

WHAT IS A SECTION 504 PLAN AND DOES MY STUDENT QUALIFY FOR ONE?

SECTION 504 OF THE REHABILITATION ACT OF 1973 AND AMERICANS WITH DISABILITIES AMENDMENT ACT OF 2008

Consider a Section 504 Plan for a student if that student:

- ✓ When a student shows a pattern of not benefiting from classroom instruction.
- ✓ When a student needs accommodations (supports) to succeed in the classroom.
- ✓ When a disability of any kind is known or suspected.
- ✓ When a student needs a positive behavior plan, medical health care plan, or other school services.
- ✓ When the student has a pattern of suspensions or expulsions.
- ✓ When the student is evaluated and does not qualify for special education services under IDEA.
- ✓ When the student previously received special education services under IDEA and is determined to no longer be eligible for such services.

Section 504 of the Rehabilitation Act and the Americans with Disabilities Act cover individuals with disabilities for their entire lifetime.

The laws are civil rights laws that provide the same equal access and opportunity to individuals with disabilities as their non-disabled peers. The laws cover individuals through pre-school, school, college, employment and community living.

Section 504 of the Rehabilitation Act of 1973

Section 504 is a federal 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. Section 504 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**"

Because Section 504 preceded the enactment of the ADA by nearly 20 years, Section 504 has generally been the basis for disabilities protection in the nation's public schools. The Section 504 federal regulations require 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.

Examples of programs that receive federal funding include:

- ✓ Public and Charter Schools,
- ✓ Public Colleges and Universities including Utah Colleges of Applied Technology,
- ✓ Federal & State Government Departments & Agencies, and
- ✓ County & Community Programs including community recreation programs.

The Americans with Disabilities Amendments Act and Section 504 of 2008

The Americans with Disabilities Act (ADA), passed in 1990, was the first comprehensive civil rights law for people with disabilities. As such, it applies to all qualifying private employers (employers with 15 or more employees); all state and local government programs, including the public schools; and all places of public accommodation, including non-religiously controlled colleges and universities and test agencies.

Definition of Disability under Section 504 and ADAAA:

- ✓ With a physical or mental impairment that substantially limits one or more major life activities, or
- ✓ Who has a record of such an impairment, or
- ✓ Who is regarded as having such impairment.

An individual is eligible for accommodations under Section 504 or the ADA if he/she has a mental or physical impairment that *substantially limits* one or more of his/her major life activities.

Substantially Limits - While the ADA did not change the term "substantially limits," the new law clearly establishes that the term is to be interpreted "broadly and inclusively."

The law clarifies that the measurement for impairments that are episodic or in remission must be considered at the time they are active. For example, whether or not a student with a condition such as depression, diabetes, asthma or anxiety that is in remission is "substantially limited" would need to be determined when the student's condition is active.

Major Life Activities

Congress passed a Conforming Amendment in the Americans with Disabilities Amendments Act of 2008 to make an old law, Section 504 of the Rehabilitation Act, consistent with the new law and expanded the definition of major life activities.

Major life activities include:

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| ✓ Caring for oneself | ✓ Speaking |
| ✓ Performing manual tasks | ✓ Breathing |
| ✓ Seeing | ✓ Learning |
| ✓ Hearing | ✓ Reading |
| ✓ Eating | ✓ Concentrating |
| ✓ Sleeping | ✓ Thinking |
| ✓ Walking | ✓ Communicating |
| ✓ Standing | ✓ Working |
| ✓ Lifting | ✓ Non-volitional bodily functions |
| ✓ Bending | |

The ADA and Section 504 also added new major life activities that include:

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| ✓ Disfigurement | ✓ Respiratory and circulatory functions |
| ✓ Loss of limb | ✓ Endocrine functions |
| ✓ Functions of the immune system | ✓ Musculoskeletal |
| ✓ Cell growth | ✓ Skin |
| ✓ Digestive | ✓ Sense organs |
| ✓ Digestive, Bowel and Bladder | ✓ Endocrine System |
| ✓ Neurological and brain functions | ✓ Hemic and Lymphatic |

Section 504 requires that accommodations must be individualized.

