

“Section 504 Regulations and Their Practical Implementation in 2026”: What Actually Changed and What Districts Must Do Now

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1. What is Section 504?

Section 504 is a federal civil rights law that prohibits disability discrimination by schools and other entities that receive federal financial assistance. It is part of the Rehabilitation Act of 1973.

In schools, Section 504 requires that students with disabilities have equal access to educational programs, services, and activities.

2. What Does Section 504 Provide?

Section 504 requires schools to provide to students with disabilities appropriate educational services designed to meet the individual needs to the same extent as the needs of students without disabilities are met.

3. Who Qualifies Under Section 504?

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.

Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students

4. Can a School Consider Mitigating Measures in Determining Whether a Student Qualifies for Section 504?

No. School districts, in determining whether a student has a physical or mental impairment that substantially limits that student in a major life activity, must **not** consider the ameliorating effects of any mitigating measures that student is using such as medication. Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an individual with a disability.

5. When Should a Student be Referred to 504?

The school needs to refer the student if there is reason to suspect that the student has a physical or mental impairment that substantially limits learning or another major life activity

6. What if the Student has a Temporary Impairment?

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

7. What if the Student has an Episodic Condition?

An impairment that is episodic or in remission may be protected under Section 504 if the impairment would substantially limit a major life activity when active.

8. Are there any Impairments Which Automatically Mean that a Student has a Disability Under Section 504?

No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

9. If the Student has a Medical Diagnosis, Does that Student Automatically Qualify for Section 504?

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity.

10. Is the Parent's Consent Required Before a Student can be Evaluated for Section 504?

Yes. A parent must give written consent before a student can be evaluated under Section 504.

11. What Obligations does a School Have When a Parent Brings an Outside Evaluation?

The school must consider the outside evaluation, but does not have to accept or adopt its findings.

12. Can a Parent Get an Independent Educational Evaluation (IEE) at Public Expense?

No. A parent is not entitled to an IEE at public expense if they disagree with the 504 evaluation.

13. Is the Parent's Consent Required Before a Student can be Placed in Section 504?

Yes. A parent must give written consent before a student can be placed in Section 504.

14. Does a School Have to Develop an Accommodation Plan for a Student That is “Regarded as Having” or Has a History of a Disability?

No. A student with a history of a disability doesn't currently have a disability while the student regarded as having a disability never had a disability. It just means they are protected and can sue the district for discrimination.

15. Who Enforces Section 504?

In the educational context, OCR has been given administrative authority to enforce Section 504. Section 504 is a federal statute that may be enforced through the Department's administrative process or through the Federal court system. In addition, a person may at any time file a private lawsuit against a school district. The Section 504 regulations do not contain a requirement that a person file a complaint with OCR and exhaust his or her administrative remedies before filing a private lawsuit.

16. Will OCR Examine the Educational Decisions of a School Regarding a Student who has a 504 Plan?

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan.

16. Cont.

OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards which those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

17. Can a Parent of a Student Receiving Special Education Services Under IDEA File a Complaint with OCR?

Yes. Remember every student that receives special education services under IDEA is protected by Section 504.

18. If a Child Qualifies for Special Education, but the Parent Does not Want Their Child in Special Education, but wants Section 504 Services, What is a School Required to Do?

If a parent refuses special education services, the parent is not entitled to receive services under Section 504.

19. If a Student Challenges a School's Refusal to Allow them to Have a Service Animal at School, is That Covered Under Section 504?

Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (ADA) generally prohibit disability discrimination by public schools and require reasonable modifications to policies when necessary for equal access.

19. Cont.

A trained service animal may be required as a reasonable accommodation for a student with a disability.

If a public school denies access to a service animal without a legally sufficient reason, the family may file an OCR complaint alleging disability discrimination.

20. When can a School Deny a Student Bringing a Service Animal?

There are limited circumstances:

- The animal is not trained to perform tasks related to a disability;
- The animal is out of control and the handler does not take effective action to control it;
- The animal is not housebroken
- The animal's presence would fundamentally alter the nature of the program or create a legitimate safety concern that cannot be mitigated.

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