What is Section 504?

Section 504 is a federal law that is designed to protect the rights of individuals with disabilities when it comes to programs and activities that receive any type of federal funding from the U.S. Department of Education. Section 504 states: “No otherwise qualified individual with a disability in the United States…shall solely by reason of her or his disability, 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…”

Section 504 is enforced by the Office of Civil Rights (OCR) in several programs and activities that receive financial assistance from the U.S. Department of Education. Recipients of this financial aid include public school districts, institutions of higher education, and other state and local education agencies. The regulations for implementing Section 504 in the context of educational institutions are stated at 34 C.R.F. Part 104.

Section 504 regulations require that school districts provide a “free appropriate public education” (FAPE) to each qualified student with a disability who is in the school district’s jurisdiction, regardless of the nature or severity of the disability. Under Section 504, a FAPE consists of the provision of regular or special education and related aids and services designed to meet the student’s individual education needs as adequately as the needs of nondisabled students are met.

OCR enforces Section 504 and Title II of the Americans with Disabilities Act of 1990 (Title II), including the conformed amendment to Section 504 that affects the meaning of disability under Section 504.

Individuals who have complaints regarding the Tri-County’s compliance with Section 504 can bring suit in federal district court against Tri-County or persons in their individual capacity. Parents and employees can also file complaints with the OCR regional office at:

Office for Civil Rights
US Department of Education
5 Post Office Square, 8th Floor
Boston, MA 02109-3921
Difference between Section 504 and the IDEA
Section 504 ≠ IDEA

IDEA:
Under the Individuals with Disabilities Education Act (IDEA), a child must have a particular disability listed under IDEA. A child with a listed disability under the IDEA must be failing to make effective progress to require special education and related services. Generally, the inquiry under IDEA addresses whether the disability impacts the student’s ability to learn and to make effective progress.

Section 504:
Under Section 504, a student is a qualified student with a disability and is entitled to general protections against discrimination whether or not they are entitled to special education or related services. Also, the definition of a student with a disability is much broader under Section 504 than it is under IDEA. Under Section 504, a student may qualify for services even if the disability is not affecting the student’s ability to learn.

The basic requirements under IDEA and Section 504 are shared:
1. that individuals with disabilities, regardless of the nature or severity of their disability, need to be provided with a free appropriate public education;
2. that disabled students need to be educated with non-disabled students to the maximum extent appropriate to their needs;
3. that school districts undertake to identify and locate all underserved disabled children;
4. that evaluation procedures be improved in order to avoid the inappropriate education that results from misclassification of students; and
5. that procedural safeguards be established to enable parents and guardians to influence decisions regarding the evaluation and placement of the students.

Because Section 504 is broader than IDEA, all students who have been identified as eligible for services under IDEA are entitled to the protections of Section 504. That does not mean that students on an Individualized Educational Program (IEP) also need Section 504 plans. For those students on an IEP, meeting the requirements for IDEA satisfies Tri-County’s obligations under Section 504, and there is no need to develop a separate Section 504 Accommodation Plan for those students.
Under Section 504, an appropriate placement could consist of education in regular classes with the use of supplementary services, or “special education” and related services. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions.

**IMPORTANT:** A Section 504 Plan should NOT be a consolation offer for a student who does not qualify for an I.E.P. A separate determination meeting should be held to discuss Section 504 Plan eligibility if the counselor and parent(s) believe it may be necessary.
504 or IEP?

Considering an IEP

Does the disability adversely affect educational performance?

YES

IDEA/IEP eligibility

Specially designed instruction

Related services

NO

Not eligible

Considering a 504

Does the handicap substantially limit one or more major life functions?

YES

Protected under Section 504

Reasonable accommodations provided

Physical

Instructional

NO

Not eligible

504 Accommodation Plan

IEP

FAPE
Helpful Definitions to Better Understand Section 504

**Equal Access:** Equal opportunity of a qualified person with a disability to participate in, or benefit from, educational aids, benefits, or services.

**Free Appropriate Public Education (FAPE):** FAPE refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities.

**Placement:** Placement refers to regular and/or special educational programs in which a student receives educational and/or related services.

**Reasonable Accommodations:** When referring to a Section 504 Plan, this refers to any change in a job or task, the environment, or the way things are usually done in order to allow a student with a disability to perform as well as non-disabled students. These accommodations allow for a student to receive the same benefits in their school/classroom as their non-disabled classmates.