- ✓ The individual needs of the person with a disability should be met at a comparable level to how the needs of a person without disabilities are met.

What services are available for K-12 students with disabilities under Section 504?

Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services and/or special education and related services.

What are the school responsibilities under Section 504?

It must be emphasized that Section 504 falls under the *management responsibility of the general education program*. The school staff and parents need to work in collaboration to help guarantee that the student is provided with the necessary accommodations.

To be in compliance with Section 504, schools (including Charter Schools) must:

- ✓ Provide written assurance of nondiscrimination.
- ✓ Designate a 504 Coordinator.
- ✓ Provide grievance procedures to resolve complaints.
- ✓ Provide notice of nondiscrimination in admission or access to its programs or activities, notice must be included in student/parent handbook.
- ✓ Notify annually persons with disabilities and their parents or guardians of the district's responsibilities under Section 504.
- ✓ Provide parents or guardians with procedural safeguards.

School Documentation and Evaluation for Section 504

Section 504 does not require a formal evaluation but requires that a school collect data and do an informal evaluation of any student:

- ✓ Prior to eligibility determination.
- ✓ Who needs accommodations in the general education classroom.
- ✓ To determine needed services.
- ✓ Prior to any significant change in placement.

Congress clarified that the decision of "*whether an individual has a disability should not entail an extensive analysis and that it should be expansive.*"

Referral for Section 504 Plans can be given by parents or school personnel

- ✓ The student's problem(s) should be considered.
- ✓ All previous classroom remedies and data should be considered and reviewed.
- ✓ All current information and remedies are then summarized by the Section 504 Team which includes parents.

Section 504 Teams or Committees

Each school and school district should have a 504 coordinator.

A Section 504 Team can be used. Another recommended practice that has worked for many schools is the Teacher Assistance Team (interventions team or pre-referral team) as the Section 504 team or Committee.

Suggested Team Members Include:

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| ✓ Parent(s) | ✓ LEA |
| ✓ Student (if appropriate) | ✓ Regular Educator(s) |
| ✓ School Level 504 Coordinator | ✓ School Psychologist or someone to interpret assessments |

Factors to be considered by the team:

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| ✓ Evaluation results | ✓ Positive Behavior Supports |
| ✓ Section 504 eligibility | ✓ Health Care Plan |
| ✓ The student's disability | ✓ Discuss and plan possible options |
| ✓ The student's unmet needs | ✓ Least Restrictive Environment (LRE) for services |
| ✓ Services and/or accommodations based on eligibility | ✓ Staff in-service |
| ✓ Accommodations and modifications to use in classroom and on exams | |

When considering a school Section 504 Plan ask the following questions:

- ✓ Is there a physical or mental disability?
- ✓ If so, does it limit a major life activity?
- ✓ What major life activity does it impact?
- ✓ Does the impairment substantially limit his/her ability to learn or participate in activities at school?

What does making accommodations mean?

Accommodations are made by the classroom teacher(s) and other school staff to help a student benefit from an educational program. In some cases, a written plan will be developed outlining accommodations.

Examples of accommodations include:

- ✓ Modify assignments and tests
- ✓ Provide an extra set of textbooks for home use
- ✓ Adjust student seating
- ✓ Use study guides and organizing tools
- ✓ Provide a peer tutor/helper
- ✓ Provide recorded books
- ✓ Braille
- ✓ Provide school counseling
- ✓ Provide untimed tests or oral tests
- ✓ Have the student use an organizer
- ✓ Train in organizational skills
- ✓ Spellchecker
- ✓ Calculator
- ✓ Modify recess/PE/transportation
- ✓ Adjust desk height
- ✓ FM System or head phones

What are some differences between IDEA and Section 504 Plans?

