

# A Parent's Guide to Section 504 of the Rehabilitation Act

## What is Section 504?

Section 504 of the Rehabilitation Act is a civil rights act prohibiting discrimination based on disability. It was enacted to eliminate barriers that exclude persons with disabilities. Section 504 applies to all agencies that receive federal funds, including public schools, federal agencies, and places of public accommodation. In the Poway Unified School District, all staff and administrators have the responsibility of insuring that all students with disabilities are identified, evaluated and provided with needed accommodations and services, resulting in a free appropriate public education (FAPE). Section 504 is enforced by the U.S. Department of Education, Office of Civil Rights. Public school districts have the duty to provide a free appropriate public education to all qualified disabled students. A FAPE must include an education designed to provide educational benefit despite the child's disability; it must be at no cost to the parent; and it must be provided in an environment that affords the greatest exposure to non-disabled peers.

## What's the difference between eligibility for IDEA and Section 504?

Section 504 is a civil rights act, predating the Individuals with Disabilities Education Act (IDEA). IDEA, commonly referred to as special education, is an education law which provides funding for individualized educational programs and additional services beyond what is available to students without disabilities. IDEA covers children within specific categories of disabilities and degrees of impairment. Unlike services offered through IDEA, school districts receive no additional federal or state funding under the Section 504 mandate.

## Who is a student with a disability under 504?

Section 504 protects an individual who has, had, or is perceived as having a physical or mental impairment which substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working. It protects students when their disabilities limit their ability to attend, participate in, or receive benefit from their education. These provisions protect individuals with disabilities far beyond those covered by IDEA, and they also protect every student who is eligible for IDEA.

Section 504 does not specifically list qualifying disabilities although it does list examples. These include: diseases and conditions involving orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism. HIV/AIDS, learning disabilities, ADD/ADHD, cystic fibrosis, severe allergies and asthma, among others, have also been recognized. In all cases the focus is on the extent to which the impairment substantially limits a major life activity when compared to an average individual in the general population. Some students with these disabilities may be covered by IDEA, but only if they meet certain eligibility criteria.

## What are some examples of discriminatory practices prohibited by Section 504 in a school setting?

- Penalizing a student whose absenteeism is related to disability;
- Not providing accessible transportation for a student who uses a wheelchair for field trips and school sponsored activities;
- Expelling a child for behavior related to a disability;
- Not permitting a student with a disability to participate in intramural or other non-academic activities;
- Not providing interpreters for deaf students who want to participate in school activities;
- Refusing to allow a child with a disability the opportunity to audition for athletic teams or other extracurricular activities;
- Not providing an interpreter for a deaf parent to attend a school meeting.

## Identification of Students Eligible under Section 504

Parents, teachers, school nurses, audiologists, CRT Teams, or other school personnel can initiate a 504 referral if the child is known to have a disabling condition. If a child is experiencing chronic problems at school, and if interventions which have been implemented have been unsuccessful, and a disability is suspected, the school has an obligation to refer the child for an evaluation. Following the referral the school 504 team will convene to implement the eligibility process. Often, an evaluation under IDEA is necessary.

## What is an evaluation under Section 504?

Evaluations to determine 504 eligibility are different than evaluations required by Special Education. For purposes of Section 504, evaluation means reviewing information from a variety of sources. This typically includes teacher reports, grades, standardized test scores, attendance and discipline reports, information from parents and medical providers, etc. The 504 Team must include individuals who are knowledgeable about the child, the type of disability, the evaluative data being reviewed, and accommodation options. Obviously, teachers play an important role in the process.

Teachers should always participate in any meetings where a 504 Plan may be developed and be prepared to supply pertinent data and anecdotal information about the child. Because Section 504 does not provide a definitive "list" of qualifying conditions, school personnel must use their collective, professional judgment to make a determination. If the 504 Team determines that there is not sufficient information to make a determination, or the Team believes the child may be eligible for services under IDEA, a referral for an evaluation through Special Education is made.

It is not uncommon for a school to receive a doctor's letter stating that a student has a disability and needs certain accommodations. While the school always considers the recommendations of doctors or other professionals who work with the child, it remains the school's responsibility to review multiple sources of information to determine 504 eligibility and to implement any necessary accommodations for the student. Simply having an impairment does not automatically qualify a student under Section 504.

### **How are accommodations and services determined?**

If a student is found to have a disability under Section 504, the team will make an individualized determination of the student's educational needs and an accommodation plan will be developed. The 504 Plan will identify the individual(s) responsible for implementing accommodations. Most accommodations are provided by the classroom teacher. Eligibility status and 504 plans are generally reviewed annually.

### **What are some examples of accommodations?**

Accommodations are "adjustments" that are designed to minimize the impact of a disability and meet the unique needs of the student. There is no "list" of approved accommodations. They are determined individually for each child. Examples might include preferential seating to minimize distractions for children with attention/concentration difficulties; assisting a student with diabetes in monitoring his/her blood sugar levels; providing extra time or a quiet setting for exams; providing extensions on assignments; providing curriculum and increased communication with parents for children who cannot attend school regularly due to chronic health problems. For the most part, accommodations are inexpensive and utilize good teaching practices and classroom management strategies.

### **When is a 504 Plan inappropriate?**

- When a student has a diagnosed disorder but is functioning well academically and is making adequate progress without accommodations, the student does not meet the criteria for 504 eligibility. This might include a student who is doing well in school but may not be working to potential; a student who a parent feels could be making A's rather than B's; or a student who only experiences difficulty in one subject area.
- When a plan is created only to support a request for extended time on College Board exams (SAT's, ACT's).
- When a student is eligible for services under IDEA but parents prefer Section 504 services.

### **What rights do you have under Section 504?**

You have the right to:

- Have your child take part in, and receive benefit from, public education programs without discrimination based on disability.
- Have the school advise you of your rights under federal law.
- Receive notice and examine records with respect to identification, evaluation, programming, or placement of your child.
- Have your child receive a free appropriate public education. This includes the right to be educated with other children to the maximum extent appropriate. It also includes the right to have the schools make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
- Have your child educated in facilities and receive services comparable to those provided to children without disabilities.

- Have your child receive special education and related services if she/he is found to be eligible under the Individuals with Disabilities Education Act (IDEA), or to receive accommodations under Section 504 of the Rehabilitation Act.
- Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by individuals who know the child, disability, evaluation data, and placement options.
- File a local grievance with your school if you feel your child is being discriminated against based on disability.
- Request a due process hearing and/or the assistance of a mediator to help resolve issues with the school.
- File a formal complaint with the regional Office of Civil Rights.

### **What can I do if I have a complaint regarding Section 504 implementation?**

Most concerns and complaints parents may have can be resolved within the school by working with the principal, school 504 coordinator and other school staff to reach a joint resolution of the issue(s). Should the issue not be resolved and you wish to file a 504 complaint, follow the district guidelines outlined in District policy. If unsatisfied, the next step would be to request a due process hearing under Section 504. Copies of these procedures are available at each school, from the District 504 Coordinator. Complaints can also be filed directly with the Office for Civil Rights.

### **Who is my school contact for information about Section 504?**

A Section 504 Coordinator has been assigned at each school to address your questions and concerns about Section 504. There is also a District ADA/504 Coordinator who is available to provide assistance and information.