



## Section 504 FAQ for Oregon Schools

Which students are protected under Section 504? .....	2
What is a “physical or mental impairment”? .....	2
What does “substantially limits” mean? .....	2
Is a diagnosis necessary for a student to be determined to have a disability under Section 504? .....	2
What is “technical eligibility”? .....	2
Are temporary impairments considered to be disabilities under Section 504? .....	2
What is a 504 evaluation? .....	3
What is FAPE? .....	3
What does “placement” mean? .....	3
Who makes the determination regarding eligibility and placement? .....	3
What is the parent/caregiver’s role in Section 504 decision-making? .....	3
Are there rules or regulations that require the use of specific 504 processes or forms? .....	3
Who can be the 504 Coordinator? .....	3
What should a district or school do when a parent/caregiver requests a 504 evaluation? .....	4
What are appropriate services that may be included in the 504 Plan? .....	4
Does a student need both an IEP and a 504 Plan? .....	4
Does a student need both an Individualized Healthcare Plan (IHP) and a 504 Plan? .....	4
Are Section 504 reevaluations and reviews required? .....	4
When can a student be exited from 504 services? .....	4
Does Oregon have its own laws regarding students who are 504 eligible? .....	4
What types of complaints can be filed regarding disability discrimination prohibited under Section 504? .....	5

## Which students are protected under Section 504?

Section 504 covers qualified students with disabilities who attend schools receiving federal financial assistance. Section 504 defines a qualified student with a disability as:

1. Having a physical or mental impairment that substantially limits one or more major life activities; or
2. Having a record of such impairment; or
3. Being regarded as having such impairment

## What is a “physical or mental impairment”?

Section 504 regulations do not set forth an exhaustive list of specific conditions that may constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of such a list. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity must be made on an individualized basis, with all relevant data considered, and determined by the 504 Team.

## What does “substantially limits” mean?

Section 504 does not provide a formula or scale for measuring a substantial limitation. However, the Americans with Disabilities Act (ADA) has long defined “substantially limits” as meaning that a person is unable to or is significantly restricted as to the condition, manner or duration under which they can perform the major life activity as compared to an average person. “Average person” means average for the student’s age or grade level across a large population, like the state or the country. The comparison is **not** to the student’s potential, to the student’s siblings, or to other students in the class or school.

## Is a diagnosis necessary for a student to be determined to have a disability under Section 504?

No. Under Section 504, a district must evaluate a student if the district knows or suspects that the student may have a disability. The district may request that the parent provide medical information or may request the parent’s consent to obtain medical information directly from the provider, if that information already exists. However, if the district suspects a disability and the parent is unable to provide this information, and the district concludes that this information is necessary to determine whether the student has a disability and the specific education and related services needed, the district must assist the parent in obtaining this information, even if it incurs a cost to the district.

## What is “technical eligibility”?

Since the ADA Amendments Act (ADAAA) (2008) Section 504 eligibility is not contingent on a student’s need for service, students who are eligible but not in need of services are sometimes described as “technically eligible” students. Most commonly, these students are eligible under the “record of” or “regarded as” prongs of Section 504 eligibility. Technically eligible students are afforded the civil rights protections of Section 504.

## Are temporary impairments considered to be disabilities under Section 504?

A temporary impairment may be considered a disability on a case-by-case basis. If the temporary impairment is so severe that it substantially limits a major life activity, then it may be considered a disability under Section 504.

## **What is a 504 evaluation?**

A 504 evaluation typically begins with a review of existing information such as information provided by the parent; any assessments conducted by the school; information from the student's treatment providers, if any; academic records; attendance records; state assessment results, etc. An evaluation may be broad, including achievement data, behavior checklists and other measures, or narrow such as medical data. The evaluation must be sufficient to determine whether the student has a disability under Section 504, and if so, whether the student needs a 504 Plan to have access to and participate in the benefits of public education.

## **What is FAPE?**

FAPE stands for "free appropriate public education". Students with disabilities must receive education and related services at no cost, except for standard fees all students pay. "Appropriate" means the education and related services must meet their individual needs as effectively as those of students without disabilities.

