



Section 504 Handbook

Oregon Department of Education



OVERVIEW

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This manual is distributed for informational and resource purposes and does not represent legal advice. Guidance documents provided by the Oregon Department of Education (ODE) are intended to assist school districts in implementing Section 504. School districts and programs may choose to develop their own guidance or procedures that align with the requirements of federal and state statutes, including Section 504 of the Rehabilitation Act of 1973. ODE encourages school districts to consult with legal counsel, as necessary. Note that changes to law and policy may impact the accuracy of information provided. Last updated: 02/2025

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CONTENTS

| | |
|---|----|
| INTRODUCTION..... | 3 |
| COMMON TERMS AND ACRONYMS..... | 4 |
| WHAT ARE THE GENERAL REQUIREMENTS OF SECTION 504?..... | 5 |
| WHO IS PROTECTED UNDER SECTION 504? | 7 |
| WHAT IS DISCRIMINATION BASED ON DISABILITY? | 13 |
| WHAT ARE THE FAPE REQUIREMENTS OF SECTION 504? | 17 |
| WHAT ARE THE EVALUATION AND PLACEMENT REQUIREMENTS OF SECTION 504? | 20 |
| WHAT PROTECTIONS DO 504 STUDENTS HAVE IN RELATION TO SCHOOL DISCIPLINE? | 25 |
| WHAT ARE THE OPTIONS FOR RESOLVING DISPUTES UNDER SECTION 504? .. | 27 |
| WHAT OTHER LAWS PROTECT STUDENTS WITH DISABILITIES? | 29 |
| WHAT ARE OREGON STATE LAWS THAT APPLY TO STUDENTS ELIGIBLE UNDER SECTION 504? | 31 |
| SAMPLE FORMS..... | 32 |
| APPENDIX A..... | 33 |
| APPENDIX B..... | 35 |
| APPENDIX C | 37 |
| APPENDIX D | 38 |

INTRODUCTION

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal civil rights statute which provides that:

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

Although Section 504 protects all individuals with disabilities – students, staff, parents and the public – this publication addresses Section 504 as it affects students in public schools. Since all public school districts receive federal funds, all public school districts, and public charter schools, must comply with Section 504. Additionally, public school districts are government entities covered by Title II of the Americans with Disabilities Act of 1990 (ADA), a federal law. This publication is designed to assist Oregon school districts to comply with these nondiscrimination laws.

The Oregon Department of Education published previous versions of *Student Access* in 1990, 2001, and 2012. This minor revision includes improved accessibility, has removed most outdated language, and provides updated links to 504 forms that districts may choose to amend for their own use. This guidance is now referenced as the *ODE Section 504 Handbook*.

Section 504 is an evolving area of law, and readers should always supplement their understanding of Section 504 with current information and district legal counsel.

Notes on Language Usage:

As of this publication, Section 504 of the Rehabilitation Act has remained substantively unchanged since being signed into regulation. The term “handicapped” used in the Code of Federal Regulations, has been replaced by person-centered language in this guidance document.

“Section 504” is used throughout this manual as shorthand for “Section 504 of the Rehabilitation Act of 1973.” Because Section 504, the ADA, and the ADAAA are read consistent with each other, the term “Section 504” should be read to generally include all three unless otherwise stated.

COMMON TERMS AND ACRONYMS

Section 504 – shorthand for Section 504 of the Rehabilitation Act of 1973.

Child Find – the process of identifying and locating every qualified student with a disability residing in the school district's jurisdiction who is not receiving a free appropriate public education (FAPE).

Free Appropriate Public Education (FAPE) - the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of a student with a disability as adequately as the needs of students without disabilities are met, and that complies with Section 504's requirements pertaining to evaluation, placement, setting, and procedural safeguards.

504 Plan – although not defined in regulation, an individualized plan, often in writing, that a school may choose to use to record the regular or special education and related aids and services that a specific student with a disability covered under Section 504 will receive, and the appropriate setting for that student to receive the services.

504 Team - the group of persons who must be knowledgeable about the child, the meaning of evaluation data, and the placement options as required by 34 C.F.R. § 104.35(c), that determines for a qualified student with a disability the individualized services the student needs to receive FAPE and the setting to receive those services.

Manifestation Determination Review (MDR) – an assessment completed prior to a significant change in placement due to a disciplinary removal, to determine whether a student's behavior was caused by, or had a direct and substantial relationship to the student's disability or whether the school failed to implement the student's 504 Plan.

Functional Behavior Analysis (FBA) – an individualized assessment of a student that results in a hypothesis about the function of a student's behavior and, as appropriate, recommendations for a behavior intervention plan.

Behavior Intervention Plan (BIP) - an individualized plan which includes positive interventions, designed to assist a student to decrease inappropriate behavior; and increase or teach an alternative appropriate behavior.

Individualized Healthcare Plan (IHP) - a plan of care written by the registered nurse for students with or at risk for physical or mental health needs.

Abbreviated School Day Program (ASDP) – under [ORS 343.321](#) an ASDP is when an Oregon student with a disability receives an abbreviated school day for more than 10 school days per school year. An abbreviated school day means any school day during which a student with a disability receives instruction or educational services for fewer hours than the majority of students who are in the same grade within the student's resident school district.

Specially Designed Instruction (SDI) - Specially designed instruction means adapting the content, methodology, or delivery of instruction to the needs of an eligible child with an individualized education program (IEP) (i) to address the unique needs of the child that result from the child's disability; and (ii) to ensure that the child has access to the general curriculum, so that the child can meet the educational standards of the public agency that apply to all children. Specially designed instruction is identified on the IEP as part of the requirement that the IEP include a statement of the special education and related services and supplementary aids and services for the eligible child.

The US Department of Education Office for Civil Rights (OCR) – the office that enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education, including Section 504.

Civil Rights Coordinator (CRC) – under [ORS 332.505\(2\)](#) an individual designated by an Oregon school district who is responsible for ensuring the Oregon K-12 public school district or public charter school complies with state and federal civil rights law.

WHAT ARE THE GENERAL REQUIREMENTS OF SECTION 504?

To be in compliance with Section 504 and state nondiscrimination requirements for schools, school districts with more than 15 employees must do the following:

1. Designate an employee to coordinate compliance with Section 504.
2. Adopt and implement procedures to ensure that interested persons can obtain information regarding the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities.
3. Provide grievance procedures that have appropriate due process standards and provide for the prompt and equitable resolution of complaints of discrimination.
4. Provide notices that the district does not discriminate in violation of Section 504. The notification must state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its program or activity.
5. Provide notice of the designated employee, how to obtain information about access, the grievance procedures, and the district's statement of nondiscrimination to students, parents, employees, unions, and professional organizations. These notices should be included in student/parent handbooks and on the district's website

What are the responsibilities of a Section 504 Coordinator?

Typically, a 504 coordinator will:

- Ensure the school district's non-discrimination statements, access information, grievance procedures and other disability-related policies are up to date, posted, and distributed as required;
- Ensure that services, activities, and facilities are accessible to and usable by, students with disabilities;
- Ensure staff understand their responsibilities under Section 504;
- Ensure there is a system in each school building for responding to 504 concerns in a timely and appropriate manner;
- Establish consistent procedures, district-wide, for notification of rights, referral, evaluation, planning and implementation for students with disabilities under Section 504;
- Stay informed about developments in both educational interventions and legal requirements for students with disabilities under Section 504 and provide training to other staff in these areas;
- Be responsible for the district's 504 complaint process/grievance policy, and ensure prompt and impartial investigations occur and that complainants are notified of the outcomes;
- Ensure that disability-related notices are provided to Limited English-speaking parents of students with disabilities in the parents' native language by translation or documented oral interpretation;
- Coordinate responses to OCR investigations.

