

SECTION 504

QUESTIONS & ANSWERS

WHAT IS SECTION 504?

Section 504 of the Rehabilitation Act of 1973 requires that federal fund recipients make their programs and activities accessible to all individuals with disabilities. Section 504 protects persons from discrimination based upon their disability.

HOW DOES SECTION 504 DEFINE INDIVIDUAL WITH A DISABILITY?

A person is an individual with a disability under the definition of Section 504 if he or she:

1. has a physical or mental impairment that substantially limits one or more of such person's major life activities,
2. has a record of such an impairment, or
3. is regarded as having such an impairment. [34 CFR 102-559]

WHAT ARE "MAJOR LIFE ACTIVITIES"?

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, reading, concentrating, thinking, communicating, eating, sleeping, standing, lifting, bending and major bodily functions. Major bodily functions includes functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

WHAT SPECIFIC DISABILITIES ARE LISTED IN THE LAW?

Both Section 504 and the Americans with Disabilities Act (ADA) protect individuals with physiological disorders or conditions, cosmetic disfigurements, or anatomical losses affecting one or more of the following body systems:

- neurological
- special sense organs
- skin
- cardiovascular
- respiratory, including speech organs
- musculoskeletal
- genitourinary
- hemic/lymphatic
- endocrine
- reproductive
- digestive

ADA provides a more specific list of disorders:

- orthopedic
- speech
- muscular dystrophy
- epilepsy
- visual
- hearing impairments
- cerebral palsy
- cancer

ADA list of Disorders (cont.)

- heart disease
- mental retardation
- tuberculosis
- multiple sclerosis
- attention deficit disorder
- attention deficit hyperactivity disorder
- acquired immune deficiency syndrome
- human immune deficiency
- diabetes
- emotional illness
- learning disabilities
- mental illness

ARE STUDENTS WHO ARE CURRENTLY USING ILLEGAL DRUGS OR ALCOHOL PROTECTED UNDER SECTION 504?

This issue must be reviewed on a case-by-case basis. Students who are currently using drugs or alcohol and are not enrolled in a rehabilitation program are probably not covered under Section 504. Students who use drugs and alcohol while in a rehabilitation program may be covered.

WHAT DOES SECTION 504 SAY ABOUT PLACEMENT PROCEDURES?

- Base placement decisions on information gathered from a variety of sources such as aptitude and achievement tests, teacher recommendations, social or cultural background, and adaptive behavior.
- Use established procedures that ensure information from all sources is documented and carefully considered.
- The decision must be made by a team knowledgeable about the child, the meaning of the evaluation data, and the placement options.

ARE STUDENTS COVERED UNDER SECTION 504 REQUIRED TO BE EDUCATED IN THE LEAST RESTRICTIVE ENVIRONMENT?

Yes. Districts must educate each qualified student with a disability with other students who are not disabled to the "maximum extent appropriate" to meet the needs of the student with a disability.

CAN A STUDENT PROTECTED UNDER SECTION 504 BE EDUCATED IN A SETTING OTHER THAN THE REGULAR CLASSROOM?

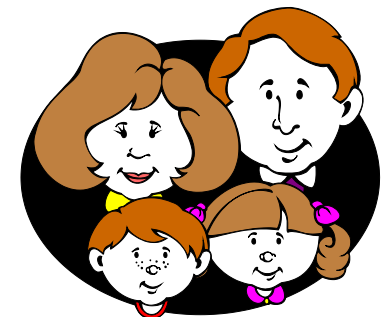
If the students with disabilities cannot be accommodated with the use of supplementary aids and services in the regular classroom, the student can be placed in a setting other than the regular education environment. This decision must be made on an individual basis by a knowledgeable team.

WHAT IS MEANT BY "ACCOMMODATIONS"?

Accommodations refer to adjustments and/or modifications that enable the student to have equal access and opportunity to benefit from the educational program. Some examples of reasonable accommodations are modified homework requirements, provision of readers, provision of taped textbooks, changes in the way tests are given, provisions of a teacher's aide, or seating in the front row of the classroom.

WHAT IS AN ACCOMMODATION PLAN?

An accommodation plan outlines the student's needs and necessary modifications and accommodations. The plan is developed by a team knowledgeable about the student and reviewed periodically. It can be much simpler than the Individualized Education Program plan (IEP) used in special education.



