

Legal Aid of North Carolina, Inc.

ADVOCATES FOR CHILDREN'S SERVICES

2101 Angier Avenue, Suite 300 • Durham, NC 27703
919-226-0052 • www.legalaidnc.org/acs

Dear Youth Justice Advocate:

We are sharing the enclosed resources to support you in your ongoing efforts to ensure that your student's educational needs are met. These materials include information about students' and guardians' rights related to accessing academic, behavioral, and other supports for students who are struggling but may not qualify for special education services. Included in this packet are tips and tools that you can use on behalf of your student and/or share directly with other families who may need them to advocate for their children.

Specifically, you will find the following information enclosed:

- ✓ An overview of the school-based plans, including MTSS and 504 Plans, that can be utilized to provide additional supports for students who are struggling (*"General Education Interventions and 504 Plans"*)
- ✓ An overview of therapeutic behavior supports that schools can and should utilize for students in order to teach students positive skills and prevent suspensions (*"Behavior Interventions"*)
- ✓ Template forms to use in asking the school to provide needed supports:
 - ✓ A template form to use in requesting that your student's school-based MTSS/RTI/SST team meet to discuss your concerns.
 - ✓ A template form to use in requesting that your student be assessed to determine whether they may qualify for supports and protections from a 504 Plan.
 - ✓ A template form to use in requesting that your student's 504 team meet to discuss your concerns.

We hope that these resources will be helpful to you in your advocacy efforts. Please note that every student's situation is very different, and so the **tips and recommendations included in the enclosed materials should not be interpreted as legal advice in your specific situation.**

Visit our website (www.legalaidnc.org/acs) for additional resources related to students' rights in school. If you have general questions about students' rights or would like to request training for a group of students/parents/advocates, contact Advocates for Children's Services at 919-226-0052 or acsinfo@legalaidnc.org. If you need direct legal assistance, contact our helpline at 1-866-219-5262.

Sincerely,

The Advocates for Children's Services Team
Legal Aid of North Carolina

General Education Interventions & Section 504 Plans

(How can I get help for a child who struggles with academics and/or behaviors, but doesn't qualify for special education?)

What help is a child entitled to if struggling in school?

- Regular education interventions target all struggling students. They are often implemented in a “tiered intervention” model, with interventions aimed at helping all students first, followed by interventions that begin to focus more specifically on the needs of individual students who are struggling.
 - Multi-Tiered System of Supports (“MTSS”) is the name of the regular education intervention process used throughout North Carolina.
 - MTSS can be used to address both academic and behavior concerns.
- All students should also have access to high quality behavior intervention plans as needed to help therapeutically address school misbehavior. These can be part of the MTSS process or a separate intervention.

What is a Section 504 plan?

- **Section 504** of the Rehabilitation Act of 1973 is a disability anti-discrimination law that provides protections for students with disabilities to make sure they have equal access to the school environment.
 - A student qualifies for a Section 504 plan if they have a disability that “substantially limits one or more major life activity,” including learning.
 - Section 504 also covers temporary disabilities.
 - A Section 504 plan puts into place “accommodations” that are needed to ensure that the student’s disability doesn’t make it more difficult for them to participate in the school environment and access the school curriculum than their non-disabled peers.
 - Accommodations can include physical accommodations like ramps to enable a student to access particular parts of the school, or can include academic accommodations such as giving a student with ADHD the opportunity to take a test in a separate room to minimize distractions or giving that student extra time to complete a test.
 - Students with 504 plans are entitled to Manifestation Determination Reviews (“MDRs”) when facing a suspension that is longer than 10 days, or a shorter suspension that is related to previous patterns of behaviors and results in more than 10 *total* days of suspension that school year.
 - A student cannot be suspended if the behavior that led to the suspension was (1) closely related to their disability; or (2) caused by the school not implementing their 504 plan.
 - A Section 504 plan should be reviewed regularly.



GOLD STAR TIP: What is the difference between an IEP and a Section 504 plan?



Both an Individualized Education Program (IEP) and a Section 504 plan serve students with disabilities, and both provide needed accommodations.

Only students with IEPs receive specially designed instruction (e.g., in an inclusion, resource, or separate class setting). This specially designed instruction may include direct teaching in academics, social-emotional skills, organization/study skills, functional skills, communication skills, etc.

In general, an IEP offers more legal protections than a Section 504 plan.

Advocates for Children’s Services of Legal Aid of North Carolina

For additional resources: www.legalaidnc.org/acs

To apply for legal services: **1-866-219-5262**



You may want to contact a lawyer if your child is denied needed behavior interventions.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation

Behavior Interventions

(How can I get more formal help for a student struggling with behavior?)

What is a Functional Behavioral Assessment and a Behavior Intervention Plan?

- ❖ A Functional Behavioral Assessment (FBA) is a process used to determine the cause (and function) of behaviors that interfere with learning.
 - The FBA incorporates data that should include: interviews (student, teacher, and parent), rating scales, direct observations, and a review of student records.
- ❖ A Behavior Intervention Plan (BIP) is then developed using the information collected during the FBA.

