



# A Parents Guide to Section 504

Of the Rehabilitation Act of 1973



Archdiocese of Dubuque  
In collaboration with AEA 267 and AEA 10



A Parents' Guide to Section 504 is a pamphlet that describes the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, with respect to elementary and secondary school policies involving placement of students with physical and mental disabilities.

This pamphlet is designed specifically to provide parents and educators with the necessary information to work in partnership to provide access to an appropriate education, as well as develop appropriate accommodations for students with qualifying disabilities.

## WHAT IS SECTION 504?

Section 504 is a federal law, which protects the rights of persons with qualifying disabilities. It requires that recipients of federal funds make their programs and activities accessible to all persons with disabilities.

Section 504 has three areas of emphasis: employment; facility and accessibility; and requirements for preschool, elementary, and secondary education programs/activities. This booklet focuses solely on students.

## SCHOOL DISTRICT RESPONSIBILITY

There has been much confusion over the years regarding the relationship between Section 504 and special education laws and regulations. It must be emphasized that Section 504 falls under the responsibility of general education programs. The school staff and parents need to work in collaboration to help guarantee that the student is provided the necessary accommodations and/or services.

It is important to keep in mind that some students who have disabilities that limit their ability to access and participate in the education program are entitled to rights under Section 504, even though they may not fall into IDEA categories and may not be covered by special education laws.

## HOW DOES SECTION 504 DEFINE DISABILITY?

Section 504 of the Rehabilitation Act of 1973 protects persons from discrimination based upon their disability status. A person is considered to have a disability within the definition of Section 504 if he or she:

- Has a mental or physical impairment which substantially limits one or more of such persons' major life activities;
- Has a record of such impairments; or
- Is regarded as having such an impairment

In general terms, this means that without accommodations and/or interventions, the student would not have a comparable opportunity to an appropriate education.

## HOW DOES SECTION 504 DEFINE “APPROPRIATE EDUCATION?”

An appropriate education is one provided by the school that (1) is designed to meet the individual needs of persons with a disability as adequately as the needs are met of persons without disabilities, and (2) is based upon adherence to evaluation, placement, and procedural safeguard requirements.

## WHAT IS “MAJOR LIFE ACTIVITY?”

“Major life activities” include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. When a condition does not substantially limit a major life activity, the person does not qualify under Section 504.

## IDENTIFICATION OF STUDENTS ELIGIBLE UNDER SECTION 504

Students who qualify for services under Section 504 may not be as easy to identify as those who qualify for special education services. Many students go through school with a disability, yet never need an accommodation. **Simply having a condition or disability does not automatically qualify a student for Section 504 protection. The condition must present a barrier to the student’s ability to access the same educational opportunities as a non-disabled student.** School districts identify students with a Section 504 qualifying disability the same way they identify students needing special education services - observation and notification. The parents may, and should be encouraged to, inform the school district when their child has a disability. In many cases, a student’s disability will be disclosed in the student’s health history.

It is not uncommon for a school district to receive a doctor’s letter stating that a student has a disability and needs certain accommodations. The doctor’s letter may even state what accommodations should be made. While the school district should consider the doctor’s suggestion, it is important to remember they are suggestions. While it is the doctor’s responsibility to give a medical diagnosis, it is the school district’s responsibility to evaluate the student’s education needs using multiple sources and to develop and implement and necessary accommodations for the student.

School staff **might** consider possible 504 evaluations for students diagnosed as having HIV, drug usage rehabilitation, Tourette’s Syndrome, attention deficit hyperactive disorder (ADHD), heart malfunctions, communicable diseases, urinary conditions, blood disorders, chronic fatigue syndrome, respiratory conditions, blood/sugar disorders, post-traumatic disorders, pregnancy (with health issues that affect ability to learn), epilepsy, cancer, repetitive motion syndrome, birth defects, tuberculosis, and children placed in psychiatric facilities by their parents, etc. This list is not exhaustive.

## EVALUATION

If there is reason to believe that, because of a qualifying disability, a student needs accommodations or services, the school district must evaluate the student and develop and implement an accommodation plan for the delivery of any needed services. Requirements for the Section 504 evaluation and placement process are determined by the type of disability believed to be present and the type of services the student may need. The evaluation must be sufficient to accurately assess the nature and extent of the disability, its effect on major life activities and recommended services.

