



**EVERY  
STUDENT  
COUNTS**  
EXCELLENCE FOR ALL

# SECTION 504 Parent Resource Center (PRC) "Lunch & Learn"

**Jenny Lambdin, EdS, NCSP**  
*School Psychologist & Section 504 Coordinator*

Friday, April 19, 2024

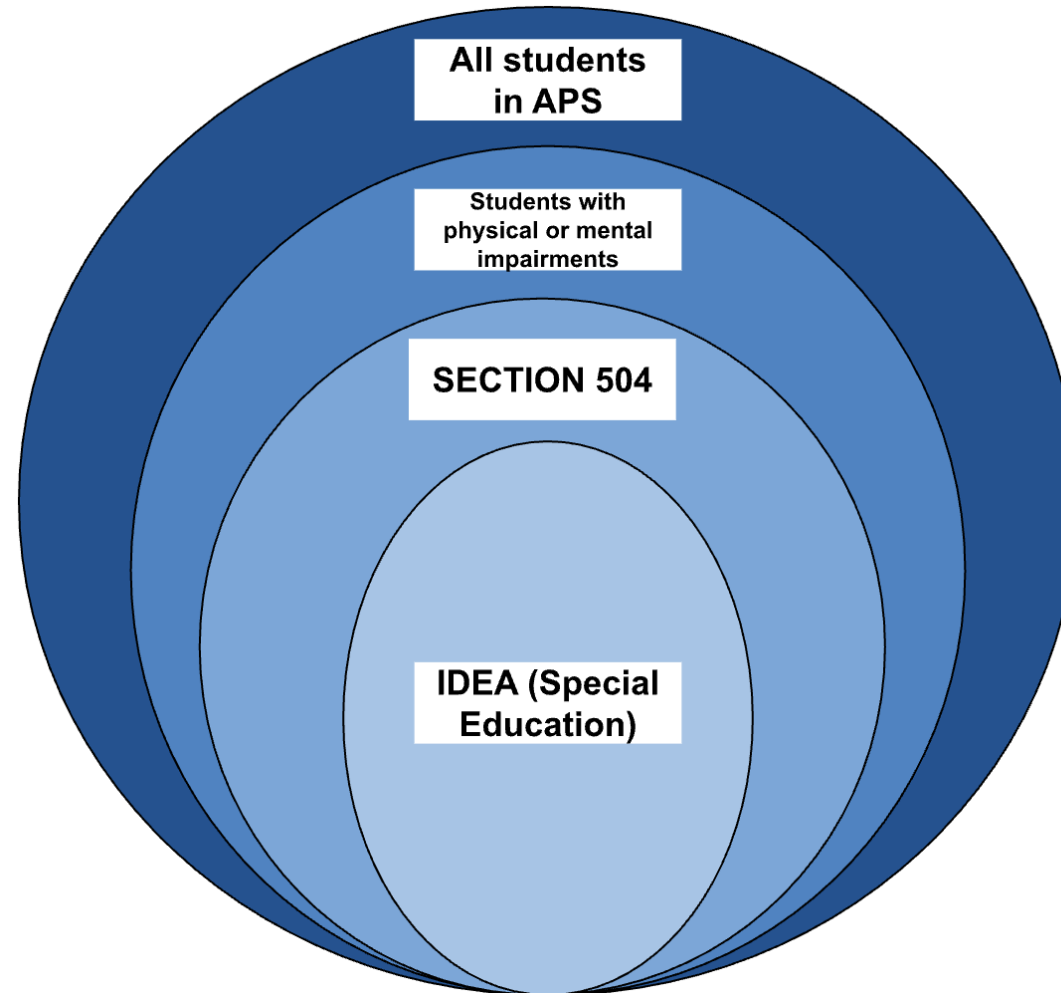
## "Section 504" of the Rehabilitation Act of 1973

- Civil Rights
- Office for Civil Rights

## Individuals with Disabilities Education Act (IDEA)

- Special Education
- Department of  
Education

# Where does Section 504 fit?



**Section 504** is a federal civil rights law that...

- Protects students with disabilities from discrimination.
- Prohibits schools (programs, activities) that receive Federal funding from discriminating against students in any way.
- Ensures that people with disabilities have equal access to education and other opportunities.

