

EQUAL RIGHTS FOR ALL STUDENTS

A guide to section 504
of the Rehabilitation
Act of 1973



*The Utah State Board of Education has updated the 2019 Parent Guide. The contents of the document do not necessarily reflect the position of the U.S. Department of Special Education’s Office for Special Education Programs (OSEP) or Office for Civil Rights (OCR), and no official endorsement should be inferred. **This document is meant to provide guidance only.** For legal advice, always check with an attorney.*

**Guide to Section 504 of the Rehabilitation Act of 1973 and the
Americans With Disabilities Act (ADA)**

EQUAL RIGHTS FOR ALL STUDENTS

Utah State Board of Education

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This GUIDE TO SECTION 504 provides information and describes some of the requirements of Section 504 of the Rehabilitation Act of 1973 with respect to preschool, elementary, and secondary school policies involving placement of students with physical and mental disabilities. Section 504 requires a level playing field for students with disabilities, not an unfair advantage. This means that students with disabilities have the same or equal access to curriculum and activities as the general population.

What is Section 504?

Section 504 is the part of the Rehabilitation Act of 1973 that helps protect the civil rights of persons with disabilities by prohibiting discrimination based on disability. Section 504 requires that no person with a disability be excluded from or denied benefits of any program receiving federal financial assistance; this includes education. Its purpose is to ensure that individuals with disabilities have the same access to education that individuals without disabilities have. It does this by eliminating barriers that exclude individuals with disabilities from participating in protected activities, including a free and appropriate public education.

What are some differences between special education and Section 504?

Section 504 and special education provided through the Individuals with Disabilities Education Act (IDEA) are two possible service options available for students with disabilities. Perhaps the most significant difference between the two is that Section 504 is a civil rights law, and IDEA is an educational benefit law. As an educational benefit law, IDEA offers additional services and protections for those with disabilities that are not offered to those without disabilities. The following table describes the fundamental differences between Section 504 and IDEA.

Issue	Section 504	IDEA
Type	A Civil Rights Act	An Education Act
Responsibility	General Education	Special education
Funding	School funding	State/federal/local funding
Administration	Section 504 Coordinator	Special Education Director
Service Tool	Accommodation Plan	Individualized Education Plan (IEP)
Disabilities	Any disability, if eligible	Qualifying disability categories
Parents	Should be involved in all team meetings	Must be involved in all team meetings
Procedural Safeguards	Parent consent and notice is required	Parent consent and notice required for initial evaluation, placement, and reevaluation

Which students are eligible under Section 504?

A student is eligible for accommodations under Section 504 if:

- (i) the student has a physical or mental impairment that substantially limits one or more major life activities (or major bodily functions),
- (ii) the student has a record of such impairment, or
- (iii) the student is regarded as having such an impairment (34 CFR 104.3(j)(1)).

Physical and mental impairments:

Includes, but are not limited to, anxiety, depression, attention deficit hyperactive disorder (ADHD), attention deficit disorder (ADD), obesity, central auditory processing disorder, heart malfunctions, major concussions, urinary conditions, blood disorders, chronic fatigue syndrome, school phobia, respiratory conditions such as asthma, epilepsy, cancer, birth defects, tuberculosis, diabetes, and food allergies.

Appropriate education:

A free appropriate public education is one provided by the elementary or secondary school that includes general or special education and related aids and services that:

- (1) Are designed to meet the individual educational needs of an eligible student with a disability as adequately as the needs of an eligible student who is nondisabled are met.
- (2) Are based on adherence to evaluation, placement, and procedural safeguard requirements.

Major life activities:

Includes, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending speaking, breathing, learning, reading, concentrating, thinking, communicating, self-care, sitting, writing, reaching, working, and interacting with others.

Major bodily functions:

Includes, but are not limited to, functions of the immune system; normal cell growth; and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions (ADA Amendments Act update, 1–8–2010). When a condition does not substantially limit a major life activity that affects education, the student does not qualify for protection under Section 504.

How is it determined that a student is eligible under Section 504?

The determination of eligibility under Section 504 is determined by a group of persons knowledgeable about the student and about the disability. This usually involves the parent(s)/guardian(s), school principal, classroom teacher(s), and other educators working with the student. The group will review the nature of the disability and how it affects the student's education. If it is determined that a student has a disability under Section 504, the school could develop a Section 504 Plan and include all needed accommodations agreed upon by the Section 504 team. Any accommodations included in the Section 504 plan should be implemented with fidelity. The decisions about Section 504 eligibility and services should be documented in the student's file and reviewed periodically.

Does Section 504 require evaluations?

Section 504 requires that a school evaluate any student who, because of a disability, may need accommodations to participate in the school program. Most evaluations under Section 504 only involve considering information that has already been gathered. The information should be reviewed to determine whether it is current or needs to be updated. A school cannot require specific evaluations (e.g., medical evaluation or diagnosis) to determine qualification for Section 504. In addition, results of an evaluation cannot be the sole determiner of Section 504 eligibility. The 504 team must review multiple sources of information.

What are accommodations?

