

Section 504 Overview

The purpose of this document is to provide technical assistance to Area Education Agencies (AEA), general education staff, and parents regarding their obligations and rights under Section 504 and the Rehabilitation Act of 1973. With passage of the Rehabilitation Act, Congress required that federal fund recipients make their programs and activities accessible to all individuals with disabilities. “No otherwise qualified individual with a disability in the United States, as defined in section 705 (20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . .” 29 U.S.C. § 794 (a). Section 504 of the Act protects persons from discrimination based upon their disability status. A person is disabled under the definition of Section 504 if he or she:

1. has a mental or physical impairment which substantially limits one or more of such person’s major life activities;
2. has a record of such impairments; or
3. is regarded as having such impairment.

“Major life activities” include functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. When a condition does not substantially limit a major life activity, the individual does not qualify under Section 504. This document covers the following areas of the Rehabilitation Act:

1. requirements for preschool, elementary, and secondary education including program accessibility and
2. what it means to administrators/teachers/parents/students.

General Provisions (34 C.F.R. Pt. 104, Subpart A)

The responsibilities of public agencies who receive federal funds in regards to non-discrimination of individuals with disabilities are outlined in Subpart A of Title 34 of the Code of Federal Regulations. “No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.” 34 C.F.R. 104.4(a).

1. Recipient Programs Must Comply with the Following Requirements:
2. Provide written assurances of non-discrimination when applying for federal funds;
3. Take steps to eliminate discrimination against individuals with disabilities;
4. Conduct a self-evaluation of their programs and activities to ensure discriminatory practices are eliminated;

5. Appoint a Section 504 Coordinator for schools with 15 or more employees;
6. Provide public notice of non-discrimination.
7. Adopt School Board non-discrimination policy based on disability.
8. Provide grievance procedure for processing parent and student complaints of discrimination based on disability.
9. Disseminate information regarding policy, identity of Section 504 Coordinator, and grievance procedure.

Program Accessibility (34 C.F.R. Pt. 104, Subpart C)

“No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.” 34 C.F.R. 104.21.

Requirements for Preschool, Elementary, and Secondary Education (34 C.F.R. Pt. 104, Subpart D)

Elementary and secondary school recipients operating preschool and adult education programs must take into account the needs of qualified persons with disabilities in determining the aid, benefits, or services to be provided under these programs or activities.

504 Eligibility

If a district has reason to believe that, because of a disability as defined under Section 504, a student needs special accommodations or service in the general education setting in order to participate in the school program, the district must evaluate the student. If it is determined that the student is disabled under Section 504, the district must develop and implement the delivery of all needed services and/or accommodations.

Services

The determination of what services and/or accommodations are needed must be made by a group of persons knowledgeable about the student. The parents should be included in this process whenever possible. This group must review the nature of the disability and how it affects one of life's major functions: walking, speaking, hearing, seeing, learning, performing manual tasks, working, and breathing. The decisions about Section 504 eligibility and services should be documented in the student's file and reviewed periodically.