

Section 504 Overview

Section 504 of the Rehabilitation Act of 1973 (“Section 504”)

- Definition: “No otherwise qualified individual with disabilities in the U.S. shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance.”
- Nondiscrimination statute which prohibits entities receiving federal funds from allowing disability discrimination.
- Requires school districts to make programs and activities accessible to and usable by all individuals with disabilities.
- Intent: to provide accommodations within the regular educational environment to ensure receipt of education with non-handicapped peers to the maximum extent appropriate.

Discrimination Against a Student with a Disability

- Denying a student with a disability the opportunity to participate in or benefit from an aid, benefit or service which is afforded nondisabled students (e.g., honor roll, class credit).
- Failing to afford the student with a disability an opportunity in or benefit from the aid, benefit or service that is equal to that afforded to others (e.g., sports eligibility).
- Failing to provide different or separate aids, benefits or services that are as effective as those provided to nondisabled students (e.g., placing a student with a hearing impairment in the front row instead of providing an interpreter).

Programs or Activities Covered by Section 504

Section 504 applies to ALL programs or activities of the school district, including extracurricular, non-academic, transportation, field trips, recreational athletics, employment opportunities, counseling and referrals, and recreational activities.

Students Covered by Section 504

- Students who have a mental or physical impairment that substantially limits one or more major life activities.
- Students who have a record of a mental or physical impairment.
- Students who are regarded as having a mental or physical impairment.
- For students to qualify for Section 504 protection the students must meet ALL of the following three criteria:

1. Have a **mental or physical impairment** (or has a record of an impairment or is regarded as having an impairment),
2. Which **substantially limits**,
3. One or more of a person's **major life activities**.

Physical or Mental Impairment

Defined as:

· Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; 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.

Includes such diseases and conditions as orthopedic, visual, speech and hearing impediments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), acquired immune deficiency syndrome (AIDS), and human immunodeficiency virus (HIV).

Record of an Impairment

The student has a history of, or has been misclassified as having, a mental or physical impairment. Examples include diagnosis of a mental illness or having had cancer and recovering.

A student will be protected by Section 504 under this definition **ONLY** when negative action is taken based on the fact that the student has a record of an impairment. The student is not covered by Section 504 because of the student's qualifying disability, but rather, to protect the student from being injured by the prejudice or stereotypic attitudes of others.

Regarded as Having an Impairment

A student is regarded as having an impairment when a doctor or parent/guardian regards the student as impaired and, therefore, limited. Being *regarded* by someone, such as the student's doctor or parent/guardian, as handicapped or disabled is not sufficient in itself to trigger Section 504 protection. A student will be protected by Section 504 under this definition **ONLY** when negative action is taken based on the fact that the student is perceived as handicapped. The student is not covered by Section 504 because of the student's qualifying disability, but rather, to protect the student from being injured by the prejudice or stereotypic attitudes of others.

Substantial Limitation

Substantial limitation refers to the extent the disability impacts the student at school.

A student who suffers from a substantial limitation will meet two criteria:

1. Unable to perform a major life activity the average person can perform, and
2. Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity, as compared to how an average person can perform that major life activity.

The question is whether the student is afforded an equal opportunity to participate in and benefit from education compared to his or her nondisabled peers. In determining whether a student has a substantial limitation, the point of comparison is to an average student in the general population, not to the student's ability, the expectations of family or community, or the specific class or school.

Educational Placement

Educational placement in the Section 504 context refers to the general education classroom with the use of supplementary/related aids and services. Parent and/or guardians of students requesting a medical zone variance and/or health plan will receive a copy of the 504 Fact Sheet and Parent/Guardian/Student Procedural Safeguard and Rights Form notifying them of available 504 services.

Supplementary/Related Aids and Services

Supplementary/Related Aids and Services are accommodations in a student's Section 504 Plan. An accommodation is a change in the educational setting, materials, and/or strategies that does not significantly alter the content of the curriculum or level of expectation for a student's performance, but which allows the student to access the general education curriculum.