

Des Moines Public Schools Section 504 Guide



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If you have questions, concerns or a complaint related to this policy, please contact Carol Wynn-Green, 2100 Fleur Drive, Des Moines, IA 50321; phone: 515-242-7709; email: carol.wyngreen@dmschools.org. Complaints can also be directed to the Iowa Civil Rights Commission, 400 E. 14th Street, Des Moines, IA 50319-1004, (515) 281-4121, or Region VII Office for Civil Rights, Citigroup Center 500 W. Madison Street, Suite 1475 Chicago, IL 60661-4544.

Section 504 Informational Overview

What is Section 504?

Section 504 is part of a federal civil rights law known as the Rehabilitation Act of 1973. The Rehabilitation Act of 1973, first implemented in 1977, prohibits discrimination based on disability in programs run by federal agencies; programs that receive federal financial assistance; in federal employment; and in the employment practices of federal contractors. This law specifically prohibits discrimination against people from protected classes. PK-12 school districts are responsible for ensuring the mandates from Section 504 are addressed within their schools. Prior to 1973, schools perceived their primary obligation to ensure that students with disabilities were provided physical access to buildings. However, the implementation of Section 504 mandated that recipients of federal funds provide accessibility to programs and activities for all persons with disabilities. Specifically, it protected students with disabilities and guaranteed them a free appropriate public education (FAPE).

Definitions within Section 504	
Free Appropriate Public Education (FAPE)	A school district has the responsibility to provide FAPE to students with disabilities under Section 504. FAPE includes general or special education and related aids and services that are: designed to meet the individual educational needs of persons with a disability as adequately as the needs of the non-disabled person are met, and based upon adherence to evaluation, placement, and procedural safeguard requirements.
American with Disabilities Act and the Amendment Act to ADA	The American with Disabilities Act (ADA) of 1990 and the Amendment Act to ADA which was put into law in 2008 further expanded and clarified the obligations of schools regarding Section 504. Major changes included an expansion of what constituted a major life activity and the understanding that schools can no longer consider mitigating circumstances as prohibiting a major life activity. In addition, students eligible for a 504 plan are to receive the accommodations and related services regardless of the cost.
Mitigating Circumstances	The 2008 Amendments to the ADA made it clear that mitigating circumstances, with the exception of corrective lenses, could NOT be considered during the evaluation process. Examples of mitigating circumstances include but are not limited to medication, medical equipment and devices, prosthetic limbs, and low vision devices. The corrective effect of mitigating measures may NOT be used to rule out Section 504 eligibility. To determine eligibility for a student who is successfully using mitigating measures the process should focus on how the student performed major life activities/major bodily functions <i>without</i> the use of them.
Discrimination	Discrimination, as defined in Section 504, is the failure to provide students with disabilities the same opportunity to benefit from education programs, services, or activities as provided to their nondisabled peers. Therefore, schools cannot exclude students with disabilities from facilities, programs, benefits, activities, or services that are provided to students without disabilities. Schools must make sure that all students receive equal access to educational opportunities.

<p>Individual with a Disability</p>	<p>Under Section 504, an individual with a disability (or impairment) is defined as a person who:</p> <ol style="list-style-type: none"> 1. Has a physical or mental impairment that substantially limits a major life activity. 2. Has a record of the impairment; or is regarded as having an impairment. <p>The determination of whether a student has a physical or mental impairment that substantially limits a major life activity is determined by the 504 team on an individual basis.</p>
<p>Major Life Activity</p>	<p>School staff should note that a student may have a disability and be eligible for Section 504 services even if his or her disability does not limit the major life activity of learning. Therefore, rather than considering only how an impairment affects a student's ability to learn, school staff must also consider how the impairment affects <i>any</i> major life activity of the student and, if necessary, assess what is needed to ensure that students have an equal opportunity to participate in the school's programs.</p>
<p>Reasonable Accommodation</p>	<p>This is a term used in the employment context to refer to modifications or adjustments employers make to a job application process, the work environment, the manner or circumstances under which the position held or desired is customarily performed, or that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment; this term is sometimes used incorrectly to refer to related aids and services in the elementary and secondary school context or to refer to academic adjustments, reasonable modifications, and auxiliary aids and services in the postsecondary school context.</p>
<p>Reasonable Modification</p>	<p>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 based on disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.</p>
<p>Extra-Curricular Activities</p>	<p>Section 504 provides a broad spectrum of protections against discrimination based on disability. For example, all qualified elementary and secondary public school students who meet the definition of an individual with a disability under Section 504 are entitled to receive regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of students without disabilities are met.³ Section 504 also requires, among other things, that a student with a disability receive an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability.</p>
<p>Resources</p>	<p>Office of Civil Rights Title 34 Education Individual with a Disability ADA Laws and Regulations FAPE and 504</p>

Special Education (IDEA), Section 504, and Individualized Health Plans

Both IDEA and Section 504 guarantee students with disabilities access to a FAPE. However, there are major differences between them, specifically in the criteria used to determine eligibility.

