

SECTION 504

What is Section 504?

Section 504 was enacted as part of the Rehabilitation Act of 1973, part of the nation's effort to combat discrimination against many of the more vulnerable groups in our society.

It bars discrimination against persons with disabilities in the services and programs that are administered by any entity that receives federal funds.

Who qualifies for coverage under Section 504?

(a) a person who has a physical or mental impairment which SUBSTANTIALLY LIMITS (cannot do it at all or does it in a severely restricted manner) one or more of the person's major life activities (learning, breathing, walking, talking, etc).

For this group of people, schools have an affirmative obligation to provide accommodations and services.

(b) a person who has a record of such an impairment (used to have cancer, but not now, or used to be physically or mentally disabled, but not now).

(c) a person who is regarded as having such an impairment (such as severe burns that make a person look impaired though they are not).

For these two groups, schools may not take any negative or discriminatory action. There is no obligation to provide services or accommodations.

How do we determine if an impairment substantially limits a major life activity?

1. View the person with ameliorating supports such as medication, prosthesis, etc.
2. Consider if, with ameliorating supports, the person cannot do the major life activity (i.e. cannot learn at all), or the condition severely restricts or prevents the major life activity (i.e. severe restriction in learning as evidenced by failing grades and/or low achievement test scores).

IDEA

Under IDEA, a student must have one of 14 disabling conditions defined and listed in the law. The disability must have an ADVERSE EFFECT on educational performance (i.e. failing grades or low achievement test scores or can't benefit from the general curriculum in the general ed setting because of the adverse effect of the disability). The student must also need specially designed instruction. You aren't placed in special ed unless you need special ed in some form.

Students will qualify for special services more readily under IDEA than under 504.

The "Adverse Effect" standard is looser than the "Substantially Limits" standard. When a student's disability substantially limits a major life activity but he/she doesn't require special education, he/she may receive accommodations and services under Section 504 if

those services are required to access the school's programs that are available to students without disabilities.

Referral Procedures

1. If you believe a student may have a disability and may require special education (this includes structured study as well as academic instruction), complete a special education referral form and email it to the special services director. Please be aware that being off grade level does not necessarily imply a disability. Students who learn more slowly than average (IQ in the 80s, for example), may perform below average for grade level.

2. If you believe a student has a disability, and he/she does NOT require specialized instruction in any area, but does need modifications and accommodations to access school programs (i.e. student is in a wheelchair, 504 plan provides special transportation).

The mental impairments (ADHD, bipolar disorder, depression, anxiety, etc.) may or may not have an adverse effect on learning. If they do, and the student needs specialized instruction of some type (includes social/emotional goals and objectives, structured study, etc), he/she will qualify for an IEP.

If the mental impairment substantially limits learning, but no specially designed instruction is required, it would be a surprising situation.