



## **How to Find Services for Children Who Do Not Qualify for Special Needs: Section 504**

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Many parents are not aware of Section 504 of the Rehabilitation Act, which is intended to prevent discrimination against persons with disabilities. Through this act, many children unable to receive special education through the Individuals with Disabilities Education Act (IDEA) may receive it through Section 504.

### **What is Section 504?**

Section 504 was established to eliminate and prevent discrimination of persons with disabilities. Some describe it as “leveling the playing field,” meaning that it provides students the same education whether they are persons with disabilities or not. In most cases, this happens by removing barriers that possibly are present because a child has special needs.

Unlike the Individuals with Disabilities Education Act (IDEA), which provides funds to help or establish special programs, Section 504 does not allocate any additional funds to help schools remove the barriers. However, schools have a responsibility to provide services through monies from other resources.

### **Who is Eligible Under Section 504?**

As stated in the Rehabilitation Act, persons with a physical or mental impairment, which substantially limits one or more major life activities, are protected from discrimination. Persons who have a record of such impairment or are regarded as having an impairment are also protected. Impairments may be:

- Physiological disorder/condition, cosmetic disfigurement, or anatomical loss that affects various body systems such as loss of limb or Multiple Sclerosis.
- Mental or psychological disorder including:
  - Emotional illness
  - Mental illness
  - Learning disability

Under these circumstances, a person's impairment must limit one or more major life activities. Major life activities include:

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working

Examples of persons protected by Section 504 but not eligible under IDEA include students who:

- Have communicable diseases - for example, hepatitis, HIV/AIDS, or tuberculosis.
- Have temporary disabilities from accidents.
- Have allergies or asthma.
- Have record of addiction to drugs or alcohol, as long as they are not currently using.
- Have environmental illnesses, which are illnesses triggered by exposure to chemical and allergenic sources.

### **How It Applies**

Because all students are entitled to a free and appropriate education, students with disabilities are entitled to an education comparable to that provided to students who do not have disabilities, whether it is regular or special education. This means that students can receive special services even if they are not provided any special education under IDEA. These services should be provided at no cost to the parent or child.

Schools are responsible for identifying students with disabilities and for establishing standards and procedures for evaluating and placing students in appropriate services.

Parents are required to be notified about identification, evaluation, placement, or change in placement. If parents disagree with any of the above, they are entitled to have an impartial hearing with the local education agency. Parents are entitled to the opportunity to participate in the hearing process and be represented by private counsel if they choose.

### **Section 504 and Children with ADD/ADHD**

Children with ADD/ADHD may benefit greatly through these federal acts. For example, special services may help them with problems of disorganization, distractibility, or assignment incompleteness by providing additional educational services.

There are two specific routes for parents to use when seeking special services for their ADD/ADHD child.

- If the child's disability affects educational performance, parents should seek eligibility through special education via the processes of IDEA. This might include a multi-disciplinary assessment, an IEP meeting, and an IEP plan.
- If the disability does not affect educational performance but does limit a life activity, parents should seek eligibility through Section 504, which may also include an IEP plan.

### **What Parents Can Do**

If you believe that your child requires special education services and he is not receiving them, it is important that you contact your school district and notify them about your concerns. Most school districts are happy to work with parents once they are aware of the problem. If you do not receive sufficient or appropriate action, you may consider filing a complaint with the Office of Civil Rights. If you do seek this action, however, it is advisable to first contact an attorney since Section 504 can be very obscure for parents to understand and interpret.

### **Additional Resources**

For more information about your rights and the Rehabilitation Act: Section 504, contact the

U.S. Department of Education:

U.S. Department of Education  
Office for Civil Rights  
Customer Service Team Mary  
E. Switzer Building 330 C  
Street, SW Washington, D.C.  
20202 Telephone: 1 -800-  
421-3481  
Fax: 202-205-9862; TDD: 877-521-  
2172 Email: OCR@ed.gov  
[www.ed.gov/offices/OCR](http://www.ed.gov/offices/OCR)

For help obtaining legal counsel or representation, contact NAPAS, a voluntary national membership association of protection and advocacy systems and client assistance programs. There are agencies in every state that meet with concerned individuals to determine whether appropriate laws are being upheld. These agencies are congressionally mandated and work to support a disabled person's rights including inclusion of educational programs.

National Association of Protection and Advocacy Systems, Inc.  
900 Second Street, NE Suite 211  
Washington, DC 20002  
Telephone: (202) 408-9514  
Fax: (202) 408-9520

Email: [info@napas.org](mailto:info@napas.org)

[www.napas.org](http://www.napas.org)