

WHAT PROCEDURAL SAFEGUARDS DO PARENTS HAVE?

School districts must:

1. Provide written assurance of nondiscrimination.
2. Designate an employee to coordinate compliance.
3. Provide grievance procedures to resolve complaints.
4. Provide notice of nondiscrimination in admission or access to its programs or activities. Notice must be included in a student/parent handbook.
5. Annually identify and locate all qualified children with disabilities who are not receiving a public education.
6. Annually notify students with disabilities and their parents or guardians of the district's responsibilities under Section 504.
7. Provide parents or guardians with procedural safeguards:
 - (a) notice of their rights
 - (b) an opportunity to review relevant records
 - (c) an impartial hearing-parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of persons with handicapping conditions.

HOW IS SECTION 504 DIFFERENT FROM IDEA?

1. IDEA lists categories of qualifying conditions. Section 504 is much broader.
2. Free Appropriate Public Education (FAPE) under Section 504 means an education comparable to the education provided to nondisabled students.
3. Under Section 504 a student is eligible if s/he meets the definition of "qualified handicapped person". The student is not required to be in need of special education in order to be protected.
4. Section 504 does not provide additional funds.
5. Section 504 Includes detailed regulations regarding building and program accessibility.
6. Section 504 requires notice of parent/student rights, however it does not have to be written notice.
7. Under Section 504 school districts must designate an employee to be responsible for assuring compliance and must provide a grievance procedure.

WHICH LAW TAKES PRECEDENCE?

Schools must comply with both IDEA (Individuals with Disabilities Education Act) and Section 504 of the Rehabilitation Act of 1973. Compliance with IDEA does not necessary mean that a district is in compliance with Section 504. One does not take precedence over the other!

**Adapted from a Learning Disabilities Association of America brochure.*

HOW DO I FILE AN OCR COMPLAINT?

Find someone in your regional OCR office who understands the applications of Section 504 on education and use that person as your contact. Explain the situation, specify the issue, and cite the area of discrimination. OCR may send a representative to investigate the complaint.

WHAT IF I DON'T AGREE WITH OCR'S RULING?

Under the Freedom of Information Act, ask for a copy of the investigation plan used by the OCR representative, a copy of the investigation report and a copy of the school's documents. If you don't think that the investigation was a careful and thorough examination of the issue or complaint or the conclusions are wrong, write a letter of appeal saying you don't agree with the Letter of Finding and stating your reasons.

NOTICE OF NON-DISCRIMINATION AND SECTION 504 COMPLIANCE

THE SCHOOL BOARD OF ST. LUCIE COUNTY, FLORIDA, does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, or marital status in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following persons have been designated to handle inquiries and complaints regarding the School Board's non-discrimination policies:

Non-Discrimination Policy Inquiries and Complaints by Students, Parents, Applicants for Admission to School, and all others except Employees and Applicants for Employment:

DIRECTOR OF STUDENT SERVICES
School Board of St. Lucie County, Florida
9461 Brandywine Lane
Port St. Lucie, Florida 34986
Telephone: (772) 429-4510
Facsimile: (772) 429-4528
E-mail: SS-GRV@stlucieschools.org

Non-Discrimination Policy Inquiries and Complaints by Employees and Applicants for Employment:

EXECUTIVE DIRECTOR OF HUMAN RESOURCES
School Board of St. Lucie County, Florida
9461 Brandywine Lane
Port St. Lucie, Florida 34986
Telephone: (772) 429-7508
Facsimile: (772) 429-7510
E-mail: EMP-GRV@stlucieschools.org

Inquiries and Complaints under SECTION 504 OF THE REHABILITATION ACT OF 1973 should be directed to the School Board's Section 504 Compliance Officer, the Director of Student Services, contact information listed above.

If due to a disability you need special accommodations to receive School Board information or to participate in School Board functions, call (772) 429-3600 and ask for the School Board Secretary. Telecommunications Device for the Deaf (TDD) phone (772) 429-3919.

A GUIDE TO SECTION 504

How it applies to students



St. Lucie
PUBLIC SCHOOLS



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WHAT IS SECTION 504?

Section 504 is the section of the Rehabilitation Act of 1973 which applies to persons with disabilities. It is a civil rights act which protects the civil and constitutional rights of persons with disabilities. Section 504 prohibits organizations which receive federal funds from discriminating against otherwise qualified individuals solely on the basis of handicap. Section 504 is enforced by the U.S. Department of Education, Office for Civil Rights (OCR).