Accommodations are provided by the classroom teacher(s) and other school staff members to help students benefit from their educational program. In some cases, a written plan will be developed outlining accommodations. The school should develop a written Section 504 Plan describing the accommodations. Service decisions must be based on evaluation information and student needs. The decisions must be made by a group of persons knowledgeable about the student, the disability, and the meaning of the evaluation data. The following chart lists some possible accommodations:

In the classroom	Outside the classroom
Modify assignments and tests that still meet core expectations	Allow extra time between class
Extend Time on assignments and tests and allow students to redo assignments and tests	Accommodate for absences for healthcare appointments, adjust attendance policy, if needed
Provide an extra set of textbooks for home	Modify schedule and/or arrange for home tutoring
Adjust student seating	As necessary, medication administration
Use study guides and organizing tools	Provide appropriate transportation
Provide a peer tutor/helper	Provide tutor or aide
Teach the student organization skills	Avoidance of allergens, use air purifiers, make dietary accommodations
Record lectures/presentations and copies of notes	Provide school counseling and peer support groups
Provide preferential seating	Provide assistive devices
Modify physical education requirements	Modify time/activity level for recess
Allow immediate access to snacks and water	Adjust snacks and mealtimes
Permit bathroom use without restriction	Make any needed bathroom accommodations

What are the responsibilities of the school under Section 504?

The school staff and parent(s)/guardian(s) need to work in collaboration to help guarantee that the student is provided with the necessary accommodations.

To comply with Section 504, schools must do the following:

1. Provide grievance procedures to resolve complaints.
2. Provide a notice of nondiscrimination in admission or access to its programs or activities to the parent(s)/guardian(s) and disseminate to the general population.
3. Identify, locate, and evaluate all children who may qualify for accommodations and services under Section 504 (34 CFR 300.111).
4. Annually notify parent(s)/guardian(s) of the school's responsibilities under Section 504.
5. Provide parents or guardians with procedural safeguards.
6. Apply student accommodations written into a Section 504 Plan with fidelity.
7. Conduct an "evaluation" of the student prior to implementing a disciplinary removal of more than 10 consecutive school days or a pattern of short-term removals that cumulate to more than 10 school days in a year.

What are the responsibilities of the parent/guardian?

1. Maintain open communication with the school regarding the needs of your student.
2. When possible, be involved in Section 504 meetings concerning your student.
3. Assist in developing appropriate accommodations for your student.
4. Encourage your student to cooperate with school staff and do their best.
5. Collaborate with other agencies, such as vocational rehabilitation, when appropriate.
6. Follow the Local Education Agency's (LEA's) grievance procedures to resolve any complaints. (An LEA is a school district or charter school.)

What are the responsibilities of the student?

1. Be involved in Section 504 meetings when appropriate.
2. Be familiar with your [Section 504/ADA rights](#) at postsecondary programs before graduating from high school.
3. Cooperate and put forth maximum effort at school.
4. Be actively engaged in preparing for post-secondary education by following the [sample checklist](#).

What if I think my student's needs are not being met?

If you believe the school is not meeting the requirements of Section 504 as it relates to your student, the following procedures are recommended:

1. Try to resolve your differences at the teacher or school level. Set up a meeting to discuss your concerns. Involve the school's administrator and Section 504 Coordinator, when applicable.
2. If unable to resolve at school level, set up a meeting with the LEA's Section 504 Coordinator.
3. If unsuccessful, call the USBE Student and Family Rights Specialist (801-538-7828) or the Utah Parent Center (801-272-1051 or 1-800-468-1160) for more information and resources.
4. If available, ask for mediation. This is a free service for parents to be arranged by the school. A neutral individual will work with you and the school to help resolve your differences.
5. If mediation is unsuccessful and you believe your student has been discriminated against, ask the LEA Section 504 Coordinator how to file a grievance.
6. The U.S. Department of Education has an administrative Rule for regulating due process hearings under Section 504 (34 CFR 104.36). The Section 504 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.
7. If this is also unsuccessful, contact the Office for Civil Rights (OCR) to express your concerns.

What is the Office for Civil Rights Complaint Process?

Sometimes, even when schools and families do their best to determine services and supports for students with disabilities, they cannot come to agreement. Schools and families are encouraged to make every effort to resolve differences at the school or LEA level, including requesting free mediation services or a due process hearing. If all else fails, you have the right to file a complaint with the OCR. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. OCR requires the individual/organization filing the complaint to include a description of the alleged discriminatory act(s) in enough detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination. [Use this link](#) to access information about filing complaints.

The contact information for the OCR Office for Civil Rights, Region VIII office is:

US Department of Education
Federal Building, Suite 310
1244 Speer Blvd
Denver, CO 80204-3582
Phone: (303) 844-5695

What if we think we are experiencing retaliation?

A school may not retaliate against any person who has made a complaint. The U.S. Code of Federal Regulations states that, “No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing” (34 CFR 100.7).

For more information about Section 504, contact:

Utah State Board of Education Student and Family Rights

250 East 500 South
P.O. Box 144200
Salt Lake City, UT 84114-4200
Phone: (801) 538-7828

Utah Parent Center

2290 East 4500 South, Suite #110
Salt Lake City, UT 84117-4428
(801) 272-1051 or (800) 468-1160

<p>The person in your school who is responsible for ensuring compliance with Section 504 is:</p> <p>Name:</p> <p>Telephone:</p>	<p>The LEA Section 504 Coordinator is:</p> <p>Name:</p> <p>Telephone:</p>
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