

504

Section

A Parent and Teacher Guide to Section 504: Frequently Asked Questions

Section 504 is part of a federal civil rights law known as the Rehabilitation Act of 1973. This law specifically prohibits discrimination against students with disabilities and guarantees them a free and appropriate public education (FAPE). Discrimination, as defined in Section 504, is the failure to provide students with disabilities the same opportunity to benefit from education programs, services, or activities as is provided to their nondisabled peers. Therefore, schools cannot exclude students with disabilities from facilities, programs, benefits, activities, or services that are provided to students without disabilities. Schools must make sure that all students receive equal access to educational opportunities. Students with disabilities receiving exceptional student education (ESE) services, as defined by the Individuals with Disabilities Education Act (IDEA), are protected under Section 504, but not all Section 504 students are eligible for ESE.

Questions and Answers

1. How does the Rehabilitation Act of 1973 define a “person with disabilities”?

The Rehabilitation Act of 1973 defines a person with disabilities as any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having an impairment. Major life activities as defined in the Rehabilitation Act of 1973 include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Learning does not have to be the major life activity affected in order for an individual to be eligible for protections and services under Section 504.

2. How are students identified as having a disability?

A parent, teacher, or other member of the school staff may raise a concern about a student’s unique need for special help. Parents, teachers, and other staff members will meet to discuss all relevant information about the student. The parents’ participation in this meeting is critical and helps to establish an accurate picture of the student’s needs. At the meeting, the team will consider whether the student has a disability that substantially limits a major life activity. (See definitions in question #1.) If the team needs more information, they will request the parent’s consent to evaluate the student. If the team determines that the student does have a disability, they will then identify what types of support, or *accommodations*, are appropriate to meet the student’s needs. The accommodations will be described in a document referred to as the Section 504 accommodation plan.

3. What is included in a Section 504 accommodation plan?

A Section 504 plan describes the accommodations that the school will provide to support the student’s education. The team that determined the student’s eligibility for Section 504 and identified the needed accommodations will write the accommodation plan. While Section 504 does not require a written plan, it does require documentation of evaluations and accommodations. It is very useful to have a written plan to provide clarity and direction to the individuals delivering services or making accommodations.

While there is no time limit specified for an accommodation plan, a yearly review is recommended. Section 504 accommodation plans may be updated at any time to reflect changes and recommendations by the team.

4. What is the role of parents?

Parents are their child’s first and most important teachers, as well as their advocates. If a parent believes his or her child has a disability or is having problems in school, the child’s teacher should be contacted to discuss these concerns. Building a strong parent/school relationship begins with effective communication. Parents play a key role by providing important information to schools about their child’s needs, particularly for students with disabilities. As an added benefit, this involvement demonstrates the importance the parent places on education.

5. What is the role of teachers?

Classroom teachers need to be flexible in their teaching techniques and expectations for students with disabilities. In order for students with disabilities to be successful in school, teachers may need to modify the classroom environment, adjust their teaching strategies, or make other accommodations. In addition to making classroom modifications, other tasks include assessment of student progress and effective communication with parents. Teachers are required under Section 504 to make necessary accommodations as specified in the Section 504 accommodation plan.

6. What should parents or teachers do if they become dissatisfied with the plan?

Ongoing communication between parents and teachers will help avoid disagreements related to the student's accommodation plan. When parents' or teachers' concerns are not addressed to their satisfaction, they should contact the school principal or the designated staff member responsible for Section 504. If the plan is not appropriate, it should be revised following the same procedures used to develop the original plan. Because situations change and students' needs change, flexibility in this process will help everyone meet the student's needs.

7. What procedural safeguards are provided by Section 504?

Procedural safeguards are rules that tell what procedures schools (and parents) must use in making decisions about services for students with disabilities. School principals should have the procedural safeguards information available for parents upon request. Under Section 504, parents have the right

- to receive notice regarding the identification, evaluation, and placement of their child
- to receive prior notice when the school is changing or discontinuing services for their child
- to review their child's records
- to participate in an impartial hearing and review process with or without representation by counsel.

In addition, school districts must provide public notification of the following:

- policies of nondiscrimination
- grievance procedures
- the contact information for the district coordinator of Section 504 compliance.

8. Are students with disabilities disciplined differently than are their nondisabled peers?

While all students are expected to follow classroom and school rules, a student with a disability may need a specialized behavior plan or accommodations to support his or her appropriate behavior during all school activities. Students with disabilities are not exempt from consequences for violations of the code of student conduct. In cases of severe violations of the district's code of student conduct, disciplinary interventions are frequently based on approved school board policies and require specific consequences. However, if it is determined that the behavior was a manifestation of the student's disability, the consequence outlined in the student code of conduct may be deemed inappropriate and consideration should be given to revising the students' individual behavior plan. Revisions may include strategies and supports that will reduce the likelihood that inappropriate

behavior occurs in the future and encourage more socially acceptable behaviors within the school setting. Students who are eligible under the Individuals with Disabilities Education Act (IDEA) cannot be denied a free and appropriate public education (FAPE) as a result of discipline. Although Section 504 does not specifically address discipline, best practice would suggest that districts use the policies and procedures outlined in the IDEA when making decisions about disciplinary consequences for a student eligible for a Section 504 accommodation plan.

9. What are the major differences between IDEA and Section 504?

Both IDEA and Section 504 guarantee students with disabilities access to a free and appropriate public education. However, there are major differences between them, specifically in the criteria used to determine eligibility and the definition of a free and appropriate public education. IDEA provides more specific categories of disabilities, including mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, and specific learning disabilities. For a student to receive exceptional student education services under IDEA, the student's educational performance must be adversely affected by the disability and he or she must be in need of special education services (i.e., specialized instruction). Students with a disability who meet specific IDEA requirements are also protected under Section 504. Finally, IDEA applies only to individuals from birth through age 21.

Section 504 is not limited to specific disability categories and does not require evidence that the disability adversely affects the student's educational performance, however the definition states that in order to be eligible for an accommodation plan, the student must "have a physical or mental impairment which substantially limits one or more major life activities." Major life activities under Section 504, includes caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Students ineligible for services provided under IDEA may be eligible for accommodations under Section 504. Finally, Section 504 covers individuals of all ages.

10. Whom do I contact for information on Section 504?

Parents and teachers may contact the school principal; the school district's Section 504 coordinator; the Florida Department of Education's Student Support Services office at (850) 922-3727; the Florida Department of Education's Office of Equity and Access at (850) 245-0511; or the U.S. Department of Education's Office for Civil Rights at (404) 562-6350 or email OCR_Atlanta@ed.gov.