WHAT ARE SOME “RED FLAGS” THAT PEOPLE SHOULD BE AWARE OF THAT MAY REQUIRE ACCOMMODATION(S)?

- * When a disability of any kind is known or suspected
- * Serial suspensions occur for a student
- * When a student shows a pattern of not benefiting from teacher instruction
- * When a student returns to school after serious illness/injury
- * When a student is referred for evaluation, but it is determined not to do an evaluation for special education
- * When a student is evaluated and found not to qualify for special education services under IDEIA
- * When a student is referred for evaluation for IDEIA, but the IEP team decides there is no reason to suspect a disability under IDEIA
- * When a student is identified "at risk" or exhibits the potential for dropping out of school
- * When a student exhibits a chronic health problem
- * When substance abuse is an issue
- * When retention is considered for the student
- * When a student returns to school after being released from a treatment center or institution

WHAT PROGRAMS AND SERVICES MIGHT SCHOOL DISTRICTS NEED TO CHANGE IN ORDER TO BECOME ACCESSIBLE TO STUDENTS WITH DISABILITIES?

School systems may need to make provisions that include, but are not limited to:

- redesigning equipment
- redesigning classes or other services to accessible buildings
- assigning aids
- providing home study
- altering existing facilities to conform with the requirements of ADA and Section 504
- providing telecommunication devices for persons with hearing and speech impairments
- providing interpreters for persons who are deaf.

Since each disability is unique, the reasonable accommodation principle should be applied on a case-by-case basis.

WHAT ARE SOME EXAMPLES OF INAPPROPRIATE ACCOMMODATIONS?

Examples of inappropriate accommodations are carrying a student upstairs; making one particular building or part of a building accessible and serving students with mobility disabilities at this location; having students with disabilities eat on a separate floor due to an inaccessible cafeteria; denying certain programs such as music, art or assembly because these programs are inaccessible.

CAN A STUDENT WITH DISABILITIES BE DISCIPLINED?

A student is subject to the school’s discipline policy as long as the team determines that the disability did not cause the behavior. If the team decides that the behavior is related to the disability, then the team decides the appropriateness of the discipline.

IS INFORMATION OBTAINED UNDER SECTION 504 SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)?

Yes. Section 504 records are educational and therefore, must be kept in accordance with FERPA regulations.

DO PARENTS HAVE AN OPPORTUNITY TO EXPRESS DISAGREEMENT WITH EVALUATION AND PLACEMENT DECISIONS MADE BY THE SCHOOL?

Yes. Section 504 requires that school systems provide a system of “procedural safeguards” which allow parents or guardians to express disagreement with evaluation and placement decisions. Procedural safeguards include notifying parents that they have an opportunity to examine relevant records, a right to an impartial hearing, and state level review. A student’s parent(s) or guardian(s) and legal counsel may participate in the hearing. Section 504 disagreements between parents and local school systems related to student evaluation and placement may be heard by special education hearing officers.

HOW DO PARENTS FILE A COMPLAINT?

Parents and guardians have the right to file a grievance, without fear of reprisal, if they believe there has been a violation of Section 504. Any such grievance must be filed in writing within a reasonable period of time after the alleged violation occurred. The grievant must fully state the facts of the alleged violation and the remedy that is being sought. The grievance should be submitted to the Building Coordinator for 504. The person at the school who is responsible for Section 504 is the building principal/designee.

The grievant may also file a complaint with community, state, or federal agencies. Organizations and agencies, which the parent may contact to obtain assistance with evaluation/placement questions including, but not limited to the following:

Federal:

Chicago Office for Civil Rights
U.S. Department of Education
500 W. Madison Street Suite 1475
Chicago, IL 60661
312-730-1576

State:

Minnesota Department of Education
Compliance and Assistance
1500 Highway 36 West
Roseville, MN 55113
651-582-8200

Organization:

PACER Center, Inc.
8161 Normandale Blvd.
Minneapolis MN 55437
800-537-2237 or 952-838-9000

Section 504 Coordinators

Building Coordinator

Principal/Designee of public school where student attends

Director of Student Services

Jeff Horton
1000 44th Avenue North, Suite 100
St. Cloud, MN 56303
(320) 202-6800