



# Section 504 of the Rehabilitation Act

A Guide for Parents and Public School\* Students

**\*Including private schools that receive federal funding**





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# Chapter 1: Section 504

Sometimes students with disabilities need accommodations or modifications in order to be successful in school. If your child needs some help, but does not need/qualify for Special Education, a plan under Section 504 of the Rehabilitation Act may meet that need.

## What is Section 504 of the Rehabilitation Act?

The United States **Rehabilitation Act of 1973** prohibits discrimination on the basis of disability in programs run by federal agencies, in programs getting federal funds, and in federal employment.

**Section 504** of this law created and extended civil rights to people with disabilities. It provides opportunities and access to services for children and adults with disabilities in education, employment, and various other settings.

Specifically, Section 504 requires that public elementary and secondary education programs provide a free appropriate public education (FAPE) to each qualified student with a disability, regardless of the nature or severity of the person's disability. This portion also applies to private schools that receive any federal funds (34 CFR 104.33).

Appropriate education means an education with accommodations must be comparable to the education provided to students without disabilities. In other words, education services must meet the student's educational needs.

There must also be equal opportunities for students with disabilities to participate in the schools extracurricular activities in areas such as:

- Counseling
- Athletics
- Transportation
- Referrals to other agencies
- Health services
- Recreational activities
- Special interest groups or clubs
- Employment

## Are services through Section 504 considered Special Education?

Services through Section 504 are not considered Special Education services as defined by the Individuals with Disabilities Education Act (IDEA). Special Education and related services are those provided under the IDEA through Individualized Education Programs (IEPs). Appendix A of this booklet provides a quick comparison of Special Education and Section 504. More detailed information on the IDEA and Special Education may be found in P&A's publication "Partners in Advocacy: A Guide to Special Education Planning."

## When is 504 used?

Section 504 can be used to provide accommodations any time a student needs accommodations at school. While schools can adopt both 504 Plans and IEPs, generally a child's IEP covers all needed accommodations and both are not needed. Some examples where 504 Plans have been used include where the student:

- Is not eligible for an IEP but still has disabilities that affect him/her in school;
- Is released from having an IEP because he/she is no longer eligible but still needs accommodations at school;
- Is attending college/vocational school and previously had IEPs or 504 plans while in high school; and
- Is attending college/vocational school and has a disability that began after high school.

## How does a student qualify?

A student must have or be considered to have a physical or mental impairment to qualify for a 504 Plan. This impairment must **substantially limit** one or more **major life activities**.

Unfortunately, neither Section 504 nor the U.S. Department of Education's Office of Civil Rights defines what substantial limitation means.

However, schools may look to the definition found in the federal regulation, 29 CFR 1630.2(J)(2): that the disability "substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population."<sup>1</sup>

The determination of **substantial limitation** is made on an individual basis by a committee formed by the school. This group of people must include individuals who are knowledgeable about the student, the evaluation information, and options for placement. **The law doesn't specifically say that a parent has to be part of this committee.**

**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
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working

## **What is the referral process for a 504 Plan?**

School districts can use general education intervention strategies to assist students. However, Section 504 requires school districts to refer a student for an evaluation if the student has a disability and is believed to need accommodations. The decision to evaluate a child for a 504 Plan is made by the school district.

If a parent wants his/her child to be evaluated, a written request should be given to the 504 Coordinator for the school district. We recommend that parents ask for a copy of the district's written policy and procedures on Section 504 when making the request for an evaluation. The district's policy should include Procedural Safeguards (Parent Rights), which are discussed in Chapter 4.

It is important to realize that the referral process and services provided are different for a postsecondary student. For more information on this, please see P&A's publication "504: A College/Vocational School Student's Guide".

## **Chapter 2: 504 Evaluations**

Sometimes a student may have a diagnosed disability, but the school district and parents agree that he/she does not require Special Education services under IDEA. As stated in Chapter 1, if a student is not found eligible for Special Education services, he/she may still be eligible for services under Section 504. The school district must decide if the student has a “substantial limitation” in a major life area by completing an evaluation.

