



SECTION 504 OF THE REHABILITATION ACT OF 1973 ACCOMMODATION PLANS

You may have heard about “504 Plans” for students who have disability-related difficulty in school and/or for students who do not qualify for special education services. It is important to know what these “504 Plans” require, their legal basis and how they compare to Individual Education Plans (IEPs) required for students who are eligible for special education services.

Section 504 is a part of a piece of federal legislation—the Rehabilitation Act of 1973. The law prohibits discrimination on the basis of disability in any program that receives federal funding. So of course application of this law is not restricted to services provided by public schools. Any publicly funded program, or partly publicly funded program, is subject to this law.

504 Plans are written when a student qualifies as “handicapped” under this act, and when they are in need of accommodations and/or modifications to permit them to access a service or program. This law is an anti-discrimination law and the objective is essentially to remove barriers and provide access to federally funded programs. 504 Plans can be helpful for students who have a disability and do not meet the specific eligibility requirements under special education law—the Individuals with Disabilities Education Act and corresponding California laws in the California Education Code. It can also be helpful for students in post-secondary settings, such as colleges or vocational schools.

This packet of information will provide you with information on the scope and limitations of Section 504 and the plans that result for students. It is important to know that any student with an IEP (qualifying for special education) is automatically considered a person with a disability and protected by this law.

Matrix has a resource library in both Novato and Fairfield with many books, videos/DVDs and articles. Please call to make sure that the library is available before coming to the office.

Available Information Packets:

ADD/ADHD

Special Education Assessments

Behavior Issues and Special Education

Emotional Difficulties

Learning Disabilities

Promotion and Retention

Resolving Disagreements

School Discipline

Matrix Parent Network and Resource Center

Serving Marin, Napa, Solano and Sonoma Counties

Empowering families of children with special needs to understand and access the systems that serve them.

www.matrixparents.org

94 Galli Drive, Suite C, Novato, CA 94949

1615 West Texas Street, Suite 4, Fairfield, CA 94533

1 (800) 578-2592



Resources

Section 504 of the Rehabilitation Act of 1973

The following resources were selected as easy to use websites and agencies that can provide information on Section 504 as applied to students. The needed information is either on the "home page" of each site, or is easily accessed by using the "search" feature and typing "Section 504." More information is available by accessing the links at each website. The San Francisco regional office of the Office of Civil Rights can be contacted by phone for help in filing complaints.

- Office of Civil Rights (San Francisco Office)
www.ed.gov/about/offices/list/ocr/index.html 415-556-4275
- National Resource Center on AD/HD www.help4adhd.org 1-800-233-4050
- Learning Disabilities On Line www.ldonline.org
- Schwab Foundation for Learning www.schwablearning.org 1-800-230-0988
- WrightsLaw www.wrightslaw.com
- Families and Advocates Partnership for Education www.fape.org
- DisabilityInfo.gov (federal website) www.disabilityinfo.gov
- U.S. Dept. of Health and Human Services www.hhs.gov/ocr/504.html
- "Disability Harassment" www.ed.gov/about/offices/list/ocr/docs/disabharassltr.html

The following books may be helpful for parents/guardians whose child may or may not qualify for special education and who may qualify for the protections afforded under Section 504 of the Rehabilitation Act of 1973:

- Everyday Law For Individuals With Disabilities, Ruth Colker, Adam Milani (2005)
- Finding Help When Your Child Is Struggling in School, Lawrence J. Greene (1998)
- From Emotions to Advocacy: The Special Education Survival Guide, Pam Wright, Pete Wright (2006)
- When You Worry About the Child You Love: Emotional and Learning Problems in Children, Edward M. Hallowell (1997)

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Section 504 of the Rehabilitation Act of 1973 Comparison of IDEA and Section 504

The purpose of Section 504 is to eliminate discrimination on the basis of disability in any program or activity that receives federal financial assistance. The goal of this legislation is for persons with disabilities to have the basic human right of full participation in life and society. The differences between **IDEA** and **Section 504** are shown in the following tables.