	Special Education (IDEA)	Section 504	Individualized Health Plan (IHP)
Type	An Education Act	A Civil Rights Act	Iowa law
Funding	Federal, state, and local	Local	State
Ensures	FAPE through special education supports and services	FAPE through accommodations and services (i.e., ASL, transportation, etc.)	Routine nursing services on a case-by-case basis
Coverage	Birth through age 21	Age 3 and up	Follows the student for the course of their educational program
Parents	Members of the IEP Team	Members of the 504 Team	Nurse gathers information from parents for IHP
Evaluation and eligibility	Written parental consent required, procedural safeguards provided, and Prior Written Notice required for evaluation, eligibility determined by the evaluation team	Written parental consent required, procedural safeguards provided, and notice required for evaluation, eligibility determined by the 504 team	Need for IHP is determined based on the student's health condition

Note: A district may not forgo evaluating a student with asthma, food allergies, diabetes, or other health related issues for Section 504 because the student has an Individual Health Plan (IHP). If a district has reason to suspect that any student has a disability and does not require special education or related services, it must determine eligibility under Section 504 and provide procedural safeguards.

**Section 504
Process
Overview for
Des Moines
Public Schools**

Roles and Responsibilities of Section 504 Team Members

Section 504 District Coordinator	Building Administrator
<ul style="list-style-type: none"> <input type="checkbox"/> Oversees the development, training, and implementation of the District Section 504 manual <input type="checkbox"/> Maintains a list of the district's building level Section 504 coordinators <input type="checkbox"/> Follows state guidance in reporting Section 504 Plans <input type="checkbox"/> Maintains confidentiality 	<ul style="list-style-type: none"> <input type="checkbox"/> Coordinates implementation of the district's Section 504 policies, processes, and procedures at the building level <input type="checkbox"/> Ensures implementation of Section 504 plans in the building <input type="checkbox"/> Allocates resources as necessary <input type="checkbox"/> In cases of pending exclusion/expulsion of a Section 504 eligible student, holds a Manifestation Determination meeting <input type="checkbox"/> Attends all Section 504 Plan meetings <input type="checkbox"/> Maintains confidentiality
Section 504 Building Coordinator	Teacher
<ul style="list-style-type: none"> <input type="checkbox"/> Establishes, facilitates, and attends Section 504 plan meetings annually (including reevaluations) for each Section 504 eligible student <input type="checkbox"/> Oversees the development and implementation of Section 504 plans in the building <input type="checkbox"/> Engages in the support and ongoing communication with staff involved in implementation of Section 504 plans <input type="checkbox"/> Ensures the documentation procedure and organization guidelines are followed <input type="checkbox"/> Oversees the transition of the student from one building to the next within the district (sending and receiving students) <input type="checkbox"/> Identifies students in the building who may need to be evaluated for a Section 504 Plan <input type="checkbox"/> Maintains confidentiality 	<ul style="list-style-type: none"> <input type="checkbox"/> Remains flexible in teaching techniques and makes necessary accommodations <input type="checkbox"/> Accesses each student's Section 504 Plan from Infinite Campus <input type="checkbox"/> Reads and complies with all written accommodations outlined in each student's Section 504 Plan <input type="checkbox"/> Monitors the student's response to the accommodation plan, including input from families and students <input type="checkbox"/> Responds to communication regarding students with Section 504 plans in a timely manner <input type="checkbox"/> Attends scheduled Section 504 meetings <input type="checkbox"/> Provides written input to the Section 504 team prior to the meeting if unable to attend <input type="checkbox"/> Identifies students in the building who may need to be evaluated for a Section 504 Plan <input type="checkbox"/> Maintains confidentiality
Building Nurse	
<ul style="list-style-type: none"> <input type="checkbox"/> Attends all Section 504 Plan meetings as needed <input type="checkbox"/> Identifies students in the building who may need to be evaluated for a Section 504 Plan <input type="checkbox"/> Provides any health specific documents or information relevant to the student <input type="checkbox"/> Maintains confidentiality 	

*Any conversation with the parents regarding Section 504 should be documented in the student's DMPS general contact log, located in Infinite Campus.

