

Section 504 of the Rehabilitation Act of 1973

Section 504 is a part of a federal law called the Rehabilitation Act of 1973. This law protects those who are eligible from discrimination on the basis of his or her disability. The law applies to a person of any age. It applies in any program that receives federal funding from the U.S. Department of Education. This includes public schools, other state and local educational agencies, and many colleges.



A 504 plan lists reasonable accommodations and services for students who are eligible. The accommodations and services help students access their education, so disability isn't a barrier.

To be eligible, the individual's disability must get in the way of a daily life function. In 2008, changes in this law meant more students could be eligible for a 504 plan.

If your child is having difficulty in school, a 504 plan may be a way to support your student. Having an Individual Education Plan (IEP) under Special Education is another way. Knowing the difference between a 504 plan and an IEP can help you decide what might be most appropriate for your student. Having information is one step in being an advocate for your child!

This packet provides information on:

- Eligibility
- Requesting a 504 plan
- Developing a plan
- How a 504 plan compares to IEPs through Special Education and the Americans with Disabilities Act (ADA)

Section 504 Resources

Selected Websites and Articles

Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, www2.ed.gov/about/offices/list/ocr/504faq.html

Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html

Your Rights Under Section 504 of the Rehabilitation Act Fact Sheet, U.S. Dept. of Health and Human Services, www.hhs.gov/ocr/504.html

Prohibited Disability Harassment, www.ed.gov/about/offices/list/ocr/docs/disabharassltr.html

Questions and Answers on OCR's Complaint Process, www2.ed.gov/about/offices/list/ocr/qa-complaints.html

National Center for Learning Disabilities, www.nclld.org

Wrightslaw, www.wrightslaw.com/info/sec504.index.htm

Disability.gov (federal website), www.disability.gov



Selected Books

The Complete Guide to Special Education: Expert Advice on Evaluations, IEPs and Helping Kids Succeed (2010) – Linda Wilmshurst, Ph.D. & Alan W. Brue, PhD

The Complete IEP Guide: How to Advocate for Your Special Ed Child (2011) – Lawrence Siegel

Adolescents and Adults with Learning Disabilities and ADHD: Assessment and Accommodation (2011) – Noel Gregg, PhD

101 School Success Tools for Students with ADHD (2010) – Jacqueline Iseman

Office for Civil Rights (San Francisco Enforcement Office)

The San Francisco Regional Enforcement Office of the U.S. Department of Education Office for Civil Rights can be contacted by phone (415.486.5555) for help in filing complaints, or refer to Q&As on OCR's Complaint Process and the complaint form, www2.ed.gov/about/offices/list/ocr/.

Section 504 Overview

Section 504 is part of the Rehabilitation Act of 1973. This is a federal anti-discrimination law for people of any age. The law prevents discrimination for those participating in any activities that receive money from the U.S. Department of Education. In schools, a 504 plan gives reasonable ways to remove barriers that may prevent a student from accessing educational services. Students with disabilities are also protected against other forms of discrimination, such as being prevented from going on field trips due to their disabilities. Any student with an IEP has the protections of Section 504.

To qualify for a 504 plan, a student must have a disability that limits a major life activity. The law was changed in 2008. The definitions of “disability” and “major life activity” were expanded. More students may now qualify for a 504.

Students who are eligible must be given a free and appropriate public education (FAPE) so their needs at school are met. This also means equal access to non-academic programs run by the school district. Extracurricular programs can require a certain skills, but the schools can’t keep out students with disabilities simply because they have a disability and may need accommodations and related services.

A 504 plan can be helpful for a student who has a disability but doesn’t meet Special Education eligibility under the Individuals with Disabilities Education Act (IDEA), a federal law. Sometimes a student who is exited from Special Education, or whose parent has revoked consent to Special Education, may be eligible for a 504 plan. Although 504 plans are not the same in college, students can use them to help get needed academic adjustments. In college, however, 504 requirements are very different than those required in elementary and secondary schools.

A student in Special Education must need specialized instruction, but this is not a requirement for a student with a 504 plan.

As with Special Education, eligibility for a 504 plan begins with an assessment. Once eligible, the school’s 504 team writes the 504 plan. This plan lists the accommodations and services the school will offer so the student can access the general education program.

Each school district must have a 504 policy that states how it will implement this law. Your school district’s policy will also explain the process to go through if you disagree with decisions of the 504 team. Get a copy of your school’s policy to learn more.