This manual may help 504 coordinators by offering sample forms and procedures for implementation of Section 504 in Oregon schools. [\(See Sample Forms\)](#)

Whom should a district designate as the 504 Coordinator?

The district must designate a person knowledgeable about the requirements of Section 504 to coordinate school and district efforts and compliance. The designee should have the independence, authority, and training to assure compliance and oversee the investigation of any alleged Section 504 violations.

What must be included in a school's grievance procedure?

To be in compliance with Section 504, the grievance procedure must include the following components:

- Notice to all members of the school community of the grievance procedure.
- A description of the procedure for filing complaints.
- Adequate, reliable, and impartial investigation of complaints.

- Protection of the rights of the parties who are using the grievance procedure, including the right to confidentiality as appropriate and the right to be protected from retaliation resulting from their involvement or participation in the grievance procedure.
- Prompt resolution of complaints, with written findings, conclusions, appeals processes and, if required, corrective action.
- Notice to the complainant of the outcome.

Note that other civil rights laws may have additional requirements.

WHO IS PROTECTED UNDER SECTION 504?

Who is protected from disability discrimination under Section 504?

There are three ways a student may be protected from discrimination under Section 504. A person is considered to be protected from discrimination under Section 504 if the student:

1. Has a physical or mental impairment, which substantially limits one or more major life activities. *The term does not cover children solely disadvantaged by cultural, environmental or economic factors.*
2. Has a record or history of such impairment. *This term includes children who have been misclassified (e.g., a non-English speaking student who was mistakenly classified as having an intellectual disability); or*
3. Is regarded as having such an impairment. *A student would be “regarded” as having a disability under Section 504 if, for example, a student without disabilities frequently receives services from the learning center and is perceived as having a learning disability.*

While all three of the above groups of students are protected by the nondiscrimination provisions of Section 504, only the first group, students with actual, current physical or mental impairments that substantially limit a major life activity, are afforded the “free appropriate public education” (FAPE) provisions of Section 504 (found in the U.S. Department of Education’s Section 504 regulations). The FAPE provisions of Section 504 do not apply to the second two groups.

Application of Section 504

| Application of Section 504 | 504 Protection from Discrimination | 504 FAPE Requirements (504 Plan) |
|---|------------------------------------|----------------------------------|
| Student has a mental or physical impairment | YES | YES, if needed |
| Student has a history of such an impairment | YES | NO |
| Student is regarded as having such an impairment | YES | NO |

What is a “physical or mental impairment”?

The definition of physical or mental impairment is very broad, including students with medical, physical, or psychological impairments or learning disorders. Section 504 does not include a list of specific diseases or medical conditions. Examples of medical conditions include [cancer](#), [diabetes](#), [asthma](#), [epilepsy](#), [food allergies](#), hepatitis, etc. Physical conditions may include cerebral palsy, spina bifida, and hearing or vision impairments. Psychological conditions may include [ADHD](#), [depression](#), [anxiety disorders](#), [eating disorders](#), obsessive-compulsive disorder, and post-traumatic stress disorder. Learning disorders may include dyslexia and other learning disorders.

The determination that a student has a “physical or mental impairment” must be based on credible documentation and not just verbal report or suspicion of disability.

What is a “major life activity”?

The ADAAA expanded and clarified what constitute major life activities, which now include:

- **Motor activities** such as walking, lifting, bending, standing, performing manual tasks;
- **Sensory functions** such as seeing and hearing;
- **Communication** functions such as speaking;
- **Bodily functions** such as sleeping, breathing/respiratory functioning, digestive functioning, bowel/bladder functioning, neurological functioning, endocrine functioning, etc.; and
- **Other functions** such as learning, working, caring for oneself, thinking, concentrating and reading.

The list of major life activities is not exclusive, which means that other activities, if significantly impacting the student’s life, could be considered a major life activity.

The student's disability need only substantially limit *one* major life activity for the student to be eligible. A student who is substantially limited in a major life activity other than learning may still need a 504 Plan if the student's disability impacts their ability to participate in or benefit from the district's programs.

What does “substantially limits” mean?

Section 504 does not provide a formula or scale for measuring substantial limitation. However, the 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 he or she 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.

Examples:

- A student may be substantially limited in the area of “**reading**” if, due to a learning disorder and ADHD, the student's reading is so slow (*duration*) that the student takes twice as long to read as an average student at the student's grade level (based on Woodcock-Johnson reading fluency norms, or timed reading samples compared to norms).
- A student may be substantially limited in the area of “**concentrating**” if, due to ADHD, the student cannot sustain concentration long enough (*duration*) to complete assignments compared to average students of the student's grade level.
- A student may be substantially limited in the area of “**hearing**” if, due to a hearing impairment, the student cannot hear instruction without amplification (*condition*).
- A student may be substantially limited in the area of “**speaking**” if, due to selective mutism, the student cannot or does not speak at school and must write responses or indicate a response by gesture (*manner*).
- A student may be substantially limited in the area of “**walking**” if, due to juvenile arthritis, the student is unable to walk without the assistance of a walker (*condition*).
- A student may be substantially limited in the bodily functioning of the **endocrine system** if, due to diabetes, the student must be given a highly regimented diet, frequent blood sugar checks, and close monitoring for high and low blood sugar for the endocrine system to function properly (*condition*).

As a general rule, a student with a physical or mental impairment who is able to participate in or benefit from a district's educational program (e.g. attend school, receive instruction, advance from grade to grade, and meet the standards of personal independence and social responsibility expected of his or her age/grade level) without the provision of special education or related aids or services, would not be considered to have a disability under Section 504.

In determining whether an impairment is substantially limiting, should a team consider the impact of medication or assistive devices?

No. In the ADAAA, Congress very specifically stated that medication or assistive devices (such as hearing aids, medication, wheelchairs or walkers, etc.) should **not** be considered in determining whether impairment substantially limits a major life activity.

Examples:

- Students with ADHD or diabetes should be considered as if not taking medication.
- Students with motor impairments just as cerebral palsy or juvenile arthritis should be considered without use of a wheelchair or walker or other device.
- Students with hearing or vision impairments should be considered without the use of hearing aids or magnifiers.

The only mitigating circumstances that may be considered are eyeglasses and contact lenses.

In determining whether an impairment is substantially limiting, how should conditions that are episodic or in remission be considered?

Conditions that are episodic, such as [migraine](#) or [inflammatory bowel disease](#), should be considered as if active. Likewise, conditions that are in remission, such as leukemia or [cancer](#), should be considered as if active when determining whether the impairment substantially limits a major life activity.

Are students with medical or psychological diagnoses automatically (or almost always) considered as having a disability under Section 504?

No. Students are only considered to have a disability under Section 504 if they have a mental or physical impairment that substantially limits one or more major life activities. The team considering eligibility must consider the medical and/or psychological evaluation information in determining whether the mental or physical impairment substantially limits one or more major life activities at school.

Is pregnancy or teen parenting considered a physical impairment under Section 504?

No. Neither pregnancy nor teen parenting is considered impairment under either Section 504 or the ADA. However, if a student suffers medical complications from pregnancy that substantially limit a major life activity, then the medical condition associated with the pregnancy *may* be a temporary disability under Section 504 and the ADA. Each situation should be determined on a case-by-case basis, and an individual determination should be made.