### **Does the district have to do a 504 evaluation because the parent requests one?**

No. While school districts must complete an evaluation for Special Education services at a parent’s request under the IDEA, Section 504 does not specify that an evaluation must be done because the parent has asked for it.

If a district denies a parent’s written referral for a 504 evaluation, the parent may file a complaint with the U.S. Department of Justice Office of Civil Rights (OCR). Parents can also request a referral for Special Education and related services through the IDEA. See Chapter 6 on disagreements for more information about disputes and possible remedies, including how to contact OCR.

### **Does a medical diagnosis automatically mean my child can receive 504 Plan services?**

No. The medical diagnosis is documentation that impairment exists. However, it is not proof of a disability under Section 504. The district committee must find the impairment limits one or more major life areas to be considered a disability under this law.

### **Can a 504 Plan be written for a temporary condition?**

Yes, but it depends on how long the impairment exists and the extent of the limitation it causes. If the condition is severe enough that it results in a substantial limitation to a major life area for an extended amount of time then a 504 Plan could be appropriate. If the condition is brief and minor that lasts 6 months or less, then the student would not be regarded as having a disability under 504 (<http://www2.ed.gov/about/offices/list/ocr/504faq.html>).

## **What about my outside evaluation? Does the school district have to follow recommendations made by a doctor?**

An outside evaluation may be one of many sources considered by the committee. Parents often have an outside independent evaluation which they feel supports the need for a 504 Plan. A physician's medical diagnosis may be considered along with other information as part of the 504 Plan evaluation.

Be sure to give a copy of that information to the 504 Plan Coordinator at the time of your meeting. The school/district must use information from a variety of sources and consider all documented information as part of the evaluation process.

Sources that can be considered as part of a 504 Plan evaluation are:

- Aptitude or achievement tests;
- Teacher recommendations;
- Physical condition;
- Adaptive behavior; and
- Behavior observations.

## **What if my child takes medicine or uses a device prescribed by a doctor which helps lessen the effects of his/her disability? Does that mean that they can't have a 504 Plan?**

No. As of January 1, 2009, school districts can no longer consider what are called "mitigating measures." This means that items like hearing aids, medical supplies, low vision devices (not ordinary glasses or contacts), assistive technology, mobility devices, etc. cannot be used to keep a person from qualifying for a 504 Plan.

## **What is the evaluation process for Section 504?**

Schools are allowed to choose the evaluation process used for Section 504. They may use the same process as students being considered for Special Education under the IDEA. They may choose to use a different process, but this must have all of the requirements outlined in the Section 504 regulation: 34 CFR 104.35.

Section 504 requires informed parental consent before the initial evaluation. **Section 504 does not allow parents to request an independent educational evaluation at the district's expense.**

## **Who decides if my child qualifies for the 504 Plan?**

Section 504 regulations say that the decision rests with the group of persons who are knowledgeable about the placement options and evaluating data. Unlike the IDEA, Section 504 does not have a mandate that the parent must be part of the team membership.

## **What if I am not happy with the school's evaluation?**

Parents have the right to appeal the decision of the school district. For more information about this, please see Chapter 6.

## **What about re-evaluations? Will my child always be qualified for a 504 Plan?**

Periodic re-evaluation is required, but a specific timeline is not specified under Section 504. Many school districts use the IDEA regulation and re-evaluate every three years.

Section 504 does require a re-evaluation prior to a significant change of placement. The Office of Civil Rights considers a disciplinary exclusion from the educational program of more than 10 days to be a significant change of placement<sup>2</sup>. See Chapter 5 for more information on discipline.

## Chapter 3: When a Student Qualifies for 504

Section 504 allows the person with a disability to have equal access. This means that they must have an equal opportunity to participate in or benefit from educational aid, benefits, or services.

