

Krokidas & Bluestein LLP Presents Webinar

“Section 504 and ADA Considerations for Students in Massachusetts Charter Public Schools”

On October 7, 2025, Krokidas & Bluestein LLP presented a webinar entitled “Section 504 and ADA Considerations for Students in Massachusetts Charter Public Schools” in collaboration with the Massachusetts Charter Public School Association. Attendees of the webinar submitted questions on various Section 504 topics before, during, and after the webinar that have been aggregated and addressed in this Frequently Asked Questions (“FAQ”) document. Consult the webinar slide deck and/or audiovisual recording for additional information on Section 504. **Please note that this FAQ document is for informational purposes only and does not constitute legal advice. Consultation with legal counsel is recommended for specific questions and policy implementation.**

[View the Slide Deck](#)

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1 *Are there different criteria to determine a student’s eligibility for services under a 504 Plan versus an IEP?*

Yes, different criteria determine a student’s eligibility for services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”), resulting in a student’s 504 Plan, versus under the Individuals with Disabilities Education Act (“IDEA”), resulting in a student’s Individualized Education Program (“IEP”). One should consider the following questions to determine a student’s eligibility for special education and/or related services or accommodations:

Eligibility for a 504 Plan:

- (1) Does the student have a physical or mental impairment
- (2) that substantially limits
- (3) a major life activity?

If yes, the student is eligible for services or accommodations under Section 504.

Eligibility for an IEP:

- (1) Does the student have one or more of the disabilities enumerated in the IDEA? *and*
- (2) Is the student not making effective progress in the general education program as a result of the student’s disability? *and*
- (3) Does the student require special education and/or related services to make effective progress or to access the general education curriculum?

If yes to all, the student is eligible for special education and related services in accordance with the IDEA.

2 *If the impairment does not substantially limit activities all the time (i.e., asthma that flares up in winter), would the impaired person still be eligible for accommodations, such as access to a nurse or door-to-door transportation, year-round?*

Congress clarified in the Americans with Disabilities Amendments Act of 2008 that an impairment that is episodic or in remission is considered a disability for the purposes of Section 504 if it would substantially limit a major life activity when active. A student with asthma, for example, may then be eligible for Section 504 accommodations if the student's asthma reflects an impairment that substantially limits a major life activity when the asthma "flares up." If so, the student would be eligible under Section 504 and a 504 Plan should be drafted to identify what accommodations the student is entitled to and under what circumstances.

See also Slide 25 of the webinar slide deck for information on temporary impairments.

3 *Is pregnancy considered a disability for the purposes of Section 504 eligibility?*

Pregnancy does not, by itself, confer Section 504 eligibility upon the pregnant individual, but a pregnancy-related condition may meet the criteria for Section 504 eligibility if it constitutes a physical or mental impairment that substantially limits a major life activity.

4 *If a staff member becomes aware that a student has an ADHD diagnosis, is the school required to conduct a 504 evaluation as part of child find? What if a student does not have formal diagnosis of ADHD, but the data supports that the student's profile is "consistent with ADHD"?*

In its [2016 guidance](#), "Students with ADHD and Section 504: A Resource Guide," the United States Department of Education's Office for Civil Rights ("OCR") explained that: "[A] diagnosis of ADHD is evidence that a student may have a disability. OCR will presume, unless there is evidence to the contrary, that a student with a diagnosis of ADHD is substantially limited in one or more major life activities." If school staff perceive or receive information that lead them to suspect that a student has a disability, such as ADHD, and needs or is believed to need special education or related aids and services in addition to regular education, the school must undertake an evaluation to determine if the student's impairment substantially limits the student in a major life activity. Generally, however, any diagnosis must be considered among other evaluation sources in evaluating a student and the extent to which any impairment or suspected impairment substantially limits a major life activity.

5 *With respect to a student's 504 Plan being shared on a "need to know" basis, is that limited to teachers who work directly with the student, or can we include teachers who may have a supporting role (e.g., could we tell a History team lead about a student they don't teach if they are working closely with the teacher who is, and can we tell substitutes). Relatedly, what are best practices to inform substitute teachers of 504 Plans?*

A student's 504 Plan should be reviewed by school personnel who work directly with the student and who may be responsible for implementation of the 504 Plan, including substitute teachers.

It is up to schools to determine how best to ensure that relevant school personnel are aware of their responsibilities with respect to a student's 504 Plan. In the case of substitute teachers, schools may encourage a process by which teachers leave instructions or resources for their substitutes identifying the accommodations to which particular students are entitled.

