

# The History and Importance of Section 504

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*“The accommodations provided under 504 are nothing short of a lifeline.”*  
~ COPAA Member

## Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a key civil rights law that prohibits discrimination against individuals with disabilities in programs and activities that receive federal financial assistance. Passed in 1973, this landmark disability law was the first major legislation to ensure that people with disabilities were treated fairly and given equal access to education, employment, and public services. Essentially it said no program receiving federal funds could discriminate against a person with a disability.

From 1973 to 1977, no regulations were issued despite strong drafts from the Office for Civil Rights. The American Coalition of Citizens with Disabilities (ACCD) was formed during this time and led efforts to push for regulations. Their unprecedented 26-day sit-in at the San Francisco federal building was crucial in getting the regulations signed almost unchanged.<sup>1</sup>



Section 504 played a distinctly historic role in paving the way for the Education for all Handicapped Act (PL 94-142), now known as the Individuals with Disabilities Education Act (IDEA, 2004) and provided a crucial foundation for the Americans with Disabilities Act (ADA) which passed in 1990 and was amended in 2008.

## Essential Provisions of Section 504

Section 504 prohibits disability discrimination in programs and activities that receive federal financial assistance. This includes all public elementary and secondary schools (including public charter and magnet schools), private schools that receive federal funding, and most colleges and universities. Section 504 prohibits covered entities from excluding individuals due to disability and requires reasonable accommodations to ensure equal access to educational programs.<sup>2</sup>

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<sup>1</sup> Short History of the 504 Sit-In retrieved from <https://dredf.org/short-history-of-the-504-sit-in/> on May 14, 2025.

However, it does not offer financial support for serving or assisting people with disabilities. Specifically, the statute states:

"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."

The U.S. Department of Education's (ED) implementing regulations as well as caselaw require schools covered under Section 504 to ensure that students with disabilities are not excluded, denied services, segregated, or otherwise treated differently because of their disabilities, unless a school can demonstrate that accommodating a disabled student would fundamentally alter the nature of the school's program or cause an undue financial burden.

**Note:** Some overlap exists between ED's Section 504 regulations are consistent with the ADA<sup>3</sup> and the IDEA's requirements.<sup>4</sup> IDEA, 504, and ADA are, however, fundamentally different statutes: "the IDEA guarantees individually tailored educational services, while the ADA's Title II and Section 504 promise non-discriminatory access to public institutions." *Fry v. Napoleon Cmty. Sch.*, 580 U.S. 154, 170-71 (2017).

## Definition of Disability

Section 504 and the ADA draw on a common definition of "disability." To be protected under Section 504 [and the ADA], 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 impairment; or
3. Be regarded as having such an impairment.

An "impairment" that affects any "major life activity" can qualify, and major life activities are broadly defined. For example, basic activities like seeing, hearing, walking, bending, thinking, communicating, learning, and the function of body systems, such as the immune system, endocrine system, or neurological function, are "major life activities."<sup>5</sup>

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<sup>3</sup>The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), effective January 1, 2009, included a conforming amendment to the Rehabilitation Act of 1973 that affects the meaning of disability in Section 504. The Amendments Act broadens the interpretation of disability. The Amendments Act does not require ED to amend its Section 504 regulations. ED's Section 504 regulations as currently written are valid and OCR is enforcing them consistent with the Amendments Act. In addition, OCR is currently evaluating the impact of the Amendments Act on OCR's enforcement responsibilities under Section 504 and Title II of the ADA, including whether any changes in regulations, guidance, or other publications are appropriate. U.S. Department of Education at: <https://www.ed.gov/laws-and-policy/civil-rights-laws/disability-discrimination/frequently-asked-questions-section-504-fape>

<sup>4</sup> U.S. Department of Education at: <https://www.ed.gov/laws-and-policy/civil-rights-laws/disability-discrimination/frequently-asked-questions-section-504-fape>

<sup>5</sup> 42 U.S.C. § 12102(2) see <https://www.ed.gov/laws-and-policy/individuals-disabilities/section-504/questions-and-answers-on-the-ada-amendments-act-of-2008-for-students-with-disabilities>

For example: Section 504 and the ADA may require a school to accommodate a child's absences to attend medical appointments following up on a disabling medical condition that is cured or in remission.