### What happens when my child is found eligible for 504?

Once he/she is found eligible, a school district must document activities and decisions made that show how appropriate educational accommodations and/or related services are being provided.

Most school districts develop written plans for their students with disabilities either in the form of a fairly simple accommodation plan or a health plan for students with health related needs.

Best practices suggest that at a minimum an accommodation plan should address:

- The educational impact of the identified disability;
- The necessary accommodations to access education and other school activities;
- How, where, and by whom the accommodations will be provided; and
- A monitoring system and the assignment of responsibilities for implementation.

Copies of the plan should be given to parents, teachers, and other individuals including the student when appropriate. A copy of the plan should also be placed in the student's school record.

Accommodation plans should not be written for the sole purpose of providing accommodations on standardized testing. If the student does not need educational accommodations during the school day to address a disabling condition, then an accommodation plan is not appropriate.

### Who decides what services are needed?

The determination of what services or accommodations are needed must be made by a group of persons knowledgeable about the child. This usually involves the school principal, classroom teacher(s) and other educators working with the child. The parent and child should be included in the process whenever possible. This group will:

- Review the information and data used in the evaluation and eligibility determination process.
- Decide what accommodations and/or modifications are needed to meet the unique needs of the student and allow the student with a disability to fully participate in the general education program.

## **What is an accommodation?**

An accommodation is a change that helps a student overcome or work around his/her disability. Accommodations should place the student with a disability on an equal starting level with peers who do not have disabilities.

An accommodation can address either academic or functional needs to eliminate barriers caused by the child's disability so that he/she can benefit from the educational program. The group can decide to use any accommodation they think is necessary for an individual child.

## **What is a modification?**

A modification means a change in what is expected or taught. Examples of this would be: using a calculator and reduction of homework.

## **Here are some examples of accommodations and/or modifications:**

- Modify assignments, homework and tests
- Provide an extra set of textbooks for home
- Use study guides, organizing tools
- Provide a peer tutor/helper
- School counseling
- Use of an organizer
- Organizational skills training
- Preferential seating
- Modify recess/PE
- Quiet room to take tests
- Digital text books
- Provide reader or scribe
- Use of study carrel
- Visual aides
- Checks for understanding
- Oral and printed directions
- Extra time to complete work
- Use of assistive technology
- Air purifier
- Medication administration
- Access to water/food
- Extra time for transition from class to class

## **Chapter 4: Procedural Safeguards**

It can be hard at times to understand what the law says and what rights are guaranteed to parents and/or qualified students with disabilities. You may have heard of the term procedural safeguards and did not understand how they guarantee your rights.

### **What are procedural safeguards?**

Procedural safeguards is another way of saying “rights” that are outlined in Section 504.

### **What are students’ rights?**

As mentioned in Chapter 1, students have a right to Free Appropriate Public Education (FAPE). This includes identification, evaluation, and accommodations/modifications if found eligible under 504.

### **As a parent or guardian you have the following rights under Section 504:**

- Receive notice regarding identification, evaluation, and/or placement of your child
- Examine relevant records
- Request an impartial hearing with parent participation
- Right to representation by an attorney that you pay
- Right to a review procedure
- Right to file a complaint with the School District’s Section 504 Plan Coordinator
- Right to file a U.S. Department of Education’s OCR Complaint
- Right to file a federal court lawsuit

### **As a parent or guardian you also have the following responsibilities:**

- Bring/provide needed documentation to the school
- Be familiar with what is on your child’s 504 Plan
- Timely notify the 504 team if something changes with your child’s treatment that may impact his/her education
- Timely notify the 504 team if there are issues with the effectiveness of accommodations/modifications

# Chapter 5: Discipline

Parents are sometimes under the mistaken impression students with disabilities do not have to follow the school code of conduct.