**Reasonable Modifications:** Under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature if the service, program, or activity.

**Related Services:** Related services refers to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.
Who is a Qualified Individual with a Disability Under Section 504?

In order for an individual to be qualified under Section 504, they must have a mental or physical impairment that substantially limits a major life activity, and requires accommodations or modifications in order to provide the student a FAPE. Services are required when the student, because of his or her disability, needs accommodations or related services in order to meet his or her needs as adequately as the needs of nondisabled students.

A student must meet all three criteria (1. a mental or physical impairment that 2. substantially limits 3. a major life activity) in order to qualify for a Section 504 Accommodation Plan.

Mitigating Measures

When considering a student for a Section 504 Plan, the 504 Team cannot consider mitigating measures used by the student. This was decided in January of 2009. Mitigating measures should not be considered when determining if a student has a mental or physical disability and how it may be affecting the disability: the disability itself must be examined. “Mitigating measures” were not defined, but a list of mitigating measures was provided by congress:

- Medication
- Medical supplies
- Equipment or appliances
- Low-vision devices (not including ordinary eyeglasses or contacts)
- Prosthetics (including limbs and devices)
- Hearing aids and cochlear implants or other implantable hearing devices
- Mobility devices
- Oxygen therapy equipment and supplies
- Use of assistive technology
- Reasonable accommodations or auxiliary aids or services
- Learned behavioral or adaptive neurological modifications

Mental or Physical Impairment

The definition of a mental or physical impairment it very broad. Under Section 504, a mental or physical impairment includes 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, hemic and lymphatic, and endocrine. Mental and psychological disorders include: mental-retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

If the 504 team determines that a student has a “mental or physical impairment,” it must then consider if the impairment substantially limits a major life activity. If the student does not have a mental or physical impairment, he or she is not eligible for services under Section 504.
**Substantially Limits**

If the 504 Team determines that the student has a mental or physical impairment, it must then determine whether the impairment limits the student’s ability to engage in the activity considerably, or is otherwise significantly restricted. The U.S. Department of Education has yet to specifically define “substantial limitation.” Under the Americans with Disabilities Act the term appears to mean more than “materially affects” but less than “significant or severe restriction.” OCR has explicitly stated that an impairment does not need to prevent, severely restrict or significantly restrict a major life activity to be considered substantially limiting.

The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student from information from a variety of sources. The Section 504 Team should consider:

- The nature and severity of the impairment;
- The expected duration of the impairment; and
- The expected long-term impact of the impairment.

A student is ‘substantially limited” when he or she is” (1) unable to perform a major life activity that the average person in the general population can perform; or is (2) substantially restricted as to the condition, manner or duration under which he or she can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform the same major life activity.

The U.S. Department of Education has stated that a school district should not need or require extensive documentation or analysis to determine that a child with diabetes, epilepsy, bipolar disorder, or autism has a disability under Section 504 and Title II.

Temporary, non-chronic impairments of short duration with little or no residual effects usually will not substantially limit a major life activity (i.e. a common cold, allergies, sprained joint, etc.).

If the mental or physical impairment does not substantially limit the major life activity then the student is not eligible for a Section 504 Plan.

**Major Life Activities**

The 504 Team must determine whether the mental or physical impairment substantially limits one or more major life activities. As defined in the Section 504 regulations, major life activities include, but are not limited to:

<table>
<thead>
<tr>
<th>Caring for one’s self</th>
<th>Performing manual tasks</th>
<th>Walking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seeing</td>
<td>Hearing</td>
<td>Speaking</td>
</tr>
<tr>
<td>Breathing</td>
<td>Learning</td>
<td>Working</td>
</tr>
<tr>
<td>Eating</td>
<td>Sleeping</td>
<td>Standing</td>
</tr>
<tr>
<td>Lifting</td>
<td>Bending</td>
<td>Reading</td>
</tr>
<tr>
<td>Concentrating</td>
<td>Thinking</td>
<td>Communicating</td>
</tr>
</tbody>
</table>
This list is not exhaustive. Other functions can be major life activities for purposes of Section 504. Section 504 also provides a non-exhaustive list of examples of “major bodily functions” that are major life activities, such as:

- the functions of the immune system
- digestive
- bladder
- circulatory
- reproductive functions

- normal cell growth
- bowel
- neurological
- respiratory
- endocrine

If the Section 504 Team determines that one or more of these major life activities or major bodily functions is substantially limited by a mental or physical impairment, then the student is a “qualified individual with a disability.” The Section 504 Team, in determining eligibility, must consider whether the impairment substantially limits not just learning, but each of the other major life activities as well.

