

Section 504/ADA Guidelines for Parents

Section 504/ADA Guidelines for Parents is a pamphlet that provides information and describes the requirements of Section 504 of the Rehabilitation Act of 1973 with respect to the placement of children with physical and mental disabilities.

This pamphlet is designed specifically to give parents an understanding by providing information to help them access services for eligible Section 504 students.

The Wyoming Department of Education has developed Section 504 Guidelines for Educators which explains how a student might be eligible for Section 504 services. A copy of these guidelines is available by calling the Wyoming Department of Education.

What is Section 504?

Section 504 is the part of the Rehabilitation Act of 1973 that applies to persons with disabilities. Section 504 is a civil rights act that protects the civil and constitutional rights of persons with disabilities.

Section 504 states that no person with a disability can be excluded from or denied the benefits of any program receiving federal financial assistance.

Section 504 and special education are two separate services. All school districts should have a Section 504 Coordinator to answer your questions about Section 504.

Historical Background

Section 504 of the Rehabilitation Act of 1973 was implemented by Congress in 1977. For many years school districts perceived the main obligation as ensuring physical access to public buildings (i.e., ramps were installed, curbs were cut, elevators were added to multi level buildings, rest room stalls were enlarged etc.). At the same time, schools were committed to compliance with special education regulations now referred to as the Individuals with Disabilities Education Act (IDEA).

With the passage of the Rehabilitation Act of 1973, Congress required that school districts make their programs and activities accessible and usable to all individuals with disabilities.

Within the last several years, the Office for Civil Right (OCR) has become active in assisting school districts in further defining "access." The definition of access means more than physical access; a student may require special accommodations such as modified assignments in order to benefit from their education.

How Does Section 504 Define "Appropriate Education"

A free appropriate education is one provided by the public elementary or secondary school that includes general or special education and related aides and services that (1) are designed to meet the individual educational needs of the person with a disabilities as adequately as the needs of a non-disabled person are met and (2) are based upon adherence to evaluation, placement, and procedural safeguard requirements.

How Does Section 504 Define "Disability"?

Section 504 of the Rehabilitation Act of 1973 protects students from discrimination based upon their disability status. A student is disabled within the definition of Section 504 if he or she has a mental or physical impairment that substantially limits one or more of the person's major life activities.

"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 individual does not qualify under Section 504.

In order to determine eligibility for Section 504 services, your child must be evaluated by a team of individuals who are familiar with your child. The results will be shared at a team meeting in which you are involved.

What Are Some Differences Between Special Education and Section 504?

	Section 504	Special Education
Type	A civil rights act	An education act
Funding	Local funding	State-federal-local funding
Administration	Section 504 Coordinator	Special Education Director
Service Tool	Accommodations	Individualized Education Program
Disabilities	All disabilities, if eligible	13 federal disabilities
Parents	Should be involved in all team meetings	Should be involved in all team meetings
Procedural Safeguards	Notice of consent of parents is required	Parent consent and notice required for initial evaluation & placement
Evaluation and Eligibility	An evaluation is necessary before it can be determined whether or not a child is eligible for Section 504 services	An evaluation is necessary before it can be determined whether or not a child is eligible for special education

How Are Students with Disabilities Identified?

Section 504 regulations cover a larger group of students with disabilities. The definition of disability under Section 504 includes students who have a

physical or mental disability that substantially limits one or more of life's major activities.

For example, school staff should consider the potential existence of disabilities and possible Section 504 protection for students diagnosed as having HIV, Tourette's syndrome, Attention Deficit Hyperactive disorder (ADHD), heart malfunctions, Chronic Fatigue Syndrome, School phobia, 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, etc.,

Does Section 504 Require Evaluations?

Section 504 requires that a school evaluate "any person who, because of a disability, needs or is believed to need special education or related services." An evaluation is also required prior to any significant change in placement. Most evaluations under Section 504 only involve gathering tests that have been conducted, such as medical records. The evaluation data should be reviewed to determine if it is current or needs to be updated.

Eligibility

If the school and/or parent has reason to believe that, because of a disability as defined under Section 504, a student needs accommodations or services in order to participate in the school program, the school must evaluate the student. If it is determined that a student is disabled under Section 504, the school must develop and implement the delivery of all needed services and/or accommodations.