## Can children still be disciplined if they have a 504 Plan?

Yes. Children under Section 504 still have to follow the district's code of conduct. The U.S. Department of Education's Office of Civil Rights (OCR) has ruled that schools must consider the relationship between the disability and behavior if the punishment is a removal from the regular classroom for more than 10 days<sup>3</sup>. The meeting that determines the relationship between the disability and the behavior is called a manifestation determination.

### Manifestation determination hearings (meetings) decide these two things:

1. If a student's behavior is a manifestation of the disability (disability **directly** causes the behavior); and
2. If the student's behavior was the result of the school's failure to implement the 504 Plan.

If the answer to either question is "yes", then the student's placement may not be changed.

A Functional Behavior Assessment (FBA) needs to be completed if one was not previously done. The 504 team must also write a Behavior Intervention Plan (BIP). If a BIP already exists, it should be reviewed and modified to address the behavior.

If the parent and 504 Plan team cannot agree on the answers to the two questions, the district makes the determination and provides the parent with notice of its decision.

The parent has the right to request to file an OCR complaint or a federal court lawsuit if he/she disagrees with the district's decision.

### What if the behavior is not a manifestation of disability?

If your child's behavior is not determined to be a manifestation of their disability, he/she can be disciplined in the same manner as any other student.

There are three circumstances where it does not matter whether the behavior was a manifestation. They are called "**Special Circumstances.**"

### Special Circumstances include:

- Carrying a weapon at school;
- Possessing, or selling illegal drugs; and
- Inflicting a serious bodily injury at school.

## Chapter 6: Disagreements

Sometimes negotiations between parents and the school district and/or the student break down because the parties disagree and a compromise cannot be reached. At those times, the law does provide some relief. The information in this chapter has been adapted from the Office of Civil Rights' publications<sup>4</sup>.

### What if a 504 Meeting Does Not Fix the Problem?

If you have a problem that is not resolved by having a 504 Meeting with local school personnel, ask about your district's procedure on filing a written grievance with the district's 504 Plan Coordinator. Every district is required by law to have a local grievance policy for students with 504 Plans. If you have issues that cannot be resolved then you may also choose to file a federal complaint with the U.S. Department of Education's Office of Civil Rights (OCR). OCR has the authority to enforce Section 504.

### What is an OCR complaint?

When a person files an OCR complaint, he/she is saying that discrimination has occurred. This can happen when services/supports have not been provided or are provided inappropriately.

### Does OCR mediate complaints?

No. They do not formally mediate complaints but they may offer to facilitate mediation, which is referred to as "Early Complaint Resolution." If everyone (parents, students, and school) agrees to the Early Complaint Resolution, OCR will work with you to help resolve the problem by explaining the legal remedies available and offering possible solutions. Compliance with the agreement is not monitored by OCR.

If Early Complaint Resolution is agreed upon, OCR does not do any further investigation unless another complaint is filed.

### What happens if OCR finds the school is out of compliance with Section 504?

OCR can impose sanctions if voluntary negotiation or a corrective action agreement is not successful. It is up to the complainant to notify OCR of non-compliance with the agreement.

In **extreme** cases OCR will:

- Initiate administrative proceedings to terminate Department of Education funding;  
or
- Refer the case to the Department of Justice for judicial proceedings.

## **Do I have to file a grievance with the district's 504 Plan Coordinator before filing an OCR complaint?**

No. However, if you have filed a local grievance, you have to wait for it to resolve before filing a complaint with OCR. OCR will not handle complaints that are being handled by other entities at the same time.

If you have not filed with the local district then you can go ahead and file an OCR complaint if you wish.

## **How do I contact the Office of Civil Rights (OCR)?**

You may find information about filing a complaint with OCR and the accompanying form here:

<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

The OCR regional office that covers Kentucky is located in Pennsylvania:

Philadelphia Office  
Office for Civil Rights  
U.S. Department of Education  
The Wanamaker Building  
100 Penn Square East, Suite 515  
Philadelphia, PA 19107-3323

Telephone: 215-656-8541  
FAX: 215-656-8605; TDD: 800-877-8339  
Email: [OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

## **Do I have to file a complaint with OCR before I can file a civil lawsuit?**

No. A person can file a civil lawsuit against a school district at any time. The law does not say that OCR remedies must be tried first.

