



## What is a Section 504 Plan? Does My Student Qualify for One?

Section 504 of the Rehabilitation Act of 1973  
And the Americans with Disabilities Amendment Act of 2008

### Consider a Section 504 Plan for a student if that student:

- Receives services under IDEA but needs a medical health plan, positive behavior plan or other school services
- Has been evaluated for eligibility under IDEA and found ineligible
- Previously received services under IDEA and is determined to no longer be eligible
- Is found eligible for services under IDEA but parents refuse consent
- Has received services under IDEA and parents decide to discontinue services

### Section 504 of the Rehabilitation Act of 1973

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. Section 504 states: “No otherwise qualified individual with a disability in the United States . . . 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 . . .*”

Because Section 504 preceded the enactment of the ADA by nearly 20 years, Section 504 has generally been the basis for disabilities protections in the nation’s public schools. The Section 504 federal regulations require a school district to provide a “free appropriate public education” (FAPE) to each qualified student with a disability who is in the school district’s jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student’s individual educational needs as adequately as the needs of nondisabled students are met.

### Examples of programs that receive federal funding include:

- Public and Charter Schools
- Public Colleges and Universities
- Federal & State Government Departments & Agencies
- County & Community Programs including community recreation programs

### The Americans with Disabilities Amendments Act and Section 504 of 2008

The Americans with Disabilities Act (ADA), passed in 1990, was the first comprehensive civil rights law for people with disabilities. As such, it applies to all qualifying private employers (employers with 15 or more employees), all state and local government programs, including the public schools, and all places of public accommodation, including non-religiously controlled colleges and universities and test agencies.

However, following its enactment, some of the fundamental provisions of the ADA were narrowed by Supreme Court rulings. The rulings (most notably *Sutton v. United Airlines*, 1999 and *Toyota Motor Manufacturing v. Williams*, 2002) served to limit the scope of opportunities and protections that were originally intended Americans with Disabilities Act Amendments Act (ADAAA) (effective January 1, 2009) Rehabilitation Act of 1973, Individuals with Disabilities Education Act (IDEA) and the

Americans with Disabilities Act (ADA). Congress responded to this constriction by passing the Americans with Disabilities Act Amendments Act of 2008, which included *a conforming amendment (a legislative procedure used to make an old law be consistent with the new law) to Section 504. The ADAAA became effective on January 1, 2009.*

### Definition of Disability under Section 504 and ADAAA:

- With a physical or mental impairment that substantially limits one or more major life activities, or
- Who has a record of such an impairment, or
- Who is regarded as having such impairment

**An individual** is eligible for accommodations under Section 504 or the ADAAA if he/she has a mental or physical impairment that *substantially limits* one or more of his/her major life activities.

- **Substantially Limits** – While the ADAAA did not change the term “substantially limits,” the new law clearly establishes that the term is to be interpreted broadly and inclusively. *The law clarifies that the measurement for impairments that are episodic or in remission must be considered at the time they are active.*

For example, whether or not a student with a condition such as depression, diabetes, asthma, or anxiety that is in remission is “substantially limited” would need to be determined when the student’s condition is active. Also, Congress clarified that the decision of *whether an individual has a disability should not entail an extensive analysis and that it should be expansive.*

### New Major Life Activities Expanded in 2009

Congress passed a Conforming Amendment in the Americans with Disabilities Amendments Act of 2008 to make an old law, Section 504 of the Rehabilitation Act, consistent with the new law.

### Definition of Major Life Activities, including Major Expansions in Eligibility Based on Section 504 or ADAAA of 2008

The ADAAA has expanded the definition of “**major life activities**” to include:

- |                           |                   |  |
|---------------------------|-------------------|--|
| • Caring for oneself      | • <b>Standing</b> | • <b>Concentrating</b>                   |
| • Performing manual tasks | • <b>Lifting</b>  | • <b>Thinking</b>                        |
| • Seeing                  | • <b>Bending</b>  | • <b>Communicating</b>                   |
| • Hearing                 | • Speaking        | • Working                                |
| • <b>Eating</b>           | • Breathing       | • <b>Non-volitional bodily functions</b> |
| • <b>Sleeping</b>         | • Learning        |  |
| • Walking                 | • <b>Reading</b>  |  |

*The list is not intended to be all inclusive and an activity not listed may be covered.*

### The ADAAA and Sec. 504 also added a new major life activity

- |   |   |
|---|---|
| • Functions of the immune system          | • Respiratory and circulatory functions |
| • Cell growth                             | • Endocrine functions                   |
| • Digestive, bladder, and bowel functions | • Reproductive functions                |
| • <b>Neurological and brain functions</b> |   |

## Section 504 Requires that Accommodations Must Be Individualized

- The individual needs of the person with a disability should be met to the same extent as the needs of a person without disabilities.
- Accommodations should place the person with a disability at an equal starting level with the nondisabled.