Services

The determination of what services and/or accommodations are needed must be made by a group of persons knowledgeable about the student. This usually involves the school principal, classroom teacher(s), and other educators working with your child. *The parent and student must be included in the process whenever possible.* The group must review the nature of the disability and how it affects the student's education. The decisions about Section 504 eligibility and services must be documented in the student's file and reviewed periodically.

An appropriate education for students eligible under Section 504 may consist of education in general classes with accommodations and programs designed to meet the unique needs of a particular students.

Modifications in academic requirements and expectations may be necessary to accommodate the needs of an individual student with disabilities to enable him or her to participate in the general education program.

It is important to keep in mind that some students who have physical or mental conditions that limit their ability access and participate in the education program are entitled to rights under Section 504 even though they may not fall into a disabilities category covered under IDEA or special education.

What Does Making Accommodations Mean?

Accommodations are made by the classroom teacher(s) and other school staff to help students benefit from their educational program. In some cases, a plan should be developed outlining services and accommodations.

Examples of Common Accommodations

- ◆ Modify assignments and tests
- ◆ Provide an extra set of textbooks for home.
- ◆ Adjust student seating
- ◆ Use study guides and organizing tools
- ◆ Provide a peer tutor/helper
- ◆ Counseling
- ◆ Have the student use an organizer – train in organizational skills
- ◆ Preferential seating
- ◆ Modify recess / PE / transportation

Accommodation need to take into account both the functional limitations of the individual and the alternative methods of performing tasks or activities to participate without jeopardizing outcomes.

- ◆ Accommodations must be individualized.

- ◆ The individual needs of the student with a disability should be met to the same extent as the needs of students without disabilities.
- ◆ Accommodations should place the student with a disability at an equal starting level with the non-disabled student.

Example

The following is an example of a student who is eligible for Section 504 services and possible accommodations provided by the school:

A student has been diagnosed as having asthma. The doctor has advised the student not to participate in physical activities outdoors. The disability limits the major life function of breathing. The school is required to make reasonable accommodations in the education program.

Possible accommodations include the following:

- ◆ Modified activity level for recess, adaptive physical education, etc.
- ◆ Use of air purifier or inhalants
- ◆ Avoidance of allergens
- ◆ Inhalant therapy assistance
- ◆ Medication administration
- ◆ Policy adjustment of personal administration of medication
- ◆ Access to water, gum, etc.
- ◆ Curriculum considerations (science class, PE, etc)
- ◆ Time of year – bus transportation in winter. Transportation according to seasons needs.
- ◆ Develop health care and emergency plan

The school should develop a written plan describing placement and services. Service decision must be based upon evaluation information and student needs. The decision must be made by a group of person knowledgeable about the child, the meaning of the evaluation data, and service options.

What are the School District Responsibilities under Section 504?

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 *management responsibility of the general education program*. The school staff and parents need to work in collaboration to help guarantee the student is provided with the necessary accommodations.

To be in compliance with Section 504 schools must:

1. Provide written assurance of nondiscrimination.
2. Designate a 504 Coordinator.
3. Provide grievance procedures to resolve complaints.
4. Provide notice of nondiscrimination in admission or access to its program or activities. Notice must be included in a student/parent handbook.
5. Annually identify and locate all qualified children in disabilities who are not receiving public education.
6. Annually notify person with disabilities and their parents or guardian of the districts responsibility under Section 504.
7. Provide parents or guardians with procedural safeguards.
8. Conduct a self-evaluation of school district policies, programs and practices to make sure discrimination is not occurring.

What are the Responsibilities of Parents?

1. Share our concerns with the school early before problems become bigger.
2. Be involved in Section 504 meetings concerning your child.
3. Assist in developing appropriate accommodations and/or services for your child.
4. Encourage your child to cooperate with school staff and do his or her best.
5. When appropriate, collaborate with other agencies such as vocational rehabilitation.
6. Use mediation as an option if a difference cannot be resolved with the school.

What are the Responsibilities of the Students?

1. When appropriate, be involved at Section 504 meetings.

2. Before graduation from high school, be familiar with their rights at post-secondary programs.
3. Cooperate and put forth maximum effort at school.

What is the Role of the Section 504 Coordinator?

The role

Of the Section 504 Coordinator is to assist the school in meeting requirements under Section 504 of the Rehabilitation Act of 1973.

The Coordinator will provide resources and help educators and administrators regarding their responsibilities under Section 504. In addition, the Coordinator will assist in creating an on-going program that will support problem-solving teams in accommodating students' needs. If you have questions regarding Section 504, call the school Section 504 Coordinator.

