

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in public schools based on a student's disability. Schools must provide students who qualify with a free appropriate public education (FAPE), meaning the school must meet the needs of students with disabilities just as adequately as the needs of non-disabled students.

A student qualifies for section 504 if they have a physical or mental impairment that "substantially limits one or more major life activities." Examples of major life activities include walking, hearing, speaking, learning, etc.

What are the school's obligations under 504?

Schools must provide a "free appropriate public education" (FAPE). To provide a FAPE for students with disabilities within the school district, the school may need to provide special education services or accommodations designed to meet the needs of the individual student, and must keep the student in the regular classroom to the maximum extent possible.

Under section 504's non discrimination mandate, school's must provide students with disabilities with equal opportunity to participate in sports and extra curricular activities to the greatest extent possible.

What if I am concerned that my child's school is not meeting its obligations?

If the school refuses to evaluate your child or acknowledge your request for a 504 plan, or if the school has developed a 504 plan but failed to implement it, there are options available to resolve the concerns, such as requests for mediation or formal complaints with the Office of Civil Rights. To discuss your child's situation and possible options to resolve your concerns, please contact the Native American Disability Law Center for an intake.



Native American Disability Law Center



(505) 566-5880



www.nativedisabilitylaw.org/



905 W. Apache Street
Farmington, New Mexico 87401

Office for Civil Rights

U.S. Department of Education
Rocky Mountain Region (includes NM complaints)



(303) 844-5695



<https://www2.ed.gov/about/offices/list/ocr/index.html>



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504 and Education: A guide for parents

Native American Disability Law Center

What is a 504 plan

A Section 504 Plan outlines the services and accommodations a qualifying student requires to be provided FAPE.

The school is required to have a process to determine whether a student is eligible for a 504 plan. To begin this process for your student, gather documentation of your student's condition, behavior, and/or needs, which may include a diagnosis or report from a health care provider and/or written observations from the student's teachers, family and others. The school may simply review documentation or conduct a more in-depth evaluation. If it is determined that the child is eligible, a 504 plan will be developed and implemented.

How do I have my child evaluated?

School districts are legally obligated to identify students with disabilities that live within their districts every year. The school is required to evaluate the child if they have reason to believe that the child would qualify under Section 504 or IDEA (see section on 504 vs. IDEA).

Often, school districts will consider outside evaluations that are provided as a basis for a request to identify the student as a student with a disability who is in need of special education or accommodations under section 504. If you already have an outside evaluation or diagnosis, provide this documentation to the school to begin a request for evaluation and services.

Accommodations under 504

A 504 plan can include accommodations and interventions. An example of an accommodation is a change to the student's classroom environment such as providing a quiet testing environment or working with the student's seating arrangement. Interventions are strategies, such as praise or positive reinforcement, that help the student succeed.

Examples of possible accommodations:

- transportation or mobility assistance
- using sensory tools
- timing modifications - more time to take tests or complete assignments, taking frequent breaks
- alternative assignments/assessments
- recording lectures or instructions
- taking tests in a quiet environment

504 vs. IDEA

The Individuals with Disabilities Education Act (IDEA) is another federal statute protecting with students with disabilities. It requires schools to implement individualized educational programs (IEPs) for a student who meets the criteria under IDEA.

Generally, Section 504 is more broadly applicable, meaning that its protections apply to more students, including those that do not qualify under IDEA. For example, a student may have a disability that is not eligible under IDEA, but still may require accommodations under 504 to be provided with the same educational opportunities as their non-disabled peers. Some students have both an IEP and 504 plan.



What determines my child's accommodations?

The school will interpret data gathered from the student's evaluation and will also draw upon other sources including achievement tests, teacher recommendations, as well as the social or cultural background and adaptive behavior of the student. Decisions on specific accommodations and interventions should be decided upon by a group of individuals knowledgeable about the student including the student themselves, parents, teachers, or therapists and other service providers.

What are my child's rights under section 504?

504 requires that parents are notified of any decision that affects their child's education or placement and that the student is re-evaluated prior to any significant change to placement, which includes long term disciplinary removals. A parent may request modifications to a 504 plan if there are significant changes to the child's needs.