### What services are available for students with disabilities under Section 504?

Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.

### What are the School Responsibilities under Section 504?

It must be emphasized that Section 504 falls under the *management responsibility of the **general education program***. The school staff and parents need to work in collaboration to help guarantee that the student is provided with the necessary accommodations.

### To be in compliance with Section 504, schools (including Charter Schools) must:

- Provide written assurance of nondiscrimination
- Designate a 504 Coordinator
- Provide grievance procedures to resolve complaints
- Provide notice of nondiscrimination in admission or access to its programs or activities, notice must be included in student/parent handbook.
- Identify and locate annually all qualified children with disabilities who are not receiving a public education
- Notify annually persons with disabilities and their parents or guardians of the district's responsibilities under Section 504
- Provide parents or guardians with procedural safeguards
- Conduct a self-evaluation of school district policies, programs, and practices to make sure discrimination is not occurring

### School Documentation and Evaluation for Section 504

Section 504 requires that a school evaluate any student:

- Prior to eligibility determination
- Who needs accommodations in the general education classroom
- To determine needed services
- Prior to any significant change in placement

### Referral for Section 504 Plans can be given by parents or school personnel

- The student's problem(s) should be considered
- All previous classroom remedies and data considered and reviewed
- All current information and remedies are then summarized by the Section 504 Team which includes parents

## Section 504 Teams or Committees

Each school and school district should have a 504 coordinator.

A Section 504 Team can be used. Another recommended practice that has worked for many schools is the Teacher Assistance Team (interventions team or pre-referral team) as the Section 504 team or committee.

### Team Members Include:

- Parent(s)
- Student (if appropriate)
- School Level 504 Coordinator
- LEA
- Regular Educator(s)
- School Psychologist or someone to interpret assessments

### Factors considered by the team

- Evaluation results
- Section 504 eligibility
- The student's disability
- The student's unmet needs
- Services and/or accommodations based on eligibility
- If the student has a reading disability that requires recorded materials
- Accommodations and modifications to use in classroom and on exams
- Positive Behavior Supports
- Health Care Plan
- Discuss and plan possible options
- Least Restrictive Environment (LRE) for services
- Staff in-service

### What does making accommodations mean?

Accommodations are made by the classroom teacher(s) and other school staff to help a student benefit from an educational program. In some cases, a written plan will be developed outlining accommodations.

Examples of accommodations include:

- Modify assignments and tests
- Provide an extra set of textbooks for home use
- Adjust student seating
- Use study guides and organizing tools
- Provide a peer tutor/helper
- Provide recorded books
- Provide school counseling
- Provide untimed tests or oral tests
- Have the student use an organizer
- Train in organizational skills
- Spellchecker
- Calculator
- Modify recess/PE/transportation

## What are some differences between IDEA and Section 504 Plans?

Issue	Section 504	Special Education
<b>Purpose</b>	A Civil Rights Act that gives individuals with disabilities the opportunity to fully participate with their peers to the greatest extent possible.	An Education Act, that provides a Free Appropriate Public Education (FAPE) to children who qualify under one or more of the 14 broad categories
<b>Responsibility</b>	General Education	Special Education
<b>Funding</b>	Provides no additional funding	Provides additional federal funding to states and school districts
<b>Covers</b>	All persons with disabilities	Ages 3-21
<b>Administration</b>	Section 504 Coordinator	Special Education Director
<b>Service Plan</b>	Accommodation Plan	Individualized Education Program
<b>Disabilities</b>	Any disability, if eligible	14 qualifying categories
<b>Parents</b>	Should be involved in all team meetings	Must be involved in all team meetings
<b>Procedural Safeguards</b>	Notice of consent of parents is required	Parent consent and notice required for initial evaluation, placement, and reevaluation
<b>Evaluation and Eligibility</b>	An evaluation is necessary before it can be determined if a child is eligible under Section 504. Documentation can be gathered from a variety of sources instead of completing a formal school evaluation.	Evaluation draws on information from a variety sources in the area of concern. A group decision (including parents) is made with persons knowledgeable about the student, evaluation data and placement options. Written parental consent is not required to evaluate, however prior notice must be provided.
<b>Requirements for Delivering Services</b>	Does not require a written plan but does require written documentation that services were provided. Requires the school to provide reasonable accommodations, supports and auxiliary aides.  Defines "Appropriate Education" as comparable to the one provided to general education students.	Requires a written Individualized Education Program (IEP). Defines "Appropriate Education" as a program reasonably calculated to provide "educational benefit" to the student.