*ALL forms are in Infinite Campus in the PLP documents tab. They will need to be completed online and/or printed, completed, and uploaded.

Process Overview

Step 1: Referral to MTSS Team

Parents or staff members may make a referral or request for a child to be evaluated for a Section 504 Plan. These referrals may come up in building MTSS meetings.

Note: In this guide, the term *parent* includes guardians and others with the authority to act on behalf of and in the interest of a student.

Step 2: Parental/Guardian Consent

A member of the Section 504 team discusses a Section 504 evaluation with the parent and seeks consent to evaluate their child for Section 504 eligibility. Parent rights under Section 504 must be provided in writing and explained to the parent in a language they can comprehend. If necessary or applicable, the team can obtain a signed release of information from the parent to communicate with any outside providers.

Step 3: Evaluation

During the evaluation, it is important to gather information from a variety of data sources. Relevant information could include, but is not limited to: information gathered from school records (e.g., test scores, attendance, behavior referrals, screening results, grades), outside evaluation reports, information from medical professionals, medical records, parent interviews, teacher interviews, student interviews, observations, etc.

The building Section 504 Coordinator will set up a meeting with the parent and school staff who work with the child to address concerns related to all aspects of school.

Section 504 requires the team be comprised of members who can fulfill the roles listed below:

1. Someone knowledgeable about the student
2. Someone who understands the meaning of evaluation data
3. Someone who is knowledgeable of placement options and can allocate resources

Individuals may serve multiple roles as part of the team. The Section 504 Building Coordinator will ensure that all team members fulfill the necessary roles and attend any scheduled meetings, as necessary.

A Section 504 evaluation must be completed within a reasonable amount of time from the date that signed consent to evaluate is received by the school team. The team must be comprised of appropriate team members who are able to conduct an evaluation to determine if the child is eligible under Section 504. Evaluations need not require extensive analysis but must consider all existing data regarding the student and the areas of concern. Teams should keep in mind that eligibility under Section 504 requires a physical or mental impairment that substantially limits one or more of the major life activities. Teams shall consider how a student is able to access all parts of school as part of their evaluation (e.g., curriculum, extended core, transportation, extracurriculars, health, etc.).

If school staff have made a good faith effort to hold a meeting with the parent, but the parent is unable or unwilling to attend a meeting, school staff may seek to obtain consent for an evaluation through other methods (e.g., via email, mail, etc.). School staff must still inform parents of their rights under Section 504 and provide them with a written copy.