Is “specific learning disability” considered a disability under Section 504?

Yes, if the student’s learning disability substantially limits a major life activity, such as reading or learning. However, “specific learning disability” has the same definition under Section 504 as under the IDEA. This means that a student with a specific learning disability under Section 504 will be eligible for special education under the IDEA.

A student who does not meet the IDEA definition of specific learning disability may still have a learning disorder that substantially limits a major life activity such as reading or learning. The student may be identified as having dyslexia, dysgraphia, or a type of processing disorder and may qualify for a 504 Plan on that basis if the condition substantially limits a major life activity. For clarity, the team could identify a student under these circumstances as having a learning disorder rather than a “specific learning disability”.

May a district require a parent to provide a medical diagnosis before it will initiate an evaluation or consideration of a student under Section 504?

No. Under Section 504, a district must evaluate a student if the district knows or suspects that the student, because of a disability, needs special education or related services to participate in or benefit from its educational program, regardless of whether the student has a medical diagnosis. 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. However, if the district suspects a disability and the parent is unable or unwilling 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.

If the district does not suspect a disability, the district may inform the parent that the district does not suspect a disability but will reconsider if the parent chooses to provide further medical information to the district.

Examples:

- A high school student has chronic attendance problems. The school nurse contacts the parent to find out why the student is missing so much school. The parent says the student has chronic migraine headaches that prevent school attendance. School staff have seen no evidence of migraines at school – the student presents as a typical student when he is at school and the parent has provided no medical documentation to support the diagnosis of chronic migraine headaches. The district does not suspect a disability and may inform parent(s) that it will consider any additional medical information they provide. In the meantime, the student will not be considered as having a disability.

- An elementary school student demonstrates a pattern of behaviors across educational settings consistent with an attention deficit hyperactivity disorder. The parent is unable or unwilling to provide medical documentation supporting this diagnosis but agrees that the student has difficulty concentrating and paying attention. The district has reason to suspect a disability and must assist the parent with obtaining the necessary medical information or other evaluations necessary to determine if the student has a disability under Section 504 and what supports are needed for the student.

When is a temporary impairment considered a disability under Section 504 for the purposes of FAPE?

OCR has advised that a temporary impairment may be considered a disability based on case-by-case circumstances. If the temporary impairment is so severe that it substantially limits a major life activity, then it could be considered a disability under Section 504.

Examples:

- A high school student with severe leg fractures in a wheelchair would most likely be considered a student with a disability because the student is unable to walk for an extended period of time.
- A kindergarten student with a broken right arm would not likely be considered to have a disability even if the student is right-handed because writing is most likely not a major life activity in kindergarten (though it could be in higher grades).

What does it mean for a student to be “technically eligible” under Section 504?

Post the Americans with Disabilities Act 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 under Section 504 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.

Example:

A student has a record of a seizure disorder; however, the condition appears to be in remission. The 504 Team determines the student to be technically eligible and does not draft a 504 Plan because the student has equal access to benefit from their education. During softball tryouts, the coach indicates that the student must have special clearance from their doctor to participate on the team. The technically eligible status ensures that the district is monitoring the student’s civil rights protections under Section 504 and not experiencing different treatment on the basis of their record of a disability.

What should a school consider when a student is no longer eligible for an IEP?

The school team may want to consider whether the student may still have a physical or mental impairment that substantially limits one or more major life activities and may be eligible under Section 504. The team may also consider whether the student may qualify as technically eligible even if they do not need a 504 Plan.

Example:

A student who previously had an IEP for Deaf or Hard of Hearing (DHH) is no longer eligible due to a cochlear implant resulting in improved hearing which no longer meets the eligibility criteria for DHH. However, the student may continue to require accommodations through a 504 Plan in the general education classroom such as preferential seating, an FM audio system, etc. The student may also be technically eligible if they do not require a 504 Plan as they do have a record of an impairment.

WHAT IS DISCRIMINATION BASED ON DISABILITY?

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies a person the opportunity to participate in or benefit from an aid, benefit or service on the basis of disability.
2. Fails to afford the student with a disability an opportunity to participate in or benefit from the aid, benefit, or service.
3. Affords a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service which is not equal to that provided to others.
4. Provides aids, benefits or services that are not as effective as those provided to others.
5. Provides different or separate aids, benefits or services, unless such action is necessary to be as effective as the aids, benefits or services provided to students without disabilities (e.g., segregating students in separate classes, schools or facilities, unless necessary).
6. Aids or perpetuates discrimination by providing significant assistance to an agency, organization or person that discriminates on the basis of disabilities.
7. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board.
8. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others because of a disability.
9. In determining the site or location of a facility, makes selections that effectively excludes persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination and/or provides facilities that are not accessible as required by Title II of the ADA.

SECTION 504 HANDBOOK

Section 504 applies to all “programs or activities” of an organization that receives federal funds. The term includes all programs or activities of the ODE and all school districts receiving federal funds regardless of whether the specific program or activity involved is a direct recipient of federal funds. For example: if a district contracts with alternative education programs, the district must ensure that a student with disabilities has an equal opportunity to participate in alternative education, even though the programs themselves do not receive any federal funds.

Likewise, before and after school childcare programs, school clubs, graduation trips and other activities may be considered a “program or activity” of the school district depending on the circumstances. These circumstances include whether district staff act as advisors and receive pay for their time, district insurance covers the activity, district does not charge rent or only token rent, etc.

Examples:

A school district may be found to be engaging in illegal disability discrimination if the district:

- Has a practice of refusing to allow any student on an IEP (or previously on an IEP) the opportunity to be on the honor roll.
- Allows students without disabilities to participate in an interdistrict transfer arrangement, but not students with disabilities.
- Does not make necessary arrangements for a child with a disability to attend a field trip, outdoor school, or other similar school activity.
- Locates a magnet program in a school that is not accessible to students with mobility impairments.
- Refuses to dispense medication to a student who could not attend school otherwise or does not have an effective system for dispensing medication.
- Automatically schedules lunch and recess for special education classes at different times than for other classes.
- Automatically provides special transportation for students with disabilities without determining, on an individual basis, that special transportation is necessary.
- Locates special education classes in more remote locations in the building, or in a portable, limiting access to peers who do not experience disability.
- Allows students with disabilities to be located in inferior facilities, such as trailers, wings in basements and unnecessarily restrictive classrooms due to a lack of classroom space.
- Deny students with disabilities access to recess, assemblies, or other non-academic activities or deny access to lunch based on disability-related behavior.

What is a school district's obligation for access to field trips and extracurricular activities?

In planning field trips and extracurricular activities, the school district must offer students with disabilities an equal opportunity for participation. While legitimate health and safety factors may be considered, decisions about limiting participation must be made by a student's 504 or IEP team and must be based on individual circumstances. School districts must explore whether accommodations, such as a bus with a lift, or modifications, such as partial participation for a student with a health impairment, could provide access.

May a district refuse to allow students with disabilities to participate in advanced placement, International Baccalaureate, or honors-level classes or refuse to provide accommodations to students who enroll in those classes?

No. A district that provides accelerated options such as advanced placement, IB or honors classes must not discriminate against a student based on disability in admission to such classes and programs. The district cannot categorically deny admission based on disability or deny admission to a student solely because the student needs special education, accommodations or related aids or services. The district must provide students with disabilities an equal opportunity to meet any appropriate minimum eligibility criteria for admission, consistent with the purpose of its accelerated classes and programs and Section 504.

