

How do you get a 504 Plan?

The process starts with a referral for evaluation which can be made by anyone. The evaluation is conducted to determine if the student is eligible under IDEA (Individuals with Disabilities Education Act) or under 504. The referral should be made to the 504 coordinator at the school or to the Special Education Coordinator if an educational disability is suspected. This person is responsible for developing, maintaining and overseeing the implementation of the 504 plan.

- ♦ A note about evaluation; as under IDEA, evaluation must pull information from a variety of sources. However, there is *no* opportunity to access an outside evaluation at district expense if parents disagree with the evaluation done by the district. Under Section 504 re-evaluation is required "periodically" or prior to a change in placement.

Parent Rights under Section 504

Parents receive Notice of identification, evaluation, and placement, give consent for the first evaluation and parents may be a member of the 504 planning team. You may examine records, request impartial hearing, and file complaint a with Office of Civil Rights.

How do we know whether a 504 or IEP the appropriate referral for the student?

Both a 504 plan and IEP provide classroom modifications, accommodations, and access to a free appropriate public education and related services. If the evaluation demonstrates that the child's disability negatively impacts learning and requires specialized instruction, a referral to special education may be appropriate.

For Further Information Contact:

NH PIC on Special
Education
Tel: (800) 232-0986
Web: www.nhspecial.org

Office of Civil Rights
U.S. Department of Education
Tel: (617) 565-1340
Web: www.ocr.boston@edu.gov

Educational Accommodations



What is Section 504?

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www.nhfv.org

Educational Accommodations..... What is Section 504?

Section 504 is a part of a larger piece of federal legislation, The Rehabilitation Act of 1973. It's an anti-discrimination, civil rights law that requires students with disabilities to have their needs met as adequately as a student without disabilities. Section 504 says, "No otherwise qualified individual with a disability in the United States as defined in 706(8) 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. §749(a), 34 C.F.R. §104.4(a)]

To put it simply, Section 504 guarantees ACCESS by preventing discrimination.

Who has to comply with Section 504?

Any program or activity that gets federal money. So, the protections under Section 504 can follow a young adult after high school.

Who can be covered by Section 504?

To be a "qualified" person with a disability a student has to meet the requirements of the program such as age, grade and residency requirements **and** have a disability.

According to the federal legislation "an individual with a disability" means any person who: (1) has a mental or physical impairment which substantially limits one or more major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

What does Section 504 mean by "impairment"?

The impairment may include any disability, long-term illness or a variety of disorders that "substantially" reduces or lessens a student's ability to access learning in the educational setting because of a learning, behavior or health related condition.



This can include an impairment that is episodic or in remission if it would substantially limit a major life activity when active. Major life activities include, but are not limited to; self-care, walking, seeing, speaking, sitting, thinking, learning, breathing, concentrating, working, and interacting with others.

♦ **Note:** Congress clarified that an impairment that is "episodic or in remission" IS a disability if it substantially limits a major life activity when active. However, "transitory" or "minor" impairments (with duration of 6 months or less) do NOT constitute a disability. Additional clarification has been made in the case of someone having a "record of such an impairment" or being "regarded as having such an impairment", if the impairment does NOT substantially limit a major life activity, the school is not required to develop a 504 plan.

Can the school district consider "mitigating measures" (improves the child's functioning or causes it to be less severe) used by a student in determining eligibility? (This means anything that improves the child's function or causes it to be less severe)

No. As of January 1, 2009, school districts cannot consider the student's use of items such as: medication, medical supplies, equipment, appliances, low vision devices (not contact lenses or ordinary glasses), prosthetics, hearing aides, cochlear implants, mobility devices, oxygen therapy, assistive technology in determining whether the student has an impairment which substantially limits a major life activity. For example, a student whose hearing aides "correct" the hearing loss can no longer be determined ineligible because the hearing loss does not "substantially limit" a life activity.