



## Section 504

Additional protections for students with disabilities

Like the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504) protects students with disabilities. Section 504 applies to any program that receives money from the federal government. That includes all traditional public schools, all public charter schools, and some private schools. Section 504 says that schools that receive federal money cannot discriminate against people with disabilities, including students, families, teachers, staff, and visitors.

### **Free Appropriate Public Education**

Section 504 requires schools to provide students with disabilities with a free appropriate public education (FAPE). IDEA uses the term FAPE as well. However, FAPE under IDEA focuses on the services and supports that a student needs to make progress on their goals. Under Section 504, FAPE focuses on the services and supports that give students with disabilities equal access and an equal opportunity to learn as students without disabilities. The supports are not focused on goals or making progress.

## Eligibility

Students with disabilities are protected from discrimination under Section 504 if they: have a *physical or mental impairment that substantially limits one or more major life activities*.

Whereas IDEA includes 13 categories of eligibility, the disabilities that are protected by Section 504 are meant to be very broad. Almost any disability that affects any part of the body or a person's mental functioning is included.

Whether a disability is substantial enough to qualify depends on how it affects the individual student in comparison to other students of the same age.

Finally, whereas IDEA focuses on disabilities that affect a student's learning, eligibility for Section 504 is much broader. Almost any activity a student might do at school is included. In addition to learning, other examples including eating, breathing, walking, sleeping, speaking, reading, listening, and taking care of yourself.

## Rights

Section 504 includes rights for students and families when they have been discriminated against because of their disability. However, the rights are not explained very well in the federal law. Most states have created their own rules that describe rights under Section 504 more clearly. Contact your [state protection and advocacy program](#) to learn more about Section 504 in your state.

As with any disagreement, families should first try to informally resolve concerns under Section 504 by talking with their child's teacher. If that is unsuccessful, they should talk with the school's Section 504 Coordinator or another school administrator.

If informal conversations don't resolve concerns, Section 504 includes the following:

## 1. Notice

Schools must tell students and their families when they are taking an action related to the student's supports under Section 504. The federal law does not say when the notice must be provided, what details are required in the notice, or even whether the notice has to be in writing.

## 2. Access to Records

Schools must allow students and their families an opportunity to see any educational records the school has about the student.

## 3. Hearings

Schools must give students and their families an opportunity to ask for a hearing if they think their Section 504 rights have been violated. Students and their families have a right to be represented by a lawyer at the hearing. They also have the right to have the hearing decision reviewed if they are unhappy with it. However, the federal law doesn't give any more guidance on the process or timelines for holding a hearing.

## 4. Federal Court Complaint

Families also have the right to file a lawsuit directly in federal court if they think their Section 504 rights have been violated. This is different from IDEA, which requires families to ask for a hearing before they can go to a court. Because the law does not require families to ask for a hearing and because the law does not describe the hearing process well, most families do not ask for a hearing and instead file a complaint in federal court.

It can be difficult to file a complaint in court and to make the arguments that you want to make. If you want to file a complaint in court, you should talk to the [protection and advocacy program](#) in your state or a [special education attorney](#).

## 5. OCR Complaints

Another option for families is to file a complaint with the [Office for Civil Rights](#) (OCR) in the U.S. Department of Education. They are responsible for making sure that schools follow Section 504. Anyone can file a complaint with OCR. It does not have to be the student or parent whose rights have been violated. Complaints must be filed within 180 days of the violation. OCR will assign someone to investigate your complaint. They may require the school to take actions to address your complaint if they agree the school has violated Section 504. OCR does not have a timeline for its investigations, so it can take a while to get a decision after you file a complaint.

### Where can I learn more?

You can find additional [resources online](#) or by emailing us at [school@thearc.org](mailto:school@thearc.org).

