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## Section 504 — Federal Civil Rights Law

You've heard other parents talk about a "Section 504" Plan, but what is it? Could this civil rights protection apply to your child?

### What Is Section 504?

As part of the Rehabilitation Act of 1973, Congress passed Section 504, a civil rights law to protect people with disabilities by eliminating barriers and allowing full participation in areas such as education and the workplace. Since then, the Office for Civil Rights has developed federal regulations that help to explain this law.

While the law doesn't provide any new funding for programs and agencies that comply, it carries the threat of withholding federal funds from those that don't. Since public schools receive federal tax dollars, the law applies to them. It doesn't apply to many private schools because they don't receive any money from the federal government.

### Who Is Eligible?

"Handicapped person" is defined by Section 504 as a person with a mental or physical impairment that limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working, to a substantial degree.

All students with Individualized Education Programs (IEP) are covered automatically under Section Section 504. Almost 9% of the nation's students aged 6-21 receive special education services,<sup>1</sup> with a little more than half of them identified as "specific learning disability." Because necessary [accommodations](http://www.schwablearning.org/Articles.asp?r=77&d=5) (<http://www.schwablearning.org/Articles.asp?r=77&d=5>) are included in the IEP, there's no need to write a separate Section 504 plan for these students.

It's been estimated that 1-2 percent of students may be eligible under Section 504 alone. However, this includes students with mental, physical, and emotional disabilities, and not just learning disabilities. For example, a child with diabetes may need help from school staff to monitor blood sugar levels but have no problems with the educational program itself.

Eligibility under Section 504 isn't a consolation prize for students who aren't eligible for special education. A diagnosis of AD/HD doesn't automatically make your child eligible either. Before deciding whether she's eligible, your child is assessed by staff at the public school she attends. Then the Section 504 team considers all information about her. They must agree that she has a substantial (not mild or moderate) and pervasive (broad, comprehensive) impairment to make her eligible under this federal law.

In deciding whether a limitation is substantial, the Section 504 team also considers if your child uses a "mitigating measure" — a device or practice she uses on her own to reduce or eliminate the effects of her impairment. For example, if she tests with normal vision when wearing eyeglasses you've provided, then her visual impairment is not substantial.

If your child regularly earns report card grades of A's, B's and some C's, has standardized achievement tests scores in the average range and above, displays appropriate behavior, and attends school regularly, it's likely that she's not substantially impaired according to this particular law. If your child has problems in only one area, such as written language or math calculation, there's a good chance that the team will find she doesn't have a disability that substantially limits her learning.

Section 504 does not require the school to maximize your child's learning. For Section 504 purposes, the school will compare your child's performance to that of the average child without disabilities.

### What Is a Section 504 Plan?

If your child is eligible, then a Section 504 Plan will be developed to give her access to the general education curriculum. Unlike the IEP for special education, there are no legal requirements for what should be included in the plan. A free appropriate public education (FAPE) under Section 504 often means identifying reasonable accommodations to help her succeed in the classroom. An accommodation plan usually addresses the following:

- Nature of the disability and major life activity it limits
- Basis for determining the disability
- Educational impact of the disability
- Necessary accommodations
- Placement in the least restrictive environment (LRE)

### What Are My Rights?

The law doesn't require parent participation in the meetings where a child's 504 plan is discussed. Nor does the law require parental permission to assess the child, or agree with the plan. However, many schools do include parents in the process. The law does require that schools let you know when they plan to evaluate your child or make a significant change in her educational placement.

The Section 504 Coordinator for your school or district can advise you about grievance and due process procedures if you have a disagreement. You can request a copy of the district's Section 504 policy, as well.

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### About the Contributors

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## Other Resources

### Websites

Wrightslaw

Discussion of Section 504, the ADA, and the IDEA

<http://wrightslaw.com/info/sec504.summ.rights.htm>

U.S. Department of Education

Frequently Asked Questions about Section 504 and the Education of Children with Disabilities

<http://www.ed.gov/about/offices/list/ocr/504faq.html>

Attention Deficit Disorders Association Southern Region

Section 504

[www.adda-sr.org/504.htm](http://www.adda-sr.org/504.htm)

## References

1. [24th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act \(http://www.ed.gov/about/reports/annual/osep/2002/index.html\)](http://www.ed.gov/about/reports/annual/osep/2002/index.html) , 2002)