### Additional Resources on the Internet:

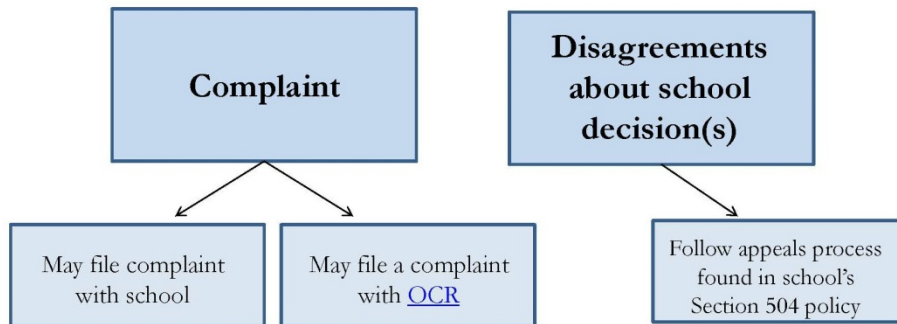
- IN\*SOURCE, <http://www.insource.org> or by calling (574) 234-7101 or (800) 332-4433 (in Indiana) or by email at [insource@insource.org](mailto:insource@insource.org)
- Indiana Department of Education, Office of Special Education, <http://www.doe.in.gov/specialed>, (317) 232-0570 or (877) 851-4106 or by email at [specialeducation@doe.in.gov](mailto:specialeducation@doe.in.gov)
- U.S. Department of Education, Office for Civil Rights, *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities* <http://www.ed.gov/about/offices/list/ocr/504faq.html>
- Job Accommodation Network (JAN) at <http://askjan.org/links/atoz.htm> See *Disability A-Z*
- National Center for Learning Disabilities: *Understanding the Americans with Disabilities Act Amendments Act and Section 504 of the Rehabilitation Act*, <https://www.nclld.org/wp-content/uploads/2014/11/Understanding-the-ADAAA-and-Section-504.pdf>

## Resolving Questions or Concerns – What Are Parents’ Options

If you have questions, concerns or complaints about your student’s Section 504 plan, start by speaking with your student’s teacher. Most questions and concerns can be handled at this level; if you need more assistance IN\*SOURCE has several resources available to you. An IN\*SOURCE Program Specialist may be able to help answer questions or concerns you may have about your student’s services. Several internet resources are also listed at the top of this page that may help answer your questions.

If you have additional concerns that were not addressed at this level, each school district or charter school has a 504 specialist.

Schools must make available to parents their Section 504 policy. The policy explains parents’ rights, including the right to file a complaint or to appeal a decision made by the school.



## Section 504 Accommodations and Services

Accommodations are changes made by classroom teachers and other school staff to enable the student to benefit from his or her educational program. In some cases, a plan should be developed outlining services and/or accommodations. The school staff makes the necessary accommodations to allow for the student’s disability. Parents should be consulted and given opportunities for input whenever possible.

## What Strategies May Be Used to Assist My Student on a Section 504 Plan?

- Environmental strategies make adjustments to the student’s environment.
- Organizational strategies make adjustments to lessons, assignments and testing.
- Behavior strategies make behavior modification adjustments for student.
- Presentation strategies make adjustments to how information is presented to the student.
- Methodology Strategies make adjustments to the instructional methods and pace.
- Curriculum Strategies make adjustment to the amount, type and presentation of material.

*Adapted from materials developed by the Utah Parent Center*