PURPOSE

IDEA	Section 504
<p>A federal education law, originally passed by Congress in 1975, ensuring that children with qualifying disabilities have a Free and Appropriate Education (FAPE) available to meet their unique needs and prepare them for further education, employment and independent living. Financial assistance is provided to states and local educational agencies that carry out the requirements of this law.</p>	<p>A portion of a federal civil rights law (Rehabilitation Act of 1973), prohibiting discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance. Exclusion of any otherwise qualified person from participation in, or denial of the benefits of any such program, on the basis of disability, is prohibited.</p>

ELIGIBILITY

IDEA	Section 504
<p>Applies only to students, birth through age 22, with specific disabilities, which adversely affect educational performance and require special education and related services through public schools. Categories of qualifying disabilities include: autism, blindness, deaf-blindness, hearing impairments, mental retardation, multiple disabilities, orthopedic impairments, other health impairments, emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury, and visual impairments.</p>	<p>Applies to “Any person who:</p> <ul style="list-style-type: none"> a) has a physical or mental impairment which substantially limits one or more major life activities; b) has a record of such impairments; c) is regarded as having such an impairment” <p>“Substantially limits” is not defined by the law. The Office of Civil Rights indicated <i>“this is a determination to be made by each local school district and depends on the nature and severity of the person’s disabling condition.”</i></p>

<p>Eligibility determinations must include the parent in the decision-making</p> <p>Assessments are clearly prescribed in law</p> <p>Upon exiting public schools (with diploma or completion of course of study), students are no longer eligible for services and protections.</p>	<p>“Major life activities” include, but are not limited to: walking, seeing, hearing, speaking, breathing, learning, caring for oneself, concentrating, interacting with others, and working.</p> <p>Eligibility is determined by a group of persons that is not required under the law to include parents.</p> <p>Section 504 does not require formalized testing, but the school must consider a variety of sources.</p> <p>College and vocational school students are protected from discrimination based upon disability.</p>
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NOTE: Under Section 504, a person can be considered to have a disability (physical or mental impairment) and afforded civil rights without being eligible for special education services.

BENEFITS

<p>IDEA</p> <p>Students must receive a Free Appropriate Public Education (FAPE)—specially designed instruction, at no cost to their parents, to meet their unique needs. Related services are provided if students require them to benefit from their specially designed instruction. The Individualized Education Program (IEP) documents these services. The components of an IEP are specified in law. Accommodations and modifications are also available through an IEP.</p>	<p>Section 504</p> <p>Students in programs receiving federal funds must have physical and program access.</p> <p>Needed accommodations and modifications are documented in a Section 504 Plan, and are intended to provide educational access.</p> <p>An “Appropriate Public Education” means an education comparable to that provided to students without disabilities.</p>
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PROCEDURAL SAFEGUARDS

IDEA	Section 504
<p>Requires written notice to parents regarding identification, evaluation, and/or placement. Requires parental consent and parental participation in IEP process.</p> <p>IDEA is concrete and specific regarding educational timelines and procedures.</p>	<p>Requires notice to parents regarding identification, evaluation and/or placement, with written notice recommended. Notice only required before a “significant change” in placement. Parental consent IS required for assessment. No reference to parental input.</p> <p>Section 504 does not specify timelines and procedures. Students protected under Section 504 do not have the same procedural protections available to students with an IEP.</p>

DISCIPLINE

IDEA	Section 504
<p>If a child with a disability violates school rules, there are prescribed procedures regarding discipline. Before implementing a change in placement that consists of removal for 10 days or more, a determination must be made if the behavior is a “manifestation” of the disability. If so, the school must attempt to address the behavior through program adjustments. If it is not related to the student’s disability, his placement may be changed and he may be expelled; however, educational services must still continue.</p>	<p>Students protected under this law, who violate school rules, must be reevaluated before “a significant change in placement” (removal from school for 10 days or more) due to their behavior. If the behavior is a “manifestation” of their disability, the appropriateness of the placement must be examined. If the behavior is not a “manifestation” of their disability, they may be expelled from school. Under federal law, educational services would not be required, but California law requires that ALL students who are expelled receive alternative educational services.</p>

FUNDING

IDEA	Section 504
<p>States and Local Education Agencies (LEAs) receive federal funds to offset a portion of the expense of implementing the law, providing services to infants, toddlers and children up to age 22.</p>	<p>LEAs do not receive funding specifically for the implementation of non-discrimination laws, but are not excused from making expenditures that are necessary to ensure equal access in all settings where this law applies.</p>

DUE PROCESS

IDEA

Specific requirements are delineated in law regarding resolution of disagreements, including resolution sessions, mediations, and impartial due process hearings.

