

*Children with disabilities, who are ineligible for special education, may qualify for services and accommodations under Section 504 of the Rehabilitation Act.*

## A Parent's Guide to Section 504 in Schools

Section 504 is an anti-discrimination, civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met.

### What is Section 504?

Congress passed Section 504 of the Rehabilitation Act in 1973 to protect people with disabilities from discrimination in programs that receive federal funds. This addresses a much wider population of children than the Individuals with Disabilities Education Act (IDEA). IDEA is the federal special education law.



All public schools and many independent schools receive federal funds and are required to follow these guidelines.

Section 504 guarantees that students with disabilities who qualify must have equal access to all academic and non-academic activities and programs, including after school programs.

### This federal law:

- Prohibits discrimination against individuals with disabilities in secondary and vocational programs receiving federal dollars.
- Prevents employers from excluding qualified individuals from employment because of a disability.
- Requires individuals with disabilities to be given access to programs and activities in public buildings.
- Requires schools to provide a Free and Appropriate Public Education (FAPE) to students who qualify.
- Requires schools to provide related services and accommodations to qualified students with disabilities regardless of eligibility for special education.

### **Who can receive 504 services?**

To qualify for services, a child or adult must have a disability that substantially limits one or more major life activities, or must have a record of having a disability, or must be regarded as having a disability. (The person has been treated as though they have a disability.)

Major life activities include: self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Section 504 defines disability as a physical or mental impairment including, but not limited to:

- Learning impairments or disabilities.
- Emotional or psychiatric disabilities.
- Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity (ADHD).
- Severe allergies, chronic asthma, or health impairment.
- Cosmetic disfigurement or amputation.
- Injuries or broken bones.
- Communicable diseases, such as HIV.
- Drug addiction (unless individuals are current users, not in rehabilitation programs).
- Alcohol addiction (does not exclude current users).

### **How does the Section 504 work in schools?**

Every school must have written 504 policies and procedures that describe how it will carry out the requirements of the law. First, check with your school to find out who the 504 coordinator is and what to do in order to follow your district's guidelines. Talking to the principal, guidance counselor, special educator, or teachers are other ways to learn how this process works and how to make a referral for Section 504 services.

### **The 504 team and the 504 coordinator**

A knowledgeable group of people will gather information to determine whether or not your child qualifies for 504 services. Every school should have a 504 team. Members of the team may include teachers, guidance counselors, special educators, and other faculty members.

While schools are not required to include parents, most schools welcome parents as part of the team. If your child qualifies for Section 504 services, the team is responsible for developing a plan to accommodate the child's educational needs. Each school or school district should have an individual who coordinates Section 504 services. Parents may ask the 504 coordinator to include them in meetings and/or request an opportunity to share information about their child with their 504 team.

### **Evaluations for Section 504**

An appropriate evaluation includes tests and/or other evaluation measures, including assessments of the specific areas of a child's educational need. A Section 504 evaluation must be more than a single intelligence score. Schools are required to evaluate a student before determining that the student has a disability.

Tests and measures must be validated for the specific purpose for which they are used and must be conducted by trained personnel. Assessments may address aptitude and achievement, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

Schools must establish standards and procedures for initial evaluations and re-evaluations of students who may be eligible for accommodations under Section 504. The school may use the same procedures to evaluate a student for Section 504 services as it uses to evaluate a student for special education.

### **Information needed to document the student's eligibility**

There is no specific amount of information required under the law to document a student's eligibility. The 504 team determines the amount of information needed. As part of its evaluation, they will determine whether a child has a substantial limitation in a major life activity. Section 504 does require schools to draw from a variety of sources in the evaluation process to minimize the risk of error.

### **What if a child does not qualify for Section 504?**

The school must notify parents if their child does not qualify for Section 504 services. To address the child's learning needs, the 504 team may make a referral to the school's educational support team.