If you file a civil lawsuit, OCR will neither represent you nor provide advice on your case.

## **Chapter 7: Samples and Examples**

This chapter contains samples and examples of letters and forms. Please use the information in this chapter as a guide for your child's situation/educational needs.

This chapter includes:

I. Request for Evaluation

II. Request for 504 Meeting Form

III. Request to Review/Inspect Educational Records

IV. Example Scenarios for 504 Plans and Possible Accommodations

After completing this form, send it to the 504 Coordinator for your district by Certified Mail (return receipt requested) or hand deliver it to the School Board office. Make sure to keep a copy for yourself.

## Request for evaluation

Today's Date: \_\_\_\_\_

My child \_\_\_\_\_, is a student in the \_\_\_\_\_  
school, in the \_\_\_\_\_ school district.

I am making this referral for a 504 Plan and/or requesting evaluation for the following reasons

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Your Name (please print): \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

After completing this form, send it to the 504 Coordinator for your district by Certified Mail (return receipt requested) or hand deliver a copy to the School Board office. Make sure to keep a copy for yourself.

## Request for a 504 Meeting

Today's Date: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Dear \_\_\_\_\_, (504 Coordinator's Name)

My child \_\_\_\_\_, is a student at \_\_\_\_\_

(School name) in the \_\_\_\_\_ school district. I would like to request a 504 meeting to discuss \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

In addition to the 504 Team, I would also like to invite the following individuals to attend the 504 meeting:

\_\_\_\_\_  
\_\_\_\_\_

I understand the meeting should be scheduled at a time convenient for as many participants as possible. The best times for me to attend would be: (list times and dates)

\_\_\_\_\_  
\_\_\_\_\_

Please get back with me within 10 days from your receipt of this request with a proposed date and time. I look forward to hearing from you soon. Thank you for your help.

Sincerely,

\_\_\_\_\_  
Parent Signature

After completing this form, send it to the principal for your child's school by Certified Mail (return receipt requested) or hand deliver a copy to the school. Make sure to keep a copy for yourself.

## Request to Review/Inspect Educational Records

Today's Date \_\_\_\_\_

Parent Name (print): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Dear: \_\_\_\_\_ (Principal's Name)

I am writing to schedule a time to come and review all of my child's records, including the due process folder and discipline records. My child, \_\_\_\_\_,

is a student in the \_\_\_\_\_ grade at your school. I will also need copies of some all or all of these records. I understand that there may be a minimal charge for duplicating the requested records. Please let me know where and when I can come in to see the records and copy them, as needed. I need these records by \_\_\_\_\_ (date).

Thank you for all of your help. I look forward to hearing from you.

Sincerely,

\_\_\_\_\_  
(Signature)

## Example Scenarios for 504 Plans and Possible Accommodations

The following are descriptions of scenarios and possible accommodation plans that may be helpful given the unique circumstances given.

**Example 1:** A student has been diagnosed as having ADHD but does not meet eligibility requirements for Special Education under the IDEA. This disability limits the major life activity of learning. Because of his disability, he is unable to participate in the school's programs to the same degree as students without disabilities and therefore is substantially limited by the disability.