Once a district admits a student to an accelerated class or program, it must provide the student with the related aids and services that the student needs to participate in and benefit from the program. Thus, if due to disability, the student needs large print books, extended time on assignments, or use of a computer for writing assignments, these accommodations must be provided in accelerated classes as they would in any other class offered by the district.

May a district deny a request for an interdistrict transfer for a student solely because the student has a disability?

No. A district that allows interdistrict transfers may not discriminate in access to that benefit. A district may establish disability-neutral criteria for approving interdistrict transfer requests. For example, a district may set criteria for when a program is full and deny interdistrict transfers on that basis. If so, the district must apply that criteria to every request and must have a consistent standard for determining whether a grade level or special program is at capacity in relation to interdistrict transfer requests.

May a charter school deny enrollment to a student with a disability solely because the student has a disability or because the student needs certain types of services or support?

No. A charter school must enroll any student, including students with disabilities, who apply to the charter school. If more students apply than space allows, the charter school must implement a lottery to choose students for the space available. Section 504 applies to charter schools and prohibits discrimination on the basis of disability.

A charter school is a public school to which parents choose to send their children. All parents, including parents of students with disabilities, have the choice to enroll their children in charter schools.

What responsibility does a charter school have to students with disabilities under Section 504 who are not IDEA eligible?

Charter schools are recipients of state and federal funds and must comply with all nondiscrimination statutes, including Section 504. Charter schools and sponsoring school districts may negotiate specific allocation of responsibilities under Section 504. A charter school's refusal or inability to comply with Section 504 could jeopardize the charter school's continuing approval status. A sponsoring school district's inability to ensure the charter school is complying with federal and state nondiscrimination statutes could result in the school district's failure to ensure equal access and opportunity.

What responsibility does a private alternative school have to students with disabilities under Section 504 who are not IDEA eligible?

Private alternative schools must comply with all state and federal nondiscrimination statutes, including Section 504. A private alternative school's refusal or inability to comply with Section 504 could jeopardize the school's designation as a private alternative school. A contracting school district's inability to ensure the private alternative school is complying with federal and state nondiscrimination statutes could result in the school district's failure to ensure equal access and opportunity for its students at the private alternative school.

What is disability harassment?

Disability harassment is "intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the [school's] program."¹

¹ *Disability Harassment Memorandum* (OCR & OSERS, July 25, 2000), posted at: <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>

Disability harassment is considered discrimination under Section 504 and the ADA when it is “sufficiently severe, persistent, or pervasive” that it creates a hostile environment. Examples of harassment that could create a hostile environment include:

- A student repeatedly places classroom furniture or other objects in the path of classmates who use wheelchairs, impeding the classmates' ability to enter the classroom.
- A school administrator repeatedly denies a student with a disability access to lunch, field trips, assemblies, and extracurricular activities as punishment for taking time off from school for required activities related to the student's disability.
- Students continually taunt or belittle a student with a cognitive disability by mocking and intimidating him, so he does not participate in class.

What steps must a district take when a parent or student alleges disability harassment?

The school district must investigate the allegation and provide notice to the parent or student of the outcome and the basis for the district's conclusions. If the district finds disability harassment has occurred, the school district must take immediate and effective action to stop the harassment, prevent it from recurring and fully address the specific problems experienced by the student who was harassed.

WHAT ARE THE FAPE REQUIREMENTS OF SECTION 504?

What is “FAPE”?

FAPE means “free appropriate public education.” Both Section 504 and the IDEA require districts to provide a FAPE to students who are considered to have a disability under those statutes. However, the definitions of FAPE under these laws are not the same.

The Section 504 regulation states:

A recipient that operates a public elementary or secondary education program shall provide a free and appropriate public education to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability.

FAPE is the provision of educational and related services without cost to the student with a disability or to his or her parents or guardian, except for those fees that are imposed on students who do not have a disability or their parents or guardians.

Under Section 504, “appropriate” means providing regular or special education and related aids and services that are designed to meet individual needs of students with disabilities as adequately as the needs of students without disabilities are met. The definition of related aids and services under Section 504 is broad and includes any

service that a student needs to participate in and benefit from a district's education program.

"Appropriate" does not mean any service that would be merely beneficial for a student, or any service that would assist the student in meeting the student's potential. The services must be *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. A district does not have an obligation to provide a service or support that is requested by a parent or doctor unless the 504 team determines that the student needs that service or support to participate in and receive the benefits of the education program.

Related aids and services may include school health services, delegated nursing support, instructional, behavioral or environmental accommodations, assistive technology, large print books, etc.

Do the FAPE requirements apply to students who do not currently have a mental or physical impairment, but who have a record of such impairment or are regarded as having such impairment?

No. The FAPE requirements under Section 504 only apply to students who currently have a mental or physical impairment that substantially limits one or more major life activities. The FAPE requirements do not apply to students who have a record of a disability (e.g., were formerly identified under 504 or IDEA) or who are regarded as having a disability but do not have a current impairment that substantially limits a life activity. However, the other nondiscrimination provisions of Section 504 apply to all three categories (currently impaired, record of impairment, regarded as having an impairment).

Is there a "child find" requirement under Section 504?

Yes. "Child find" is the process of locating and identifying students with disabilities. Under Section 504, school districts must annually identify and locate all Section 504 qualified children who are not receiving a FAPE and take appropriate steps to notify their parents and guardians.

Any person can refer a student for consideration under Section 504. Parents, guardians and school staff should refer a student if they know or suspect, due to a disability, that the student needs special education or related aids or services to participate in or benefit from a district's educational program.

Once receiving such a referral, the district should have a process for deciding whether evaluation is needed and informing the parent of decisions made. As a general rule, a district should evaluate a referred student if the district knows or suspects that the student, because of a disability, is not attending school, or is not able to access the school's benefits or programs. If the school suspects that a student has a disability and

may need specially designed instruction, the school may proceed with an evaluation under the IDEA to rule out special education eligibility before considering the student's needs under Section 504.

School districts also have an affirmative obligation to identify students with disabilities even when parents do not request 504 supports. Each school must have a system for monitoring “red flags” that could indicate a disability. These “red flags” might include:

- Chronic absences;
- An inability to attend school based on illness or a mental health condition;
- A known mental health diagnosis;
- A return to school after drug or alcohol treatment;
- A return to school after inpatient or outpatient mental health treatment;
- An attempted suicide;
- Victim or survivor of assault;
- An extended hospitalization for a physical condition or illness;
- Academic or behavior problems in conjunction with other indicators of a disability;
- Parent concern with other indicators of possible disability;
- History of disability or “at risk” designation with current indicators of concern;
- A determination that a student does not qualify (or continue to qualify) for special education but evaluation indicates a mental or physical impairment.

What are the procedural requirements for FAPE under Section 504?

Each district must establish and implement, with respect to actions regarding identification, evaluation or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that include:

- Annual notice to students with disabilities and their parents or guardians of their rights under Section 504, including the right to file a grievance, request an impartial hearing. Notice includes: child find, parents' rights, prior notice of evaluations and meetings, and notice of the results/actions taken at Section 504 meetings.
- An opportunity for the parents or guardian of the person to examine relevant student educational records.
- The right to an impartial hearing if the parent or guardian disagrees with the identification, evaluation, or educational placement of the student with a disability. In Oregon, due process hearings under Section 504 are at the state level using the same administrative law judges as special education due process hearing.
- A review procedure (for appeal of impartial due process hearing decisions).