HOW DOES SECTION 504 DEFINE "HANDICAP?"

A person is considered "handicapped" if he/she:

1. has a physical or mental impairment which substantially limits one or more major activities.
2. has a record of such an impairment, or
3. is regarded as having such an impairment.

In addition to school-aged children who are eligible for special education services, this includes, for example, persons with communicable diseases, temporary handicapping conditions, attention deficit hyperactivity disorder (ADHD), behavior disorders, chronic asthma & severe allergies, physical handicaps, and diabetes.

WHAT IS A "MAJOR LIFE ACTIVITY"?

Major life activities include such things as walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and operation of major bodily functions.

WHAT TYPES OF DISCRIMINATION DOES SECTION 504 PROHIBIT?

1. Denial of the opportunity to participate in or benefit from a service which is afforded non-handicapped students.
-- refusing to allow a student with an IEP the opportunity to be on the honor roll, denying credit to a student whose absenteeism is related to the disability, refusing to dispense Ritalin to a student with ADHD (a school cannot require parents to waive liability as a condition of giving medicine, however, it is wise to get your physician's prescription to back up any medical accommodation).
2. Provision of opportunity to participate in or to benefit from service which is not equal to that afforded to others.

- determining sports eligibility from a student's grades without regard to the student's handicapping condition.*
- 3. Provision of aids, benefits or services which are not as effective as those provided to others. Equally effective means equivalent, not identical, and must afford an equal opportunity, not equal results.
- 4. Provision of different or separate benefits or services unless such action is necessary to be effective.
-- separate classes, schools or facilities.
- 5. Aiding or perpetuating discrimination by providing assistance to an organization which discriminates.
-- sponsoring a student organization which excludes persons with disabilities.
- 6. Denial of the opportunity to participate on a planning or advisory board because of an individual's handicapping condition.
- 7. Otherwise limiting the enjoyment of any right, privilege, advantage or opportunity enjoyed by others.
- 8. Selecting a site or location which effectively excludes persons with disabilities or subjects them to discrimination.
-- locating students with disabilities in inferior facilities due to a lack of classroom space.

WHAT DOES "ACCOMMODATION" MEAN?

A recipient of federal funds shall make accommodations to the known physical or mental limitations of an otherwise qualified student unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program. Courts have required accommodations which achieve "meaning equal opportunity".

Accommodations need to take into account both the functional limitations of the individual and the alternative methods of performing tasks or activities which would permit people of varying abilities to participate without jeopardizing outcomes. Some examples of accommodations are modified homework requirements, provision of readers, provision of taped textbooks, changes in the way tests are given, provision of a teacher's aide, or seating in the front row of the classroom.

1. Accommodations must be individualized.
2. The Individual needs of the person with a disability should be met to the same extent as the needs of persons without disabling conditions.
3. Modifications can be made to regular programs or the provision of different programs may be necessary.

4. Accommodations should place the student with a disability at an equal starting level with the nondisabled student.

HOW DOES SECTION 504 DEFINE "APPROPRIATE EDUCATION"?

A free appropriate education is one provided by the public elementary or secondary school which includes regular or special education and related aids and services that (i) are designed to meet the individual educational needs of persons with disabilities, and (ii) are based upon adherence to evaluation, placement and procedural safeguard requirements.

DOES SECTION 504 REQUIRE EVALUATIONS?

Section 504 regulation, 34 CFR Section 104.35 (a) requires that a district evaluate "any person who, because of handicap, needs or is believed to need special education or related services" (emphasis added). An evaluation is also required prior to any significant change in placement. Pre-screening methods which affect a student's eligibility for special education may be considered "evaluations" and are *subject to proper notice requirements*. EHLR DEC.353.237 (1989)

Section 504 does not require that a district must carry out a full evaluation of a student simply because a parent requests it. However, refusal by the district to do so constitutes an official action with respect to the student's evaluation and placement, and the district must provide the parent with procedural safeguards.

DOES SECTION 504 REQUIRE AN IEP?

Section 504 requires a plan describing placement and accommodations. Placement decisions must be based upon information drawn from a variety of sources and all information must be documented and considered. Although a formal IEP is not required, the placement decision must be made by a group of persons knowledgeable about the child, about the meaning of the evaluation data and about placement options.