What are the Roles and Responsibilities of the Department of Education and the Office for Civil Rights?

The U.S. Department of Education is the agency of the U.S. Government that administers federal funds for education programs, conducts and disseminates education research, focuses national attention on issues and problem in education, enforces federal statues prohibiting discrimination in any activities receiving federal funds, and ensures equal access to education in every individual.

The U.S. Department of Education maintains Regional Civil Rights Offices to enforce Section 504 and other civil rights laws. All parents have the right to directly contact the Office of Civil Rights in Denver, Colorado, if they believe their child is being discriminated against based upon his or her disability. Most differences with schools can be resolved before contacting the Office for Civil Rights. It is suggested you follow the procedures outlines below:

1. First try to resolve your differences at the teacher or school level. Set up a meeting to discuss your differences.
2. If unsuccessful, set up a meeting with the school district's Section 504 Coordinator.
3. If unsuccessful, call the Wyoming Department of Education for guidance at 307-777-5329.

4. If unsuccessful, ask for mediation. This is a free service for parents. A neutral individual will work with you and the school to help resolve your differences.
5. If unsuccessful, ask the Section 504 Coordinator how to file a grievance.
6. In addition to the normal grievance procedure required by Section 504/ADA, Title IX, and Title VI, the U.S. Department of Education has an administrative rule for regulating due process hearings under Section 504.

The impartial due process hearing is to resolve differences involving the education of Section 504/ADA qualified students with disabilities when such differences cannot be solved by means of a less formal procedure.

Due process is defined here as an opportunity to present objections and reasons for the objections to the decision and/or procedures used by the school under Section 504/ADA.

7. If unsuccessful, call the Office for Civil Rights in Denver to express your concerns. 303-844-5695, TTD 303-844-3417.

Office for Civil Rights Complaint Process

Sometimes, even when we do our best, we cannot come to agreement. Every effort must be used to resolve the difference at the local level, including requesting free mediation services. If all else fails, you have the right to file a complaint with the Office for Civil Rights.

An individual person or an organization may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education. An OCR complaint must be filed, in writing, within 180 after the violation has occurred.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices.

- ◆ Your name and address (a telephone number where you may be reached during business hours is helpful, but not required).
- ◆ A general description of the person(s) or class of person injured by the alleged discriminatory act(s) names of the injured person(s) are not required).
- ◆ The name and location of the institute that committed the alleged discriminatory act(s).
- ◆ A description of the alleged discriminating act's in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability or age).

A recipient may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under the four statutes listed above.

**Section 504
Parent/Student Rights
In Identification, Evaluation
Eligibility and Services**

The following is a description of the rights granted under Section 504 to students with disabilities. The intent of the law is to keep you fully informed concerning decision about your child and to inform you of your rights if you disagree with any of these decisions.

You have a right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his or her disability.
2. Have the school district advise you of your rights under federal law.
3. Receive notice with respect to identification, evaluation, or services for your child.

4. Have your child receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent appropriate. It also includes the right to have the school district make accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Have your child educated in facilities and receive services comparable to those provided to students without disabilities.
6. Have evaluation, education. And placement decisions based upon a variety of information sources, and by person who know the student, the evaluation data, and service options.
7. Have your child receive special education and related services if he or she is found to be eligible under the Individuals with Disabilities Act or Section 504 of the Rehabilitation Act.
8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student was placed in program operated by the district.
9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district.
10. Examine all relevant records relating to decision regarding your child's identification, evaluation and educational services.
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. A response from the school district to reasonable requests for explanations and interpretation of your child's records.
13. Request amendment of your child's education records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school district refuses this requests for amendment, it shall notify you within a reasonable time and advise you of the right to a hearing.
14. File a 504 grievance if you have a disagreement with the school.
15. Request mediation or an impartial due process hearing related to decision or actions regarding your child's identification, evaluation, education program or services. You and the student may take part in the hearing and have an attorney represent you.

16. File a complaint with the Office for Civil Rights, Region VIII, and 1244 Speer Blvd, Suite 310, Denver, Colorado, 80204-3582. Phone 303-844-5695 or TDD 303-844-3417.

For more information about Section 504, write:

Wyoming Department of Education
Office of Civil Rights Coordinator
Hathaway Building 2nd Floor
2300 Capitol Avenue
Cheyenne, WY 82002-0050
307-777-5329