****Both general education students and special education students may need and be eligible for an FBA and BIP****

Creating a strong FBA

- ✓ As a team, identify and define the 1-2 behaviors that are having the greatest impact on the student's education
- ✓ Collect information about the behavior(s):
 - a. what happens before the child's problem behavior
 - b. what specific behaviors are displayed
 - c. what happens afterward
- ✓ As a team, analyze the information gathered, identify patterns, and come to an agreement about the purpose of the problem behavior
- ✓ Develop a statement that explains why and when the team thinks the child uses the problem behavior

What's in a BIP?

- A BIP includes strategies to:
 - a. Eliminate triggers that were identified in the FBA
 - b. Teach and reinforce positive replacement behaviors
 - c. Therapeutically deescalate the student when behaviors arise
- The BIP should be focused on what the *adults in the school environment* are going to do to more creatively support a students with challenging behaviors

When should an FBA be conducted and a BIP created?

- ❖ It is *best practice* to conduct an FBA and develop a BIP when *any student* demonstrates behaviors that impede his/her learning or that of others, exhibits a pattern of challenging behavior, is at risk for suspensions or has accumulated suspension days.
- ❖ For students who have IEPs, an FBA/BIP may be *required* and more behavior instruction/services available if the student is getting frequently suspended for disability-related behaviors.

Who should conduct an FBA and develop a BIP?

- ❖ Anyone who knows the student and is invested in their success can participate in the FBA/BIP process. This includes but is not limited to: teachers, administrators, counselors, parents, the student, school or district-level behavior specialists, psychologists, social workers, community members, etc..
 - If you disagree with the school's FBA for a student with an IEP and/or don't think the BIP is helping, you can request a free "Independent Education Evaluation" (IEE) FBA, which will trigger the school's duty to contract with a private specialist to complete an independent FBA.



GOLD STAR TIP

If a child has experienced trauma – such as abuse or neglect, you can advocate that the FBA and BIP consider and respond to the impact of trauma on the child's behavior through trauma-informed behavior interventions (e.g. relaxation strategies, utilizing pre-arranged signals, redirecting behaviors through offering reasonable choices, using calm tone of voice and/or nonverbal cues, etc.)

For more information about trauma-informed interventions, conduct an Internet search using terms such as "trauma-informed classrooms" or "trauma-informed schools."

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You may want to contact a lawyer if your child is denied needed behavior interventions.

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Form: Request for Meeting to Review MTSS, SST, or RTI plan

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student's school-based support team (SST, MTSS, or RTI) meet to review my student's progress, the interventions that are currently in place, and any new interventions that may need to be implemented to address the following concerns: (Check all that apply.)

- My student is having **behavioral struggles** (*examples could include avoiding work, not staying organized, regularly getting into arguments or fights, etc.*)
- My student is having **academic struggles** (*examples could include having a hard time keeping up in math, reading, writing, etc.*)
- My student needs a **functional behavioral assessment (FBA)** and **behavior intervention plan (BIP)** to help address ongoing behavior needs
- Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for a Team meeting.

Thank you,

Signature of Parent/Guardian

Date Submitted to the Principal

Form: Request for an Evaluation to Determine Eligibility for a 504 Plan

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I request that my student be evaluated to determine if they are eligible to receive accommodations under a 504 Plan. I believe my student may be eligible because they (check all that apply):

- Have been diagnosed with the following disability: _____
- Are having **behavioral/emotional struggles** (*examples could include avoiding work, not staying organized, regularly getting into arguments or fights, having anxiety attacks etc.*) that require additional supports
- Are having **academic struggles** (*examples could include having a hard time focusing on work or keeping up in math, reading, writing, etc.*) that require additional supports
- Are having **physical/motor/medical struggles** (*examples could include being unable to walk up/down stairs, difficulty carrying items, or generally having medical conditions that require accommodations during the school day*) that require additional supports
- Other: _____

Additional information:

Please contact me within 10 school days to schedule a time to meet with you to discuss the process and for me to sign any necessary paperwork so that my child's needs can be addressed as soon as possible. Also, please accept this request as written consent to evaluate my child.

Thank you.

Signature of Parent/Guardian

Date Submitted to the Principal

Form: Request for a 504 Plan Team Meeting

Student Name	
Student School	
Parent/Guardian Name	
Parent/Guardian Address	
Parent/Guardian Phone	
Parent/Guardian Email	

Dear Principal:

I would like to meet with my student's 504 Plan Team to discuss my student's: (Check all that apply.)

- My student is having **behavioral struggles** (*examples could include avoiding work, not staying organized, regularly getting into arguments or fights, etc.*) that aren't being met by their 504 Plan
- My student is having **academic struggles** (*examples could include having a hard time keeping up in math, reading, writing, etc.*) that aren't being met by their 504 Plan
- My student needs new or different **accommodations** (*examples could include extended time on tests, opportunities for sensory breaks, chunked assignments, etc.*) to meet their needs
- My student needs a **functional behavioral assessment (FBA)** and **behavior intervention plan (BIP)** to help address ongoing behavior needs
- Other: _____

Additional information:

Please have someone contact me within 10 school days with a possible date, time, and location for a 504 Team meeting.

Thank you,

Signature of Parent/Guardian

Date Submitted to the Principal