504 Plan Eligibility

An **EVALUATION** is used to decide if a student has a disability under Section 504. The school district provides this evaluation. To request one, send a letter to your school. Some parents request an evaluation for both a 504 and Special Education (see sample letter). Schools may use the same process for both evaluations.

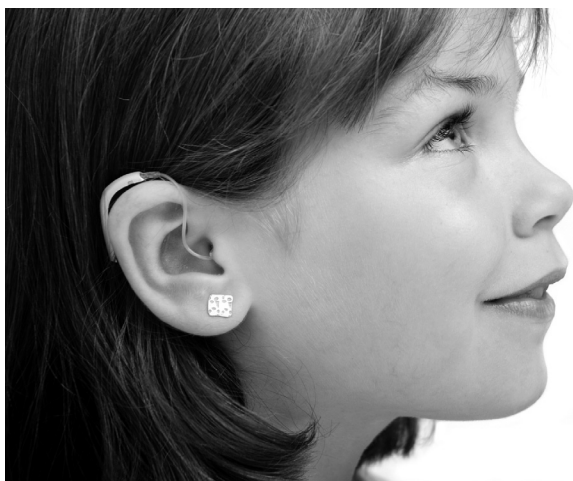
A parent can give the district assessments or information from other professionals, such as a physician or psychologist who has diagnosed a disability. However, a medical diagnosis is not required for a student to be eligible. If the school says a medical diagnosis is needed, then it must be done at no cost to the parents.

A good assessment is important. It is the foundation upon which eligibility decisions are made and what should be in a 504 plan to support the student. Assessment tools should be valid and appropriate for the disability. The assessment process should also evaluate the impact of the disability on a student's ability to access his or her education.

What is included in an assessment? It may or may not involve standardized tests that measure a particular skill impacted by the disability. It should include observation of the student in the environment and any other relevant observations or information from others who know the student.

After the assessment is complete, and if you disagree with the findings, refer to the 504 policy of your school district to learn about the appeal process.

If a school refuses to evaluate, it must give parents a notice of their rights so they know how to appeal. The parent may decide to pay for an independent evaluation.



KEY: Just having a disability does not mean a student is automatically eligible. The assessment looks at how the disability limits a major life activity.

MAJOR LIFE ACTIVITIES include walking, seeing, hearing, speaking, breathing, learning, caring for oneself, manual tasks, and working. Other examples are eating, sleeping, standing, lifting, reading, concentrating, thinking, and communicating. These are examples, not a complete list. Learning is not the only major life activity that a school must consider.

A **DISABILITY** is a physical or mental impairment that limits a major life activity. A physical disability is one that affects a body's functions or impairs its neurological, musculoskeletal, sensory, respiratory, cardiovascular, or digestive systems. This is not a complete list. The law does not provide a specific list of diseases or conditions. Mental or psychological disorders include intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. Again, this is not a complete list.

Since the definition of disability is broad, "extensive documentation or analysis" to decide eligibility is not required. The impairment does not need to prevent or significantly restrict a major life activity to be considered substantially limiting. The impairment can be in remission or happen in an on-and-off way.

Although not entitled to 504 accommodations, someone who is perceived as or has a history of being disabled also has protections from discrimination under Section 504. For example, if a student was mistakenly thought to have AIDS, he or she would be protected from discrimination but would not be eligible for services — because there would not actually be a disability.

MITIGATING MEASURES are things that improve a student's impairment, such as medication, assistive devices, or learned behavioral strategies. A school district must think about a student's impairment apart from these aids. The only mitigating measures that can be considered are ordinary glasses or contact lenses.

If the district decides that a student does have a disability, mitigating measures can be considered when deciding what kind of services or accommodations are needed in a Section 504 plan.





Sample Letter

Request for an Initial Assessment for Special Education or 504 Plan Eligibility

Parent/Guardian's name
Address
City, State, Zip Code
Daytime Telephone

Date

_____(Principal or Special Education Director)

Local School District
Address
City, State, Zip Code

Dear _____:

I am the parent of _____, who is in the ____ grade at _____(school). I am requesting a comprehensive assessment in all areas related to suspected disability to determine whether _____ is eligible for Special Education either under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. I am requesting this assessment because _____(be specific). The following interventions and accommodations have already been tried (list interventions such as seating assignments, quiet area to take tests, etc.). However, my student continues to struggle in school with _____. If applicable, add: _____ has been diagnosed with _____ by _____(professional).

It is my understanding that I will hear back from you in writing within 15 days of this request. I look forward to hearing from you and working with you and your staff.