Parents may file compliance complaints with local school district administrators and with the California Department of Education (CDE), which will investigate the complaint, and if founded, require the LEA to take corrective action.

Section 504

Local education agencies (LEAs) are required to provide impartial hearings for parents who disagree with identification, evaluation or placement, with parents allowed to participate with legal representation. Due process details are left to the discretion of the LEA.

Parents may file compliance complaints with the local school district Section 504 Coordinator who will investigate the allegations regarding Section 504 matters. If not satisfied, parents may file a complaint with the appropriate regional Office for Civil Rights, a program of the U.S. Department of Education, which will investigate the complaint. [for information on filing a complaint, see "Discrimination Assistance" and "U.S. Department of Education Disability Discrimination Resources"]

Development of the Section 504 Plan

This plan is developed in a Section 504 planning group consisting of:

1. persons knowledgeable about the child
2. persons knowledgeable about the evaluation data, and
3. persons knowledgeable about placement/service options

The planning group's responsibility is to:

1. review and consider information from a variety of sources
2. decide eligibility
3. determine least restrictive placement and supplementary aids and services necessary to achieve equal educational opportunity
4. determine accommodations and modifications to provide student with comparable access to programs and services. [for definitions and examples, see "School Accommodations and Modifications"]
5. ensure that the plan effectively removes the barriers created by a student's disability.
6. revise the plan if it is not effective in removing the barriers that are discriminatory and prevent a student from accessing a program or a facility because of their disability.



Accommodations and Modifications

Accommodations and modifications are changes in instruction, testing, completion of assignments, or the environment that will assist the student in accessing the general education curriculum. They must be written in the IEP or the 504 Plan. Having too many accommodations or modifications may be overwhelming to both teacher and student, so often it is recommended to identify those top items that will have the greatest impact on the student's learning and then to be sure those items are implemented. Each setting needs to be considered as a student may need different accommodations or modifications in different subjects or settings. The accommodations or modifications that are needed may change in different grades or different schools.

There are very important differences between an accommodation and a modification:

Accommodations: allow the student to access the same curriculum as general education students WITHOUT altering that curriculum. What is altered is the way in which the student accesses the curriculum – changes in time, format, setting, schedule and/or presentation. It does not alter what the test measures. For example, a test to measure a student's ability to "decode" words must be read by the student rather than having it read to them. An accommodation would be providing a quiet space or longer time to read.

Modifications: change the standard or what the test is supposed to measure. The student is expected to master part of a concept or standard or is given an alternate assignment that is easier. Examples include allowing a student to use a calculator in a math test (when other students are not allowed to do so) or using a lower grade level text or test. If a student needs modifications this should be made very clear to the parent as it may later impact the student's ability to attain a high school diploma.

Ideas on what accommodations or modifications a student needs should be based on assessment of the student as well as a discussion with the student. If a student refuses an accommodation it will not be helpful. There are many common accommodations but the IEP team should also be creative and think out of the box to come up with ideas that work for the individual student. Accommodation and modification examples which are common and not so common:

Classroom Environment

- Keep workspaces clear of unrelated materials.
- Provide a computer for written work.
- Seat the student close to the teacher or a positive role model (preferential seating)
- Use a study carrel. (Provide extras so that the student is not singled out.)
- Seat the student away from windows or doorways.

Daily Work and Homework

- Extended time for assignments
- Shorten assignment
- Number and sequence the steps in a task
- Show a model of the end product

- Provide interim grade or check-in
- Weight daily work higher than tests

Tests

- Go over directions orally
- Teach the student how to take tests (e.g., how to review, to plan time for each section)
- Permit as much time as needed to finish tests
- Allow tests to be taken in a room with few distractions
- Have test materials read to the student, and allow oral responses
- Divide tests into small sections of similar questions or problems
- Use recognition tests (true-false, multiple choice, or matching) instead of essays