Issue	Section 504	Special Education
Purpose	A Civil Rights Act that gives individuals with disabilities the opportunity to fully participate with their peers to the greatest extent possible.	An Education Act, that provides a Free Appropriate Public Education (FAPE) to children who qualify under one or more of the 14 broad categories
Responsibility	General Education	Special Education
Funding	Provides no additional funding	Provides additional federal funding to states and school districts
Covers	All persons with disabilities	Ages 3-21
Administration	Section 504 Coordinator	Special Education Director
Service Plan	Accommodation Plan	Individualized Education Program
Disabilities	Any disability, if eligible	14 qualifying categories
Parents	Should be involved in all team meetings Notice of consent of parents is required	Must be involved in all team meetings Parent consent and notice required for initial evaluation, placement, and reevaluation
Procedural Safeguards		
Evaluation and Eligibility	An evaluation is necessary before it can be determined if a child is eligible under Section 504. Documentation can be gathered from a variety of sources instead of completing a formal school evaluation.	Evaluation draws on information from a variety sources in the area of concern. A group decision (including parents) is made with persons knowledgeable about the student, evaluation data and placement options. Written parental consent is required to evaluate and written prior notice must be provided.
Requirements for Delivering Services	Does not require a written plan but does require written documentation that services were provided. Requires the school to provide reasonable accommodations, supports and auxiliary aids. Defines "Appropriate Education" as comparable to the one provided to general education students.	Requires a written Individualized Education Program (IEP). Defines "Appropriate Education" as a program reasonably calculated to provide "educational benefit" to the student.

Additional Resources on the Internet:

- ✓ Utah Parent Center www.utahparentcenter.org or by calling 801.272.1051 or Toll-Free 1.800.468.1160
- ✓ Utah State Office of Education, Office of Education Equity www.schools.utah.gov/equity/
- ✓ Section 504 Handbook – USOE, Office of Education Equity www.schools.utah.gov/equity/Civil-Rights-Information/Section-504/UTSection504GuidelinesFinal.aspx
- ✓ U.S. Department of Education, Office for Civil Rights, *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities* www.ed.gov/about/offices/list/ocr/504faq.html
- ✓ Job Accommodation Network (JAN) at www.jan.wvu.edu/links/employ.htm See *Disability A-Z*.
 - These accommodations may also be used in the school setting.
- ✓ National Center for Learning Disabilities: *Understanding the Americans with Disabilities Act Amendments Act and Section 504 of the Rehabilitation Act* www.nclld.org/images/stories/Publications/AdvocacyBriefs/UnderstandingADAAA-Section504/UnderstandingADAAA-Section504.pdf

Resolving Questions or Concerns – Follow the Chain

If you have questions or concerns about your student’s Section 504 plan, start by speaking with your student’s teacher. Most questions and concerns can be handled at this level; if you need more assistance the Utah Parent Center has several resources available to you. A UPC Parent Consultant may be able to help answer questions or concerns you may have about your student’s services. Several internet resources are also listed at the top of this page that may help answer your questions.

If you have additional concerns that were not addressed at these levels, each school district or charter school has a Section 504 specialist. The Utah State Office of Education also has a Section 504 specialist.

Sample Chain of Command:



Section 504 Accommodations and Services

Accommodations are changes made by classroom teachers and other school staff to enable the student to benefit from his or her educational program. In some cases, a plan should be developed outlining services and/or accommodations. The school staff makes the necessary accommodations to allow for the student’s disability. Parents should be consulted and given opportunities for input whenever possible.

What strategies may be used to assist my student on a Section 504 Plan?

Strategies	Make adjustments to . . .
Environmental strategies	the students environment
Organizational strategies	lessons, assignments and testing
Behavior strategies	positive behavior modification for student.
Presentation strategies	how information is presented to the student.
Methodology strategies	the instructional methods and pace.
Curriculum strategies	the amount, type and presentation of material.

100 effective accommodations/services for students experiencing academic and/or behavioral difficulties.