## **What does "placement" mean?**

Placement is essentially the education and related services provided to a student with a disability, and the location in which the student receives those services. Placement can be conceptualized as the 504 Plan.

## **Who makes the determination regarding eligibility and placement?**

The only allowable decision-making body is the 504 Team which is comprised of a group of knowledgeable persons: someone knowledgeable of the student, someone knowledgeable of the evaluation data, and someone knowledgeable of the placement options. Unilateral decision-making is prohibited under Section 504.

## **What is the parent/caregiver's role in Section 504 decision-making?**

Depending on a district's adopted procedures, the parent is likely an invited member of the 504 Team and may be involved in team-based decision-making. A parent must provide consent for a 504 evaluation and the initial placement of their child (implementation of the initial 504 Plan).

## **Are there rules or regulations that require the use of specific 504 processes or forms?**

Recipient districts must establish their own processes and procedures that are compliant with Section 504's implementing regulations for public primary and secondary schools. ODE provides optional sample forms on the [Resources for Section 504 Coordinators webpage](#).

## **Who can be the 504 Coordinator?**

Each recipient district must designate an employee to oversee compliance with Section 504, known as the 504 Coordinator. 504 Coordinators often have building-level designees to facilitate 504 processes for individual students. These designees typically do not have the independence and authority to coordinate all 504 responsibilities, such as responding to complaints and conducting civil rights investigations. Clarifying roles is essential.

## **What should a district or school do when a parent/caregiver requests a 504 evaluation?**

The district may proceed with its adopted procedures to evaluate the student for 504 eligibility or may decline to evaluate. In either case, the district must provide a written notice of the decision and provide the parent/caregiver a copy of the Section 504 procedural safeguards, including the option to file grievance.

## **What are appropriate services that may be included in the 504 Plan?**

Services *necessary* for the student to participate in and benefit from the district's educational program comparable to students who do not have disabilities in the general population. These may be educational or environmental accommodations, modifications to policy or procedure, or related services.

## **Does a student need both an IEP and a 504 Plan?**

No. All students with a disability under the IDEA have civil rights protections afforded by them under Section 504. All components of a student's education program should be incorporated into the IEP.

## **Does a student need both an Individualized Healthcare Plan (IHP) and a 504 Plan?**

Maybe. For students with medical conditions that would not meet the definition of disability under Section 504, a 504 Plan is not required. For students with medical conditions requiring medical care at school and that would be considered a disability under Section 504, an IHP should be linked to their 504 Plan.

## **Are Section 504 reevaluations and reviews required?**

Section 504 regulations require that reevaluations be conducted periodically, which can be interpreted as every three years or as needed. Districts must also conduct a reevaluation prior to a significant change of placement, which includes exclusion from the educational program of more than 10 school days in a school year, transferring a student from one type of program to another, or terminating or significantly reducing a related service. A Section 504 review is not conceptualized in the regulations. It may be best practice for a district to adopt procedures for annually notifying parents of their rights and procedural safeguards and offering a 504 reevaluation if the disability-related needs of the student have changed.

## **When can a student be exited from 504 services?**

The 504 Team would need to determine, through a reevaluation, whether a student no longer has a disability or limitations to access. However, because the student may have a record of or be regarded as having an impairment, the student may still be technically eligible.

## **Does Oregon have its own laws regarding students who are 504 eligible?**

Yes. Most notably are the Abbreviated School Day Program statute ([ORS 343.321 to 343.333](#)); Functional Behavioral Assessments and Behavior Intervention Plans statute ([ORS 343.154](#)); Exemptions rule ([OAR 581-021-0009](#)); and Discrimination Prohibited statute and rule ([ORS 659.850](#); [OAR 581-021-0045](#)).

## What types of complaints can be filed regarding disability discrimination prohibited under Section 504?

Discrimination complaints can be filed at the district level and [appealed to ODE](#). Discrimination complaints can also be filed with the US Department of Education [Office for Civil Rights \(OCR\)](#) upon first instance. Parents/guardians may also request a [due process hearing](#) regarding the identification, evaluation, or placement of their student with a disability under Section 504. Violations of [the Abbreviated School Day Program](#) may be filed with ODE via [email](#). Finally, Section 504 and Title II of the ADA allow for civil lawsuits.