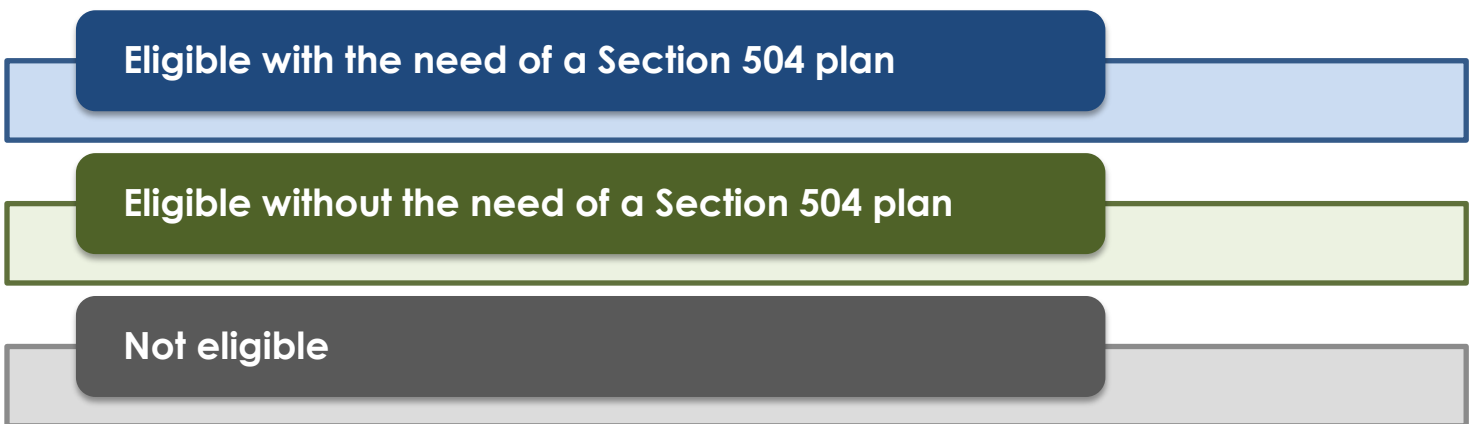
Step 4: Eligibility Determination

Following the evaluation, the team must meet to determine eligibility under Section 504. Building Section 504 Coordinators are responsible for scheduling the eligibility determination meeting with all appropriate team members. Eligibility for Section 504 is a team decision based upon the evaluation data. After eligibility is determined, teams must also determine whether the student is in need of a Section 504 Plan.

Students may be eligible under Section 504 by meeting the definition underlined in Step 3. However, there may be circumstances (e.g., mitigating measures) that when considered, do not require the development of a Section 504 Plan.

It is important to note that a physical or mental impairment on its own does not qualify a student for Section 504 services/accommodations; rather the disability must substantially impact a major life function. Moreover, a physician's diagnosis alone is not enough to determine if a student is eligible under Section 504. The Section 504 team collectively reviews a variety of information to determine eligibility.

The Section 504 team will consider whether the student has a mental or physical impairment that substantially limits one or more major life activities. The team will make one of three determinations:



Note: If a parent or guardian refuses consent to an initial evaluation or an initial Section 504 plan, the district has the option to initiate a Section 504 due process hearing to override the refusal to consent. If teams wish to pursue a due process hearing, they must contact their Network Director of Student Services.

Eligible with the need of a Section 504 plan

- The student is eligible and requires a Section 504 Plan (services and/or accommodations).
- The team documents their findings on the Section 504 Eligibility Determination Form.
- The team holds a meeting to identify accommodations and/or services appropriate to meet the student's needs. (This can be completed at the same meeting or scheduled as a separate meeting.)
- The school implements all outlined services and/or accommodations.
- The Section 504 plan is reviewed by the team annually.
- The student is reevaluated every three years.
- All forms (Section 504 Eligibility Determination, Section 504 Plan, Annual Review, and Reevaluation) are completed and/or uploaded in Infinite Campus.
- A copy of the [parent packet](#) and all forms (Section 504 Eligibility Determination, Section 504 Plan, Annual Review, and Reevaluation) are provided to the family.

Eligible without the need of a Section 504 plan

- The student is eligible, but does not require a Section 504 Plan (services and/or accommodations).
- The team documents their findings on the The Section 504 Eligibility Determination Form.
- All forms (Section 504 Eligibility Determination) are completed and/or uploaded in Infinite Campus.
- The student is reevaluated every three years.
- A copy of the [parent packet](#) and all forms (Section 504 Eligibility Determination) are provided to the family.

Not eligible

- The student is not eligible under Section 504.
- The team documents their findings on the The Section 504 Eligibility Determination Form.
- The Section 504 Eligibility Determination Form is completed and/or uploaded in Infinite Campus.
- A copy of the [parent packet](#) and Section 504 Eligibility Determination form is provided to the family.

**Section 504 Des
Moines Public
Schools Building
Coordinator
Processes**

Section 504 Plan and Processes Checklist

Step 1: Referral

- A parent request or staff referral is made to a building administrator, teacher, or Section 504 representative.
- The building Section 504 Coordinator is notified of the request or referral and connects with the students' family to review and complete the Parent Consent for Section 504 Evaluation form (located in Infinite Campus).
- Parents will be provided with a copy of the signed Parent Consent for Section 504 Evaluation and the parent packet_(procedural safeguards and other information).

Step 2: Evaluation

* Teachers continue to implement relevant accommodations and document results throughout the evaluation process.

- The Section 504 Coordinator establishes a team of professionals who can interpret data, are familiar with the student, and can allocate building/district resources ([see Section 504 team members](#)).
- Signed release of information must be obtained from parents to communicate with private primary service providers such as physicians, therapists, counselors, psychologists, tutors, etc. Use the Section 504 Authorization for the Release of Health and/or Educational Information to obtain consent.
- Multiple data sources are analyzed, including completed teacher input form and parent input form.

Note: For any student who has a health condition, the coordinator will reach out to the school nurse. The school nurse will communicate with the family and gather additional information as needed. At the nurse's discretion, an Individualized Health Plan may be written.

