

*Section 504 of the Rehabilitation Act of 1973
and the Americans with Disabilities Act*

A Family's Guide to Section 504 and ADA



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What is Section 504?

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a civil rights law designed to protect individuals with disabilities from discrimination for reasons related to their disabilities. Section 504 requires school districts to provide a free and appropriate public education (FAPE) to eligible students. FAPE must meet the students' individual educational needs as adequately as the needs of non-disabled students. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities, or (2) have a record of such an impairment, or (3) be regarded as having such an impairment. The Office for Civil Rights of the U.S. Department of Education has jurisdiction to enforce Section 504 in instances of discrimination, harassment, or retaliation against anyone based on disability.

What is ADA?

The Americans with Disabilities Act of 1990 (ADA), signed by President George H. W. Bush, is a “sister act” to Section 504. The act is one of the most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream. Much of the language of the law is the same or similar to that of Section 504 and broadens the scope of civil rights protections for people with disabilities. Congress amended the ADA in 2008 in response to court decisions that narrowed the definition of impairment. In amending the ADA, Congress sought to reestablish the original intent of the law by underscoring the broad definition of impairment and clarifying its intent that impairments should be determined without reference to or consideration of mitigating measures. Mitigating measures are things like medications, prosthetic devices, assistive devices, or learned behavioral or adaptive neurological modifications that an individual may use to eliminate or reduce the effects of an impairment. These measures cannot be considered when determining whether a person has a substantially limiting impairment.

How does Section 504 define a “person with disabilities”?

Section 504 defines a person with disabilities as any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having an impairment. Major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Learning does not have to be the major life activity affected for an individual to be eligible for protections and services under Section 504. The Americans with Disabilities Act Amendments Act (ADAAA) of 2008 added major bodily functions as major life activities. Major bodily functions include neurological, brain function, musculoskeletal, respiratory, cardiovascular, reproductive, digestive, bladder, bowel, genitourinary, lymphatic, skin, endocrine, immune system, normal cell growth, and reproductive functions.

How are students identified as having a disability?

A parent, teacher, or another school staff member may raise a concern about a student's unique need for special help. A team will be convened to discuss all relevant information about the student. The parents' participation in this meeting is critical and helps to establish an accurate picture of the student's needs. At the meeting, the Section 504 team will consider whether the student has a disability that substantially limits a major life activity or major bodily function. If the team needs more information, they will request the parent's consent to evaluate the student. If the team determines that the student is eligible, they will then identify what types of support, or services/accommodations, are appropriate to meet the student's needs. The services will be described in a document referred to as the *Section 504 Student Services Plan*.

What is included in a Section 504 Student Services Plan?

A Section 504 Student Services Plan describes the services and accommodations the school will provide to support the student's education. The team that determined the student's eligibility for Section 504 and identified the needed services will create a plan to provide clarity and direction to the individuals delivering services or making accommodations.

How often is a Student Services Plan reviewed/updated?

Section 504 Student Services Plans may be updated at any time to reflect changes and recommendations by the team. Parents may also request a meeting at any time. Schools are required to reevaluate 504 Student Services Plans "periodically," and that requirement is fulfilled with a three-year reevaluation. Annual review meetings occur when a change in services or placement is proposed or necessary. Schools also schedule transition meetings for students from elementary school to middle school, and middle school to high school, respectively.

What is the role of parents?

Parents are their child's first and most important teachers, as well as their advocates. If a parent believes his or her child has a disability or is having problems in school, the child's teacher should be contacted to discuss these concerns. Building a strong parent/school relationship begins with effective communication. Parents play a key role by providing important information to schools about their child's needs, particularly for students with disabilities. As an added benefit, this involvement demonstrates the parent's belief in the importance of education.

What is the role of teachers?

For students with disabilities to be successful in school, teachers may need to adapt the classroom environment, use various teaching strategies, or make other accommodations. Other tasks include assessment of student progress and effective communication with parents. Teachers are required under Section 504 to make necessary accommodations as specified in the Section 504 Student Services Plan.