Sincerely,

Your name

cc: Include others who you think might need to know about your request

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NOTES:

**If the district agrees to do an assessment, when you give your written permission to the assessment plan, it is VERY important to put in writing that you would like copies of all written reports prior to the IEP or 504 meeting. While the district is not required to do this, it is considered best practice.*

**If your child has a health impairment such as ADHD, Tourette's, or sleep apnea, Special Education eligibility under the Other Health Impairment category needs to be considered. Make this clear by stating: "I am requesting a comprehensive assessment in all areas related to suspected disability, including the Other Health Impairment category, to determine whether _____ is..."*

Developing a 504 Plan

Although federal regulations do not use the words “accommodations” or “504 Plan,” districts are required to document the steps taken to figure out if a student has a disability. The regulations do not require that a 504 plan be written. However, a written plan is best practice, and most districts use a 504 plan form. The plan should include accommodations and services that are needed because of the disability. Both general education and Special Education services can be provided. This can include health services that don’t need to be directly provided by licensed medical personnel, such as giving medication, glucose monitoring, and insulin shots.

The 504 plan is developed by a team of people who know:

- the child/young adult
- the evaluation data
- the educational setting

Parents are not specifically required to be members of the team, but since they know the child very well, they should be given opportunities to participate in team meetings and decisions.

The **504 team** reviews information from a variety of sources and decides:

- if a student is disabled without “extensive analysis”
- the impact of the disability on a major life function at school
- what services, accommodations, and modifications will allow the student to have a free and appropriate public education. This includes equal access in non-academic programs run by the school district. The team also makes sure that the student is educated in the least restrictive environment with students who are not disabled. Mitigating measures can be considered when deciding what services are needed, but not considered when deciding whether or not a student is eligible for 504 protections.



The plan should include:

- a description of the disability
- which major life activity is limited
- the basis for determining the disability and how it affects education
- needed accommodations and/or services
- placement in the least restrictive environment
- a review or re-evaluation date
- 504 team members’ names

NOTE: There is no expiration date for a 504 plan. However, schools are required to periodically re-evaluate a student. Re-evaluations are also required before a major change in placement. Removing a student from school for more than 10 days, transferring a student to a different program, or significantly reducing or ending a student’s service are all considered major changes in placement.

504 Plan Accommodation Examples

Examples of 504 plans for specific disabilities are often listed on the websites of national disability organizations. Below are some examples.

Diabetes:

- private space and time to monitor glucose levels
- ability to eat snacks when needed
- chance to make up missed work due to illness
- training of staff in a health plan

NOTE: Schools cannot require parents to come to school to administer medication.

ADHD:

- chunking assignments into small parts with due dates spaced throughout
- seating away from distractions
- short breaks to regain focus
- shortened homework assignments
- supervision on outings
- quiet setting for tests
- two sets of books
- services in a behavior support plan
- supervision of medication



Depression or anxiety:

- extended time for tests
- shortened assignments
- modified schedule
- ability to take breaks in quiet setting
- time for appointments with counselors/mental health professionals

Severe Food Allergy:

- emergency health plan
- lunch table free from allergen
- ability to keep safe snacks at school for special occasions
- supervision of medication

Dyslexia:

- extra time for reading
- assistive technology
- shortened homework assignments
- note taker for class

Comparison of the Laws

| | IDEA | Section 504 | ADA |
|-----------------------------------|---|--|---|
| Type of law | Federal Funding Act | Federal Civil Rights Act | Federal Civil Rights Act |
| Purpose | Makes sure children with disabilities have educational services that meet their needs and provide FAPE* | Prohibits discrimination due to disability by agencies receiving money from U.S. Department of Education. In elementary and secondary schools, requires FAPE.* | Prohibits discrimination due to disability regardless of federal funding |
| Evaluation | Individual and comprehensive | Individual, but does not require extensive analysis | None |
| Disability definition | One or more of 13 specific disabilities | Physical or mental impairment substantially limiting a major life activity** — not considering mitigating measures (ex: medication, wheelchair) — even if episodic or in remission | Same as 504, as well as history of disability or regarded as having a disability |
| Eligibility | Students birth through 22 years with qualifying disability needing specialized academic instruction in public schools | Any elementary or secondary student with a disability** who needs special services, accommodations, or modifications to access services of the agency. Not limited to learning. Post-secondary students needing academic adjustments. | Any person with a disability |
| Discrimination protections | All 504/ADA protections | In public school setting, no discrimination allowed against person with disability, history of disability, or regarded as having a disability | No discrimination against person with disability in employment, public services, communication, public accommodations, or transportation |
| Benefits | Individual Education Plan for specialized academic instruction and related services that provide benefit | Public elementary and secondary students: 504 Plan describes reasonable accommodations and services for equal access (as much as non-disabled students' needs are met). Post-secondary students: academic adjustments and auxiliary aids/services to provide equal access. | Reasonable accommodation |
| Procedural safeguards | Specific parent rights regarding notice, participation, consent, assessment, access to records, and <i>stay put</i> . Due process mediation and hearings through CA Dept. of Education and Office of Administrative Hearings. | Specific rights regarding consent, assessment, and placement. School districts must establish procedural safeguards regarding notice, access to records, hearings, and reviews. No mediation required. Office for Civil Rights only reviews procedural violations. | Complaints or violations can be filed with Office for Civil Rights and U.S. Dept. of Justice for Title II (related to schools) violations |
| Discipline | Protections for students beyond 10 days removal. <i>Stay put</i> available. | Protections for students beyond 10 days removal. No <i>stay put</i> available. | Prohibits different treatment due to disability |
| Funding | Partial funding by federal government | No additional federal funding | No additional federal funding |