In Arlington Public Schools, we are required or obligated to:

- Develop and implement Section 504 policies and procedures to provide protections against discrimination
- Provide a free appropriate public education (FAPE) to persons with disabilities (i.e., students who have a physical or mental impairment **that substantially limits one or more major life activities**)
- Provide [procedural safeguards](#) for FAPE
- Identify, locate and evaluate students with disabilities (***Child Find***)
- Understand and apply best practices for each individual case presented for Section 504 eligibility considerations and use guidelines and case precedents for decision-making

- Anti-discrimination & FAPE
  - People with disabilities have a right to reasonable accommodations that provide equal access to their education and school activities
- Public schools do not have to change their programs, but they do have to make sure programs or activities are accessible to students with disabilities.
- Prevents discrimination; does not require affirmative action to overcome a disability (OSEP Letter to Zirkel (8/23/1993)).

Simply put, Section 504 aims to **eliminate discrimination** based on disability and to ensure that individuals with disabilities have **equal access** to the same education and opportunities that all public school students are entitled to receive.

The intent of §504 is **ACCESS**, not **OUTCOME** goals (J.D. v. Pawlet School District, 224 F.3d. 60, 33 IDELR 34 (2nd Cir. 2000))

Section 504 is not "potential maximizing"

Section 504 does not guarantee a specific outcome or result for students with disabilities. Rather, the intent is to "level the playing field."

*"Access not Outcome"*

Any person, parent/guardian or staff, who suspects that a student may have a disability, completes and submits a [Referral](#) to the Student Support Team (SST) at their child or student's school

- \*May share any relevant documentation at time of request (e.g., private evaluations, medical documentation, school records)

Within 10 Business Days, an SST Meeting must be scheduled

School sends a meeting notice & conducts the SST Meeting

During the SST meeting, the team may recommend proceeding directly to §504 eligibility considerations

If the student is found eligible under §504, the team may proceed to writing a §504 Plan, if needed





Every Section 504 meeting **must** include\*:

- Person(s) knowledgeable about the child (e.g., parent/guardian and teachers)
- Person(s) knowledgeable about the meaning of evaluation data and/or suspected disability (e.g., psychologist, social worker, or nurse)
- Person(s) knowledgeable about the placement options (e.g., administrator, director of counseling)

*\*In APS, secondary students are invited and encouraged to participate in their Section 504 meetings.*

- "Evaluation" does not necessarily mean test or assessment
  - Can be gathering of data or information from a variety of sources so that committee can make required determinations
  - Common sources of data: Grades, assessment data, disciplinary referrals, attendance data, health information, language surveys, parent/guardian observations, standardized test scores, teacher comments, special education evaluation
- **Must draw upon a variety of sources**
  - Private / medical diagnosis is not sufficient for eligibility under Section 504
  - A "medical" diagnosis does NOT equate to Section 504 eligibility or suffice as an "evaluation." It may be considered among other sources. The Section 504 committee needs data that suggests the student is substantially limited.
  - School may request consent to conduct an evaluation under Section 504

## Eligibility Considerations

1) What is the nature of the physical/mental impairment or condition(s)?



2) What is the Major Life Activity (MLA) impacted within the school setting?



3) Is the MLA impacted to a substantial degree (substantial limitation)?

IF "yes"...

Then student is eligible under Section 504

## Section 504 Impairment or Condition:

- **ANY** Physical or Mental Impairment or condition (i.e., a diagnosis in the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* or the *International Classification of Diseases (ICD)* that substantially limits a MLA)
- A few examples:
  - ADHD
  - Allergies
  - Blindness
  - Depression
  - Diabetes
  - Generalized Anxiety Disorder
  - Hearing Impairment
  - Obesity
  - Learning Disabilities
  - Cancer (even in remission)
  - Etc.

- **Vision**

- If student's vision can be corrected with glasses or contacts, then Section 504 does not consider this to be a qualifying impairment; Section 504 protections are not meant as preventative measures

- **Substance Abuse**

- Drug Use
- Alcohol Use

- **Minor and transitory impairments**

- Minor: Broken Arm
- Transitory: 6 months or less (e.g., concussion)

- **Gender Identity** (e.g., students who identify as transgender)

- Caring for oneself
- Performing manual tasks
- Walking/Mobility
- Seeing/Vision
- Hearing
- Speaking
- Breathing
- Learning
- Working (employment)
- Eating
- Sleeping
- Standing
- Lifting
- Bending
- Reading
- Attention/Concentration
- Thinking
- Communicating
- Attendance/Participation
- Other

- Compare the way (relative ease) the person with a condition performs the MLA to the way the average non-disabled person in the general population does the same thing.
  - If person with a disability can perform the MLA within the average range as compared to non-disabled peers, then likely no substantial limitation
- Consider the duration, the supports / complications that exist to achieve at an “average” level.
  - If this list is extensive, then the impact is likely substantial.
- Consider the positive impact of mitigating measures