Step 3: Eligibility Determination

- The Section 504 team ensures all sources of information are documented in the Section 504 Eligibility Determination Form.
- The Building Section 504 Coordinators hold an eligibility determination meeting with the Section 504 team.
- At the Eligibility Determination meeting, the data is reviewed and summarized. The team determines eligibility and documents its eligibility decision in the Section 504 Eligibility Determination Form.
- If the student is eligible and a Section 504 Plan is needed, the team may write the accommodations during the meeting or schedule a separate meeting to write the accommodations. Use the Section 504 Student Accommodation Plan in Infinite Campus to complete this process.

Step 4: Initial Section 504 Student Accommodation Plan

- The Section 504 Team creates the Section 504 Student Accommodation Plan. This plan will:
 - list accommodations in concrete terms
 - Identify person(s) responsible for accommodations
 - List services provided (health, transportation, etc.) and reference documents (i.e., Individual Health Plan)
 - A final copy of the plan is provided to the parents and student (if applicable).
 - The Building Section 504 Coordinator ensures the Section 504 Student Accommodation Plan is documented in the PLP tab in Infinite Campus.
-

Annual Review of Section 504 Plans

- The Section 504 Plan is reviewed and updated annually by the Section 504 team.
 - The Section 504 Plan can be reviewed more often and upon request from parent, teachers, or staff.
 - The Section 504 Coordinator works with the student's Section 504 team, including parents, to schedule an annual review meeting.
 - The Section 504 Coordinator completes the Section 504 Student Accommodation Plan in Infinite Campus in the PLP documents tab, and the plan is shared with parents (either electronically or a physical form).
 - The Section 504 Coordinator shares the student's updated plan with relevant district staff who work with the student. This may include teachers, club sponsors, coaches, leaders of extracurricular activities, etc.
 - The Section 504 Coordinator will ensure all necessary documentation has been updated in Infinite Campus.
-

Reevaluation of Section 504 Plans

- Additional data is collected as needed for a reevaluation, which occurs periodically, and before a significant change in placement.
- The Section 504 Eligibility Determination Form is used to complete the reevaluation.
- The Section 504 Plan is reviewed. If the student is still in need of a plan, the Section 504 Plan is updated by the Section 504 team.
- The Section 504 Coordinator works with the student's Section 504 team, including parents, to schedule a reevaluation meeting.
- The Section 504 Coordinator completes the Section 504 Student Accommodation Plan in Infinite Campus in the PLP documents tab, and the plan is shared with parents (either electronically or a physical form).

- ❑ The Section 504 Coordinator shares the student's updated plan with relevant district staff who work with the student. This may include teachers, administrators, club sponsors, coaches, leaders of extracurricular activities, etc.
 - ❑ The Section 504 Coordinator ensures all necessary documentation has been updated in Infinite Campus.
-

Ending a Section 504 Plan

- ❑ The Section 504 team meets to determine the discontinuation of the Section 504 Student Accommodations Plan when it is no longer needed.
- ❑ The building Section 504 Coordinator documents the discontinuation of the plan on the Termination of Section 504 Status form in Infinite Campus.

Note: Records of the student's prior accommodations should be kept in the same manner as IDEA records when a student no longer needs special education services. If the need arises again for a Section 504 Plan, the team should convene and follow local process for reimplementing the plan.

More Information for Section 504 Coordinators

Student Discipline

Students who are eligible for Section 504 accommodations and services, as well as services under the IDEA, are disciplined consistent with the IDEA. To discipline a student who is receiving Section 504 accommodations, but who is NOT receiving services under the IDEA, administrators need to conduct an analysis like IDEA, but it may have different results.

The administrator needs to determine whether the student committed the infraction of which the student is accused. The determination of whether the student committed the infraction is not the jurisdiction of the Section 504 Team. The student's Section 504 team determines whether the behavior was caused by the disability or caused by the lack of implementation of accommodations – a manifestation conference. If it is determined behavior was caused by a disability, the Section 504 team then determines whether the accommodation plan is appropriate and whether the student needs a change in the plan. If it is determined the behavior was not due to disability, the student is referred to administration for discipline or a reevaluation may be needed.