*Free and Appropriate Public Education

**Definitions of "disability" and "major life activity" are now expanded

Comparison of Parent and Student Rights in IDEA and 504

| Parent/Student Rights | IDEA | Section 504 |
|--|--|---|
| Prior written notice re: identification, evaluation, or placement | Yes | No. Notice required but not written, although written is best practice. |
| Consent to assessment | Yes | Yes, if additional assessment needed beyond available info. |
| Decision-making team | Yes — required members, including parent | Yes — knowledgeable individuals |
| Written plan | Yes — IEP* (very specific components required) | Yes — documentation of evaluation and accommodations/services |
| FAPE** | Yes — Special Ed + related services | Yes — Special Ed or regular ed + related services for elementary and secondary public school students |
| Least restrictive environment | Yes | Yes |
| Re-evaluation | Yes — every three years; parent consent required | Yes — periodically and before significant placement change; parent notice (not consent) required |
| Independent evaluations at school expense if disagree with school eval. | Yes | No |
| Compliance complaints | Yes — state complaint process | Yes — District Compliance Officer or Office for Civil Rights for procedural violations |
| Due process | Yes — mediation, resolution sessions, appeals with Office of Administration Hearings | Yes — district-level impartial hearings regarding disagreements |
| Discipline protections | Yes — with <i>stay put</i> ; if not manifestation, must receive FAPE** if expelled; may require FBA/BIP*** | Limited — no <i>stay put</i> ; if not manifestation, no FAPE** required if expelled; no FBA/BIP*** required |

*Individual Education Plan

**Free and Appropriate Public Education

***Functional Behavioral Assessment/Behavioral Intervention Plan



Discrimination Assistance

The Office for Civil Rights (OCR) in the U.S. Department of Education enforces the federal civil rights of anyone qualified or protected under Section 504 of the Rehabilitation Act, including students with 504 plans. OCR accepts complaints if a student is treated differently or excluded solely due to a disability, as well as if a school fails to follow the procedures required to identify and plan accommodations for a student in a 504 plan.

Complaints of discrimination can be filed with OCR by letter or using a form on their website, www.ed.gov/ocr/complaintprocess.html.

They need to know which school, college, or other institution you are complaining about, the name of the person who has been discriminated against, and when the discrimination occurred. Sign and date the letter, and give them your phone number and address so that they can contact you.

If you have a disagreement about a 504 plan, read your school district's 504 policy. This policy should describe ways to resolve disagreements. Working to resolve disagreements at the local level should be your first option. Bring your concern to your district's 504 coordinator first.

Impartial hearings are arranged locally to resolve disagreements. OCR would investigate procedural problems with 504 plans, not disagreements about content.

If you feel that you or your child has been discriminated against, file your complaint within 180 calendar days after the discrimination. OCR does not handle cases that are being addressed by another agency or within a school's or college's formal grievance process if it believes the organization will provide you with a fair resolution process.

In summary, discrimination allegations can be addressed by:

- Contacting the 504 coordinator at your child's school and handling the issue informally
- Using the school's 504 grievance policy
- Contacting the office of Civil Rights (OCR) and filing a complaint
- Filing a lawsuit in federal court

The OCR location nearest the counties that Matrix serves is:

Office for Civil Rights, Region IX
U.S. Department of Education
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102-4102
415.486.5555
Fax: 415.486.5570