

## Section 504 of the Rehabilitation Act

**of 1973** is a civil rights law designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance. Section 504 guarantees certain rights to individuals with disabilities, including the right to full participation and access to a *free and appropriate public education* (FAPE) to all children regardless of the nature or severity of the disability. Specifically, [34 C.F.R. §104](#) states:

*"No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."*

**It is also important to know that a qualified person with a disability cannot be denied the opportunity to participate in programs with children who are non-disabled even if a separate program exists.**



## What is a qualified disability?

Section 504 defines a person with a disability as any person who:

- 1) Has a physical or mental impairment which substantially limits one or more major life activities;
- 2) Has a record of such an impairment; or
- 3) Is regarded as having such an impairment.

## What are major life activities?

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

## What does this mean for my child who has a disability?

Programs which receive money from the U.S. Department of Education cannot exclude your child from participating in activities that are available to others. Equal physical access must be provided so that a student who has limited mobility can participate with other students. It also means that schools may be responsible for providing special education and related services to students with disabilities who qualify under Section 504. [34 C.F.R. §104.33](#)

A student may be disabled within the meaning of Section 504, and therefore be entitled special education and related services even though the student may not be eligible for special education under IDEA (Individuals with Disabilities Education Act).

Disabilities that are recognized under Section 504, include but are not limited to, if limitation in one or more major life functions exist:

### A Few Examples

- Attention Deficit Disorder (ADD-ADHD)
- Speech/Hearing / Visual impairments
- Orthopedic impairments
- Cerebral palsy
- Epilepsy
- Cancer
- Diabetes
- Mental retardation
- Emotional illness
- Specific learning disabilities

- Alcohol and drug addictions (applies to individuals not currently engaging in the use of illegal drugs – abusing alcohol)
- Rheumatoid arthritis
- Asthma
- Consistent academic failure (may at least prompt an evaluation under 504)

## School District Responsibility

**It is the responsibility of your public school to:**

- Develop and implement standards and procedures for the identification, assessment and proper placement of eligible students;
- Ensure the provisions of necessary individualized services and support; and
- Train instructors and support staff to enable them to perform services or make appropriate accommodations in the general education classroom. [34 C.F.R. §104.32](#)

## For More Information

Ask your school administrator who the 504 coordinator is in your local district and schedule a time to speak with that person. [Each school district has a 504 Coordinator who can answer questions regarding criteria to qualify for services under 504.](#)

## For Further Assistance

Call the Oklahoma Parents Center toll free at 877-553-4332 for individual assistance or to schedule a workshop in your area free of charge. You can also visit our website, [www.OklahomaParentsCenter.org](http://www.OklahomaParentsCenter.org), for a list of available trainings.

## What do I do if I think my child is being discriminated against?



Any person who has a complaint that discrimination on the basis of disability exists in any program funded with Federal funds may notify the Office for Civil Rights (OCR). In Oklahoma, a written complaint should be filed with:

**Office for Civil Rights  
Kansas City  
U.S. Department of Education  
8930 Ward Parkway, Suite 2037  
Kansas City, MO 64114  
OCR Hotline: 1-800-421-3481  
Tel.: (816) 268-0550  
Fax: (816) 823-1404**

A complaint may also be filed using the OCR Online Complaint Form: [www2.ed.gov/about/offices/list/ocr/complaintintro](http://www2.ed.gov/about/offices/list/ocr/complaintintro)

**The complaint should explain:**

- 1) Who was discriminated against?
- 2) In what way?
- 3) By whom or what institution?
- 4) When the discrimination took place?
- 5) Who was harmed?
- 6) Who can be contacted for further information?
- 7) The name, address and telephone number of the complainant;
- 8) Background information.

*The Office for Civil Rights will review only those actions which occurred within six months (180 days) of the date a complaint is filed.*

## What's New

Effective January 2009 eligibility for protection under Section 504 of the Rehabilitation Act became broader.

Some students who did not qualify for Section 504 in the past, or who were not eligible for services and supports under the Individuals With Disabilities Education Act (IDEA), may now qualify for Section 504 plans. Students with such plans may now qualify for additional supports, services, auxiliary aids and/or accommodations in public schools. These positive changes are the result of recent amendments to the Americans With Disabilities Act (ADA), a broad civil rights law that also impacts Section 504. **(P.L. 110-325)**

### You will be especially interested if:

- Your child was previously evaluated for Section 504 but was found ineligible.
- Your child was previously evaluated under IDEA but was found ineligible.
- Your child is currently receiving informal accommodations in school.
- Your child has a Section 504 plan in place.
- Your child needs accommodations on the SAT or ACT.
- Your child is getting ready to enroll in secondary education.

### What's the connection between Section 504 and the ADA?

What does the ADA Amendments Act of 2008 (ADAAA) have to do with Section 504? Both are civil rights laws that protect individuals with disabilities from discrimination. Section 504 was enacted in 1973 and applies to all programs and activities that receive federal financial assistance. So the common denominator between Section 504 and the ADAAA related to school-age students is protecting students with disabilities

from being discriminated against in public schools. The ADAAA includes a conforming amendment to Section 504 of the Rehabilitation Act; meaning that the newly expanded coverage under the ADAAA also applies to Section 504.

### How things have changed with the ADAAA

The **ADA Amendments Act of 2008** includes several significant changes, which also apply to Section 504:

- The definition of "major life activities" was expanded to include learning, reading, concentrating and thinking. Also, the definition of "major bodily functions" has been expanded to include neurological and brain functions.
- The ADAAA requires that the limitation on a major life activity be broadly, rather than narrowly, interpreted.
- Conditions that are episodic or in remission are covered when they are active. For example, a student with AD/HD may be affected by his symptoms differently and at different times and under different conditions.
- Under the ADAAA a person cannot be denied protection simply because he uses a mitigating measure, such as taking medication for Attention Deficit Disorder ADD/ADHD or being allowed extra time when taking tests to accommodate for a Learning Disability.
- Limitation in one major life activity need not impact other major life activities in order to trigger ADAAA protection.



## Mission Statement

The Oklahoma Parents Center, Inc. is dedicated to the equality of children and adults with disabilities. Our mission is to train, inform, educate and support parents, families, professionals and consumers in building partnerships that meet the needs of children and youth with the full range of disabilities ages birth through twenty-six.

## About Us

(OPC) is a 501 (c)(3) non-profit agency that operates the only statewide federally funded Parent Training and Information Center (PTI) in Oklahoma. We are funded in part by the U.S. Department of Education, Office of Special Education Programs (OSEP) and the Oklahoma State Department of Education (OSDE).

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# A Parents Guide to **section 504** of the Rehabilitation Act of 1973



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[www.OklahomaParentsCenter.org](http://www.OklahomaParentsCenter.org)