



|| Section 504 of the Rehabilitation Act of 1973

SECTION 1. INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination against persons with disabilities by any organization or institution that receives federal financial assistance. Because the district receives federal funds, it must comply with the provisions outlined in Section 504. Grant recipients must provide access and opportunities to qualified individuals with disabilities who wish to participate in their services, activities, or programs. Discrimination occurs when an institution fails or refuses to provide an opportunity or a service, benefit, or privilege to a qualified individual with a disability.

Section 504, like the Americans with Disabilities Act of 1990 (ADA), is a broad civil rights statute, and the two laws have many similar or identical provisions. Section 504 affects a wide range of educational practices, including:

1. the provision of services to students;
2. physical accessibility;
3. preparation of self-evaluations and transition plans;
4. employment; and
5. compliance procedures.

SECTION 2. DEFINITION

Section 504 states that “an individual with a disability is one who has a physical or mental impairment that substantially limits one or more ‘major life activities,’ one who has a record of such an impairment, or is regarded as having such an impairment.”

1. “Major life activities” include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
2. A “physical or mental impairment” has been defined as:
 - a. 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; speech organs;

cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

- b. any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
3. “Has a record of such an impairment” means anyone who “has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.”
4. “Is regarded as having an impairment” means anyone who:
 - a. “has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation”;
 - b. “has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment”; or
 - c. “has none of the impairments defined but is treated by a recipient as having such an impairment.”

It is important to note that certain conditions are excluded from these definitions of disability. For example, Section 504 specifically excludes persons who currently use illegal drugs. In addition, under both Section 504 and the ADA, individuals with disabilities are not protected unless they are also “qualified” to participate in an activity.

Under Section 504, a “qualified” student with a disability, with regard to elementary and secondary education, is defined as:

1. a person with a disability who is of an age during which persons without disabilities are provided education; and
2. a person with a disability who is of any age during which it is mandatory under state law to provide elementary or secondary educational services to persons with disabilities or to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA 2004).

Depending on the case, individuals may be “qualified” simply by their status as a student or a parent. Educators must consider whether adjustments can be made in policies, practices, or procedures so that students can participate in services, activities, or programs.

SECTION 3. ADMINISTRATIVE REQUIREMENTS

Administrative requirements under Section 504 are broad. The law requires that the district:

1. Prepare a self-evaluation that will determine if the district's current services, policies, and practices discriminate against individuals with disabilities and modify those that do.
2. Designate an individual to oversee compliance.
3. Develop a transition plan if structural changes are needed to achieve program accessibility.
4. Develop a grievance procedure to handle complaints of discrimination based on disability.

The U.S. Department of Education regulations for Section 504 require that students with disabilities be provided with a free appropriate public education (FAPE). These regulations also require identification, evaluation, provision of appropriate services, and procedural safeguards in every public school in the United States. In addition, Section 504 covers all students who meet the definition of having a disability as defined in the IDEA 2004. However, not all individuals who have been determined to have a disability under Section 504 will be considered disabled under the IDEA 2004.

If it is determined that a student is disabled under Section 504, a team must:

1. Evaluate the student.
2. Develop an accommodation plan for any needed service.
 - a. Although there is no requirement that the plan be written, a district would be wise to develop a written plan to document all accommodations that would be provided for the student.
 - b. The plan may also include related services even though the student may not need, or qualify for, special education.
3. Implement the plan for the delivery of that service.

SECTION 4. COMPLAINT AND ENFORCEMENT

The Office for Civil Rights (OCR) is responsible for ensuring that educational institutions comply with Section 504. Enforcement agencies encourage informal mediation and voluntary compliance. Complaints related to providing an appropriate public education for students under Section 504 should be addressed to:

Regional Civil Rights Director
Office for Civil Rights, Region X
U.S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
(206) 607-1600
Fax: (206) 607-1601
E-mail: OCR.Seattle@ed.gov

Within Idaho, inquiries can be made to:

Idaho State Department of Education
Division of Student Engagement & Safety Coordination
P.O. Box 83720
Boise, ID 83720-0027
(208) 332-6800
(800) 432-4601
TTY/TTD: 711
Fax: (208) 334-2228

For Questions Contact

Special Education
Idaho State Department of Education
650 W State Street, Boise, ID 83702
208.332.6800 | [State Department of Education Homepage](#)