

What is the Section 504 of the Rehabilitation Act of 1973?

Section 504 of the Rehabilitation Act is major federal legislation that applies to entities, like school districts, that receive federal funding. It is civil rights legislation to protect qualified persons with disabilities from any form of discrimination based on disabilities.

Section 504 does not guarantee success for students with disabilities; it guarantees an equal opportunity for success.

Definition of Disability Under Section 504 and the ADA

Under Section 504, a person is considered to have a disability if that person (29 U.S.C. Sec. 706 (8):

- (1) has physical or mental impairment which substantially limits one or more such person's major life activities or bodily functions.
- (2) has a record of such impairment, or
- (3) is regarded as having such an impairment.

The Act defines a physical or mental impairment as:

(a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin and endocrine; or

(b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

Major life activities include: Caring for one's self, performing manual tasks, walking, breathing, seeing, hearing, speaking, learning, working, reading, concentrating, thinking, sleeping, eating, lifting, bending and communicating.

Bodily functions include: the immune system, normal cell growth, digestive, bowel, and bladder functions, respiratory function, circulatory function, endocrine function, reproductive function, brain and neurological function.

Record of or Regarded as

- Requires discrimination as a result of having a record of such a disability
- Requires discrimination as a result of being regarded as having such an impairment.

Episodic conditions or those that are in remission would be considered disability if the condition would substantially limit a major life activity or bodily function when active.

Section 504 does not cover students with learning problems which are attributable to economic, environment and/or cultural disadvantages.

Determining Substantial Limitation

To determine substantial limitation, the comparison is to “most people”.

Non discrimination and Physical Accessibility

Section 504 and the ADA require that programs are physically accessible for persons with disabilities. In other words, students cannot be denied access to programs simply because the programs are located in a physically inaccessible location. For example, if a sophomore in high school, in a wheelchair, wants to take biology' the school cannot deny the student taking this course simply because the class is located on the second floor of an inaccessible building. In this situation, the school must make the biology class accessible o the student, either by moving the class to an accessible location or making the existing classroom accessible. The physical accessibility requirement of Section 5M and the ADA does not mean that all buildings in a school district have to be accessible. Rather, all programs offered by the district have to be accessible. Therefore, if a program is housed in a building that is not accessible, the program must be moved or the building must be made accessible. Program accessibility requires that certain modifications and accommodations be made for students with disabilities. Making programs accessible often requires the provision of accommodations and modifications in teacher, classroom organization, homework assignments, and test requirements.