

Facts for Families

ABOUT SECTION 504

January 2023



PART 1 504 BASICS

Section 504 is an anti-discrimination law that public schools must follow.

- Section 504 is a federal civil rights law aimed at preventing disability discrimination. It is part of the Rehabilitation Act of 1973, which was passed by Congress to prevent disability discrimination in federally funded programs and activities, including public schools. For schools, the law is primarily enforced by the U.S. Department of Education, Office of Civil Rights.
- Under Section 504 of the Rehabilitation Act of 1973, individuals with disabilities (who qualify for protection under Section 504) cannot be excluded from participation in public school programs and activities, on the basis of their disability. They cannot be subjected to discrimination because of their disability. They cannot be denied the benefits of public school programs and activities because of their disability. (See: federal regulation [34 CFR 104 .4\(a\)](#))

Who does Section 504 apply to? Section 504 applies to any student who has a mental or physical impairment that substantially limits a major life activity.

- Under Section 504, disability is defined broadly; a student who has a mental or physical impairment that substantially limits a major life activity is covered by Section 504. There are no “disability categories” under 504 (like there are for the special education IDEA law).
- Major life activities include bodily functions and life activities that are important to most people’s daily lives (caring for oneself, performing tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, standing, reading, concentrating, thinking, communicating and more).
- The determination of substantial limitation must be made on an individual, case-by-case basis for each student. This determination must be made by a group of knowledgeable individuals who draw upon information from a variety of sources in making this determination. (See: 34 C.F.R. § 104.35).
- A student’s impairment does not need to prevent, or severely or significantly restrict, a major life activity to be substantially limiting. An impairment that comes and goes (episodic or in remission) can be covered by 504 if it substantially limits a major life activity when in an active phase.
- Section 504 covers students who have a record or history of disability and also those who are regarded or treated by others as having a disability. Section 504 does not cover students whose physical or mental impairments are transitory (duration of six months or less) and minor.

What protections does Section 504 offer?

- The goal of Section 504 in public schools is to provide students with an educational environment free from disability-based discrimination. Section 504 requires schools to meet the individual needs of students WITH disabilities as adequately as they meet the needs of students WITHOUT disabilities.
- Section 504 also guarantees your child the right to a free and appropriate public education (FAPE), regardless of the nature or severity of the disability. Section 504 and the IDEA (federal special

Facts for Families ABOUT SECTION 504



education law) both guarantee this important right. Schools often provide FAPE through accommodations or an accommodation plan, which help a student with schoolwork, physical access to buildings and equipment, managing behavior or emotions, or anything that helps the student fully access school life. Schools are responsible for making sure students with disabilities receive the accommodations they need.

- Examples of disability discrimination include: Not making needed reasonable modifications and/or accommodations; Unnecessarily treating a student differently based on disability; Implementing policies that have unjustified impacts based on disability; Not receiving an equal opportunity to participate in athletics and extracurricular activities; Bullying and harassment based on disability; Requiring the parent of a student with a disability to accompany their child on a field trip (when other parents are not expected to do so); Not providing a free and appropriate public education (FAPE); Discipline practices that don't consider a student's disabilities.

PARENT TIP! If possible, teach your child how to advocate for themselves and others. Help them understand what disability discrimination is and how to notice it when it's happening. Teach your child a few self-advocacy phrases that are easy to remember. Role-play how to use these phrases in various situations.

School Discipline and Section 504

- Schools must provide services, supports, interventions, strategies, and modifications to policies students with disabilities need to address any disability-based behavior, including behavior that could lead to discipline. When schools do discipline students with disabilities, they must do so in a nondiscriminatory manner.
- Before imposing certain forms of discipline (such as an expulsion, a suspension over 10 school days in a row, or a suspension of less than 10 days where there is a pattern of disciplinary removals that total more than 10 school days in the school year) schools must first evaluate a student with a disability to determine if their behavior is based on their disability. See: U.S. Department of Education's [Factsheet on 504s and Discipline](#)

Students with IEPs are covered by Section 504

- Section 504 applies to students with IEPs if they have a mental or physical impairment that substantially limits a major life activity. Students with IEPs are protected from discrimination under Section 504. The accommodations that are often written into a 504 plan are included in a student's IEP document.
- Violations of FAPE ("free and appropriate public education.") are not only violations of the IDEA law (the federal special education law), they are also violations of Section 504, as FAPE is a requirement of both laws.

What are 504 Accommodations?