**Temporary Impairments:**
A temporary impairment does not constitute a disability under Section 504, unless it is severe enough to result in a substantial limitation of one or more major life activities for an extended period of time. If the impairment is transitory and/or minor, then a person is not considered a person with a disability. A transitory impairment lasts (or is expected to last) six months or less.

When determining if a temporary impairment is substantial enough to be disabling, it must be considered on a case-by-case basis. This will allow the Team to consider the duration of the impairment and the extent to which it actually limits a major life activity.

**Episodic Impairments:**
An impairment which is episodic (or in remission) is a disability if it would substantially limit a major life activity when active. A student that has an episodic impairment is entitled to a FAPE under Section 504.
Not Eligible

Education comparable to that of non-handicapped students must be provided

Protected under Section 504
Reasonable accommodations implemented to provide comparable education
Agreed upon accommodations followed by teachers and other faculty working with the student

504 Accommodation Plan = Free Appropriate Public Education

Reasonable accommodations include:
- Related aides
- Related services
- Specialized education
- Etc.
Students with severe food allergies or intolerances, asthma or diabetes may qualify for a Section 504 accommodation plan. Students are eligible if the physical impairment substantially limits a major life activity. Section 504 Accommodations Plans for eligible students provide information on needed provisions in the school or at school-related events in order to appropriately supervise and protect those students. As in each case in which Tri-County may believe that a student has a disability, the determination of whether a student with a food allergy, asthma, or diabetes is eligible for a 504 Plan must be made by the Section 504 Team on an individual basis, and must be based on the student’s disability.

If the 504 Team determines that the student does not need special education or related service, Tri-County is not required to provide aids or services. Section 504 does not obligate a school to provide aids or services that the student does not need; however Tri-County must still conduct an evaluation before making a determination.

Students with a diagnosis of ADHD may qualify for a Section 504 plan if they meet the eligibility criteria, which are that the mental impairment must substantially limit a major life function, and that the student requires accommodations in order to receive a FAPE. The accommodations must be necessary to meet the student’s needs as adequately as the needs of non-disabled students are met.
Referring a Student for a 504 Plan

Who needs to be referred for evaluation under Section 504?

Tri-County has a responsibility to locate and identify students who, due to a disability, need or are believed to need services under Section 504. Essentially, the school should refer students who the staff suspects may have a disability. Tri-County should use teacher observations, student behavior, or other information in order to determine if a student may have a mental or physical impairment which substantially limits a major life activity.

When a parent or guardian provides a medical diagnosis or informs school personnel that the student has a mental or physical impairment, the school should immediately request the documentation in regard to the diagnosis and treatment, refer the student for a Section 504 evaluation, and request consent from the parent or guardian to conduct the evaluation; that is, the eligibility determination. In such cases, the failure to evaluate a student for eligibility under Section 504 would likely constitute a violation of Section 504.

When a parent or guardian does not have a diagnosis and requests a Section 504 evaluation, the school should generally conduct an evaluation. An exception would be if Tri-County has recently conducted a Section 504 meeting which determined that the student did not have a qualifying disability, unless there is new information which would cause Tri-County to believe that the student now has a qualifying diagnosis. If there is no new information provided and Tri-County does not believe another 504 meeting is needed, the school must provide parents with their procedural safeguards under Section 504.

If a student with a disability is not eligible for an I.E.P. plan, but requires accommodations, a 504 Accommodation Plan should be considered. Under IDEA, the focus is on whether or not a student is making effective progress. If they are making effective progress with their disability and are not qualifying for special education but their disability is limiting major life activities (other than learning), a 504 Plan may be appropriate. If the reasoning for not providing an I.E.P. was due to a lack of presence of mental or physical disability, then a 504 Evaluation is not required. If a parent does request a meeting after there is no documentation of disability, the school is not obligated to hold a 504 meeting, but they are obligated to provide the parent(s)/guardian(s) a copy of the notice of procedural safeguards under Section 504.
Evaluation

Is consent needed?

