considered. The team must document and demonstrate that it carefully considered each piece of information it used. A Section 504 evaluation may include, but is not limited, to the following:

- Interviews with and reports from teachers, nurses, parents, and others knowledgeable about the student
- Observations by teachers and other professionals
- Reports from medical providers and/or other outside professionals
- Cumulative file review
- Student grades and progress reports
- Student work samples
- Health /wellness screening results
- Adaptive behavior assessment
- Functional behavioral assessment
- Assessment scores
- Progress monitoring data
- Discipline/behavior reports or plans
- Attendance records
- Social/cultural background information

Then What?

When the evaluation is complete, the team meets to determine if the student is identified under Section 504. If so, the team develops a Section 504 Accommodation Plan for the student, which may include related services. Parental consent is needed before beginning the plan. The team monitors the student's plan and reviews it at least annually—sooner if needed. Reevaluations are conducted every three years or prior to a change in placement. Section 504 **reevaluations** do not require parental consent, but schools will want to inform parents about the reevaluation requirement and process. If a parent refuses, the district may initiate due process.

Does a School Have to Evaluate a Student upon Parental Demand?

No. The school must have a reason to believe the student has a disability and is in need of services under Section 504. However, a parental request to evaluate a student does trigger the school's obligation to respond in one of two ways:

1. Agree to conduct the evaluation, get informed, written parental consent, and conduct it. Then convene a team meeting to determine the student's identification for Section 504.
2. Refuse to conduct the evaluation and notify the parent in writing that it refuses to evaluate the student, including an explanation of the basis for the refusal. In addition, it then must also inform the parents of their right to request a due process hearing conducted by the district or school to contest the refusal.

Therefore, while parents may request a Section 504 evaluation at any time, it does not automatically trigger the right to an evaluation, or start a regulatory deadline. Nonetheless, schools should investigate thoroughly the possible existence of a disability before refusing to evaluate, particularly when the request comes from parents of a student who is showing signs of difficulty in the school setting. Keep in mind that if OCR investigates, a school must be able to document and demonstrate **that it had no reason to suspect or have any evidence** that the student has a physical or mental impairment.

Who Pays for the Evaluation under Section 504?

The district or school. There is no state or federal funding for Section 504. All costs are the obligation of the general school or district budget. Many districts or schools have established a Section 504 line item in their general fund budget to cover necessary evaluations, accommodations, and related services for Section 504. Districts and schools provide the services through their own personnel resources, or contract with another public or private agency.

What about Independent Evaluations?

Under Section 504, schools are not required to pay for an outside Section 504 evaluation. If parents disagree with the school's evaluation, they may request a Section 504 due process hearing conducted by the district or school, or file a complaint with OCR.