- An accommodation changes how a student is taught, where a student is taught, or the materials used for teaching—so that the student can access the benefit of their education to the same extent as their peers. Generally, accommodations change HOW the student learns at school, not WHAT they are learning. Accommodations should be specific, reasonable, individualized to the needs of the student, and necessary to provide the student a free appropriate public education. Sometimes, however, a disability accommodation can modify what a student is taught or expected to learn. This is less common. It might include assigning fewer homework problems or using a different grading rubric. (See: [Understood.org](#) on [modifications](#))

Facts for Families

ABOUT SECTION 504



- 504 accommodations must be provided automatically to students. OSPI advises schools not assume that students can—or will—ask for their accommodations. OSPI also advises schools to write 504 accommodations using language such as, “as appropriate” or “as needed.” The burden of providing 504 accommodations falls on school personnel, not students. (See: [OSPI Section 504 Guide for Schools](#) (pdf))
- Students with food allergies or intolerances may be eligible under Section 504 for accommodations, including special meals. The U.S. Department of Agriculture (USDA) requires schools to make reasonable modifications to school meals or meal service to accommodate students with disabilities that restrict their diets, such as peanut or lactose-free meals, at no extra charge to families. For special meal modifications, the USDA requires a written statement from a licensed medical professional. (See OSPI's [Special Dietary Needs Reference Sheet](#))

What is a 504 plan?

A **“504 plan”** is a written plan that describes the student’s accommodations. It lists the educational accommodations and related aids and services that a school determines a student needs to receive a Free and Appropriate Public Education and alleviate the impact of their disability. It also outlines the appropriate setting in which to receive those services.

Students with “health plans” often also qualify under Section 504 and should be considered for a 504 evaluation. OSPI warns that, “Without following the Section 504 process, using health plans alone may result in the LEA [school] to be out of compliance with Section 504. If the school is administering medication, for example, this may be a ‘related aid or service’ under Section 504. Read more: [OSPI 504 Fact Sheet](#)

Does my student need a written Section 504 plan if they already have an IEP? Students eligible for special education (IEPs) are not required to have a Section 504 plan in addition to their IEP, even though they are protected under Section 504. For these students, the IEP developed and implemented in accordance with the IDEA is sufficient.

Related services: A 504 plan typically does not provide for individualized instruction. But in some cases, students may need related services to be provided in their Section 504 plan, such as occupational therapy or counseling services.

Can the school consider cost or convenience? OSPI states: “Schools should provide any accommodations, aids, and services that a student needs to participate in any school program or activity, even if they might be costly or require staff to be available.” The school “cannot limit its duty based on cost. However, the LEA [school] is not required to provide the most expensive option available if a less costly accommodation, aid, or service will provide the student a free appropriate public education and allow the student to access and benefit from their education equally with their peers.” (Source: OSPI)

Is there a number limit on accommodations? No, there is no arbitrary limit on the number of accommodations a qualified student can have under a Section 504 plan. Students may have complex disabilities, multiple impairments, or high needs. Accommodations are allowed as long as they are reasonable and necessary. Schools may argue that it’s easier for students and teachers when the list of accommodations is short. This may be true in some cases, but arbitrarily limiting accommodations may impact the school’s ability to provide students with an educational environment free from disability-based discrimination.

Facts for Families ABOUT SECTION 504



Can a teacher ignore a 504 plan or refuse to implement it? No, "all teachers are required to implement the plan, even if they do not agree with the accommodations or did not participate on the Section 504 team." (Source: [OSPI 504 Factsheet](#)) A district must provide the services identified in a student's 504 plan.

PART 2 504 TROUBLESHOOTING

How do I get a 504 plan for my child?

If you know or suspect that your child might have an impairment that limits a major life activity, contact your principal and school counselor (in writing) to request a 504 evaluation. ANY person can refer a student for evaluation under Section 504.

A Section 504 evaluation considers: (1) whether the student might have a mental or physical impairment, and (2) whether the impairment substantially limits one or more major life activities. It may also identify possible accommodations that the student needs to participate in or benefit from the school's educational programs and activities.

Mitigation measures CANNOT be considered when evaluating for 504s: strategies or tools used to eliminate or reduce the effects of an impairment (such as medication, technology, or coping skills) cannot be considered when evaluating whether a student has a substantially limiting impairment.

What if the student gets good grades or their disability doesn't seem to affect learning? A student may have a disability and be eligible for Section 504 services even if the disability does not affect grades or limit the major life activity of learning. The question with a 504 evaluation is whether the impairment affects any major life activity of the student and, if necessary, assess what is needed to ensure that students have an equal opportunity to participate in the school's programs.

Schools cannot require a medical diagnosis. Schools cannot require a medical diagnosis to evaluate a student for a 504 plan. If medical information might be helpful, the school can request a medical evaluation (at no cost to the parent). On a related note, if your student has a medical diagnosis from a doctor, that does not automatically qualify the student for a 504 plan—a school 504 team must still conduct an evaluation and make a decision.

504 Evaluation Team: A single individual cannot make 504 evaluation decisions alone. The decisions must be made by a team that includes people who are knowledgeable about the student, who understand the meaning of the evaluation data, and who are knowledgeable about placement options.