In order for Tri-County to perform an initial evaluation, parental consent is required under Section 504. If a parent withholds their consent and the school believes that the student needs accommodations, the school can use a due process hearing to attempt to override the parent denial of consent for initial evaluation. The Section 504 Team should also meet in order to discuss the parent objection. After this meeting, if the parent continues to withhold permission, that is when the school counsel should be contacted to decide if the due process hearing is necessary.

Section 504 does not specify the type of parental consent that is required; a form of written consent has been accepted by the U.S. Department of Education as compliance to a 504 Plan. A Parent Consent Form for Evaluation may be used for this.

Tri-County may evaluate a student before providing services under Section 504. This means that the school may conduct a Section 504 Team eligibility determination meeting. The school is not required to conduct further assessments if they possess evaluations, reports, and/or other documents which help to establish the existence of a qualifying disability under Section 504.

When must evaluation take place?

Before being placed into initial placement for services under Section 504, evaluations must take place. A re-evaluation is needed before significant changes are made to accommodations/placement. Although there is not a specified period of time stated in Section 504 for when an evaluation is to be conducted, under Massachusetts special education law, the formal evaluation must be completed within 30 (calendar) days of receiving consent and the 504 Team must meet within 15 days after the completion of the evaluation.

Evaluation and Assessment

Section 504 requires the school to individually evaluate a student before they are classified as having a disability or before proving accommodations/related services to the student. Under Section 504, an evaluation refers to the process of determining if a student has a disability. An assessment are the data considered by the team to determine eligibility and placement. These can include information from a psychological evaluation, teacher reports, educational assessments, etc. The assessments should be administered by individuals trained in giving the and scoring these evaluations. They need to target different areas to try and decipher where the student’s disability lies, and not just provide a single I.Q. score.
Evaluation

Who Should Be On the 504 Team?

The team should be made of individuals who are knowledgeable about several aspects, including:

1. The student
2. The meaning of the evaluation data
3. The placement options

Who is on a 504 Team should be decided on a case-by-case basis. There isn’t a requirement of how many individuals must be on a team or that any certain person must be there. Although there aren’t any specific requirements, it is always helpful/best to have parents/guardians involved as well as the Section 504 Coordinator at the 504 meeting. Having someone who qualified to interpret evaluation data on the team is important.

Some of the individuals that may be included in a 504 team aside from parents and a 504 Coordinator are teachers, the student, related service providers, the school counselor, the adjustment counselor, the school nurse, school administrators, and even staff from outside agencies if allowed by the parent/guardian.
Re-evaluation

Periodic re-evaluation is required. This may be done every three years in accordance with the IDEA regulations, unless a parent/guardian and Tri-County agree that the re-evaluation is unnecessary. The Section 504 Team may meet more frequently if it is warranted. They may decide to meet before the three year mark if the student is doing poorly academically or the manifestations of their disabilities have changed. A 504 meeting may also take place if the parent/guardian or teacher of the student requests it; however the meetings cannot take place more than once a year (unless it is agreed upon otherwise).

A re-evaluation may be necessary prior to a significant change in placement. A significant change in placement means a significant change in the type or amount of educational or related aids or services that a district provides a disabled student. A significant change in placement may include (but is not limited to):

- Initialing or terminating a service;
- Significantly increasing or decreasing the amount of services;
- Disciplinary actions that exclude a student for more than 10 consecutive school days in a school year; and
- Disciplinary actions that create a pattern of exclusion from school. (i.e. More than one short-term suspension that are 10 days or fewer that create a pattern of exclusion amounting to more than 10 school days of exclusion).
Continued Eligibility

Section 504 extends only to student’s who meet the definition of a person with a disability. If Tri-County re-evaluates a student in accordance with Section 504 and finds that the student’s mental or physical impairment no longer substantially limits their ability to learn of any other major life activity, the student is no longer eligible for services under Section 504. The Section 504 Team should also refer the student for an eligibility determination under IDEA in order to be sure the school is complying with Section 504. If the student qualifies for services under IDEA the school can terminate the 504 Plan and implement an IEP.

