

Notice of Parent and Student Rights Under §504 of the Rehabilitation Act of 1973

This document describes the rights granted by federal law to students with disabilities.

The intent of the law is to keep you fully informed concerning decisions about your child and inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from, public education programs without discrimination based on disability.
2. Have the school district advise you of your rights under federal law.
3. Receive notice with respect to identification, evaluation, or placement of your child.
4. Refuse consent for the initial evaluation and initial placement of your child.
5. Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the provision of regular education or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met.
6. Have your child educated in facilities and receive services comparable to those provided to non-disabled students.
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options.
8. Have education and related aids and services provided to your child without cost except for those fees imposed on the parents/guardians of non-disabled students.
9. Have your child be given an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement.
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records.
12. A response from the school district to reasonable requests for explanations and interpretations of your child's records.

13. Request amendment of your child's educational records if you believe they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, you have the right to a hearing to challenge this refusal.
14. Request an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing requests must be made to the:

Arkansas Department of Education

Division of Public School Accountability Four Capitol Mall, Room 204 B

Little Rock, AR 72201 Phone: 501-682-4212

15. File a written grievance following the district's grievance or complaint procedure, or file a complaint with the U.S. Department of Education Office for Civil Rights, Telephone: 214-661-9600 or Email: OCR.Dallas@ed.gov

504 – Parameters, and limitations of 504 qualification and accommodation

Though the 504 law is clear and specific, there is much misunderstanding and misuse of this law in education. Schools have an obligation to correctly apply the 504 law to its full intent on behalf of students, and to exceed or mis-apply the law would be unlawful and a dis-service to both the student and the school. The following information is intended to promote a general understanding of 504 law, what must be demonstrated in order for a student to qualify for accommodations, and how accommodations under 504 must be designed to assist the student.

General intent of 504 – In schools, the 504 law functions to assure that, because of their handicap, disabled students are not denied opportunities and/or access to learning equal to that of non-handicapped students, and in the same light, requires that handicapped persons be provided equal “opportunity” to learn as their non-handicapped peers. One of the most misunderstood aspects of 504 law is that, it does not intend to create “equal performance” for the disabled student, rather, it is all about assuring equal access and opportunity (the performance level is up to the student once they have equal access and opportunity). Many parents pursue 504 accommodations in ht schools with the intent of helping students to get better grades or improving their performance. Grades may go up once obstacles created by a disability are accommodated, but the fundamental intent of 504 law does not target grade improvement. 504’s sole function is in assuring equal access and opportunity to learn for students with disabilities and grades are simply one of several indicators that serve to show if a student has equal access/opportunity or not. A 504 plan pursued with the intent of maximizing grades would be a misuse of the 504 law. A 504 plan pursued to create an equal access and opportunity to learn would be a correct application of the 504 law.

“Before we talk about accommodations we must make a determination as to if a student qualifies for accommodation” (Qualification, by law, must be determined (in the case of schools) by a team of adults that know the student in the school setting – the 504 team)

Qualification for 504 accommodations – requirements for qualification: 1) demonstration of a “Significant Impact” on a “Major Life Function” (MLF) and 2) the determination that the “Significant Impact” of the MLF is specifically due to the disability and not a result of other non-disability related factors (non-disability factors can include: family or cultural environment, student choice either in or out of the classroom, or others)

Q: Does a person automatically qualify for 504 if they have a diagnosed handicap?

A: No – Having a handicap does not automatically qualify a person for accommodations. To qualify for accommodations it must be determined by the school based 504 team that the handicap “Substantially limits a Major Life Function” (In most cases in the school setting “learning” is the MLF in question.)

Q: How is a “substantial limit of a Major Life Function” determined?

The 504 law defines qualifying “Major Life Functions” as: care for one’s self, perform manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. In the qualifying MLA of “learning”, “Substantial impact” is determined when **academic and/or behavioral performance is “markedly below that of the students peer group”** (peer group is defined as “other non-handicapped same age/grade students at Wilson) and/or **“when the student is not progressing from grade to grade”** (due to failing classes). Then, the 504 team must make the determination that the “sub-average performance” or “failure to progress” is **due specifically to the qualifying disability** and not resulting from other non-disability related factor(s). To make this determination, the team looks at academic and medical history, family and cultural environment, testing records and current school performance.

In Short – A student does qualify for 504 accommodations when . . .

- A) they have a diagnosed handicap (or is regarded to have a handicap) that . . .
- B) is determined to significantly impact a MLA which prevents the student from having the same opportunity as other non-handicapped peers, which (in the case of MLA “learning”) is evident when . . .
- C) the student “is performing markedly below that of their peers”, and/or
- D) is not progressing from grade to grade

And, In Short – A student does not qualify for 504 accommodations when . . .

- A) there is no perceived or diagnosed handicap . . .
- B) or when the student is generally in the average range of performance compared to their peers (this shows access to education and is viewed as evidence that there is no “significant” impact from a MLA) . . .
- C) or, when the student is progressing from grade to grade (this also is evidence of “no significant impact” from a MLA)
- D) or, it is determined that factors other than the disability are causing the sub-average/failing –to-progress performance.

Accommodations for student who qualifies for a 504 plan – Once eligibility is established, the accommodations should serve to target the specific obstacle(s) that the handicap creates in preventing access and equal opportunity to learn. Accommodations should not and can not be a “laundry list” of things that might help the student to get better grades, rather, by law, accommodations must only and specifically address the roadblocks that are created directly by the handicap in having access and equal opportunity to learn.

Common Misconceptions

A letter or note from a Doctor stating a diagnosis and a list of accommodations that the school should consider implementing –

Before accommodation(s) can be considered, a determination of 504 qualification must be made by a school based 504 team that knows the student (see qualification parameters above). Though information from a physician regarding diagnosis and the accommodations is vitally important throughout the qualification/accommodation process, by law, the 504 qualification and accommodations that are determined must be made by a team of adults who know the student and his/her academic and behavioral performance in the school setting. Doctors are not necessarily in a position to know fully if or how the handicap impacts the student in the educational setting or what accommodations would be necessary to assure equal opportunity and access.

Many parents believe that, because their son/daughter has a handicapping condition they automatically will be provided accommodations. This is not the case as is outlined above.

Any specific questions or inquiries regarding qualification for 504 accommodations for a student should be relayed to the student’s appropriate administrator or counselor so that the formal qualification process can be initiated.