Parent involvement is optional: The law doesn't require parents to be a part of this team for 504 decisions, but most schools include parents in the process. Families can (and should) provide the school with information (in writing) about the student's impairment, how it impacts their life, and what help they need at school.

Consider a special education evaluation: Alternatively, if you think your child's known or suspected disability is having a negative impact on their school life, you might consider requesting a comprehensive special education (IEP) evaluation. This is a more in-depth evaluation that considers whether the student might benefit from specially designed instruction (special education) targeting their areas of need.

Facts for Families ABOUT SECTION 504



Family Rights in a Section 504 Evaluation: Parents must give consent before an initial 504 evaluation and initial placement. Schools must notify parents before taking any action regarding identification, evaluation, and placement. Schools must give parents a copy of their procedural safeguards under Section 504. (Source: OSPI [504 Guide for Schools](#))

Periodic Re-Evaluation is Required: The school must re-evaluate the student periodically (at least every 3 years). OSPI encourages schools to review Section 504 plans annually, or as needed. (Source: [OSPI 504 Guide for Schools](#))

Affirmative Duty to Evaluate: It is a violation of Section 504 to delay or deny a special education evaluation or a 504 evaluation if the school is aware of a student's disability or has a reason to suspect a student has a disability, and the student needs or is believed to need special education or related services and accommodations. From the U.S. Department of Education's ["Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools"](#)

Helpful parent tips on Section 504

- Ask your child what THEY need to be successful at school, with friends, in specialist classes, at lunch, etc. Share their response with the school team during the evaluation process. Your child might have some helpful and creative ideas!
- Ask for school policies in writing. If you are experiencing confusion about the 504 policies and procedures at your school, it's okay to ask school personnel for more information to help you understand. The school team may say something is "district policy," "best practice," or "not allowed." It's okay to ask to see this policy in writing. There is a lot of "winging it" in the 504 realm and sometimes it's helpful to get on the same page by going back to the actual written rules and regulations.
- Send your child's written Section 504 plan to ALL teachers in September. Sometimes copies of the student 504 plans don't make it to all the teachers right away, so it's a good idea to send it yourself as soon as you know your child's schedule. Introduce your child, yourself and your family. Explain how the listed accommodations are related to your child's disability and why they are important.

Violations of Section 504

If you believe the school has violated Section 504 rules, regulations, and procedures and this has resulted in disability discrimination against your child, you have five avenues for making a formal complaint.

1. Issaquah School District process: Families may submit a written complaint to the Superintendent and ISD's district-wide 504 Coordinator. The district must investigate your complaint and respond in writing. They may also offer mediation or an impartial hearing. If you are not satisfied with the resolution, you can appeal to OSPI within 20 days of receiving the district's written decision.

2. Washington State's OSPI process: OSPI's Office of Equity and Civil Rights can review and investigate allegations of disability discrimination. You must go through the school district's complaint process before appealing to OSPI.

Facts for Families ABOUT SECTION 504



3. Washington State Human Rights Commission process: Families can submit a form asking the Commission to investigate whether their student's civil rights have been violated due to disability discrimination. Families should use the "public accommodation" version of the form to allege disability discrimination.

4. U.S. Department of Education OCR complaint: The federal U.S. Department of Education's Office of Civil Rights ("OCR") has the authority to investigate complaints claiming a covered entity discriminated based on disability. You can file a complaint online or talk to someone in their Seattle office (Telephone: 206-607-1600, Email: OCR.Seattle@ed.gov). When making a complaint about Section 504 violations through OCR, families are protected against retaliation from the district or school personnel.

5. Private lawsuit: If you have a strong case and are willing to hire an attorney, you can file a lawsuit alleging a violation of a student's civil rights under Section 504. You can search for active attorneys who practice in the field of "education" in King County, using the Washington State Bar Association's legal directory search tools. Or contact an attorney from this list from the WA Office of Administrative Hearings: Referral List

Resources about Section 504

Federal resources on Section 504:

U.S. Department of Education: FAQ on 504s

U.S. Department of Education: Disability Rights Overview

U.S. Department of Education: Parent and Educator Resource Guide to Section 504

State resources on Section 504:

OSPI Students' Rights Information Sheet on Section 504

OSPI 504 Resources

OSPI Beyond the Basics, 504 Handout

Issaquah School District resources on Section 504:

ISD: 504 Coordination

ISD: Your Rights Under Section 504

ISD: ISD Regulation 2162

ISD: ISD 2162 Procedures

ISD: Assistive Technology

Non-profit resources on Section 504:

Washington PAVE: 504, a Plan for Equity

Understood.org: 504 Fact Sheet

A Day in Our Shoes: Insufficient 504 Plans

A Day in Our Shoes: What happens if my child's teachers aren't following the 504 plan?