

Section 504 Basic Information

1. Section 504 is a Civil Rights Act which prohibits discrimination against individuals with disabilities who attend schools funded with public dollars. It is enforced by the US Department of Education, Office of Civil Rights.
2. To become eligible for services and protection, a student must be determined, as a result of evaluation, to have a physical or mental impairment that substantially limits one or major life activities.
3. A physical or mental impairment is described as any physiological disorder or condition, cosmetic disfigurement, or anatomic loss affecting one or more of the following basic systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
4. Section 504 defines major life activities as function such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. For educational purposes, a student does not need impairments in just the area of learning to be eligible for a 504 plan. The school will consider all areas of need, including behavior, socialization and academics. A major life activity does not include attaining an SAT score sufficient to gain admission to college (per Montgomery County Public Schools, 40 IDELR 24, 2003).
5. Section 504 regulations do not define the word substantially. The OCR directs schools to make the decision of whether a particular impairment substantially limits a major life activity for a student on an individual basis. A physical or mental impairment does not constitute a disability for purposes of Section 504 unless its severity or educational impact is such that it results in a substantial limitation of one or more major life activities.
6. Schools are required to evaluate when: a student is referred to the child study team but is determined to be not eligible for services under IDEA,

when it is determined that a special education evaluation is not warranted, when a student shows a pattern of not benefiting from the instruction provided, when a student returns to school after a serious injury or illness or when the student exhibits a chronic health condition.

7. Section 504 does not provide for an absolute right to an evaluation on demand. If a school district rejects a parent's request based on its belief that the child is not eligible, it must inform the parent of their right to challenge the district's decision to not evaluation (OCR 19 IDELR 1127).
8. School must formally evaluate students before determining their eligibility for services and deciding which services are appropriate. As a general rule, evaluation procedures are similar to those set out in IDEA, however, school districts may have a different evaluation process for Section 504. Section 504 requires that information from a variety of resources be considered and documented prior to placement.
9. Regulations require that decisions regarding eligibility, programs, related services, and accommodations be made by a group of professionals knowledgeable about the student, the meaning of the evaluation data and the placement options. Members of the team should include a general education teacher, a nurse, a counselor, and the parent. Other specialists shall be included as appropriate depending on the nature of the disability.
10. ADD/ADHD is a recognized impairment that can be the basis of eligibility for Section 504 or IDEA. A physician's diagnosis should be considered as one piece of evidence when evaluating the child.
11. Depending on the nature and severity of the condition, a student with an impairment who does not meet the standards for eligibility under IDEA may or may not fit within the Section 504 definition.
12. Students who are eligible for special education programs and related services under IDEA meet the definition of eligibility under Section 504. IDEA eligible students are entitled to additional protections and services offered under Section 504, such as the right to accessible facilities.
13. An IEP is not required under Section 504 but best practice indicates that the district produce a written document to memorialize the agreed upon services and accommodations- typically called an accommodation plan.

14. Modifications typically identified as appropriate under Section 504 include modifying pacing, modifying the classroom environment, modifying the presentation of the subject matter, adjustments to grading or assignments and modifying testing techniques.
15. Section 504 students can be eligible for related services, such as physical therapy, as determined to be needed by the evaluation team. All students protected under Section 504 of the Rehabilitation Act are entitled to a Free and Appropriate Public Education, as determined by the 504 team at the site.
16. As a matter of law, Section 504 students are not serviced in special education classrooms, but in practice they may be. Section 504 does not explicitly condition entitlement to special education services. Regulatory and judicial guidance regarding this is minimal. There are no authoritative decisions reviewing whether a particular student was entitled to special education services under Section 504.
17. Teacher can NOT refuse to provide a service that school district agrees to provide as identified in the Section 504 Accommodation Plan. Teachers who refuse to perform an accommodation may find themselves can be held liable for compensatory damages and punitive damages for refusing to provide accommodations (See Doe v. Withes lawsuit).
18. All Schools who receive any federal financial assistance must comply with Section 504 of the Rehabilitation Act.
19. Schools must make all programs accessible for students with disabilities, not necessarily all buildings.
20. There are no federal funds associated with serving Section 504 students.
21. Parents may file a written grievance, if dissatisfied, with the district's 504 Coordinator, request an impartial due process hearing or file a complaint with the US Office of Civil Rights.