



Anchorage School District

Educating All Students for Success in Life

A Parent's Guide to Section 504

The purpose of this document is to provide parents/guardians information related to Section 504, including their Procedural Safeguards/Parent Rights under Section 504.

Statement of Nondiscrimination

The School Board is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination based on sex, race, color, religion, gender identity, sexual orientation, national origin, ancestry, age, marital status, changes in marital status, pregnancy, parenthood, physical or mental disability, Vietnam era veteran status, genetic information, good faith reporting to the board on a matter of public concern, or any other unlawful consideration. The Board shall promote programs which ensure that discriminatory practices are eliminated in all District activities (BP 0410 and BP 5145.3). Any student or employee who violates this policy will be subject to appropriate disciplinary action.

Inquiries or complaints may be addressed to Anchorage School District's Office of Equity and Compliance Senior Director, who also serves as the Title IX and ADA Coordinator, ASD Education Center, 5530 E. Northern Lights Blvd, Anchorage, AK 99504, (907) 742-4132, <https://www.asdk12.org/Domain/1208>, or to any of the following external agencies: Alaska State Commission for Human Rights, Anchorage Equal Rights Commission, Equal Employment Opportunity Commission, or the Office for Civil Rights-U.S. Department of Education.

Introduction

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is a broad federal civil rights law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education. *"No otherwise qualified individual with a disability in the United States . . . 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..."*

Section 504 requires a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

Section 504 prohibits discrimination solely on the basis of disability. It provides an equal opportunity of a qualified person with a disability to participate in or benefit from educational aid, benefits, or services. Think access! In the Anchorage School District, all staff and

administrators have the responsibility of ensuring that all students with disabilities are identified, evaluated and provided with needed accommodations and services. This must include an education that is provided in an environment that affords the greatest exposure to nondisabled peers.

What is the Intent of Section 504?

- To “level the playing field” for students with disabilities
- To ensure equal opportunity and equitable access for qualified students with disabilities to all district programs or activities
- To remove barriers for students with disabilities
- To provide FAPE to qualified students with disabilities
- To be free from bullying and/or harassment based on disability

Who does Section 504 protect?

Section 504 covers qualified students with disabilities who attend schools receiving federal financial assistance. To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment.

Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

What is a Section 504 Team?

While the school principal and/or school 504 Coordinator has responsibility to ensure compliance with Section 504 and its regulations, a Section 504 team works with the principal on student-specific issues. A Section 504 team consists of the student’s parents and a group knowledgeable about the student, assessment data and placement options. Parents play an important role in this process!

A Section 504 team usually includes the classroom teacher or team of teachers who work with a student and may include any or some of the following: school counselor, school nurse, special education staff, school psychologist and representatives from outside agencies (e.g. medical doctors, treating psychologists or therapists) who have special knowledge of a student’s qualifying medical or mental health impairment.

What is a physical or mental impairment?

A physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic; skin, and

endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

What are Major Life Activities?

Major life activities include, but are not limited to, functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating. Major bodily functions that are major life activities include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

What is the definition of Substantially Limits?

There is no single formula or scale that measures substantial limitation. The determination must be made on a case-by-case basis with respect to each individual student. Section 504 requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination. In all cases, the eligibility decision focuses on how much the impairment limits a major life activity and whether the individual is unable to perform an activity that the average person in the general population can do.

When should a parent or school consider referring a student for a Section 504 evaluation?

Conduct an evaluation of any child who because of a disability “needs or is believed to need” services. If any of the following events occur, a 504 evaluation should be considered:

- Behavior problems or disciplinary referrals
- Being considered for retention
- Chronic absences from school
- Showing a pattern of not benefiting from the instruction
- Returning to school after a serious illness or injury
- Informal classroom accommodations have not worked
- Past special education referral (when student did not qualify or no longer qualifies)
- Chronic health condition, medical problem, or mental health disorder

If you suspect your child may have a disability, then you should inform your child’s teacher, principal, or building 504 Coordinator. Following a referral, the 504 team will meet to evaluate and determine the student’s eligibility.

Evaluation

At the elementary and secondary school level, determining whether a child is a qualified disabled student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily

labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials.

What is a Section 504 evaluation?

The assessment must draw upon information from a variety of sources and from individuals who are knowledgeable about the student, assessment data and placement options. Teams must draw from a variety of sources that may include existing data such as grades, attendance reports, office discipline referrals, information from medical providers, parent input, district and state test scores, aptitude and achievement tests, teacher reports and recommendations, physical condition, social and cultural background, and adaptive behavior.

What is reasonable justification for referring a student for assessment?

School districts may always use regular education intervention strategies to assist students with difficulties in school. However, Section 504 requires school personnel to refer a student for an assessment for possible special education, or accommodation to the regular education program if the student, because of a disability or impairment, needs such services.

How much is enough information to document that a student has a disability?

The amount of information required is determined by the Section 504 team gathered to assess the student. The Section 504 team should include persons knowledgeable about the student, the meaning of the assessment data, and the placement options.