→ [See sample form: Parent Rights and Procedural Safeguards](#)

If the district is providing a FAPE, is the district responsible for a private placement for the student?

No. If the district affords a free appropriate education to a student but the parent chooses to place the child elsewhere, the district is not responsible for paying for the out-of-district placement. For example, if the district's program is appropriate and the parent places the child in a private school, the district is not responsible for the student's tuition.

Is transportation required as part of FAPE?

Yes. If a district places a student in a program not operated by the district, the district must assure that adequate transportation to and from the program is provided at no greater cost than the parent would have paid to transport the child to the district.

If a district provides transportation to all its students within a certain geographic area, it may not discriminate in its provision of transportation to students with disabilities.

The length of the bus rides for students with disabilities should not be longer than that of students without disabilities unless necessary to accommodate the student's educational needs.

Can you provide some examples of FAPE violations under Section 504?

Examples include:

- Not implementing a student's IEP or 504 Plan.
- Not addressing disability-related needs (e.g. a seizure disorder that requires a health management protocol, dysregulated behavior that requires a behavior intervention plan, etc.).
- Not providing related aids and services, such as transportation, without charge to the parent or guardian.

WHAT ARE THE EVALUATION AND PLACEMENT REQUIREMENTS OF SECTION 504?

Does Section 504 require an evaluation before placement?

Yes. If a student needs or is believed to need special education or related services, the district must evaluate the student prior to initial placement in a regular or special education program and before any "significant change in placement." As with special education, an evaluation begins with a review of existing information. This existing information includes 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 aptitude and 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 and what accommodations and supports the student needs to have access to and participate in the benefits of public education.

What evaluation procedures must be followed?

The district must establish policies and procedures for evaluation and placement, which assure that tests and other evaluation materials:

- Have been validated and are administered by trained personnel.
- Are tailored to assess educational need and are not merely based on IQ scores.
- Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual or speaking skills (unless the test is designed to measure these particular deficits).

What kind of parent consent is required under Section 504?

The US Department of Education's Office for Civil Rights has interpreted Section 504 to include a requirement for parent or guardian consent for an initial evaluation. A district must notify a parent but does not need consent before a reevaluation. However, state law requires parent consent for any administration of an intelligence test or test of personality (which includes behavior checklists that assign personality characteristics to certain clusters of behaviors).²

What can a school district do if a parent withholds consent for an evaluation or initial placement for a student who has or is suspected to have a disability under Section 504?

If a parent refuses consent for an evaluation, the district may not evaluate the student. Likewise, if a parent refuses an initial 504 Plan, the district may not implement that plan.

What placement procedures must be followed?

Placement under Section 504 means services – the regular or special education and related aids and services that a student needs to receive FAPE. As with IDEA, in interpreting evaluation data and making placement decisions, the district must:

2 Frequently Asked Questions: Section 504 Free Appropriate Public Education (FAPE) (OCR), posted at: <https://www.ed.gov/laws-and-policy/civil-rights-laws/disability-discrimination/frequently-asked-questions-section-504-fape>; Letter to Zirkel, 22 IDELR 667 (May 15, 1995).

- Draw upon information from a variety of sources;
- Assure all information is documented and considered;
- Ensure the placement decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options; and
- Ensure the student is educated with peers who do not have disabilities to the maximum extent appropriate.

Does Section 504 have “least restrictive environment” requirements?

Yes. Section 504 has the same type of “least restrictive environment” requirements as the IDEA. This means that students with disabilities under Section 504 must receive their educational services in general education classrooms unless the student cannot be educated satisfactorily in that setting with the use of supplementary aids and services. If the student cannot be educated at the school the student would attend if not, they did not have a disability, the district must consider proximity to home in making an alternate placement.

What is a Section 504 team?

Section 504 requires team-based decision-making regarding evaluation and placement decisions. The 504 team decides what evaluation is needed, whether a student has a disability under Section 504, whether a 504 Plan is needed, whether a student’s behavior is considered a “manifestation” of the student’s disability (see [School Discipline](#) section, below), and so on.

The 504 team must include someone knowledgeable about the student, knowledgeable about the meaning of the evaluation data, and knowledgeable about the placement options (or education and related services).

The membership of a Section 504 team will vary depending on the needs of each student. For example, a nurse may be on the Section 504 team of a student with a life-threatening health condition. A school psychologist may be on the team of a student with a behavior disorder. While Section 504 regulations do not specifically require the attendance of the student’s parent or general education teacher, inviting the parent and general education teacher is a good practice because it provides an opportunity for those closest to the student to provide information to the team about the student’s needs and about the classroom environment.

What is a 504 Plan?

A 504 Plan (which goes by different names in different school districts) describes the education and related aids and services that a district determines that a student needs to receive a FAPE. The content of the 504 Plan is fluid and may change within a school year or between school years as the student’s needs change. A district must implement the plan as written.

Periodic re-evaluation of the student's needs and plan is required. According to the US Department of Education's Office for Civil Rights (OCR), this may be conducted in accordance with the IDEA regulations, which require re-evaluation at three-year intervals (unless the parent and district agree that re-evaluation is unnecessary) or more frequently if conditions warrant, or if the child's parent or teacher requests a re-evaluation, but not more than once a year (unless the parent and district agree otherwise) (2023).

Will every student with a disability under Section 504 need a 504 Plan?

Not necessarily. In determining whether a student has a disability, the 504 team may **not** consider the impact of any ameliorating factors such as medication or assistive devices such as hearing aids or wheelchairs. Once a student is found to have a disability under Section 504, the team must then consider whether the student needs a 504 Plan to access the benefits of public education to a level comparable to students without disabilities in the general population. In answering this question, the team looks at the student as the student actually presents at school.

Examples:

- A student with a hearing impairment who wears hearing aids may or may not need preferential seating close to the teacher, an FM system and closed-caption videos. If the student needs these accommodations even with the use of hearing aids, a 504 Plan should be written for the student.
- A student with ADHD who takes medication may or may not need preferential seating away from distractions, check-ins for understanding, and extra time on daily assignments. If the student needs these accommodations even with the use of medication, a 504 Plan should be written for the student.

For students with medical conditions, may an individual health plan substitute for a 504 Plan?

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 that would be considered a disability under Section 504 (a mental or physical impairment that substantially limits a major life activity), the process that a district follows to develop an individual health plan or emergency protocol or nursing care plan must meet 504 requirements, including the following:

- The plan must be based on an assessment (which could be the school nurse assessment that includes a review of the student's relevant medical records);
- The 504 Plan must be developed by a 504 team (see above); and

- Section 504 procedural safeguards must be provided to the parent or guardian, including notice of rights and notice of decisions.

How may schools meet the needs of students with intensive health monitoring and support needs, such as students with diabetes?

Most, if not all, students with diabetes will be considered to be students with disabilities under Section 504 as they have a physical impairment (diabetes) that substantially limits the functioning of a bodily system (endocrine system). Students with diabetes need individualized health plans at school. To comply with Section 504, these plans must include notice of rights under Section 504, be developed by a properly comprised team, and be based on an assessment. The 504 Plan needs to include the supports needed to allow the student to be safely educated at school. For students that require additional adult assistance to monitor or support their health care needs, the school must ensure that the assistance is provided by individuals who have been properly delegated these tasks by a nurse. The school must ensure that back-up support is available by other individuals who have also been properly delegated and trained in completing these tasks when the primary person is ill or unavailable.