An evaluation is also required prior to any significant change in placement. Reevaluations must be conducted on a “periodic basis.” It is recommended, but not required that reevaluation be conducted every three years, the same as special education requirements.

In assessing whether a student has a Section 504 qualifying disability, information should be gathered from multiple sources to better understand the difficulty and needs of the student. Relevant information could include:

Information gathered from school records, observations, interviews, medical and hospital records, rating scales, permanent products that the student has produced and curriculum based measurement probes.

- Interviews with the student’s teacher(s), parents and medical or mental health professionals who have evaluated the student
- Educational records and permanent products such as standardized test scores, attendance records, disciplinary records, hearing or vision screening results, samples of daily work or the teacher’s grade book.
- Direct observation of the student.

Understanding how a student functions in different settings can be important in formulating ideas for accommodations and services. Critical to the determination is that a condition be present across several settings.

## WHAT DOES “ACCOMMODATION” MEAN?

An appropriate education for students eligible under Section 504 may consist of education in general education classes with the needed accommodations being made and/or the use of supplementary services/programs designed to meet the unique needs of a particular student.

Adjustments in academic requirements and expectations may be necessary to accommodate the needs of an individual student with a disability to enable him/her to participate in the general education program.

- Accommodations must be individualized
- Accommodations should be designed to meet the individual educational needs of students with disabilities as adequately as the needs of other students are met.
- Modifications can be made to general education programs or the provision of different programs may be necessary.

Section 504 requires a plan describing placement and services, commonly referred to as an accommodation plan. Placement decisions must be based upon information drawn from a variety of sources and all information must be documented as considered. Although a formal IEP is not required, the placement decisions must be made by a group of persons knowledgeable about the child, the disability, the meaning of the evaluation data, and about placement options.

## DISCIPLINE

Students who are eligible for Section 504 accommodations and services as well as services under the IDEA are disciplined consistent with the IDEA. To discipline a student who is receiving Section 504 accommodations and services but who is not receiving services under IDEA, administrators need to go through an analysis similar to the IDEA, but the analysis may have different results.

In disciplining a student;

- The administrator needs to determine whether the student committed the infraction of which of which the student is accused;
- The student's team needs to determine whether the behavior was caused by the disability (manifestation conference).
  - If so, the students team determined whether the accommodation plan is appropriate and whether the student needs a change in the plan.
  - If the team determines the behavior was not caused by the disability, the student is referred to administration for discipline as a general education student.

Once exception: If a student with a disability violated drug or alcohol rules, they can be disciplined as if they did not have a disability.

## WHAT PROCEDURAL SAFEGUARDS DO PARENTS HAVE?

Parents have a right to be notified in writing of any decisions made by the school district concerning identification, evaluation, or educational placement of students pursuant to Section 504. While parental consent is not mentioned in Section 504, it is preferable to seek parental support for the evaluation of the student, as well as for implementation of the accommodation plan.

Parents have a right to examine, copy and request amendments to the student's educational record.

Parents have a right to an impartial hearing regarding the school district's decision. The impartial hearing officer needs to be an individual outside the school district. It may be appropriate to use a school administrator or compliance officer from another school or district. However, the hearing officer should not be from another school or district with which the home school district has a contract to jointly provide services or from the Area Education Agency in which the school district is located. The parents have a right to counsel for the impartial hearing.

The parents have a right to a further review of the impartial hearing.

## LOCAL SCHOOL DISTRICT 504 COORDINATORS

Inquiries concerning the school's compliance with the regulations implementing Title VI, Title IX, and the Americans with Disabilities Act (ADA), Section 504, or the Iowa Code Section 280.3 should be directed to:

<school name>

Principal

The below personnel have been designated to coordinate the Archdiocese's efforts to comply with the regulations implementing Title VI, Title IX, and the Americans with Disabilities Act (ADA), Section 504, or the Iowa Code Section 280.3

Archdiocese of Dubuque

Mindy Hart - Associate Director

Waverly Office

319-352-2493

The Office for Civil Rights (OCR) is the federal agency responsible for enforcing Section 504 compliance. While it is believed that the best resolutions occur at the school level, parents/guardians always have the right to initiate a complaint with the OCR.

**Receipt of this brochure satisfies the second notice requirement.**