### Possible Accommodations and Services for this example may be:

- Seat the student away from distractions and in close proximity to the teacher
- State classroom rules, post in an obvious location, and enforce consistently
- Use simple, concise instructions with concrete steps
- Give student opportunity to stand/move while working
- Provide a peer tutor/helper
- Teach compensatory strategies
- Adjust assignments to match attention span, etc.
- Vary instructional activities frequently
- Provide supervision during transitions, disruptions, field trips
- Initiate frequent parent communication
- Establish a school/home behavior management program
- Provide training for staff
- Have the student use an organizer and train in organizational skills
- Establish a nonverbal cue between teacher and student for behavior monitoring
- Reinforce appropriate behavior
- Have child work alone or in a study carrel during high stress times
- Highlight required or important information/directions
- Provide a checklist for student, parents, and/or teacher to record assignments of completed tasks
- Use a timer to assist student to focus on given task or number of problems in time allotted
- Have student restate or write directions/instructions
- Allow student to respond in variety of different modes (i.e. may place answers for tests on tape instead of paper)
- Adapt student's work area to help screen out distracting stimuli

**Example 2:** An elementary school student has been diagnosed with juvenile diabetes requiring accommodation to maintain optimal blood sugar. She is learning to check her own blood levels but needs adult assistance to administer insulin. She needs help in recognizing when her blood sugar levels are too high or too low. This student is eligible for a 504 plan because she has a substantially limiting major life impairment in the area of self-care.

**Possible Accommodations and Services for this example may be:**

- Staff training on signs/symptoms of insulin reaction/hypoglycemia
- Staff training on insulin administration
- Administration of insulin on field trips/extracurricular activities
- Adult assistance to escort to nurse
- Private place for the monitoring of blood levels
- Snacks and meals available at scheduled times and as necessary
- Extra time to complete assignments when needed
- Physical education activities will be adapted as needed
- Allow extra access to bathroom and water as needed
- Parent communication on a regular basis

## Chapter 8: Glossary

**Academic Adjustments** Modifications to academic requirements needed to ensure that requirements do not discriminate on the basis of disability. These can include changes in the length of time permitted to complete the degree and adaption of the manner in which specific courses are conducted. Other examples: reduced course load, extended time on tests, and providing auxiliary aids and services.

**Accommodation** Something supplied to satisfy a need or make an adjustment which helps a student overcome or work around a disability.

**Adaptive Behavior** Personal, independent, and social behaviors which are based on expectations of how a typical child would normally act and take care of him/herself.

**Auxiliary Aids and Services** Items or services to ensure post-secondary students with a qualified disability can effectively participate in institution programs. Examples include: Interpreters, digitized texts, electronic readers, videotext displays, etc.

**Behavior Intervention Plan (BIP)** A written plan for children who have behaviors that impact their learning or that of others. The BIP identifies problem behaviors being targeted for change, the function of the behavior, and positive strategies to be used to decrease those behaviors.

**Early Complaint Resolution (ECR)** When a complaint is filed with the Office of Civil Rights (OCR), the involved parties can choose to participate in discussions to resolve the matters if OCR decides that would be appropriate. OCR does not monitor the agreement for compliance, but parents have the right to file additional complaints if/when the agreement falls through.

**Educational Performance** A child's abilities in academic areas and non-academic areas. Academic areas may include reading, math, communication; progress in the general curriculum; and performance on state-wide and local assessments. Non-academic areas may include daily living activities, behavior, mobility, and mental health.

**Equal Access** Equal opportunity of a person with a disability to participate in, or benefit from an educational aid, benefits, or services.

**Free Appropriate Public Education (FAPE)** Public school education must be free, that means delivered at no cost to parents and/or their children. Appropriate education programs must be designed to meet the individual needs of students with disabilities to the same extent that the needs of nondisabled students are met.

**Independent Educational Evaluation (IEE)** An evaluation completed by qualified persons who are not employed by the school system your child attends.

**Individual Education Program (IEP)** An education plan written to meet the individual needs of your child. Once drafted it is a legally binding guarantee of services to be provided to your child.

**Individuals with Disabilities Education Act (IDEA)** Federal law which governs how special education and related services are delivered to public school children.

**Major Life Activities** Activities including but not limited to: walking, seeing, hearing, breathing, learning, caring for oneself, performing manual task, sleeping, standing, lifting, bending, reading, concentration, thinking, communicating, etc.

