



# **The 411 on 504s**

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# Historical Thumbnail

- Shorthand for Section 504 of the Rehabilitation Act of 1973
- Section 504 = public schools
- This Act was passed
  - Prior to the first special education law (1975)
  - Prior to the American with Disabilities Act (1990)

# Historical Thumbnail (continued)

- Specifically for federal government employment & those receiving federal funds
- Described as Congress's response to society's neglect of the disabled
- Language almost identical to Civil Rights Act of 1964

# Purpose of Section 504

In the eyes of the Supreme Court, the purpose was to ensure evenhanded treatment of the disabled.

**Not** to guarantee the disabled would obtain equal results from said treatment.

# Section 504

Section 504 of the Rehabilitation Act of 1973 states:

“No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

# **Discrimination**

Students may not be denied participation in or be denied benefit from services that are afforded nondisabled students.

# Eligibility under Section 504

Individuals who:

- have a physical or mental impairment which substantially limits one or more major life activities
- have a record of such impairment
- are regarded as having such an impairment

# Physical or Mental Impairment

Any **physiological disorder** or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

Any **mental or psychological disorder**, such as cognitive impairment, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The regulatory provision does not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list.



# Major Life Activities

Caring for one's self, performing manual tasks, walking, seeing hearing, speaking, breathing, learning, and working. **This list is not exhaustive.**

Other major life activities for purposes of Section 504 include: eating sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

Congress also provided a non-exhaustive list of "major bodily functions" such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

# Substantial Limitation

- Not explicitly defined
- Must limit one or more major life activity in a substantial manner
- Does not have to severely restrict a major life activity to be substantially limiting
- Refers to individuals in comparison to most people in the general population

# Evaluation Procedures

- Evaluation draws on information from a variety of sources in the area of concern.
- A group decision is made with persons knowledgeable about the student, evaluation data, and available educational placement options.
- Written consent is not necessary before completing an evaluation; however, notice must be provided to parent or guardian

# Eligibility under Section 504

Common Section 504 disabilities in our district:

- Diabetes
- Epilepsy
- Severe allergies
- Asthma
- ADHD
- Anxiety
- Temporary impairments

# Mitigating Measures

- Mitigating measures eliminate or reduce the symptoms or impact of an impairment
- Impairments must be considered in their unmitigated state
- ADAAA non-exhaustive list of mitigating measures includes: medication, medical equipment and devices, prosthetic limbs, low vision devices (e.g. devices that magnify a visual image), hearing aids, mobility devices, oxygen therapy equipment, use of assistive technology, reasonable accommodations, and learned behavioral or adaptive neurological modifications, psychotherapy behavioral therapy, and physical therapy.

**EXCEPTION: Eyeglasses or contact lenses**

# 504-Yes, IEP-No

## Examples of Students who would be eligible for 504 and not necessarily for IEP

- Students with ADD who do not qualify for, or need, special education
- Students with diabetes, asthma, other chronic conditions affecting physical ability to function at school
- A student with an anxiety disorder, but who are substantially limited in their focusing and learning at school as a result of their anxiety, but only require accommodations
- Temporarily disabled students (if the temporary disability substantially limits a major life activity relevant in the school setting, and if the disability will be present more than 6 months- based on ADA amendment of 2009)

# **504 Requirements**

Schools need to eliminate barriers that would prevent the student from participating fully in the programs and services offered in the general curriculum

# **504 Requirements**

Reasonable accommodations, supports, and auxiliary aids must be made to allow the child to participate in general education



# Developing a Section 504 Plan

- Determine monitoring period (usually 1 year)
- Develop a list of accommodations/modifications/services designed to allow the child to participate in general education
- Monitor effectiveness of the plan
- Review after each monitoring period
- Share accommodations information with teachers

# Examples of Accommodations

- Provide breaks
- Develop health care and/or emergency plan
- Simplify instructions
- Modify amount of homework
- Peanut-free table
- Allow early dismissal from class
- Extended time on tests
- Extended time on HW
- Alternate location for testing
- Gum/fidgets

# When to Consider a 504 Eval

- Medical diagnosis that impacts child in school setting
- Student evaluated and found not eligible for IEP
- Chronic medical problem
- Chronic absences due to medical problem

# Discipline of 504 Students

- Schools must comply with Section 504 procedural safeguards when taking disciplinary action against a student with a disability
- Schools can take disciplinary action against 504 students who engage in illegal drug or alcohol use in school
- Student may NOT be removed on a long-term basis for behavior that is related to the disability

# Legal Complaint Process

- Parent makes a grievance complaint to the school district
- Parents submit complaint, if Office of Civil Rights investigation warrants, parents are given a “right to sue” letter
- Cases are considered civil

# Test your 504 knowledge



1. Buford has a 504 and is being recommended for an accelerated class next year in middle school. The parents are requesting an additional accommodation of extended time to complete assignments because there are greater expectations for reading and writing in the accelerated class. The District should provide this accommodation.

☐

True

☐

False

2. A review of a Declan's grades indicated that he was receiving A's and B's in his classes; therefore, he was not eligible for a 504 Plan.

☐

True

☐

False

3. Morris has just been diagnosed with ADHD. After gathering evidence from his teachers that he has trouble staying focused in class, does not always complete his homework, and does not finish tests on time in class, the 504 team determines Morris is eligible for a 504 plan with learning and concentrating being the major life activities affected.

☐

True

☐

False

4. Roy Don has a food allergy that requires an epi-pen if the he is exposed to tree nuts. He would not be considered disabled under 504.

☐

True

☐

False



5. Sarahbelle has been diagnosed with anxiety by her doctor. The 504 team reviewed Sarahbelle's classroom performance which fell in the average range, interviewed her teachers who commented that she benefited from preferential seating and had a nice group of friends, and looked at her attendance records which were unremarkable. The team determined that she was not eligible because there was no substantial limitation to a major life activity. The team made an inaccurate decision.

☐

True

☐

False

6. Tillie's 504 Plan can be considered less important than Milly's IEP because the legislation is not specific to schools.

☐

True

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False