Private School Placement

If a student with a 504 Plan is taken out of a public school and placed into a private school at private expense by the parent/guardian, then the student does not have an entitlement to services from the public school while in the private school.
Reevaluation, Temporary Placement, and Episodic Impairments

**Reevaluation:**

Periodic re-evaluation is **required.** This could be conducted in accordance with IDEA regulations, which require re-evaluations in three-year intervals. (If the parent and the Tri-County school district agree that a re-evaluation is unnecessary in three years, then it may be omitted at the time). The 504 team will/may meet more frequently if circumstances warrant (i.e. poor academic performance; differing manifestation of disabilities; etc.), or if the child’s parent(s) or teacher(s) request a re-evaluation sooner, but not more than once a year (unless the parent and the school bath agree there is a need to do so).

Before a significant change in placement of a student, a reevaluation is necessary. A significant change in placement means a significant change in the type and/or amount of educational or related aids or services that Tri-County provides to a disabled student. This significant change in placement may include, but is not limited to:

- Initiating or terminating a service;
- Significantly increasing or decreasing the amount of service/support;
- Disciplinary actions that exclude a student for more than 10 consecutive school days in a school year; and
- Disciplinary actions that create a pattern of exclusion from school (i.e. suspensions).

**Temporary Impairment:**

A temporary impairment **does not** constitute a disability for the purposes of Section 504, **unless** its severity results in a substantial limitation of one or more major life activities for an extended period of time. A student is not considered as having a disability in the impairment is transitory (actual/expected duration of 6 months or less) and minor.

Deeming a temporary impairment as substantial enough to be a disability should be discussed/resolved on a case-by-case basis, taking into consideration the duration of the impairment (or expected duration), as well as the extent to which it limits a major life activity of the student.

**Episodic Impairments:**

An impairment that is episodic in nature, or in remission, is considered a disability if it substantially limits a major life activity **when active,** meaning that it may not present continuously. A student with an episodic impairment is entitled to a FAPE under Section 504.
Implementation

Teachers must implement the 504 Plan in order to ensure that the student has access to FAPE. If teachers fail to implement the plan, the school will be non-compliant with Section 504. The teachers and other support staff in the school working with the student should be aware of the accommodations in each student’s 504 Plan and implement them. If teachers have issues or concerns about implementing a 504 Plan, they should address their concerns with the 504 Coordinator. Along with possible employment consequences, school employee’s may also be personally sued for violating Section 504.

If the school doesn’t implement every part of a student’s 504 Plan, it is not violating Section 504 unless the non-implementation results in a denial of FAPE. Factors that need to be considered to decide if a student was denied FAPE are:

- Whether the student lost educational services. If yes,
- The nature and amount of the services lost
- The reason for missed services
- The school’s response (i.e. efforts to offset/compensate for missed services)
- The effect of missed services/modifications on the student

Once the Team finds that a service is necessary to provide FAPE, the school must provide the service. If there is a delay in providing the service or accommodation the team should come to decide what accommodations it can provide during the delay.
Does NOT Qualify

Disability does not substantially limit life activities or educational performance

504 team meets with parent(s) and student to discuss the disability and possible accommodations

Accommodations are supplied to teachers and other relevant faculty that work with the student

*Once expired, 504 team will reconvene and assess accommodations. If no longer needed, these will be removed

*The 504 team may reconvene before the expiration of an accommodation plan to discuss altering/ending the plan

DOES Qualify

Disability substantially limits 1+ major life activities, effecting educational performance

Reasonable accommodations are agreed upon and 504 plan is signed by all meeting participants

Accommodations MUST be followed. These stay in place until the expiration date printed on the 504 plan

*Once expired, 504 team will reconvene and assess accommodations. These will be kept/altered as necessary

Or
Components of a Section 504 Accommodation Plan

A Section 504 Accommodation Plan should include the following:

- The name of the student
- The names of the Section 504 Team members
- A summary of the evaluative information which has been brought to the 504 Team to be considered
- An identification of the student’s impairment
- A statement of the accommodations to be provided to the student
- An identification of the student’s placement
Placement

Placement refers to regular and/or special educational programs where the student receives educational and/or related services under Section 504. Under Section 504, Tri-County must provide the accommodations and/or related services needed to provide a student with FAPE. FAPE is defined as the provision of regular education and/or related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities.