**Mitigating Measures** This includes items like medicine, medical supplies, equipment or appliances, low-vision devices (not including eyeglasses or contact lenses), hearing aids and cochlear implants, mobility devices, oxygen therapy equipment, assistive technology, etc.

**Modification** A change in what is expected or taught.

**Procedural Safeguards** The rights of parents and students which are guaranteed by law in Section 504 of the Rehabilitation Act. See Chapter 4 for a complete listing of parent rights.

**Substantial Limitation** A disability that causes the student to be negatively impacts a student's ability to perform a major life activity when compared to the general population.

## Chapter 9: Additional Resources

<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

<http://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html>

<http://www2.ed.gov/documents/news/section-504.pdf>

<http://www.greatschools.org/special-education/legal-rights/868-section-504.gs>

<http://www.greatschools.org/special-education/assistive-technology/1526-Section-504.gs>

<http://www.pacer.org/>

# Appendix A

<b>Individuals with Disabilities Education Act (IDEA) and 504 Comparison Chart</b>		
<b>Component</b>	<b>IDEA (law that governs IEPs)</b>	<b>Section 504 of the Rehabilitation Act (504 plan of accommodations)</b>
<b>Purpose</b>	A federal statute whose purpose is to ensure a free and appropriate education (FAPE) for children with disabilities who fall within one of the specific disability categories as defined by the law.	A broad civil rights law which protects the rights of individuals with disabilities in any agency, school, or institution receiving federal funds to provide persons with disabilities, to the greatest extent possible, an opportunity to fully participate with their peers.
<b>Who is Protected?</b>	Covers eligible students ages 3-21 whose disability adversely affects their educational performance and/or ability to benefit from general education.	Covers all persons with a disability from discrimination in educational settings based solely on their disability.
<b>Services</b>	Provides individual supplemental educational services and supports, in addition to what is provided to students in the general curriculum, to ensure that the child has access to and benefits from the general curriculum. Provided free of charge to the parent.	Requires schools to eliminate barriers that would prevent the student from participating fully in the programs and services offered in the general curriculum.
<b>Requirements for Delivering Services</b>	Requires a written Individualized Education Program (IEP) with specific content addressing the disability directly and specifying educational services to be delivered, mandating transition planning for students 16 and over, as well as a Behavior Intervention Plan (BIP) for any child with a disability that has a behavioral issue.  Defines “Appropriate Education” as a program reasonably calculated to provide “educational benefit” to the student. Related services (e.g., counseling, speech, transportation, occupational and physical therapy, etc.) are provided as required for the student to benefit from the educational process and are aligned with specially designed instruction.	Does not require a written IEP but does require a documented plan. Requires that reasonable accommodations be made for the child with a disability. Requires the school to provide reasonable accommodations, supports, and auxiliary aides to allow the child to participate in the general curriculum.  Defines “Appropriate Education” as comparable to the one provided to general education students.
<b>Funding</b>	Provides additional funding to states and local school districts to help cover the excess cost of providing special education to eligible students.	Does not provide any additional funding to states or local school districts.  Additionally, IDEA funds may not be used to serve children found eligible only under Section 504.
<b>Evaluation Procedures</b>	A full evaluation is required, using a variety of assessment tools and strategies, to gather relevant functional and developmental information, including information provided by the parent that may assist the team in determining whether the child has a disability and how it affects the child’s educational program.  Multiple assessment tools must be used to assess the child in all areas of the suspected disability.  Written consent is necessary by parent or guardian before an initial evaluation is conducted.	There is a parental right to give prior consent before an initial 504 evaluation and initial 504 placement.  Evaluation draws on information from a variety of sources in the area of concern. A group decision is made with persons knowledgeable about the student, evaluation data, and available educational placement option.  Requires yearly reevaluations or periodic review.