How do schools assure access for students who are English Learners (EL) with disabilities under Section 504?

Schools must provide students who are ELs and also have disabilities with both the EL services and disability related services to which they are entitled under federal law. Requirements include but are not limited to the accurate and timely identification of students who are ELs, accurate and timely identification and evaluation of students with disabilities, and provision of appropriate services for students who are ELs and also have disabilities. To avoid improperly identifying students who are ELs as having a disability because of their limited English proficiency (LEP), schools must evaluate students who are ELs for a disability in an appropriate language based on the student's needs and language skills. School must communicate about a student's disability-related services with a parent or guardian who has LEP in their preferred language and translate all Section 504 notices and plans. ([OCR, 2024](#))

What happens if a parent refuses or revokes consent for special education services (IEP) and wants a 504 Plan instead?

Until the U.S. Department of Education provides written guidance on this question, ODE suggests that school districts evaluate this situation on a case-by-case basis. This means that a 504 team should consider whether the student has a disability under Section 504. If so, the 504 team should consider whether a 504 Plan will provide FAPE to the student.

In some situations, a team may reasonably decide to implement a 504 Plan of accommodations and supports. The 504 team will need to periodically review the plan to determine whether it continues to be appropriate for the student.

In other situations, a 504 team may decide that the student needs the services and supports offered under the previous IEP to receive FAPE under Section 504 (which means to access the benefits of public instruction to a level comparable to students without disabilities in the general population). Under Section 504, an IEP is one way to comply with the FAPE provisions of Section 504. Under these circumstances, if the parent refuses the offer of FAPE through the IEP, the district may not be responsible for providing FAPE to the student although the student would continue to be protected by the nondiscrimination provisions of Section 504.

In both situations, the district continues to have a “child find” responsibility under the IDEA, which means that the district should refer the student for special education consideration at reasonable times when it would do so for any other student who is exhibiting the same types of needs.

WHAT PROTECTIONS DO 504 STUDENTS HAVE IN RELATION TO SCHOOL DISCIPLINE?

As a nondiscrimination statute, Section 504 prohibits districts from disciplining students with disabilities more harshly than students without disabilities on the basis of disability. In addition, students with identified disabilities may not be expelled or suspended for more than 10 consecutive school days for misconduct that was a manifestation of the student’s disability.

Students also may not be suspended repeatedly for more than ten cumulative school days in a school year if the suspensions constitute a “pattern” of suspensions. A “pattern” is based on the total days of exclusion, the length of each exclusion and the proximity of exclusions to one another. Suspensions of more than ten cumulative school days in a school year should be used very judiciously and only if there is a significant safety risk.

When are behavior intervention plans required under Section 504?

The 504 team decides if a functional behavior assessment (FBA) and behavior intervention plan (BIP) is needed for a student to access education. The goal of an assessment, whether behavioral or otherwise, is to identify student needs and provide the Section 504 team with the information needed to determine effective services and support for the student. If there is reason to believe the student’s behavior may be based on the student’s disability, one purpose of the evaluation is an individualized assessment of the behavior and the Section 504 team may determine that an FBA is appropriate for that student. If the school does not assess a student’s challenging behaviors during the evaluation process, including disability-related behaviors that pose a threat to the safety of the student or others, the Section 504 team would lack the

information needed to design a program that will meet the student's individual educational needs, and the student could be denied FAPE.

Is a “manifestation determination review (MDR)” required?

Yes. School districts may not suspend or expel a student with a disability under Section 504 for more than ten consecutive school days in a school year. Thus, school districts must determine whether a student's behavior is a manifestation of the student's disability before suspending a student with disabilities for more than 10 school days in a row. This process is called a *manifestation determination review*.

This rule also applies to cumulative removals of more than ten days if the removals constitute a pattern of removals. A pattern is determined based on the total days of removal, the length of each removal, and the proximity of removals to one another.

Section 504 does not provide a specific set of questions to be considered, as does the IDEA. The set of questions under IDEA provide an appropriate format for considering the “manifestation” question under Section 504. These questions are:

1. *Is the misconduct in question caused by or directly related to the student's disability?*

This determination is based on evaluation data related to behavior and must be recent enough to afford an understanding of the student's current behavior. Misconduct is not a manifestation of a disability if it bears only a weak relationship to the student's disability. A determination that a student understands “right and wrong” is not conclusive. Likewise, the determination may not be based on the student's type of disability but must consider the unique aspects of the situation.

Example: A student with ADHD leaves school at lunch although the school has a closed campus because another student suggested they eat lunch at a nearby fast-food place. Although the student knew that the school was closed campus and this behavior violated school rules, the student acted impulsively without thinking about the consequences which could be considered directly related to the student's ADHD.

Non-example: A student with ADHD steals some computer equipment from the school's computer lab. The process of stealing the equipment required advanced planning and was implemented over several days. Here, the student's actions were not impulsive and therefore not likely directly related to the student's ADHD.

2. *Is the misconduct in question the direct result of the district's failure to implement the 504 Plan?*

Example: A student's 504 Plan requires implementation of a behavior plan that includes offering the student an opportunity to go to a cool down space. The teacher does not implement that provision, and as a result the student's behavior escalates and the

student strikes another student, which is the reason for the suspension pending expulsion. The 504 team could reasonably conclude that the misconduct was a result of the district's failure to implement the 504 Plan.

Non-example: A student's 504 Plan calls for extended time on tests which is implemented only occasionally. At recess, the student initiates a fight with another student over who has the ball. The incident at recess is not the direct result of the district's failure to implement the 504 Plan for the student.

→ [See sample form: Manifestation Determination Review](#)

Can the district remove a student from school if the student brings a gun to school?

Yes. The Gun Free Schools Act applies to students covered under Section 504 to the same extent it does to students who are IDEA eligible. The Gun-Free Schools Act requires districts to expel any student who brings a "weapon" to school for at least one year. However, state law must allow a district's chief administering officer to modify the expulsion requirement for a student on a case-by-case basis. Considering the impact of the student's disability on his or her behavior is one of the considerations that must be made on a case-by-case basis.

Does Section 504 protect a student with a disability who is currently using drugs or alcohol and violates school rules for use or possession of drugs or alcohol?

No. A district may discipline a student with a disability for the illegal use or possession of drugs or alcohol at school or a school function in the same manner and to the same extent as it disciplines a student without a disability if the student is a current user of drugs or alcohol. A "current user" means that the student's use is recent enough that the district has a reasonable belief that the use is ongoing. The district should base this conclusion on credible information such as a student confession, a juvenile report, a drug/alcohol assessment, etc. and not on gossip or reputation alone.

WHAT ARE THE OPTIONS FOR RESOLVING DISPUTES UNDER SECTION 504?

The US Department of Education's Office for Civil Rights (OCR) is the agency responsible for enforcement of Section 504. An individual person or an organization may file a written complaint of disability discrimination with OCR, including a complaint that a district is not providing a student with a disability a FAPE. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred.

A formal complaint with OCR should include:

SECTION 504 HANDBOOK

- The complainant's name, address, and if available, daytime telephone number;
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location of the school or program that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age).

OCR's focus is on the process a district uses to identify, evaluate, and provide an educational placement to a student with a disability, and to provide procedural rights to the student's parent or guardian. Except in extraordinary circumstances, OCR does not review the team-based decisions about evaluation, eligibility, content of 504 Plans or placement, as long as the district complies with the procedural requirements for Section 504. If a parent or guardian disagrees with the team's decision, the proper forum would be a Section 504 due process hearing.