The conditions addressed by Section 504 and the ADA are not limited to those categorized under specific disability classifications as stipulated by IDEA. While most courts generally anticipate that

students eligible for services under IDEA will also fall under the protection of the ADA and Section 504, the converse is not always applicable: children covered by the ADA and Section 504 may not meet the criteria for IDEA services.<sup>6</sup>

## Child Find, FAPE & LRE

**Child Find: Identification and Evaluation:** Section 504 requires P-12 public schools to identify and evaluate students who may have disabilities, similar to IDEA obligations. Schools must assess any student whose disability substantially limits major life activities to determine if accommodations or modifications are needed for educational participation.

For children with disabilities who are parentally placed in a private school, there is no affirmative obligation under Section 504 or IDEA to identify and evaluate children with disabilities. This obligation remains with the local education agency. Section 504 requires private schools to respond to requests for accommodation and to offer accommodation when a student's need is obvious.<sup>7</sup>

**504 Plan:** If a student is found eligible for protections under Section 504, the school is required to develop a 504 Plan. This plan outlines the specific accommodations, modifications, auxiliary aids, and services the student will receive to help them succeed in the school environment. The plan is typically developed by a team that may include the students' parents, teachers, counselors, and other relevant professionals.

**FAPE:** Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students who have a physical or mental impairment that substantially limits one or more major life activities. Consistent with IDEA, under Section 504, schools must provide FAPE in the least restrictive environment (LRE).

**LRE:** Section 504 requires that all schools will provide an education for [qualifying] children with "persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person."<sup>8</sup> This has been interpreted to mean that schools must also do all they can to

<sup>6</sup> Congress clarified through the ADA Amendments Act that courts hearing Section 504 and ADA claims should construe "disability" as broadly as possible and that it did not intend for the "substantially limiting" requirement to significantly raise the bar. Nevertheless, some courts continue to emphasize that individuals may qualify for coverage under the IDEA without qualifying under the ADA and Section 504, because IDEA-eligible students need not have a "substantially limiting" impairment.", see also, *The Rights of Students with Disabilities Under the IDEA, Section 504, and the ADA*, Congressional Research Service, (May 17, 2024) at: <https://www.congress.gov/crs-product/R48068>

<sup>7</sup> See page 4-5, *Provisions Related to Children with Disabilities Enrolled by Their Parents in Private Schools*, U.S. Department of Education at: <https://www.ed.gov/sites/ed/files/2020/07/idea.pdf>

<sup>8</sup> 34 C.F.R. § 104.39(c) (requiring covered private schools to comply with 34 C.F.R. § 104.34)

keep children with disabilities “with their peers” in nonacademic settings, such as lunch, recess, and extracurricular activities.<sup>9</sup>

## Additional Requirements

**Right to Participate:** Under Section 504, individuals with disabilities have the right to participate in all the programs and services that are offered to individuals without disabilities if they are otherwise qualified.

**Parental Involvement:** If parents disagree with the school’s evaluation or proposed 504 Plan, they have the right to request a 504 hearing or file a complaint with the U.S. Department of Education’s Office for Civil Rights (OCR). OCR strongly encourages parental participation in the development of a 504 Plan. However, the 504 regulations are silent on a parent’s right to participate or to consent to the 504 Plan.

**Accessibility:** Programs and activities receiving federal funds must be accessible to people with disabilities. This includes physical accessibility (e.g., ramps, elevators) as well as programmatic access (e.g., providing auxiliary aids or services).

**Reasonable Accommodations:** Entities covered under Section 504 must provide reasonable accommodations to ensure that individuals with disabilities can participate in programs and activities.

**Enforcement and Remedies:** Individuals who experience discrimination under Section 504 may file a complaint with the U.S. Department of Education’s Office for Civil Rights (OCR). Schools in violation can be required to provide accommodation, offer compensation, or revise policies to prevent future discrimination.

## Policy Recommendations

- Section 504 is a hard-won civil rights law protecting people with disabilities from discrimination in any program or activity receiving federal funding. It ensures equal access to goods and services, including education. The protections guaranteed under 504 are a lifeline to students with disabilities and must never be considered a luxury.
- Congress must uphold current law prohibiting discrimination on the basis of disability for entities that receive federal funding.
- Congress must fund the U.S. Department of Education’s Office for Civil Rights (OCR) at \$163.8 million to provide sufficient staffing and resources necessary to investigate and resolve complaints in a timely manner.

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<sup>9</sup> See generally U.S. Department of Education, Dear Colleague Letter on *Students with Disabilities in Extracurricular Activities* (Jan. 25, 2013) at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf> (as cited in *The Rights of Students with Disabilities Under the IDEA, Section 504, and the ADA*, Congressional Research Service, (May 17, 2024)) [reviewing schools’ Section 504 obligations regarding extracurricular activities].



**The Council of Parent Attorneys and Advocates, Inc.**



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