The disability must be the reason that a student cannot adequately access or receive benefit from the school’s programs and services. FAPE requires services to help those with disabilities to have their needs met as adequately as the needs of students without disabilities, which means that the needs of the student with the disability needs to be compared to the needs of a student without disabilities. If the student with disabilities does not need any services to access or receive the same benefit as the other students in the classroom, they may not need any services to receive FAPE. When determining services that may be necessary to provide FAPE (and not eligibility for services), the impact of mitigating measures (such as medications) can be considered. Once a student is deemed as having a disability that impacts a major life function, there is nothing that prevents the 504 Team from considering the impacts of mitigating measures and addressing those in the 504 Accommodation Plan as well.

Unlike the IDEA, the 504 Team is not required to make determinations of individual need based on a student’s academic potential. The accommodations are meant to meet a student’s needs as adequately as the needs of students without a disability. A proper placement may consist of education in a regular classroom with supplementary services, accommodations or related services.

Consent to Placement

If a parent withholds consent for a student to secure services after a student is determined eligible for services, the school district, according to the U.S. Department of Education, Office for Civil Rights, cannot implement those services without the parental consent. Specifically, OCR has stated:

“Section 504 neither prohibits nor requires a school district to initiate a due process hearing to override a parental refusal to consent with respect to the initial provision of services or accommodations under Section 504. Nonetheless, school districts should consider that the IDEA no longer permits school districts to initiate a due process hearing to override parental refusal to consent to the initial provision of services.”

If a parent refuses services, the team should meet to talk about and consider the objections or concerns the parent has in order to attempt to resolve their concerns. If a resolution is not possible, then the school counsel should be contacted in order to determine whether or not to initiate a due process hearing.
Placement

There are different types of accommodations which can be used for students on a 504 Plan. Examples of some accommodations are:

*Changing the instructional arrangement in the classrooms*
  (i.e. large groups, working with partners, independent work, etc.)

*Change in lesson format*
  (i.e. lecture, class discussion, games/simulations, etc.)

*Change in policy/procedure*
  (i.e. modified discipline, revised attendance, etc.)

*Modification to physical access*
  (i.e. access to building, seating change, access to classroom, etc.)

*Modification to assessment*
  (i.e. adjust time for testing, adjusted format, etc.)

*Change classroom management*
  (i.e. modify rules, modify consequences, put behavior plan into place, etc.)
Regular Education Interventions

Tri-County may always use regular education intervention strategies to help students who are having difficulties in school. Section 504 requires Tri-County to refer a student for an evaluation for possible related aids and services/modifications to regular education under Section 504 if the student, due to disability, needs or is believed to need these services. A regular education intervention is appropriate for a student who does not have a disability or is not suspected of having a disability, but may be having challenges in school. Some of the regular education interventions that may be used to assist these students may be after-school programs, tutoring, etc.

When the school has been notified by the parent(s)/guardian(s) that a student has a diagnosis of a mental or physical disability, or is on medication for a disability, a regular education intervention plan is not appropriate in lieu of a Section 504 Plan. Tri-County should refer these students for immediate evaluation under Section 504.
Notice of Parent/Guardian and Student Rights

Tri-County must notify parents and students of their rights under Section 504. The school must provide a Notice of Parent and Student Rights, also known as “procedural safeguards”, regarding the identification, evaluation, or educational placement of students who, because of disability, need or are believed to need special instruction or related services.

Section 504 requires the school to give parents notice of:

- any evaluation and placement decisions affecting their children
- the parents’ right to review relevant educational records
- the right to appeal any decisions regarding evaluation and placement through an impartial hearing
- the right to have the decision reviewed in a court of competent jurisdiction
Right to Appeal Accommodation Plan Decision

- Grievances must be submitted to the Section 504 Coordinator within 15 days from the mailing date of the decision of ineligibility for 504 accommodations.

- An appeal must be in writing, containing the name and address of the person filing it. The appeal must state the problem and/or the requested accommodations/changes desired along with the reasoning for these requests.

- The Section 504 Coordinator (or her/his designee) shall conduct an investigation of the appeal. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the appeal. The Section 504 Coordinator will maintain the files and records pertaining to the 504 appeal.

- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.

- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the School Principal within 15 days of receiving the Section 504 Coordinator’s decision. The School Principal shall issue a written decision in response to the appeal no later than 30 days after its filing.

- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights.
Notice of Non-Discrimination

Tri-County does not discriminate against students, parents, employees or the general public on the basis of race, color, national origin, sex, sexual orientation, gender identity, disability, religion, homelessness, or age.