The contact information for the local Office for Civil Rights is:

US Department of Education
Office for Civil Rights; Seattle Office
Jackson Federal Building
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
Telephone: (206) 607-1600
TDD: (800)-877-8339
Email: OCR.Seattle@ed.gov

OCR Website: <https://www2.ed.gov/about/offices/list/ocr>

What are the procedures for a hearing under Section 504 in Oregon?

1. The parent or guardian of a student with a disability may file a written request for a hearing with the State Superintendent of Public Instruction.
2. The hearing must concern the identification, evaluation, provision of a free appropriate education, or education placement of the student with a disability that the parent or guardian alleges to be in violation of Section 504.
3. When a hearing is requested, the ODE will appoint an administrative law judge. ODE currently has an arrangement with the Office of Administrative Hearings to conduct both IDEA and Section 504 hearings. The school district involved in the hearing is responsible for the costs of the hearing.
4. A parent or guardian who files for a hearing under Section 504 may also seek due process remedies under the IDEA, if available.
5. Section 504 does not have a "stay put" provision like the IDEA. School districts may implement a change in placement even if the parent or guardian requests a hearing.
6. Unlike the IDEA, Section 504 does not provide for the parent's choice, at no cost, of a written or electronic verbatim record of the hearing.

Is retaliation for engaging in protected activity prohibited by Section 504?

Yes. Section 504 prohibits anyone from attempting to thwart the exercise of rights granted by the law to individuals with disabilities. A school district may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under Section 504, the ADA or the IDEA.

WHAT OTHER LAWS PROTECT STUDENTS WITH DISABILITIES?

Is Section 504 the only federal law that addresses the rights of students with disabilities?

No. The Individuals with Disabilities Education Act (IDEA) and Americans with Disabilities Act (ADA) also address the rights of students with disabilities.

What are the main differences between Section 504, the IDEA, and the ADA?

The IDEA is a funding statute that assists states in meeting the educational needs of students with disabilities. It has very detailed procedural rights along with detailed state and district requirements. The IDEA specifically lists categories of disabilities that render a child eligible for special education. These categories include: Autism Spectrum Disorder, Deafblindness, Deafness or Hard of Hearing, Developmental Delay, Emotional Behavior Disability, Intellectual Disability, Orthopedic Impairment, Other Health Impairment, Specific Learning Disability, Speech or Language Impairment, Traumatic Brain Injury, Visual Impairment. To be eligible for special education services under IDEA, the student's disability must have an adverse impact on the student's educational performance and must result in a need for specially designed instruction and related services.

Section 504 is a nondiscrimination statute that addresses discriminatory actions such as different treatment, denials of access, disability-based harassment, and requires that persons with disabilities be provided equal opportunities as persons without disabilities. To ensure an equal opportunity for qualified public school children with disabilities, the Section 504 regulations require that a FAPE be provided. Section 504 defines a FAPE as regular or special education and related aids and services that have been designed to meet the student's individual needs and are based upon Section 504 procedural requirements. However, Section 504 has less detailed procedural requirements regarding FAPE than the IDEA. Unlike IDEA, Section 504 does not have a categorical listing of disabilities. While Section 504 requires the condition to "substantially limit a major life activity" such as walking (which limits educational access), it need not necessarily adversely affect the student's educational performance.

Also, a student may be considered to have a disability under Section 504 even though the student does not need special education services.

The Americans with Disabilities Act (ADA) is similar to Section 504 in that it is a nondiscrimination statute. In the context of public education for students with disabilities, the ADA's nondiscrimination provisions are generally parallel with Section 504, but do not include any provisions related to FAPE. The ADA regulations have specific provisions related to service animals, communication, and website accessibility.

→ See [Comparison of the IDEA, Section 504, and Title II of the ADA](#)

If a student is eligible under the IDEA and 504, does the district need to develop an IEP and a 504 Plan for the student?

No. The Section 504 regulations specifically state that implementation of an individualized education program (IEP) developed in accordance with the IDEA is one means of meeting the Section 504 standard. For students with IEPs, all disability-related aids and services may be written on the IEP and do not necessarily necessitate a separate 504 Plan.

Are students who are considered to have a disability under Section 504 also eligible for special education under the IDEA?

Not necessarily. A student may have an impairment that substantially limits a major life activity (such as a severe food allergy or mobility impairment) that does not result in the need for special education. This student would only need regular education and disability-related aids and services and would qualify and be entitled to FAPE under Section 504, but not under the IDEA.

Are students who are evaluated for IDEA and found not eligible automatically (or almost always) considered to have a disability under Section 504?

Not necessarily. Students only qualify under Section 504 if they have a mental or physical impairment that substantially limits one or more major life activities. However, teams need to be aware of the Section 504 disability definition and, when appropriate, consider whether students are eligible under Section 504 when they do not meet IDEA eligibility criteria.

When will a student with ADHD be eligible under IDEA rather than just under Section 504?

A student with ADHD will be eligible for services and protection under IDEA as a student with an "other health impairment" if the team concludes that the ADHD results in

limitation to executive functioning, which adversely effects educational performance, and results in the need for special education services.

WHAT ARE OREGON STATE LAWS THAT APPLY TO STUDENTS ELIGIBLE UNDER SECTION 504?

Does the Abbreviated School Day Program Statute ([ORS 343.321 to 343.333](#)) apply to students eligible under Section 504?

Yes. For the purposes of this statute, a student is considered a student with a disability in Oregon when the student meets one of the following three criteria:

1. The student is eligible for special education and related services, as provided by ORS chapter 343.
2. The student has a disability under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and is eligible for a 504 Plan.
3. The student has not been determined to be eligible for special education and related services, as provided by ORS chapter 343, or to be eligible for a 504 Plan, but has a pending request or referral for evaluation for eligibility determination that has been made but not yet completed.

What Oregon law exists to protect students with behaviors related to their disability?

[ORS 343.154](#) requires a school district to conduct a functional behavioral assessment (FBA) and develop, review or revise a behavior intervention plan (BIP) within 45 school days of receiving parental consent to conduct the assessment for every student who has:

1. An individualized education program or a 504 Plan; and
2. Placed the student, or other students or staff at imminent risk of serious bodily injury as a result of the student's behavior.

When a behavior intervention plan is developed, reviewed or revised the school district must:

1. Ensure that the behavior intervention plan is based on a functional behavioral assessment that was conducted by a qualified person;
2. Ensure that the behavior intervention plan appropriately addresses the student's needs;
3. Allow service providers involved in the incident when the student, other students or staff were at imminent risk of serious bodily injury to provide meaningful input into the development, review, or revision;
4. Inform the service providers about any portions of the behavior intervention plan that are relevant to the service providers and about any training opportunities for the service providers; and
5. Ensure that the behavior intervention plan was correctly implemented before making any revisions.

SAMPLE FORMS

Please note that sample forms provided by the Oregon Department of Education (ODE) are intended to assist school districts in implementing Section 504. The use of the sample forms is not mandatory, and school districts and programs may choose to develop their own forms or procedures that align with the requirements of federal and state statutes, including Section 504 of the Rehabilitation Act of 1973. ODE encourages school districts to consult with legal counsel, as necessary.

