

What you need to know about Section 504

Listed below are questions that parents and professionals frequently ask about Section 504 and children in school.

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What is Section 504?

Congress passed Section 504 of the Rehabilitation Act in 1973 to protect people with disabilities from discrimination in programs that receive federal funds. Section 504 addresses a much wider population of children than the Individuals with Disabilities Act (IDEA), which is the federal special education law. All public schools and many independent schools receive federal funds and are required to follow Section 504 guidelines.

Section 504 guarantees that students with disabilities who qualify must have equal access to all academic and non-academic activities and programs, including after school programs. Children with disabilities, who are ineligible for special education, may qualify for services and accommodations under Section 504 of the Rehabilitation Act.

This **federal** law

- requires individuals with disabilities to be given access to programs and activities in public buildings

- requires schools to provide a free and appropriate public education (FAPE) to students who qualify
- prohibits discrimination against individuals with disabilities in secondary and vocational programs receiving federal dollars
- prevents employers from excluding qualified individuals from employment because of a disability
- requires schools to provide related services and accommodations to qualified students with disabilities regardless of eligibility for special education.

Who can receive 504 services?

To qualify for services under Section 504, a child or adult must have a disability that substantially limits one or more major life activities, or must have a record of having a disability, or must be regarded as having a disability. (The person has been treated as though he or she has a disability.)

Major life activities include self-care, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Section 504 defines disability as a physical or mental impairment including, but not limited to,

- learning impairments
- emotional or psychiatric disabilities
- learning disabilities
- attention deficit disorder (ADD) or attention deficit hyperactivity (ADHD)
- severe allergies, chronic asthma, or health impairment
- cosmetic disfigurement or amputation
- injuries or broken bones
- communicable diseases, such as HIV
- drug addiction (unless individuals are current users, not in rehabilitation programs)
- alcohol addiction (does not exclude current users).

How does the Section 504 process work in schools?

Every school must have written 504 policies and procedures that describe how it will carry out the requirements of the law. First, check with your school to find out what to do and follow your district's guidelines. Talking to the child's principal, guidance counselor, special educator, or teachers are other ways to learn how this process works and how to make a referral for Section 504 services.

What is the role of the 504 team?

The 504 team is a knowledgeable group of people who gather information to determine whether or not your child qualifies for 504 services. Every school should have a 504 team. Members of the team may include teachers, guidance counselors, special educators, and other faculty members. While schools are not required to include parents, most schools welcome parents as part of the team.

Each school or school district should have an individual who coordinates Section 504 services. Parents may ask the 504 coordinator to include them in meetings and/or request an opportunity to share information about their child with team members.

After determining that a child qualifies for Section 504 services, the team is responsible for developing a plan to accommodate the child's educational needs.

What is an appropriate evaluation under Section 504?

An appropriate evaluation under Section 504 includes tests and/or other evaluation measures, including assessments of the specific areas of a child's educational need. A Section 504 evaluation must be more than a single intelligence score. Schools are required to evaluate a student before determining that the student has a disability.

Tests and measures must be validated for the specific purpose for which they are used and must be conducted by trained personnel. Assessments may address aptitude and achievement, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

Schools must establish standards and procedures for initial evaluations and re-evaluations of students who may be eligible for accommodations under Section 504. The school may use the same procedures to evaluate a student for Section 504 services as it uses to evaluate a student for special education.

How much information is needed to document the student's eligibility under Section 504?

There is no specific amount of information required under the law to document a student's eligibility. The 504 team determines the amount of information needed. Section 504 does require schools to draw from a variety of sources in the evaluation process so there is little possibility for error.

What if a child does not qualify for Section 504?

The school must notify parents if their child does not qualify for Section 504 services. To address the child's learning needs, the 504 team may make a referral to the school's educational support team.

Must schools consider "mitigating measures" used by a child in determining whether he or she has a disability under Section 504?

No. As of January 1, 2009, school districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must not consider the effects of any mitigating measures that student is using. This is a change from prior law. *Congress did not define the term "mitigating measures" but rather provided a non-exhaustive list of "mitigating measures." The mitigating measures are as follows: medication; medical supplies, equipment or appliances; low-vision devices (which do not include ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids and cochlear implants or other implantable hearing devices; mobility devices; oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; and learned behavioral or adaptive neurological modifications.

How does the school measure a child's limitation?

As part of its evaluation, the 504 team will determine whether a child has a substantial limitation in a major life activity. The 504 team will gather information from a variety of sources when evaluating a child.

Can a child's medical diagnosis of an illness alone be considered as a 504 evaluation?

A medical diagnosis of an illness does not automatically qualify a child for services. The child's medical diagnosis may be one of the evaluation measures the team uses, and the diagnosis must cause the child to experience substantial limitation in one or more major life activities.

Is a school required to develop a Section 504 plan for a student who has a record of a disability or is regarded as disabled?