The Section 504 team members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. Teams must draw from a variety of sources that may include existing data such as grades, attendance reports, office discipline referrals, information from medical providers, parent input, district and state test scores, aptitude and achievement tests, teacher reports and recommendations, physical condition, social and cultural background, and adaptive behavior.

It is not unusual for a school to receive a physician or medical provider's letter stating that a student has a disability and may need certain accommodations. While the school always considers the recommendation of medical providers who work with the student, 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. Having an impairment or disability does not automatically qualify a student under Section 504.

Who in the evaluation process makes the ultimate decision regarding a student's eligibility for services under Section 504?

The determination that a student is eligible for special education and/or related aids and services must be made by a group of persons, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options. If a parent disagrees with the determination, he or she may request a due process hearing.

Once a student is identified as eligible for services under Section 504, is there an annual or triennial review requirement?

Section 504 eligibility status and 504 plans must be reviewed annually by district procedure. They may also be reviewed more frequently if the 504 team determines this is necessary.

How should a school district view a temporary impairment?

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual. An individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.

Eligibility

Are there any impairments which automatically mean that a student has a disability under Section 504?

No. An impairment in and of itself is not a disability. The impairment must substantially limit one or more major life activities in order to be considered a disability under Section 504.

Can a medical diagnosis suffice as an evaluation for the purpose of providing FAPE?

No. A physician's medical diagnosis may be considered among other sources in evaluating a student with an impairment or believed to have an impairment which substantially limits a major life activity

Does a medical diagnosis of an illness automatically mean a student can receive services under Section 504?

No. A medical diagnosis of an illness does not automatically mean a student can receive services under Section 504. The illness must cause a substantial limitation on the student's ability to learn or another major life activity.

Once a student is identified as eligible for services under Section 504, is that student always entitled to such services?

Yes, as long as the student remains eligible. The protections of Section 504 extend only to individuals who meet the regulatory definition of a person with a disability. If a school re-evaluates a student and determines that the student's mental or physical impairment no longer substantially limits his/her ability to learn or any other major life activity, the student is no longer eligible for services under Section 504.

Are current illegal users of drugs excluded from protection under Section 504?

Generally, yes. Section 504 excludes from the definition of a student with a disability, and from Section 504 protection, any student who is currently engaging in the illegal use of drugs when a covered entity acts on the basis of such use.

Are current users of alcohol excluded from protection under Section 504?

No. Section 504's definition of a student with a disability does not exclude users of alcohol. However, Section 504 allows schools to take disciplinary action against students with disabilities using drugs or alcohol to the same extent as students without disabilities.

If a student is eligible for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

Placement

Definition of Placement

The placement decision is the determination of eligibility, accommodations, and services that a student with a disability must receive in order to receive FAPE. Placement decisions must be made by a group of people, including people knowledgeable about the student, the meaning of the evaluation data, and the placement options.

What kind of placement is required by Section 504?

A 504 requires that schools provide FAPE to eligible students covered under Section 504. The student shall be placed in the regular educational environment unless the child's education cannot be achieved satisfactorily even with the use of supplementary aids and services.

What kind of plan is required?

Anchorage School District procedures require that a Section 504 team use a written plan to document that a group of persons knowledgeable about the student convened and to specify the agreed upon accommodations and services that are required for a specific Section 504 eligible student.

Must a school district develop a Section 504 plan for a student who either "has a record of disability" or is "regarded as disabled"?

No. In public elementary and secondary schools, unless a student actually has an impairment that substantially limits a major life activity, the mere fact that a student has a "record of" or is "regarded as" disabled is insufficient, in itself, to trigger those Section 504 protections that

require the provision of a free appropriate public education (FAPE). However, the student is still protected from discrimination.

What is the receiving school district's responsibility under Section 504 toward a student with a Section 504 plan who transfers from another district?

If a student with a disability transfers to a district from another school district with a Section 504 plan, the receiving district should review the plan and supporting documentation. If a group of persons at the receiving school district, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options determines that the plan is appropriate, the district is required to implement the plan. If the district determines that the plan is inappropriate, the district is to evaluate the student and determine which educational program is appropriate for the student.

What are the responsibilities of regular education teachers with respect to implementation of Section 504 plans? What are the consequences if the district fails to implement the plans?

Regular education teachers must implement the provisions of Section 504 plans when those plans govern the teachers' treatment of students for whom they are responsible. If the teachers fail to implement the plans, such failure can cause the school district to be in noncompliance with Section 504.

What is an Accommodation?

An accommodation allows a student to complete the same task, assignment, or test as other students, but with a change in the timing, formatting, setting, scheduling, response, and/or presentation. For example, accommodations:

- Change how a student learns or accesses the curriculum
- Do not reduce learning outcomes or expectations
- Are used for equity, not advantage
- Do not change what is being measured or the content of the assignment in any significant way
- Are adaptations that make curriculum accessible. They provide students with an equal opportunity to learn from the same material as their peers
- Do not fundamentally alter or lower expectations or standards in instructional level, content, or performance criteria

Section 504 directs services and placement in the least restrictive environment. Most accommodations are provided in the regular education classroom. Eligibility status and 504 plans must be reviewed annually by district procedure. They may also be reviewed more frequently if the 504 team determines this is necessary. Accommodations should be designed to minimize the impact of a student's disability and to meet the unique needs of the student. They are determined individually for each student. Examples include preferential seating to

minimize distractions for a student with ADHD or similar condition or preferential seating for a student with visual impairments.