1. Provide study carrels.
2. Use room dividers.
3. Provide headsets to muffle noise.
4. Seat student away from doors and windows.
5. Seat student near model (student or teacher).
6. Provide a time-out area.
7. Rearrange student groups (according to instructional needs, role models, etc.).
8. Group for cooperative learning.
9. Vary working surfaces (e.g. floor or white board).
10. Simplify and/or shorten instructions.
11. Give both oral and written directions.
12. Have student repeat directions.
13. Have student repeat lesson objective.
14. Ask frequent questions.
15. Change question level.
16. Change response format (e.g. from verbal to physical, from saying to pointing.)
17. Provide sequential directions (label as 1st, 2nd, etc.).
18. Use manipulatives.
19. Alter objective criterion level.
20. Provide functional tasks (relate to child's environment).
21. Reduce number of items on a task.
22. Highlight relevant words/features.
23. Use rebus (picture) directions.
24. Provide guided practice.
25. Provide more practice trials.
26. Increase allocated time.
27. Use a strategy approach.
28. Change reinforcers.
29. Increase reinforcement frequency.
30. Delay reinforcement.
31. Increases wait time.
32. Use physical warm-up exercises.
33. Use specific rather than general praise.
34. Have a peer tutor program.
35. Provide frequent review.
36. Have student summarize at end of lesson.
37. Use self-correcting materials.
38. Adapt test items for differing response methods.
39. Provide mnemonic devices.
40. Provide tangible reinforcers.
41. Use behavioral contracts
42. Establish routines for handing work in, heading papers, etc.
43. Use timers to show allocated time.
44. Teach self-monitoring.
45. Provide visual cues (e.g. posters, desktop number lines, etc.).
46. Block out extraneous stimuli on written material.
47. Tape record directions.
48. Tape record student responses.
49. Use a study guide.
50. Provide critical vocabulary list for content material.
51. Provide essential fact list.
52. Use clock faces to show classroom times.
53. Use dotted lines to line up math problems or show margins.
54. Provide transition directions.
55. Assign only one task at a time.
56. Provide discussion questions before reading.
57. Use word markers to guide reading.
58. Alter sequence of presentation.
59. Enlarge or highlight key words on test items.
60. Provide daily and weekly assignment sheets.
61. Post daily/weekly schedule.
62. Use graph paper for place value or when adding or subtracting two-digit numbers.
63. Provide anticipation cues.
64. Establish rules and review frequently.
65. Teach key direction words.
66. Use distributed practice.
67. Provide pencil grips.
68. Tape paper to desk.
69. Shorten project assignments into daily tasks.
70. Segment directions.
71. Number (order) assignments to be completed.
72. Change far-point to near-point material for copying or review.
73. Put desk close to blackboard.
74. Incorporate currently popular themes/characters into assignments for motivation.
75. Repeat major points.
76. Use physical cues while speaking (e.g. 1, 2, 3, etc.).
77. Pause during speaking.
78. Use verbal cues (e.g., 'Don't write this down,' 'This is important').
79. Change tone of voice, whisper, etc.
80. Use an honor system.
81. Collect notebooks weekly (periodically) to review student's notes.
82. Reorganize tests to go from easy to hard.
83. Color code place value tasks.
84. Use self-teaching materials.
85. Do only odd or even numbered items on a large task sheet.
86. Use primary typewriter or large print for written material.
87. Provide organizers (e.g. cartons/bins) for desk materials.
88. Teach varied reading rates (e.g. scanning, skimming, etc.).
89. Provide content/lecture summaries.
90. Use peer-mediated strategies, (e.g. buddy-system).
91. Call student's name before asking a question.
92. Use extra spaces between lines of print.
93. Color code materials/directions.
94. Use raised-line paper.
95. Provide calculators.
96. Circle math computation sign.
97. Use hand signals to cue behavior (e.g. attention, responding, etc.).
98. Establish a rationale for learning.
99. Use advance organizers.
100. Help students develop their own learning strategies.

The Utah Parent Center would like to thank the staff of the Utah State Office of Education for their ongoing support and collaboration in our efforts to provide parents with up-to-date and accurate information. Portions of the information in this document were borrowed from USOE Section 504 information.