	Requires a reevaluation every three years by the IEP team to determine if services are still needed to address the student's disability, unless the parent and other members of the IEP team agree it is not necessary.	
<b>Independent Evaluation</b>	Allows parents to request an Independent Educational Evaluation (IEE) at the school district's expense if the parent or guardian disagrees with the evaluation obtained by the school district. The independent evaluator must meet the same criteria the district requires for their employees and must be approved by all parties.	Does not allow independent evaluations at the district's expense or the ability to request an independent educational evaluation.
<b>Procedural Safeguards</b>	<p>Requires written notice to the parent or guardian prior to identification, evaluation, and/or placement of the child.</p> <p>Changes of services or placement must have written notice before any change can take place. Requires due process rights to be followed at all times and a manifestation determination hearing for discipline procedures.</p> <p>For any child with behavioral concerns, a Functional Behavior Assessment (FBA) must be completed and a Behavior Intervention Plan (BIP) written to assist the student in learning appropriate behaviors and providing supports to enable the student to be successful in their learning community.</p>	<p>Does <b>not</b> require written notice to the parent or guardian, but does require the right to receive notice of your rights.</p> <p>You should receive notice regarding evaluation, identification, and educational placement.</p> <p>Requires notice <b>before</b> a "significant change" in placement such as disciplinary actions.</p> <p>Requires due process rights if the child is referred for formal evaluation under IDEA and team determines not to evaluate.</p>
<b>Placement Decisions</b>	<p>Requires the district and schools to use information from a variety of sources, consider all documented information, and use a team approach to make eligibility decisions. Team members are identified under IDEA and must be knowledgeable about the child, evaluation data, the continuum of placements and services available.</p> <p>Requires that the student receive a free and appropriate education with his or her non-disabled peers in the least restricted environment (LRE).</p> <p>Requires an IEP meeting before any change in placement or services is made. Students are eligible for a full continuum of placement options, including regular education with related services, as needed.</p>	<p>Requires the district and schools to use information from a variety of sources and to consider all documented information. Uses a team approach to make eligibility decisions, with team members being knowledgeable about the child, evaluation data, and the continuum of placements and services available.</p> <p>The student must receive a free and appropriate education (FAPE) with his or her non-disabled peers.</p> <p>A meeting is not required for a change of placement. Students are served in general education with or without modification.</p>
<b>Due Process</b>	Requires districts to provide resolution sessions and due process hearings for parents or guardians who disagree with the identification, evaluation, implementation of IEP, or the student's LRE placement.	Requires districts to provide a grievance procedure for parents and students who disagree with the identification, evaluation, implementation of plan, or LRE placement. A grievance procedure to follow must be provided to parents and employees and a 504 coordinator identified in the district to assist individuals as needed.

		<p>Does not require a due process hearing before Office for Civil Rights (OCR) involvement or court action, unless the student is also covered by IDEA</p> <p>Compensatory damages are possible. Parents can request reimbursement for reasonable attorney fees under some circumstances.</p>
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The information presented here is not legal advice and should not be used as a legal resource.  
Information obtained through the National Center for Learning Disabilities – [www.LD.org](http://www.LD.org)  
and from the U.S. Department of Education, Office of Civil Rights at [www.2.ed.gov](http://www.2.ed.gov).

Updated July 2013

# Appendix B

## Endnotes

<sup>1</sup>McKethan, James F. (2007-2008). Section 504 The 1973 Rehabilitation Act: Referral, Evaluation and Placement. Everything School Placement Teams Should Know. Florida: LRP Publications.

<sup>2</sup>U.S. Department of Education, Office of Civil Rights (2012). "Disability Rights Enforcement Highlights". <http://www2.ed.gov/documents/news/section-504.pdf>

<sup>3</sup> Ibid

<sup>4</sup> U.S. Department of Education, Office of Civil Rights (2013). "Protecting Students with Disabilities. Frequently Asked Questions About Section 504 and the Education of Children with Disabilities". <http://www2.ed.gov/about/offices/list/ocr/504faq.html> and

U.S. Department of Education, Office of Civil Rights. "Discrimination Complaint Form". <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

