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### What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a civil rights statute that prohibits discrimination against individuals with disabilities in programs or activities that receive Federal financial assistance from the U.S. Department of Education. The Office for Civil Rights (OCR), a component of the U.S. Department of Education, enforces Section 504.

Section 504 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. Section 504 requires districts to provide students with disabilities appropriate services and accommodations designed to meet their individual needs to the same extent as the needs of students without disabilities are met.

### How Does Section 504 Define “Disability”?


Under Section 504, a person is considered “disabled” if he/she:

- has a **physical or mental impairment** which **substantially limits** one or more **major life activities**,
- has a record of such an impairment, or
- is regarded as having such an impairment.

### What is a Physical or Mental Impairment?

Section 504 defines a physical or mental impairment 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;

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cardiovascular; reproductive; digestive; genitourinary; 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.” OCR guidance suggests that there may be additional conditions to those listed above. A transitory impairment (i.e., defined as “an impairment with an actual or expected duration of 6 months or less”) does not meet the eligibility standards.

### What is Meant by “Substantially Limits”?

An impairment in and of itself is not a disability; To be considered a disability under Section 504, the impairment must result in a substantial limitation. The regulations do not provide an operational definition of “substantial limitation.” However, the Americans with Disabilities Act (ADA) defines substantial limitation to mean “significantly restricted as to the condition, manner, or duration under which the student can perform a particular major life activity as compared to the condition, manner, or duration under which the average student of the same age/grade level in the general population can perform the same major life activity.”

### What is a “Major Life Activity”?

Major life activities include such things as caring for oneself, performing manual tasks, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking and communicating. Major bodily functions may also be considered major life activities and may include: functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

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### Does Section 504 Require Evaluations?

Section 504 requires that districts establish procedures for evaluation and periodic re-evaluation of students who may need accommodations or services because of a disability. The evaluation must draw on a variety of sources and include consideration of all factors related to the student’s learning process. The sources may include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

### What is the Impact of Medical Diagnosis?

A medical diagnosis does not automatically mean a student meets Section 504 eligibility criteria. The diagnosed illness or condition must substantially limit a major life activity. A medical diagnosis may be considered along with other sources in the evaluation process.


### Who Determines Eligibility?

Section 504 requires that the determination of eligibility be made by a group of persons, including individuals who are knowledgeable about the meaning of the evaluation data. This multi-disciplinary committee is required to draw on a variety of sources in considering whether a student is eligible.

### Does Section 504 Require a Written Plan?

Section 504 requires a written plan describing the recommended accommodations and services. School personnel are responsible to implement the recommendations within the Section 504 Plan.

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### What is a “Reasonable Accommodation”?

Recipients of federal funds are required to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified person unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of the program or would require a fundamental alteration in the nature of the program. The accommodation should achieve “meaningful equal opportunity”. Accommodations need to take into account both the functional limitations of the individual and the alternative methods of performing tasks or activities which would permit people of varying abilities to participate without jeopardizing outcomes.

- Accommodations must be individualized and must be based on the student’s school record and evaluative data.
- The individual needs of the student with a disability should be met to the same extent as the needs of the person without a disability are met.
- Modifications can be made to regular programs or different programs may be provided.
- Accommodations would place the student with a disability at an equal starting level with the nondisabled student.

### How Does Section 504 Define “Free Appropriate Public Education”?

A free appropriate public education is one provided by the public school which includes services and accommodations that (1) are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of nondisabled persons are met, and (2) are based on adherence to evaluation, placement and procedural safeguard requirements.

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### What Procedural Safeguards Do Parents Have?

Section 504 provides parents with the following rights:

- To examine the child’s educational records;
- To an evaluation of the child that draws on a variety of sources;
- To periodic re-evaluations prior to any significant change in program;
- To file a grievance with the District’s Section 504 Compliance Officer over an alleged violation of Section 504;
- To request an impartial hearing;
- To be represented by counsel in the impartial hearing process;
- To appeal a hearing officer’s decision;
- To file a complaint with OCR over an alleged violation of Section 504; and
- To a manifestation determination prior to a disciplinary change in placement for violation of the District’s Code of Conduct.

### How Is Section 504 Different From the Individuals with Disabilities Education Act (IDEA)?

All individuals who are considered disabled under the Individuals with Disabilities Education Act are also considered to be disabled and protected under Section 504. However, many individuals who have been determined disabled under Section 504 may not be disabled under IDEA. In general, students who are eligible under Section 504 alone are those students who have a substantial limitation that requires adjustments in the regular classroom, a modification to the regular program, or access to services available to all students.

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# *A Guide to Section 504 of the Rehabilitation Act of 1973*