Discipline

Manifestation Determination

- A meeting held in order to determine if a behavior that led to a student being suspended from school is directly related to the student's disability or if the behavior was due to the district not implementing relevant portions of the 504
- Protects students from being discriminated against in the discipline process on the basis of their disability
- Critical to ensuring that students with disabilities are not deprived of their right to a free and appropriate public education
- Required if the school is removing the student with a disability from his/her educational placement for more than 10 school days in a given school year when it is deemed a disciplinary change in placement

Section 504 Key Points

Section 504 Does:

- Ensure access
- Provide reasonable accommodations
- Guarantees periodic review of eligibility and services
- Include parent procedural safeguards
- Guarantee freedom from discrimination, retaliation, and harassment

Section 504 Does Not:

- Require formal testing to determine eligibility and qualify for a plan
- Require medical documentation
- Guarantee success
- Alter rigor, reduce complexity or expectations, or change learning outcomes and standards
- Include modifications or specialized instruction

Procedural Safeguards

Public elementary and secondary schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need services.

What procedural safeguards are required under Section 504?

As the parent of a student with a 504 plan, you have the right to receive notice and examine your child's educational records. In addition, if you disagree with any decisions regarding your child's identification, evaluation, or educational placement, you have the right to request an impartial hearing, at which time you may be represented by counsel, and a review procedure.

Parents Rights Under Section 504

- Have your child take part in, and receive benefit from, public education programs without discrimination based solely on disability.
- Have your child receive FAPE if they have a qualifying disability and need services. This includes the right to be educated with other nondisabled children to the greatest extent possible. It also includes having the school make reasonable accommodations to allow your student an equal opportunity to participate in, and benefit from school related activities.
- Receive notice and examine records with respect to the identification, evaluation, and placement of your child.
- Have evaluation, educational and placement decisions made based upon a variety of information sources, and by individuals who know your child, the disability, the evaluation data and placement options.
- An opportunity for parents/guardians to review relevant records.
- An impartial hearing with opportunity for participation by the student's parents or guardian, representation by counsel and a review procedure.
- Appeal any decision regarding evaluation and placement through an impartial hearing.
- File a Citizen's Complaint with the Anchorage School District or file a formal complaint with the Office of Civil Rights (OCR).

Problem Solving and Grievance Procedure

Speak with the current 504 Coordinator at your child's school. A full review of Grievance Procedures is also available from the 504 District Coordinator, Dr. Jason Hlasny.

1. Contact the School 504 Coordinator at the student's school to request a meeting to review the 504 Plan or decision with which parents do not agree. Each school has a 504 Coordinator or administrator who can answer questions and assist with problem solving and grievance procedures.
2. Contact the District 504 Coordinator at (907) 742-3895 or section_504@asdk12.org.
3. Contact the Senior Director of Special Education at (907) 742-4236 or Anderson_Cindy@asdk12.org.
4. Request for a formal Section 504 impartial hearing must be made to the District 504 Coordinator within 30 calendar days after receipt of the Section 504 meeting determination.

In each case where a hearing has been requested, the district will designate an impartial hearing officer who is not an employee of the district. The Section 504 hearing officer shall render a decision in writing to the district and parent/guardian of the student within 45 days after the completion of the Section 504 hearing. Review of the hearing officer's decision is available through an administrative appeal under Rule 602 of the Alaska Appellate Rules to the Alaska Superior Court.

Where can a parent or student get more information on Section 504?

Information about Section 504 for the Anchorage School District (ASD) can be obtained from the administrator and/or 504 Coordinator at each school, the ASD website at <https://www.asdk12.org/site/Default.aspx?PageID=1416>, or by contacting:

Dr. Jason Hlasny
Section 504 District Coordinator
Anchorage School District
5530 E. Northern Lights Blvd.
Anchorage, AK. 99504-3135
(907) 742-3895 or section_504@asdk12.org

U.S. Department of Education
Office for Civil Rights (OCR)

The OCR office for Alaska is located at:

Seattle Office
Office for Civil Rights
U.S. Department of Education
915 Second Avenue Room 3310
Seattle, WA 98174-1099

Telephone: 206-607-1600
FAX: 206-607-1601; TDD: 800-877-8339
Email: OCR.Seattle@ed.gov

The OCR National Headquarters is located at:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of
Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Section 504 Resources

Section 504 Compliance: The Complete K-12 Handbook (2014). LRP Publications.

U.S. Department of Education: Office for Civil Rights (2020). Protecting Students with Disabilities. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/504faq.html>

Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools (2016). U.S. Department of Education. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>