### **Must schools consider "mitigating measures" used by a child in determining whether he or she has a disability under Section 504?**

No. As of 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the effects of any mitigating measures that student is using.

#### **Mitigating measures are as follows:**

- Medication, medical supplies, equipment or appliances.
- Low-vision devices (which do not include ordinary eyeglasses or contact lenses).
- 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.

### **Can a child's medical diagnosis of an illness alone be considered as a 504 evaluation?**

A medical diagnosis of an illness does not automatically qualify a child for services. The child's medical diagnosis may be one of the evaluation measures the team uses, and the diagnosis must cause the child to experience substantial limitation in one or more major life activities.

#### **Re-evaluations of Section 504**

Section 504 states that re-evaluations must be conducted periodically. The Office of Civil Rights (OCR) recommends that schools re-evaluate a student who is eligible for Section 504 at least every three years.

### **Once a child is eligible for Section 504, what services and accommodations are available?**

A child's services will depend on their individual needs and the 504 plan. Some examples of services and accommodations a child may receive:

- Transportation.
- Speech and language services.
- Computer-aided instruction.
- Adapted software.
- Behavior support.
- Modified attendance policies.
- Home-based instruction.
- Administration of medication.
- Assigned readers or interpreters.
- Adjusted grading procedures.
- Modified standards for making honor roll.
- Modified school day.

### **What can a school do to make programs accessible to a child?**

A school can make its programs accessible in a variety of ways. It can:

- Hold classes or other programs in places that are physically accessible.
- Redesign equipment used in academic and non-academic programs.
- Provide an individual aide.
- Change existing facilities.

### **Parent's rights have under Section 504**

You have the right to:

- Examine all relevant records regarding their child.
- Notice (but not necessarily written notice) regarding identification, evaluation, or placement of their child.
- Notice of their parental rights.
- File a local complaint regarding the school's decision about their child's evaluation, eligibility, or placement.
- Request mediation or an impartial due process.
- Be represented by an attorney in a hearing at your own expense.
- Have attorney's fees paid if they prevail at the hearing.
- A review of the hearing decision at a higher level.



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### **Schools need to follow certain 504 rules:**

- Provide written assurance of their nondiscrimination policies.
- Include the 504 coordinator's name and telephone number on school notices have grievance procedures to resolve complaints.
- Identify and locate all children in the district at least annually who qualify for Section 504.
- Notify parents and guardians of their rights, including the opportunity to review relevant records and to request an impartial hearing.
- Notify parents or guardians of the right to request a hearing regarding the identification, evaluation, or educational placement of students with disabilities.

### **If you feel the school has discriminated against your child because of a disability**

You may file a Section 504 complaint by writing to:

Office of Civil Rights  
US Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109

You must file your complaint within six months (180 days) after the discrimination occurred or was discovered. The OCR will promptly acknowledge receiving your complaint and contact you to let you know if they will proceed further with your complaint.

### **Does my child need to qualify for special education to file a Section 504 complaint?**

A complaint may be filed regardless of whether your child is eligible for special education. You may also file a complaint to the OCR regarding issues of program and building accessibility.

For non-educational complaints, contact:

US Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

### **When you file a complaint**

There are four areas which you must address:

- That your child is qualified as an individual with a disability under Section 504.
- That your child is "otherwise qualified" for the services he or she is being denied, such as being the right age to receive services.
- That the program or activity you are filing a complaint about receives federal money.
- That your child has been excluded from the program or activity or otherwise discriminated against solely on the basis of his or her disability.

When the OCR determines that the school violated Section 504, it will try to negotiate a voluntary resolution agreement. If the school does not agree to correct its noncompliance by entering into a resolution agreement, the OCR may refer the case to the Department of Justice. The OCR decision may be appealed by the school in the courts.

### **Resources**

#### **Office of Civil Rights**

Ensures equal access to education and promotes educational excellence through vigorous enforcement of civil rights.

617-289-0111

#### **Vermont Agency of Education**

Special Education Technical Assistance  
802-828-1256