- Local Education Agency (LEA; public school district) makes its own determination of substantial limitation
- Favors broad coverage
  - Allows school-based teams to determine if the impact is substantial for the student at the time
  - Does not require a severe restriction or limitation
- If, after extensive discussion, the committee isn't sure if the student is disabled "enough," then the student should be found eligible



- Actions, adjustments, or interventions taken by an individual to reduce the impact or severity of a disability.
- Examples of mitigating measures:
  - Medications
  - Medical devices or equipment
  - Hearing Aids
  - Prosthetic limbs
  - Wheelchairs
  - Low vision devices (excludes ordinary corrective lenses)
  - Assistive Technology
  - Therapy (psychotherapy, occupational, physical, speech)
  - Behavioral interventions
  - Tutoring

- When considering a student's **eligibility**, teams should consider the **impact of the disability without the benefit** (or helpful effects) of the mitigating measure.
- When discussing a student's need for accommodations, teams should consider the current presentation and needs with the use of the mitigating measure.

## Possible Outcomes of Eligibility Considerations in APS:

- Not disabled as defined under Section 504
- Disabled as defined under Section 504 and requires a 504 Accommodation Plan
- Disabled as defined under Section 504 and requires referral to the school nurse to continue or modify Health Care Plan or Health Alert
- Disability exists but does not require a plan or referral to the school nurse\*

*"Eligible for protections under Section 504"\**

Student who meets Section 504 eligibility criteria:

- Has a physical or mental impairment that
- Substantially limits a major life activity (MLA), but
- **Does not** require accommodations or services from school to access their education
- Remain protected by general nondiscrimination provisions

Examples:

- *Student with an impairment in remission*
- *Student whose needs are met through mitigating measures that he or she controls (does not need services from the school)*
- *Student's parent/guardian refuses Section 504 services or revokes consent ([APS form](#))*

- What are Accommodations?
  - Changes to the environment, to instruction, or to presentation of curriculum that support *how* a student learns or accesses school
    - Examples: Time, seating, breaks, assistive technology and other tools that reduce barriers, check-ins, repeating directions or information, copies of notes, text-to-speech, closed captioning, nut-free environment, assistance with medical needs, sound-field amplification system, etc.
  
- What are Related Services?
  - Services that support the student in gaining access to the general education
    - Examples: Physical Therapy (PT), Occupational Therapy (OT), Speech, Counseling, Audiology, Vision, Transportation

- Accommodations

- Are written for one year (e.g. 04/19/2024 to 004/18/2025)
- Are tied to the MLA that is impacted by the disabling condition
- Are individualized to provide equal access / opportunity and remove discriminatory barriers
  - Designed to accommodate a student's disability so that the student's needs are met as adequately as the needs of students without disabilities
- **Must be supported by data** (e.g., what teachers are already doing or what data tells us they need). It is OK to collect data to see if an accommodation is **needed or required** by the student.

- A 504 Plan also includes or denotes required accommodations for district or state tests (e.g., SOLs, VAAP, CogAT) – accommodations must match language from VDOE testing accommodation reference sheet

- *Fun Fact: The law does not use the words “Section 504 Plan.”*

Students with medical conditions that are potentially life-threatening (e.g., diabetes, severe asthma, severe allergies, autoimmune disorders), **even** if well-managed by medication or in remission, are candidates for 504 screening, regardless of their academic functioning.