Translated versions of the parent-facing sample forms may be found at ODE's Section 504 webpage: <https://www.oregon.gov/ode/students-and-family/equity/civilrights/Pages/Section504.aspx>

- A. [504 Parent Rights/Procedural Safeguards](#)
- B. [Notice of Conference](#)
- C. [Prior Notice and Consent to Evaluate](#)
- D. [Authorization to Use and Disclose Educational and Protected Health Information](#)
- E. [Request for Health/Medical Information](#)
- F. [Parent Input – Section 504](#)
- G. [Section 504 Student File Review](#)
- H. [Staff Input – Section 504](#)
- I. [Section 504 Eligibility Determination](#)
- J. [Section 504 Student Accommodation Plan](#)
- K. [Manifestation Determination Review](#)
- L. [Section 504 Meeting Checklist](#)

APPENDIX A

Section 504 Roles and Responsibilities - Sample**Role of the District Civil Rights Coordinator** – *coordinates civil rights obligations of the district*

- Monitors and oversees compliance with state and federal civil rights laws, including, but not limited to ORS 659.850, Section 504 of the Rehabilitation Act of 1973, and Title II of the ADA.
- Oversees discrimination complaints and ensuring that complaints are resolved and remedied.
- Provides guidance to school district personnel regarding civil rights concerns.
- Answers questions about civil rights issues from employees, students, families, and community members as needed.
- Coordinates efforts to prevent discrimination.
- Collaborates with the District 504 coordinator in all forementioned activities as it relates to disability civil rights.

Role of District 504 Coordinator/Compliance Officer – *coordinates Section 504 implementation in the district*

- Ensures that district Section 504 forms and procedures comply with Section 504 requirements.
- Provides training to 504 case managers/designees and others annually and as needed.
- Provides technical assistance and problem-solving on an as needed basis.
- Provides accurate, accessible information about Section 504 to school community.
- Responds in coordination with the Civil Rights Coordinator to complaints of discrimination on the basis of disability.
- Acts as contact person for district and Office for Civil Rights (OCR) Section 504 complaints.

Role of 504 Case Manager or Designee – *coordinates Section 504 services in the school or program and facilitates 504 processes for individual students*

- Participates in district-wide training on Section 504 implementation.
- Act as 504 case manager for individual students.
- Acts as contact person in school when questions arise about Section 504 issues.
- Participates on referral team (e.g. MTSS team, care team, etc.)
- Coordinates transition of 504 students transferring into and out of the school.
- Provides data and 504 records to district 504 coordinator/compliance officer.
- Assures Section 504 meeting notices are sent out to caregivers
- Gathers necessary information for meetings.
- Follows Section 504 processes, procedures, and documentation requirements as required by district policy.
- Assures copies of documents are provided to parents and appropriately stored in student's cumulative file.

SECTION 504 HANDBOOK

- Provides information to all teachers that need to know about 504 Plan contents, including when the student's schedule or classes change.
- Verifies the implementation of 504 Plan and is available to problem-solve when issues or concerns arise.
- Schedules periodic revaluations (every 3 years, at a significant change of placement, or as needed)
- May facilitate manifestation determination reviews (MDRs).
- Reports potential violations of Section 504 to the 504 Coordinator and/or Civil Rights Coordinator

APPENDIX B

Sample 504 Meeting Planner

This meeting planner includes a list of possible team members to invite to Section 504 initial and reevaluation meetings. It is not inclusive of every potential member, but it provides a guide for how the 504 coordinator/case manager decides who needs to be included depending on the type of meeting to be held as well as the information to be shared about the student.

Section 504 Team/Committee Members

- Must include the following persons:
 - Someone knowledgeable about the student,
 - Someone knowledgeable about the meaning of the evaluation data, and
 - Someone knowledgeable about the placement options (or accommodations).
- It is possible that one person may fill more than one role, such as the school counselor being the person knowledgeable about the student and the placement options; however, three members of the 504 team/committee are always required to be in attendance at each meeting.

When should the parent(s) be invited?

- A parent, guardian, or person in parental relationship to the student should always be invited if it is district policy or a common procedure for your district.

When should the school counselor be included?

- When the counselor is the 504 coordinator, the 504 case manager or has personal or professional knowledge that would help the team make appropriate decisions for the student.

When should a general education teacher be included?

- When the student is participating in general education. In most cases the general education teacher should always be included since they are likely to be the person responsible for implementing the 504 plan, if one is written.

When should the school nurse be included?

- When the student has identified medical or health issues
- When the parent provides documentation of the medical or health issues or indicates that these issues exist
- When the parent is asking for health-related accommodations at school.
- When the team will be reviewing reports from a medical doctor or other health practitioner.

When should the school psychologist be included?

- When the school psychologist was involved in a recent evaluation of the student.
- When the school psychologist's expertise is necessary for the team to make appropriate decisions for the student.

When should the building administrator be included?

- When the building administrator is the 504 coordinator or case manager for the school.
- When the parent is asking for unusual accommodations that raise concerns or fiscal considerations.
- When safety issues are involved.
- When special transportation is likely to be needed.

When should an occupational therapist or physical therapist be included?

- When the student has a motor impairment and will likely need accommodations or supports for the motor impairment.
- When the OT or PT recently evaluated the student and identified fine or gross motor needs.
- When the parent has requested services or adaptations due to fine or gross motor issues.

When should the district 504 coordinator/compliance officer or another district-level administrator be included?

- When it appears that the student will need supports that will require allocation of district resources.
- When the team believes that using a district facilitator will help resolve or prevent conflict.

APPENDIX C

Notice of Nondiscrimination

Under state and federal law, Oregon K-12 school districts must post a notice of nondiscrimination. Laws and rules requiring this notice include, but may not be limited to:

- Oregon Nondiscrimination Rules at OAR 581-021-0045(4)
- Title VI at 34 C.F.R. §100.6(d)
- Title IX at 34 C.F.R. § 106.8(c)
- Section 504 at 34 C.F.R. §104.8

[A Sample Notice of Nondiscrimination](#)* is available and translated on the Oregon Department of Education (ODE) website to assist school districts. Under state and federal law, notice of nondiscrimination must be:

- Continuously available on the district website, either by direct link on the front page of the website, or by a direct link on the footer of every page of the website;
- Posted in multiple locations, including but not limited to public-facing documents such as staff and student handbooks, annual publications, official school board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school related application forms;
- Available in the languages served by the district;
- Disseminated annually to staff, students, and families of students as an individual notice that is accessible and written in plain language; and
- Accessible to persons with disabilities.

****Disclaimer:*** Please note that this is a sample form. Its use is not mandatory, and school districts and programs may choose to develop their own forms or procedures that align with the requirements of federal and state statutes. This sample form does not constitute legal advice, and ODE encourages school districts to consult with legal counsel, as necessary.

APPENDIX D

Sample Nondiscrimination Statement

_____ [School/District] does not discriminate and prohibits discrimination in any programs or activities on the basis of protected class, including age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity. See Policy _____ Nondiscrimination and Policy _____ Complaints and Procedure [and _____ Complaint Form, if separate from Complaint Policy or Procedure]. Complaints and/or inquiries may be directed to the appropriate Coordinator as listed below, and/or may be referred to the U.S. Department of Education Office for Civil Rights (OCR).

The following employee(s) has been designated to handle questions and complaints of alleged discrimination:

Title IX Coordinator

Name and/or Title:

Address:

Phone Number:

Email Address:

Section 504 Coordinator

Name and/or Title:

Address:

Phone Number:

Email Address:

ADA/Title II Coordinator:

Name and/or Title:

Address:

Phone Number:

Email Address:

Civil Rights Coordinator:

Name and/or Title:

Address:

Phone Number:

Email Address