

Chapter 15:

Section 504 of the Rehabilitation Act of 1973

In this chapter you will -

- learn what is covered by Section 504 of the Rehabilitation Act of 1973
- understand how to file a complaint
- learn the truth behind common myths about Section 504

Overview

In certain situations, a school district may be required to offer support to students with disabilities under a provision known as Section 504 which refers to Section 504 of the Rehabilitation Act of 1973, a federal law that requires any person or agency receiving federal money to have policies in place that prohibit discrimination against persons with disabilities. Section 504 concerns more than just education, but the important thing to remember is that Section 504 applies to local school districts.

Section 504 can cover things that are also covered by IDEA, as well as a few situations that are not covered by IDEA. Section 504 deals with a much more general concept of disability than is covered under IDEA. So, if a student has a disabling condition that is not clearly covered under IDEA, Section 504 may still cover it. An example is a student who is temporarily disabled by an injury such as a broken leg. Although the “disability” is not permanent, a school district is still required under Section 504 to provide “accommodations” that will allow the student to have access to the school and its programs while the student remains under the temporary disability of the broken leg. Section 504 may also cover general access issues such as wheelchair access and other types of physical barriers. These issues also may be covered under the Americans with Disabilities Act (ADA) but it is beyond the scope of this guide to discuss the ADA in detail.

If a student is covered by Section 504, a school district must provide the student with a “504 Plan” that describes what the district will do support the student’s disability and ensure that the student’s disability will not be a barrier to the student’s access to school programs (which can include things such as school assemblies, extracurricular activities, etc.). It is important to note that a 504 Plan is a much more general document than an IEP and will only contain a basic description of what kinds of support the district will provide to address the disability. If a school district does not provide such support, a parent may file a complaint with the U. S. Department of Education to have the

Worth a Look

The text of Section 504 of the Rehabilitation Act of 1973 can be found at 29 USC Sec. 794.

complaint addressed.

How to File a 504 Complaint

If a parent has a disagreement with the district's 504 Plan, he or she may ask if the district offers parents the opportunity to participate in a "504 hearing." A 504 hearing is a much less formal process than a due process hearing and may be the only opportunity to discuss the complaint with a school administrator. A school district is not required to make a "504 hearing" process available to parents.

Regardless, a parent who has a complaint about a 504 issue may still file a complaint with the Office for Civil Rights (OCR) of the U. S. Department of Education. If you wish to file a 504 complaint in Illinois, you may direct a written complaint to the following address:

U.S. Department of Education
Office for Civil Rights
John C. Kluczynski Federal Building
230 South Dearborn Street, 37th Floor
Chicago, Illinois 60604
(312) 730-1560
(800) 877-8339 (TDD)
(312) 730-1576 (Fax)
OCR.Chicago@ed.gov

Your complaint should be as detailed as necessary to describe the issues you are experiencing and the facts about the situation. OCR will conduct the necessary investigation and if there is a violation of Section 504, OCR will order the school district to take the necessary action to correct the situation.

Worth a Look

For information on how to file an OCR complaint and to find an OCR complaint form go to <https://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>

The 5 Common Myths About Section 504

Myth #1: 504 Equals IDEA	
The Myth	If a student is eligible under Section 504, it is the same as being eligible for special education.
The Truth	If a student is Section 504 eligible (but not eligible for services as a special education student under IDEA), the student and the family have fewer protections than in the case of a special education student. For example, a 504 student is not entitled to an IEP, and the parents cannot request a due process hearing in the case of a disagreement with the district.

Myth #2: Temporary Is Not a Disability	
The Myth	Students with temporary conditions (such as a broken leg or an illness) are not eligible for 504 support.
The Truth	Section 504 covers both temporary and more long-term conditions. Thus, if a student has a temporary disabling condition due to, for example, an injury or surgery, the district can provide the student with a 504 Plan to cover the period in which the student's activity is limited by the temporary condition.

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Myth #3: 504 Means IEP	
The Myth	If a student qualifies under Section 504, the district is required to develop an IEP.
The Truth	Without being eligible under IDEA, a 504 student is not eligible for an IEP. Instead, the student is entitled to receive a “504 Plan.” A 504 Plan is usually a much less detailed document than an IEP. Often, the 504 Plan will consist of a short description of accommodations to address the student’s disability. 504 Plans often do not contain things that are usually seen in IEPs such as goals, objectives, statements of present performance levels, etc. However, this is not to say that a 504 Plan cannot contain some of the features of an IEP, where appropriate.

Myth #4: 504 and ADHD	
The Myth	A student has been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). The student should be supported by the district through a 504 Plan.
The Truth	There is nothing in the law or regulations that requires a student with ADHD to be served as a 504 student. Students with ADHD may be eligible for special education services (IDEA services) under the categories of SLD, ED, OHI or other categories depending on how the ADHD presents in the school.

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Myth #5: 504 and Refusal of Consent for IDEA Services	
The Myth	A parent has refused to consent to place the student in a special education program or has revoked consent for ongoing special education services. The district may not provide Section 504 accommodations as a result.
The Truth	Just because the parent does not consent to the placement of a student in special education does not mean that the student does not have disability for purposes of Section 504. Section 504 can certainly cover conditions that are also covered under IDEA. In the event a parent refuses to consent to place a student in special education or revokes consent for continuing special education services, the district and the parent may certainly consider developing a 504 Plan to provide some support to the student even though the student cannot be placed in special education.