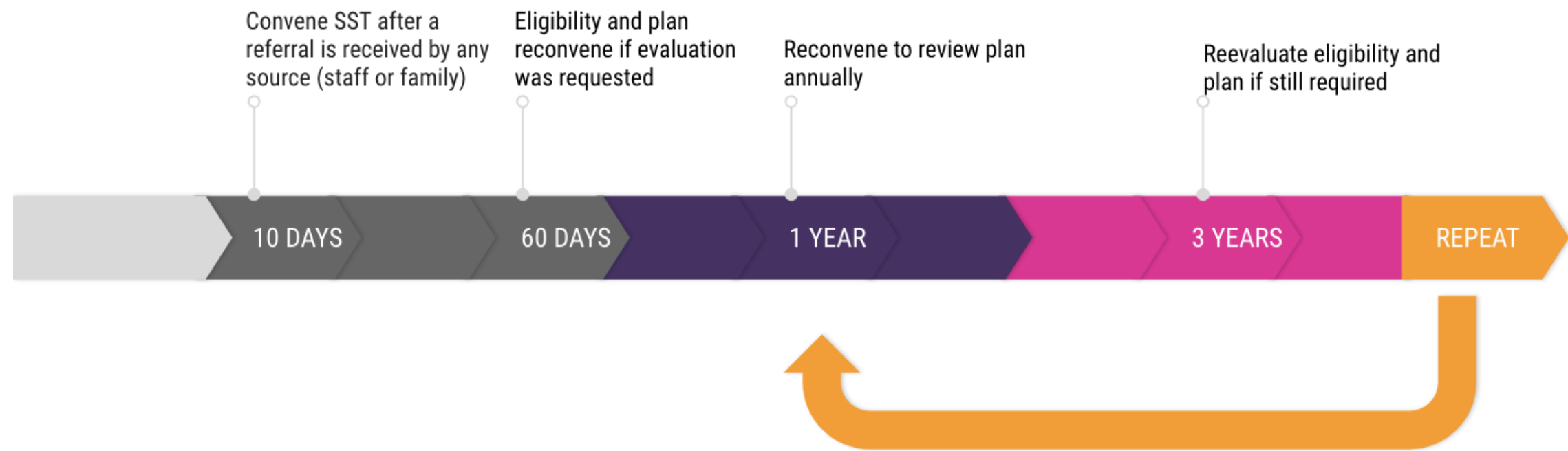
Health issues, even when not life-threatening, may impact the student's ability to participate in classroom or other school activities. In such cases, a 504 committee may need to develop a 504 Plan so that teachers can make adjustments to their classroom or their instruction.

- The Individualized Health Care Plan (IHCP)
  - Developed by school nurse to meet the medical needs of students who require ongoing care and/or monitoring during the school day
    - e.g., asthma, diabetes, allergies, temporary impairments (broken leg)
  - Outlines specific health-related accommodations, procedures, and interventions needed to support the student's health and safety at school.
  - Developed in collaboration with a “*group of persons knowledgeable about the student, condition, and available services*” consistent with Section 504 requirements to ensure that a student's medical needs are addressed at school
    - Healthcare provider, family, school staff
- APS' practice is to provide parent(s)/guardian(s) with a copy of the *Section 504 Rights and Procedural Safeguards*, regardless of whether the student is further referred to the Student Support Team (SST) / Section 504 committee.
- "health alert" - a notification to alert staff that a particular health condition could potentially impact the student's school day; may refer staff to a student's IHCP



- Yes, technically.
  - Section 504 is not created or maintained through the more stringent procedural protections of the IDEA.
  - Section 504 regulations say that one way to meet Section 504 requirements for FAPE is to implement an IEP.

# Section 504 Timeline



- APS Section 504 Website: <https://www.apsva.us/student-services/section-504/>; [FAQ's](#)
- VDOE Assessment Accommodations: [http://www.doe.virginia.gov/special\\_ed/iep\\_instruct\\_svcs/assessment\\_accomodations/index.shtml](http://www.doe.virginia.gov/special_ed/iep_instruct_svcs/assessment_accomodations/index.shtml)
- VDOE's Section 504 - Keys to Implementation in Virginia's Schools: [http://www.doe.virginia.gov/special\\_ed/tech\\_asst\\_prof\\_dev/section\\_504\\_implementation\\_va.pdf](http://www.doe.virginia.gov/special_ed/tech_asst_prof_dev/section_504_implementation_va.pdf)
- Protecting Student's with Disabilities: <https://www2.ed.gov/about/offices/list/ocr/504faq.html>
- Parent and Educator Resource Guide to Section 504: <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>
- Supporting Students with Disabilities: <https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf>
- Perry Zirkel: <https://perryzirkel.com/tag/section-504/>
- Office of Civil Rights: [Protecting Students with Disabilities](#)
- 504 Plans - A Guide for Families: <https://www.understood.org/en/articles/504-plans-and-your-child-a-guide-for-families>
- Parent Resource Center Introduction to the Student Support and Special Education Process online learning module: <https://www.apsva.us/parent-resource-center/an-introduction-to-special-education/>

**Jenny Lambdin, EdS, NCSP**

***School Psychologist***

***Section 504 Coordinator***

Phone: 703-228-8838

[Jennifer.Lambdin@apsva.us](mailto:Jennifer.Lambdin@apsva.us)

**Darrell Sampson, EdD, MA, LPC, NCC**

***Executive Director, Office of Student Services***

***Section 504 Compliance Officer***

703-228-6061

[Darrell.Sampson@apsva.us](mailto:Darrell.Sampson@apsva.us)