Behavior

- Arrange a “check-in” time to organize the day
- Pair the student with a student who is a good behavior model for class projects
- Use nonverbal cues to remind the student to refocus on their work
- Minimize the use of punishment; provide positive reinforcement of good behavior
- Increase the frequency of reinforcements
- Provide teacher prompts for work or bathroom breaks

Subject Areas

- Group similar math problems together (e.g., all addition in one section).
- Require fewer problems to attain passing grades.
- Use enlarged graph paper to write problems helping student keep numbers in columns.
- Provide a table of math facts for reference or tape a number line to the student’s desk.
- Read and explain story problems, or break problems into smaller steps.
- Provide fewer problems/questions on a worksheet.
- Reduce number of repetitions required in writing (ex. # times to write spelling words)
- Use worksheets that require minimal writing.
- Break reading into smaller “chunks”
- Use fill-in questions with space for a brief response rather than a short essay.
- Provide a “designated note taker” or photocopy of other student or teacher notes. (Do not require a poor note taker or a student with no friends to arrange with another student for notes.)
- Provide a print copy of any assignments or directions written on the blackboard.
- Omit assignments that require copying, or let the student use a tape recorder to dictate answers

Lists of additional suggestions are available, see www.fape.org.

It is important to include the older student in the discussion of what is needed, as when a student offers what he or she thinks would help, that creates ownership of the ideas, and he or she is more likely to use the ideas.

Monitoring the implementation of accommodations and modifications is important. If something isn’t working or being used well, call an IEP meeting (or a 504 meeting) to discuss the situation and make changes that will work for the student.

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**Sample Letter
Request for an Initial Assessment
for Special Education or 504 Plan Eligibility**

Parent/Guardian's name
Address
City, State, Zip Code
Daytime Telephone

Date

_____ (Principal or Special Education Director)
Local School District
Address
City, State, Zip Code

Dear _____:

I am the parent of _____ who is in the ___ grade at _____ (school). I am requesting a comprehensive assessment in all areas related to suspected disability to determine whether _____ is eligible for special education and/or related services either under the Individuals with Disabilities Education Act (including the Other Health Impairment category) or Section 504 of the Rehabilitation Act of 1973. **[NOTE: If your child has a health impairment such as ADHD, Tourettes, or sleep apnea, eligibility under the Other Health Impairment category needs to be considered.]**

I am requesting this assessment because _____ (be specific). The following interventions and accommodations have already been tried. (list interventions such as seating assignments, quiet area to take tests, etc.) However, my student continues to struggle in school with _____. *If applicable add:* _____ has been diagnosed with _____ by _____ (professional).

It is my understanding that I will hear back from you in writing within 15 days of this request.

I look forward to hearing from you and working with you and your staff.

Sincerely,

Your name

cc: include others who you think might need to know about your request

NOTE:

If the district agrees to conduct an assessment, when you give your written permission to the assessment plan, it is VERY important to put in writing that you would like copies of all written reports one week prior to the meeting where these reports will be discussed.



Discrimination Assistance

The Office for Civil Rights (OCR) in the U.S. Department of Education is a law enforcement agency. It is charged with enforcing the federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance from the Department of Education. These laws are as follows:

- Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination)
- Title IX of the Education Amendments of 1972 (prohibiting sex discrimination)
- Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination)
- Age Discrimination Act of 1975 (prohibiting age discrimination)
- Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination by public entities, including public school districts, public colleges and universities, public vocational schools, and public libraries, whether or not they receive Federal assistance).
- Boy Scouts of America Equal Access Act (part of No Child Left Behind Act of 2001)

In order to file a complaint with OCR, submit the following information in a letter or on an OCR form, which is available on the internet at <http://www.ed.gov/ocr/complaintprocess.html>:

1. Your name and address (a telephone number where you may be reached during business hours is helpful, but not required);
2. A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
3. The name and location of the institution that committed the alleged discriminatory act(s);
4. A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, age, or the Boy Scouts of America Equal Access Act).

“The mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.”

You may contact the Office for Civil Rights at 1-800-421-3481 (Washington, D.C.) or:

Office for Civil Rights, Region IX
U.S. Department of Education
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102-4102
Telephone: 415-556-4275
FAX: 415-437-7783; TDD: 877-521-2172
Email: OCR.SanFrancisco@ed.gov

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