

# Parent's Guide to Section 504

## What is Section 504?

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Section 504 is a part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. 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.

Section 504 states that: "No otherwise qualified **individual with a disability** in the United States, as defined in section 706(8) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance..." [29 U.S.C. §794(a), 34 C.F.R. §104.4(a)]

## Who is an individual with a disability?

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As defined by federal law: "An individual with a disability means any person who: (i) has a mental or physical **impairment** that **substantially limits** one or more **major life activity**; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment" [34 C.F.R. §104.3(j)(1)]

**Impairment:** An impairment as used in Section 504 may include any disability, long-term illness, or various disorder that "substantially" reduces or lessens a student's ability to access learning in the educational setting because of a learning-, behavior- or health-related condition. ["It should be emphasized that a physical or mental impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities" (Appendix A to Part 104, #3)].

**Substantially Limits:** Substantially limits is not defined in the federal regulations. However, in a letter from the Office for Civil Rights (OCR), they state, "this is a determination to be made by each local school district and depends on the nature and severity of the person's disabling condition." Guidance from the Americans with Disabilities Amendment Act states that Section 504 standards must conform with the ADA and is "intended to afford a broad scope of protection to eligible persons." In considering substantial limitations, students must be measured against their same age, non-disabled peers in the general population and without benefit of medication or other mitigating measures such as learned behavioral or adaptive neurological modifications, assistive technology or accommodations.

**Major Life Activity:** Major life activities include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, concentrating, thinking, communicating, working, and bodily functions. As of January 1, 2009 with the reauthorization of the Americans with Disabilities Amendment Act, this list has been expanded to also include the life activities of reading, concentrating, standing, lifting, bending, etc. This may include individuals with ADD/HD, dyslexia, cancer, diabetes, severe allergies, chronic asthma, Tourette 's syndrome, digestive disorders, cardiovascular disorders, depression, conduct disorder, oppositional defiant disorder, HIV/AIDS, behavior disorders and temporary disabilities (e.g., broken writing arm, broken leg, etc.). Conditions that are episodic or in remission are also covered if they create a substantial limitation in one or more major life activity while they are active.

## Who can receive 504 services?

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To be covered under Section 504, a student must be "qualified" (which roughly equates to being between 3 and 22 years of age, depending on the program, as well as state and federal law, and must have a disability) [34 C.F.R. §104.3(k)(2)]

## Who can refer a child for consideration of evaluation under Section 504?

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Anyone can refer a child for evaluation under Section 504. However, while anyone can make a referral, such as parents or a doctor, OCR has stated in a staff memorandum that "the school district must also have reason to believe that the child is in need of services under Section 504 due to a disability" (OCR Memorandum, April 29, 1993). Therefore, a school district does not have to refer or evaluate a child under Section 504 solely upon parental demand. The key to a referral is whether the school district staff suspects that the child is suffering from a mental or physical impairment that substantially limits a major life activity and is in need of either regular education with supplementary services or special education and related services [letter to Mentink, 19 IDELR 1127 (OCR) 1993]. If a parent requests a referral for evaluation, and the school district refuses, the school district must provide the parent with notice of their procedural rights under Section 504.

## Who decides eligibility for services under Section 504?

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According to the federal regulations: "...placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities" [34 C.F.R. §104.35(c)(3)].

Unlike Special Education, the federal regulations for Section 504 do not require or even mention that parents are to be a part of the decision-making committee. The decision to include parents in the decision-making committee is a determination that is made by each school district and should be spelled out in the district's procedures for implementing Section 504. Parents should at least be asked and encouraged to contribute any

information that they may have (e.g., doctor's reports, outside testing reports, etc.) that would be helpful to the Section 504 committee in making their determination of what the child may need. Schools are expected to make sound educational decisions as to what the child needs in order to receive an appropriate education.

## What information is used in doing an evaluation under Section 504?

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Under Section 504, no formalized testing is required. The 504 Committee should look at grades over the past several years, teacher's reports, information from parents or other agencies, state assessment scores or other school administered tests, observations, discipline reports, attendance records, health records and adaptive behavior information. Schools must consider a variety of sources. A single source of information (such as a doctor's report) cannot be the only information considered. Schools must be able to assure that all information submitted is documented and considered.

## Can a child be placed under Section 504 without parent knowledge?

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**No.** Parents must always be given notice before their child is evaluated and/or placed under Section 504 (34 C.F.R. §104.36). Parents must also be given a copy of their child's Section 504 accommodation plan if the committee determines that the child is eligible under Section 504.

## What types of accommodations will my child receive if determined eligible under Section 504?

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Each child's needs are determined individually. Determination of what is appropriate for each child is based on the nature of the disabling condition and what that child needs in order to have an equal opportunity to compete when compared to the non-disabled. There is no guarantee of A's or B's or even that the student will not fail. Students are still expected to produce. The ultimate goal of education for all students, with or without disabilities, is to give students the knowledge and compensating skills they will need to be able to function in life after graduation.

## If I disagree with the school's evaluation, will the school district pay for an outside independent evaluation?

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Under Section 504, schools are not required to pay for an outside independent evaluation. If a parent disagrees with the school's evaluation decision, they may request a due process hearing or file a complaint with the Office for Civil Rights.

## How often will my child be re-evaluated?

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While there are no specific time lines on this issue, students must be re-evaluated at least every three years or whenever there is going to be a "significant change in placement." The campus 504 committee should re-evaluate your child's plan every year to make sure that his or her accommodation plan is appropriate based on their current schedule and individual needs. The accommodation plan may be revised at any time during the school year if needed.

## What are my rights as a parent under Section 504?

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**As a parent or legal guardian, you have the right to:**

- Receive notice regarding the identification, evaluation and/or placement of your child;
- Examine relevant records pertaining to your child;
- Request an impartial hearing with respect to the district's actions regarding the identification evaluation, or placement of your child, with an opportunity for the parent/guardian to participate in the hearing, to have representation by an attorney, and have a review procedure;
- File a complaint with your school District Section 504 Coordinator, who will investigate the allegations regarding Section 504 matters other than your child's identification, evaluation and placement.
- File a complaint with the appropriate regional Office for Civil Rights. For additional information, contact: U.S. Department of Education, Washington, D.C. 20202-1100  
(800) 421-3481  
[www.ed.gov/ocr](http://www.ed.gov/ocr)  
E-mail: [ocr@ed.gov](mailto:ocr@ed.gov)

You may contact our 504 Coordinator to obtain a copy of the procedural guidelines at any time by emailing Jill Dry at [jdry@k12.com](mailto:jdry@k12.com).

## Who do I contact if I have a complaint regarding Section 504?

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You may contact our 504 Coordinator to discuss your complaint.

Jill Dry  
(405) 259-9478, Ext. 2058  
[jdry@k12.com](mailto:jdry@k12.com)