Note: Students with Section 504 plans who participate in extracurricular activities who violate a district's *Good Conduct/Code of Conduct* policy are not entitled to the manifestation determination process. It is important to note that the *Office for Civil Rights* advises that Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

Parent Due Process Rights under Section 504 (Procedural Safeguards)

Section 504 gives parents and guardians the right to challenge district decisions regarding the

identification, evaluation, and educational placement of their child. Under Section 504, a district must notify a student's parent or guardian before it takes any action regarding the identification, evaluation, or placement of their child and provide the parent or guardian an opportunity to challenge the action if they disagree.

The minimum necessary due process rights include:

- Prior notice of any action (signed consent for evaluation and eligibility)
- A right to inspect records (data and documentation)
- An impartial hearing with a right to counsel (mediation)
- A review procedure (further review of the decision)

Under Section 504:

1. Written consent is obtained from the parent before a child's initial evaluation – the first time a child is evaluated by any district.
2. If a parent or guardian refuses consent, a district may, but is not required to, initiate a Section 504 Due Process hearing to override the refusal to consent.
3. A district must notify a parent or guardian before it reevaluates or significantly changes a student's placement.

AEA Mediation (also known as Resolution Facilitation)

Parents and guardians may resolve issues concerning Section 504 without first resorting to formal hearings and civil suits. The AEA Mediator process is available to provide an informal resolution-to-conflict with the assistance of a trained mediator. The process is initiated through the relevant Area Education Agency (AEA). If impartiality is a concern, a facilitator from a different AEA is available. Parents are not required to use this process before more formal procedures; however, many parents choose this process because of its voluntary nature. For more information, go to http://www.educateiowa.gov/search/Resolution_Facilitation

Office for Civil Rights

The Office for Civil Rights is the federal entity with primary responsibility for ensuring compliance with Section 504 of the Rehabilitation Act of 1973. More information including links to Section 504, OCR guidance, and how to file a complaint at the federal level is available by first going to <http://www.ed.gov/about/offices/list/ocr/index.html> and clicking on "Office Contacts."

Student Records

Student Transfer into District

When a student transfers from another system with existing accommodations, the Section 504 team should meet to review the accompanying plan. If there are no concerns about the transfer student's eligibility or the accommodation plan, the transferred plan should be implemented without delay. If the Section 504 team does not agree with the decision and plan from the previous district, the student should be promptly evaluated to determine eligibility and the need for accommodations.

Section 504 Records

A copy of current Section 504 information should be located in the cumulative school record of the student (Infinite Campus). Other copies may be kept in the nurse's office and building office. All documents are confidential and are to be maintained, disclosed, and managed according to FERPA regulations.

Transportation

Student Eligibility

Determination for transportation must be on an individual basis and must be consistent with the

student's Section 504 Plan in terms of restrictiveness (independence, socialization, safety). A Section 504 initial evaluation will be required if a student has not already been identified as eligible for a plan. If the student has no disability-related reason for needing transportation, the regular district guidelines for distance and safety apply and transportation through a Section 504 Plan would not be needed.

Guiding Questions When Considering Least Restrictive Transportation

The Section 504 team must determine the least restrictive transportation option that meets the student's needs. The transportation option is determined by the intensity and severity of the student's disability. Use the following guiding questions to determine the least restrictive transportation option for a student who is found eligible through the Section 504 evaluation process.

- Where is the closest regular bus stop for the student? (This information could be obtained prior to conversations about transportation – contact your office manager or router for exact location of bus stop)
- Can the student walk to a corner stop independently? Could the student walk to the bus stop with a family member or neighborhood friends if needed?
- What is it about the student's disability that requires transportation AND the transportation option being considered?
- If a more restrictive option is required, why did the Section 504 team determine a less restrictive option did not provide a free and appropriate education (FAPE)?

Once eligibility has been determined, the Section 504 team must be able to specifically identify what it is about the student's disability that precludes them from using a corner stop if the student requires a more restrictive transportation option.

Des Moines Public Schools District Section 504 Leadership Team

If you are in need of assistance on implementing the components outlined in this document, please reach out to any of the District Section 504 Leadership Team Members listed below:	
Alyson Finley Alyson.finley@dmschools.org	Director of Student Services
Beth Pattschull Beth.pattschull@dmschools.org	Student Services Coordinator
Brittanee Chelleen Brittanee.chelleen@dmschools.org	Student Services Coordinator
Erin Kruger-Cavazos Erin.KrugerCavazos@dmschools.org	Counseling/PSS Coordinator
Renee Burnham Renee.burnham@dmschools.org	Student Services Coordinator