What should parents or teachers do if they become dissatisfied with the plan?

Ongoing and two-way communication between parents and teachers will help prevent disagreements related to the 504 Student Services Plan. When parents' or teachers' concerns are not addressed to their satisfaction, they should contact the school principal or the designated staff member responsible for Section 504. If appropriate, a meeting should be held and any revisions discussed. Because situations change and students' needs change, flexibility in this process is key to assisting everyone in meeting the students' needs.

What procedural safeguards are provided by Section 504?

Procedural safeguards are rules that outline the procedures schools (and parents) must use in making decisions about services for students with disabilities. School principals should have the procedural safeguard information available for parents upon request. This information is also located on the Lexington County School District One website.

Are students with disabilities disciplined differently than their non-disabled peers?

While all students are expected to follow classroom and school rules, a student with a disability may need a specialized behavior plan or accommodations to support his or her appropriate behavior during school activities. Students with disabilities are not exempt from consequences for violations of the code of student conduct. In cases of severe violations of the district's code of student conduct, disciplinary interventions are frequently based on approved school board policies and require specific consequences. However, if it is determined that the behavior was a manifestation of the student's disability, the consequence outlined in the student code of conduct may be deemed inappropriate, and consideration should be given to revising the student's behavior intervention plan. Revisions may include strategies and supports that will reduce the likelihood that inappropriate behavior occurs in the future and encourage more socially acceptable behaviors within the school setting. Although Section 504 does not specifically address discipline, best practice suggests that districts use the policies and procedures outlined in the Individuals with Disabilities Education Act (IDEA) when making decisions about disciplinary consequences for a student eligible for a Section 504 Student Services Plan.

What are the major differences between IDEA and Section 504?

The Individuals with Disabilities Education Act (IDEA) is the nation's special education law; to qualify for IDEA services, a child must have a disability and need special education to make progress in school. IDEA and Section 504 both guarantee students with disabilities access to a free and appropriate public education. However, there are major differences between them, specifically in the criteria used to determine eligibility and the definition of a free and appropriate public education. IDEA provides more specific categories of disabilities such as hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, and specific learning disabilities. For a student to receive

special education services under IDEA, the student's educational performance must be adversely affected by the disability, and he or she must require special education services (i.e., specially designed instruction). Section 504 is not limited to specific disability categories and does not require evidence that the disability adversely affects the student's educational performance; however, the definition states that to be eligible under Section 504, the student must "have a physical or mental impairment which substantially limits one or more major life activities or bodily functions." If a student does not qualify to receive special education services under IDEA, but the IEP team has determined that the student may have a disability under Section 504, the district will conduct a Section 504 evaluation to determine if Section 504 supports or accommodations or related services are needed.

Who do I contact for information on Section 504?

Parents who believe their child may be eligible under Section 504 should contact their child's teacher, school counselor, or school Section 504 coordinator, which is an Assistant Principal. Parents may also contact the District 504 Coordinator if they need further information.

District 504 Coordinator

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Lexington County School District One is committed to a policy of nondiscrimination and equal opportunity for all students, parents/legal guardians, staff, visitors, personnel and community members who participate or seek to participate in its programs or activities. Therefore, the district does not discriminate against any individual on the basis of race, religion, sex (including pregnancy, childbirth or any related medical conditions), color, disability, age, genetic information, national origin or any other applicable status protected by local, state or federal law. The district will use the grievance procedures set forth in policy to process complaints based on alleged violations of Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Age Discrimination in Employment Act of 1967; the Equal Pay Act of 1963; the Genetic Information Nondiscrimination Act of 2008; and Titles I and II of the Americans with Disabilities Act of 1990. The district designates specific individuals to handle inquiries or complaints. To find out whom to contact and how to contact them, please go to our website at www.lexington1.net/contact.