

A Teacher's Guide to Section 504 of the Rehabilitation Act

What is Section 504?

Section 504 of the Rehabilitation Act is a civil rights act prohibiting discrimination based on disability. It was enacted to eliminate barriers that exclude persons with disabilities. Section 504 applies to all agencies that receive federal funds, including public schools, federal agencies, and places of public accommodation. All staff and administrators have the responsibility of insuring that all students with disabilities are identified, evaluated and provided with needed accommodations and services, resulting in a free appropriate public education (FAPE). Section 504 is enforced by the U.S. Department of Education, Office of Civil Rights.

Public school districts have the duty to provide a free appropriate public education to all qualified disabled students. A FAPE must include an education designed to provide educational benefit despite the child's disability, it must be at no cost to the parent; and it must be provided in an environment that affords the greatest exposure to non-disabled peers.

What's the difference between eligibility for IDEA and Section 504?

Section 504 is a civil rights act, predating the Individuals with Disabilities Education Act (IDEA). IDEA, commonly referred to as special education, is an education law which provides funding for individualized educational programs and additional services beyond what is available to students without disabilities. IDEA covers children within specific categories of disabilities and degrees of impairment. Unlike services offered through IDEA, school districts receive no additional federal or state funding under the Section 504 mandate.

Who is a student with a disability under 504?

Section 504 protects an individual who has, had, or is perceived as having a physical or mental impairment which substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing speaking, breathing, learning, or working. It protects students when their disabilities limit their ability to attend, participate in, or receive benefit from their education. These provisions protect individuals with disabilities far beyond those covered by IDEA, and they also protect every student who is eligible for IDEA.

Section 504 does not specifically list qualifying disabilities although it does list examples. These include: diseases and conditions involving orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism, HIV/AIDS, learning disabilities, ADD/ADHD, cystic fibrosis, severe allergies and asthma, among others, have also been recognized. In all cases the focus is on the extent to which the impairment substantially limits a major life activity when compared to an average individual in the general population. Some students with these disabilities may be covered by IDEA, but only if they meet certain eligibility criteria.

What are some examples of discriminatory practices prohibited by Section 504 in a school setting?

- Penalizing a student whose absenteeism is related to disability;
- Not providing accessible transportation for a student who uses a wheelchair for field trips and school sponsored activities;
- Expelling a child for behavior related to a disability;
- Not permitting a student with a disability to participate in intramural or other non-academic activities;
- Not providing interpreters for deaf students who want to participate in school activities;
- Refusing to allow a child with a disability the opportunity to audition for athletic teams or other extracurricular activities
- Not providing an interpreter for a deaf parent to attend a school meeting.

Identification of Students Eligible under Section 504

Parents, teachers, school nurses, audiologists, Section 504 teams or other school personnel can initiate a Section 504 referral if the child is known to have a disabling condition. If a child is experiencing chronic problems at school and if interventions which have been implemented have been unsuccessful, and a disability is suspected, the school has an obligation to refer the child for an evaluation. Following the referral the school 504 team will convene to implement the eligibility process. Often, an evaluation under IDEA is necessary.

What is an evaluation under Section 504?

Evaluations to determine 504 eligibility are different than evaluations required by Special Education. For purposes of Section 504, evaluation means reviewing information from a variety of sources. This typically includes teacher reports, grades, standardized

test scores, attendance and discipline reports, information from parents and medical providers, etc. The 504 Team must include individuals who are knowledgeable about the child, the type of disability, the evaluative data being reviewed, and service options. Obviously, teachers play an important role in the process. Teachers should always participate in any meetings where a 504 plan may be developed and be prepared to supply pertinent data and anecdotal information about the child. Because Section 504 does not provide a definitive "list" of qualifying conditions, school personnel must use their collective, professional judgment to make a determination. If the 504 Team determines that there is not sufficient information to make a determination, or the Team believes the child may be eligible for services under IDEA, a referral for an evaluation through Special Education is made.

It is not uncommon for a school to receive a doctor's letter stating that a student has a disability and needs certain services. While the school always considers the recommendations of doctors or other professionals who work with the child, it remains the school's responsibility to review multiple sources of information to determine 504 eligibility and to implement any necessary services for the student. Simply having impairment does not automatically qualify a student under Section 504.

How is a 504 plan developed?

If a student is found to have a disability under Section 504, the team will make an individualized determination of the student's educational needs and a Section 504 plan will be developed. The Section 504 plan will identify the individual(s) responsible for implementing services. Most services are provided by the classroom teacher. Eligibility status and 504 plans are reviewed annually.

What are some examples of Section 504 services?

Services are "adjustments" that are designed to minimize the impact of a disability and meet the unique needs of the student. There is no "list" of approved accommodations. They are determined individually for each child. Examples might include preferential seating to minimize distractions for children with attention/concentration difficulties; assisting a student with diabetes in monitoring his/her blood sugar levels; providing extra time or a quiet setting for exams; providing extensions on assignments; providing curriculum and increasing communication with parents for children who cannot attend school regularly due to chronic health problems. For the most part, services are inexpensive and utilize good teaching practices and classroom management strategies.

What are teacher's responsibilities when a student has a 504 plan?

Once developed a 504 plan is a legal contract between the school district and the student. Teachers are responsible for implementing designated services and strategies identified on a student's plan. **Teachers do not have the discretion to decline or refuse to implement any component of a 504 plan.** This is another reason why teachers should always participate in the entire process.

Only the student's 504 team may modify the services. Any changes must be based on the student's disability. When a teacher has a concern about the nature of a student's plan, he/she should discuss it with the school's Section 504 case manager.

Teachers should always maintain documentation which demonstrates compliance with a student's 504 plan. If problems arise, the school 504 case manager should be contacted immediately.

When is a 504 Plan inappropriate?

- When a student has a diagnosed disorder but is functioning well academically and is making adequate progress without services, the student does not meet the criteria for 504 eligibility. This might include a student who is doing well in school but may not be working to potential; a student who a parent feels could be making A's rather than B's; or a student who only experiences difficulty in one subject area.
- When a plan is created only to support a request for extended time on College Board exams (SAT's ACT's)
- When a student is eligible for services under IDEA but parents prefer Section 504 services.

What is the teacher's role during the annual review process?

Input from teachers is especially important during the annual review process. Teachers can provide the team with critical information to help determine whether a student continues to need a Section 504 plan. Does impairment continue to substantially limit a student's academic performance? Were services utilized by the student? Were services effective? Does the plan need to be changed? Are there other factors, such as poor attendance or failure to turn in assignments, that are affecting the student's academic success?