The following individuals have been designated to handle inquiries regarding Tri-County’s non-discrimination policies in education-related activities, including but not limited to inquiries related to the Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation act of 1973, McKinney-Vento Homeless Education Assistance Act, and the Age Act.

Should you wish to file a complaint alleging discrimination of student or an employee based on disability, age, race, color, gender, sexual orientation, gender identity, national origin, homelessness or religion you may contact:

Scott O’Brien
Section 504 Coordinator and Head of Guidance
Tri-County R.V.T.H.S.
147 Pond Street
Franklin, MA 02038

Or you may call Tri-County R.V.T.H.S. directly at 508-528-5400 and ask to speak to Scott O’Brien.
Under Section 504, Tri-County is required to designate at least one person to coordinate and carry out the school’s efforts to comply with Section 504 and Title II. The Coordinator must have sufficient knowledge of the legal requirements of Section 504 and Title II so that the Coordinator can effectively carry out his or her responsibilities in this position.

Tri-County’s obligation is not just to appoint an individual to coordinate Section 504. The Coordinator must have the authority, knowledge, and skills to carry out these responsibilities effectively. When a district’s 504 Coordinator lacks sufficient knowledge to coordinate the school’s Section 504 compliance with respect to identification, evaluation and placement of students, grievance procedures, and with respect to the participation of students with disabilities in extracurricular activities, that district has not fully met its obligation to designate a knowledgeable and effective Coordinator under Section 504.

The Section 504 Coordinator for Tri-County is:

Scott O’Brien
Section 504 Coordinator and Head of Guidance
Tri-County R.V.T.H.S.
Franklin, MA 02038

Or you may call Tri-County R.V.T.H.S. directly at 508-528-5400 and ask for Scott O’Brien
Discipline of Students on a Section 504 Plan

Prior to implementing a significant change in placement for a student with a disability, an evaluation (manifestation determination) is necessary. If the student has been found to be a qualified individual under Section 504, or if Tri-County was aware that the student had a disability before the behavior which resulted in a need for discipline occurred, the school must conduct this evaluation prior to any significant change in placement.

**Significant Change in Placement – Suspension or Exclusion for More than Ten Days**

A suspension of more than ten consecutive days or for more than ten days in a school year constitutes a significant change in placement under Section 504 creating a pattern of exclusion. A manifestation determination is required prior to disciplining a student for a period of time that would result in a significant change in placement (more than ten days).

**Manifestation Determination**

Section 504 requires that the student’s 504 Team review all of the relevant information in the student’s file, including their 504 Plan, teacher observations, and any other relevant information provided by parents/guardians when conducting the manifestation determination in order to:

- Determine if the conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability, or
- Determine if the conduct in question was the direct result of the School’s failure to implement the Section 504 Accommodation Plan.

Under Section 504 school staff must be sure to make reasonable efforts to notify and include parents or guardians in the Section 504 meetings, as well as the manifestation determination meeting.

The Section 504 Team is responsible for determining discipline of a student on a Section 504 Plan. The principal/disciplinarian cannot make the manifestation determination without the members of the 504 Team. The Section 504 Team, made up of individuals who are familiar with/work with the student, are knowledgeable about the student and their disability, making them qualified to make disciplinary decisions that are not simply based on the school district’s normal disciplinary procedures. The 504 Team draws on several sources to come to a decision on whether or not/how a student should be disciplined.

**If the Conduct is Not a Manifestation of the Disability**

If the Section 504 Team determines that the misconduct of the student is not a manifestation of their disability, the disciplinary action that is administered to non-disabled students may be administered. In a case like this, Tri-County is not obligated to provide the accommodations stated on the Section 504 Accommodation Plan to the student during their period of suspension. (For students on an IEP under IDEA, on the eleventh day of suspension students are entitled to services stated in their IEP, even if the misconduct was due to their disability).
Discipline of Students on a Section 504 Plan

*If the Conduct is a Manifestation of the Disability*

If the Section 504 Team determines that the misconduct is a manifestation of the student’s disability, the student must be allowed to return to placement from which they were removed. However, if the student’s parent/guardian and the 504 Team agree to a change in placement, or if the school obtains a hearing officer’s/judges authorization to change the student’s placement, decision to suspend the student may remain in place. Exceptions may be made if placement in an interim alternative education setting is found to be appropriate under IDEA.