Schools do not have to develop a Section 504 plan for a child who is either regarded as disabled or has a record of a disability. This information alone is not enough to require accommodations or services under Section 504.

Once a child is eligible for Section 504, what services and accommodations are available?

A child's services will depend on his or her individual needs and the 504 plan. Here are some examples of services and accommodations a child may receive

- transportation
- speech and language services
- tape recorders
- computer-aided instruction
- adapted software
- behavior support
- modified attendance policies
- home-based instruction
- administration of medication
- assigned readers or interpreters
- adjusted grading procedures
- modified standards for making honor roll.

How often should a student be re-evaluated under Section 504?

Section 504 states that re-evaluations must be conducted periodically. The Office of Civil Rights (OCR) recommends that schools re-evaluate a student who is eligible for Section 504 every three years.

What can a school do to make programs accessible to a child?

A school can make its programs accessible in a variety of ways. It can

- hold classes or other programs in places that are physically accessible
- redesign equipment used in academic and non-academic programs
- provide an individual aide
- change existing facilities.

What rights do parents have under Section 504?

Parents have the right to

- examine all relevant records regarding their child
- notice (but not necessarily written notice) regarding identification, evaluation, or placement of their child
- notice of their parental rights
- file a local complaint regarding the school's decision about their child's evaluation, eligibility, or placement
- request mediation or an impartial due process
- be represented by an attorney in a hearing
- have attorney's fees paid if they prevail at the hearing
- a review of the hearing decision at a higher level
- file a complaint with the U.S. Department of Education, Office of Civil Rights, or the Vermont Human Rights Commission.

What other 504 rules do schools have to follow?

Schools need to

- provide written assurance of their nondiscrimination policies
- include the 504 coordinator's name and telephone number on school notices
- have grievance procedures to resolve complaints
- identify and locate all children in the district at least annually who qualify for Section 504
- notify parents and guardians of their rights, including the opportunity to review relevant records and to request an impartial hearing
- notify parents or guardians of the right to request a hearing regarding the identification, evaluation, or educational placement of students with disabilities.



**Vermont
Family
Network**

To order copies of this fact sheet, or to learn more about VFN's materials and services, contact the Vermont Family Network
600 Blair Park,
Suite 240,
Williston, VT 05495
1-800-800-4005
You can also contact us via e-mail at info@vtfn.org. And don't forget to visit our website at www.vtfn.org.

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What can be done if you believe that the school has discriminated against your child because of a disability?

You may file a Section 504 complaint by writing to the U. S. Department of Education, Office of Civil Rights, J. W. McCormack Building, POCH 222, Boston, MA 02109. Section 504 of the Rehabilitation Act is a federal law that prohibits discrimination on the basis of disability in education and other programs receiving federal funds.

Does my child need to qualify for special education to file a Section 504 complaint?

A Section 504 complaint may be filed regardless of whether your child is eligible for special education. You may also file a complaint to the Office of Civil Rights (OCR) regarding issues of program and building accessibility. For noneducational complaints, contact the Region 1 Office of Civil Rights, John F. Kennedy Federal Building, Government Center, Room 2403, Boston, MA 02203.

When you file a complaint, there are four areas which you must address

- that your child is qualified as an individual with a disability under Section 504
- that your child is "otherwise qualified" for the services he or she is being denied, such as being the right age to receive services
- that the program or activity you are filing a complaint about receives federal money
- that your child has been excluded from the program or activity or otherwise discriminated against solely on the basis of his or her disability.

You must file your complaint within six months (180 days) after the discrimination occurred or was discovered. The Office of Civil Rights (OCR) will conduct an investigation and issue a written decision within 135 days of the date it received your complaint.

When the Office of Civil Rights (OCR) determines that the school violated Section 504, it will try to negotiate corrective action before issuing a written decision. If OCR cannot get the school to implement corrective steps within 255 days, it will begin a hearing before an administrative law judge. The OCR decision may be appealed by the school in the courts.

Where can I get more information about Section 504?

For more information, contact any of the organizations listed below. VFN also has other fact sheets and handouts about Section 504.

Vermont Family Network
support and information for families of children with special needs
(802) 876-5315 • 1-800-800-4005
info@vtfn.org • www.vtfn.org

Vermont Department of Education
help with special education and 504 issues for schools and families
(802) 828-5114 (v/tty)
www.state.vt.us/educ/

Office of Civil Rights,
US Department of Education
help with educational discrimination complaints
33 Arch St., Suite 900
Boston, MA 02110
(617) 289-0111

Region I Office of Civil Rights
help with noneducational discrimination complaints
Room 1875 John F. Kennedy Building
Government Center
Boston, MA 02203
www.ed.gov/offices/OCR
(617) 565-1340

Human Rights Commission
help with discrimination complaints
14-16 Baldwin St.
Montpelier, VT 05633-6301
(800) 416-2010 (802) 828-2480
www.hrc.state.vt.us