

What Parents Need to Know About a Section 504 Accommodation Plan

Basic Information

What is a 504 Accommodation Plan?

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

A 504 Accommodation Plan may be developed for a child who is not enrolled in special education but who requires accommodations or modifications during the school day. A 504 Accommodation Plan should be used in the school to support the needs of a child who does not have an Individualized Education Plan (IEP). For example, this might include a child with diabetes, cystic fibrosis, nutrition needs, metabolic disorder, anxiety or any documented disability that does not reach the level of severity for special education services required under the Individuals with disabilities Act. In the case of a child classified under Public Law 504, only accommodations and/or modifications are provided by the school.

What is the Definition of Section 504?

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)].

What Individuals are covered by Section 504?

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 is an "individual with a disability"?

As defined by federal law: "An individual with a disability means any person who:

- has a mental or physical impairment which substantially limits one or more major life activity
- has a record of such an impairment
- is regarded as having such an impairment" [34 C.F.R. §104.3(j)(1)].

What is an "impairment" as used under the Section 504 definition?

Impairment as used in Section 504 may include any disability, long-term illness, or various disorders 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)].

What are the differences between an Individual Education Program (IEP) and a 504 Accommodation Plan?

There are two types of written plans, which must be developed and implemented by public schools regarding students with disabilities. First, students with disabilities requiring only reasonable accommodation must have a written plan under Section 504; this is commonly referred to as a 504 plan. Each public school should have a person (usually an assistant principal or a guidance counselor, but not a special educator) who serves as the school's "504 coordinator." This person should coordinate the development, maintenance, and implementation of 504 plans.

Basically, if a child is classified as having a disability under the Individuals with Disabilities Education Act he/she is entitled to the following:

- a special education program that represents the child's least restrictive environment. This means an educational program that will best fulfill his/her management, social, academic, and physical needs
- An specially designed Individual education Program (IEP)
- Modifications
- Accommodations
- Annual Review
- Triennial evaluations
- Due process
- Transition Services

Under Section 504 a student who meets the requirements will be entitled to:

- A 504 Accommodation Plan
- Modifications
- Accommodations
- Due Process
- Reevaluation every three years

What are "major life activities" according to Section 504?

Major life activities include, but are not limited to: self-care, manual tasks, walking, seeing, speaking, sitting, thinking, learning, breathing, concentrating, interacting with others, and working. This may include individuals with AD/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, temporary disabilities (e.g., broken writing arm, broken leg, etc.). Students who are currently using illegal drugs or alcohol are not covered or eligible under Section 504.

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

Anyone can refer a child for evaluation under Section 504. However, while anyone can make a referral, such as parents or a doctor, the school district must also have reason to believe that the child is in need of services under Section 504 due to a disability.

Who decides whether a student is qualified and eligible for services under Section 504?

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)].

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

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 my child be placed under Section 504 without the knowledge of the parent?

No. Parents should always be given notice in writing 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 a child receive if determined eligible under Section 504?

The needs for any child eligible under Section 504 are individually determined. This 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, even with modifications or accommodations, of passing grades or even that the student will not fail.

Modifications and Accommodations that may be used, but are not limited to, include:

- Extended time on tests or assignments
- Books on tape
- Alternate settings for a child taking a test to reduce distractions
- Instructions read
- Assistance with note-taking
- Extra set of textbooks for home use
- Computer aided instruction
- Enlarged print
- Behavior intervention plans
- Visual aids
- Preferred seating assignments
- Taping lectures
- Oral testing
- Individual contracts
- Extra examples
- Not being penalized for spelling errors

Will a child classified under Section 504 be placed in a “special class”?

A Section 504 eligible child will always be in the regular classroom unless (according to federal regulations): "... the student with a disability is so disruptive in a regular classroom that the education of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment. Therefore, regular placement would not be appropriate to his or her needs and would not be required by §104.34" (34 C.F.R. §104.34, Appendix A, #24).

How is discipline determined for children eligible under Section 504?

Children under Section 504 are still expected to follow the district's student code of conduct. However, when disciplining a child under Section 504, schools must consider the relationship between the disability and the misbehavior if the child is going to be removed from the regular setting for longer than 10 days. This does not mean that a student with a disability cannot be sent to a discipline center or that they cannot go to in-school suspension, or be suspended from school for three days.

If a parent disagrees with the school's evaluation, will the school district 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.

What Are a Parent's Rights under Section 504?

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
- Ask for a meeting with the 504 Committee at any time
- 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