6 *What should constitute a "reevaluation" for Section 504 eligibility? Can it simply be input from teachers and narrative observations if the disability has previously been established? Should a student be re-tested with formal assessments? Is a "file review" sufficient?*

A reevaluation for Section 504 eligibility should be conducted periodically for students who have already been provided special education and related services, as well as prior to a significant change in placement. Section 504 does not impose specific timing for reevaluations, but Section 504 indicates that a reevaluation procedure consistent with the IDEA, i.e., every three (3) years, is appropriate. For reevaluation, it is up to the 504 Team to determine the nature and scope of information necessary to determine whether a student remains eligible under Section 504 and, if so, what services or accommodations are needed.

Please note that Section 504 requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need, that they are validated for the specific purpose for which they are used, and that they are appropriately administered by trained personnel.

7 *Is the school allowed to request from a student's parent an updated letter from the student's physician documenting the student's diagnosis as part of the reevaluation process?*

Yes, the school is permitted to make such a request. As indicated in FAQ #6 above, it is up to the 504 Team to determine what information should be collected in a Section 504 reevaluation.

8 *I understand that Section 504 refers to "placement," but in practice, any real change in placement typically falls under IDEA and special education law. How should we interpret or apply the concept of "placement" under Section 504 in day-to-day contexts?*

"Placement" is a concept under Section 504 as well as under the IDEA. For example, Section 504 requires a school district to conduct a re-evaluation prior to a significant change of placement. OCR considers an exclusion from the educational program of more than 10 school days a significant change of placement, so this may arise in the context of student discipline and manifestation determination reviews. OCR has indicated that it would also consider

transferring a student from one type of program to another or terminating or significantly reducing a related service a significant change in placement.

9 *Is a student with a 504 Plan entitled to a manifestation determination review (“MDR”) when their suspension is related to drug/alcohol violations?*

Students with 504 Plans, like students with IEPs, are entitled to MDRs when their removal/suspension from the educational environment may constitute a change in placement (i.e., more than 10 days in a school year). However, Section 504 allows schools to take disciplinary action against students with disabilities for a drug or alcohol offense to the same extent as students without disabilities, regardless of a manifestation determination.

10 *Does a student’s 504 Plan need to be accepted by the parent(s)/guardian(s) before it is active?*

A student must be evaluated for Section 504 eligibility prior to the development and implementation of a 504 Plan. Section 504 indicates that a student’s parent(s)/guardian(s) must consent to an initial evaluation. It is best practice for that consent to evaluation to be captured in writing.

Section 504 does not require parental consent/signature in order for a 504 Plan to be implemented, but schools are encouraged to involve parents in the process of developing and reviewing the 504 Plan. Ideally, the 504 Team, including parents/guardians, will discuss and resolve any concerns related to a student’s 504 Plan. If a dispute continues, then mediation or a due process hearing through the BSEA may be pursued. Please note that 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 special education and related services. Nonetheless, school districts should consider that IDEA no longer permits school districts to initiate a due process hearing to override a parental refusal to consent to the initial provision of services.

On all occasions, schools should be cognizant of their legal responsibility not to discriminate against a student on the basis of a disability and shall accordingly determine whether certain accommodations are appropriate to prevent such discrimination.

11 *Must a student’s parent(s)/guardian(s) be invited to meetings concerning the student’s 504 Plan?*

Yes, a student’s parent(s)/guardian(s) must be invited to 504 Team meetings. Section 504 provides that the evaluation and placement processes must be conducted by a group of individuals (the 504 Team), including “persons knowledgeable about the child, the meaning of the evaluation data, and placement options.” “Persons knowledgeable about the child” include a student’s parent(s)/guardian(s). While parents/guardians aren’t legally required to be part of the 504 Team in every circumstance, their involvement is strongly recommended and critical

for creating an effective 504 Plan. Schools must therefore provide parents with notice of meetings and a meaningful opportunity to provide input.

Please reach out to K&B attorneys Bettina Toner (btoner@kb-law.com) and Eric Jordan (ejordan@kb-law.com) with any questions or requests you may have regarding the webinar, Section 504 generally, or your school's Section 504 policy, grievance procedures, and related forms.

Krokidas & Bluestein LLP's [Education Law Practice](#) provides a full array of advice and guidance to Massachusetts charter schools and other educational entities on a wide range of legal matters including student discipline, special education, employment, governance, tax, regulatory and compliance matters, real estate, financing, and litigation.