

Section 504 Policies and Procedures



Section (§) 504

§504 is part of the Rehabilitation Act of 1973. It is a federal civil rights law protecting the rights of individuals with disabilities.

§504 says programs that get federal money cannot discriminate against people with a disability in employment practices, program accessibility, education, and health, welfare, and social services.

§504 says an individual with a disability is anyone who:

- 1) Has a mental or physical impairment which substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; **or**
- 2) Has a record of such an impairment; **or**
- 3) Is regarded as having such an impairment.

How is §504 different from the Individuals with Disabilities Education Act (IDEA)?

IDEA covers **only** 13 disabilities and **only if** the student needs special education services and supports in order to benefit from special education.

The 13 disabilities covered by IDEA are:

- Mental retardation
- Hearing impairment (including deafness)
- Speech or language impairment
- Visual impairment (including blindness)
- Emotional disturbance
- Orthopedic impairment
- Autism
- Traumatic brain injury
- Other health impairments
- Specific learning disabilities
- A child age 3-9 may also qualify if s/he has physical, cognitive, communication, social/emotional, and/or adaptive delays.

§504 covers **ALL** mental or physical impairments (including emotional and behavioral problems) **IF** it substantially limits one or more major life activities.

Some of the conditions that may qualify a student §504 are attention deficit disorders, allergies, asthma, diabetes, emotional adjustment disorders, behavior disorders, orthopedic problems, hearing and vision impairments, certain communicable diseases such as HIV/AIDS or tuberculosis, and temporary medical conditions due to illness or accident.

All the protections of §504 apply to all 504 students **AND** all IDEA students. That is because §504 has a much broader definition of disability than the one IDEA uses.

However, IDEA only covers IDEA students.

IDEA is a **special** education program. §504 is considered a **general** education program.



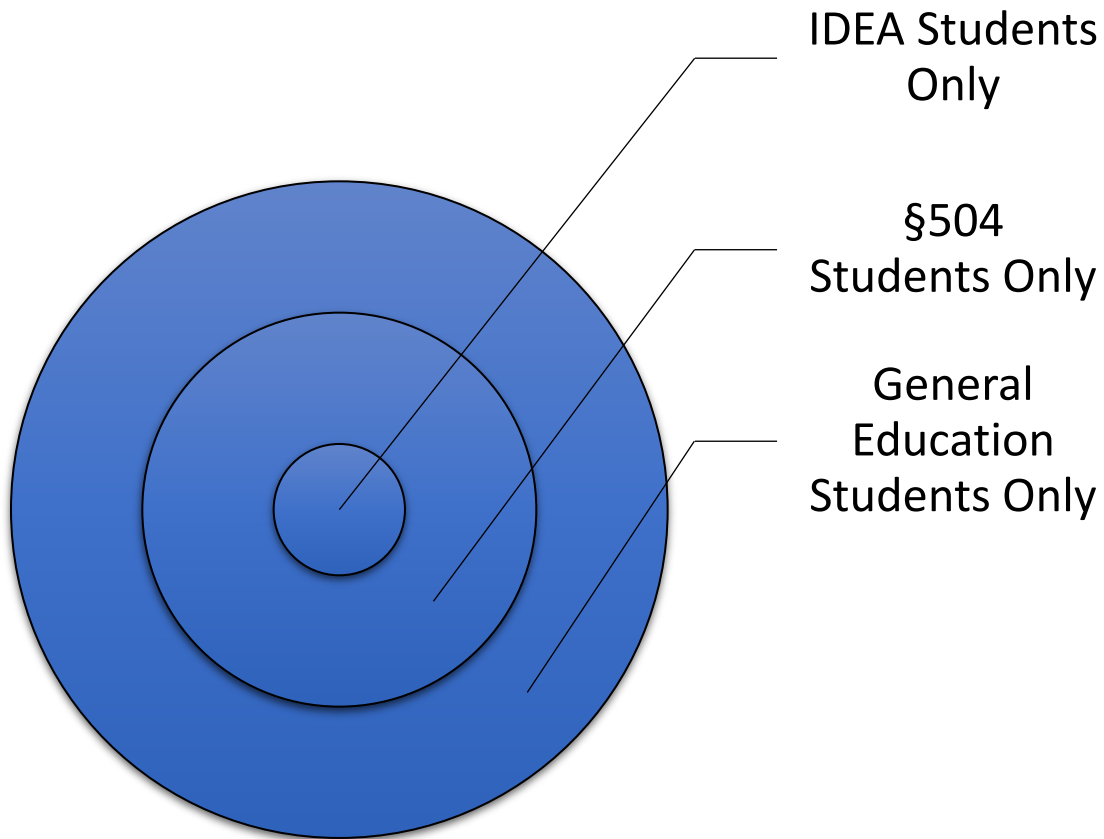
§504 or IDEA?

If a student has one of the 13 disabilities covered by IDEA, they should be referred for IDEA evaluation. The district receives some federal and state money to help pay the cost of services. §504 students must receive the services they need, but the cost is paid entirely by the district. Students who are disabled under §504 may need accommodations, modifications and related services even though special education services are not needed. Students must have a §504 Accommodation Plan that says what services and supports they will get.

Just as for IDEA students, §504 students must get a free, appropriate public education (FAPE). This means their education must be provided at no cost to the parents and meet the student's needs.

If FSD 145 has made FAPE available and the student or his/her parents/guardians place the student in a private school, FSD 145 is not required to pay for the private school.





IDEA/§504 Students

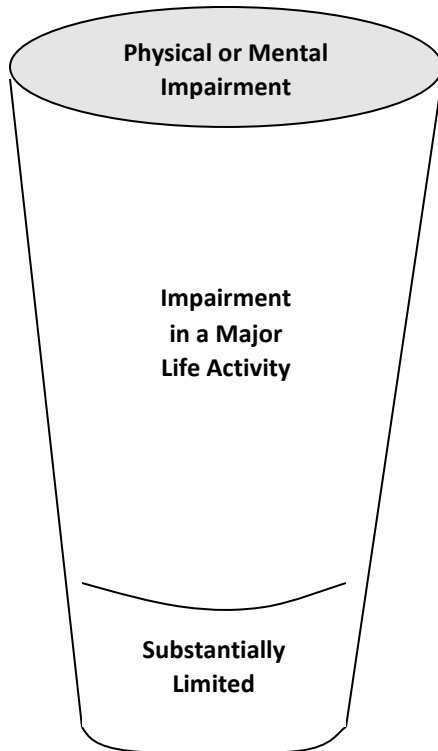
Students are qualified under one or more of 13 IDEA disabling conditions. Specially designed individual education programs are planned for each student by IEP Teams.

Section 504 Students only

Due to substantial mental or physical impairments that limit one or more of the student's major life activities, special accommodations to the student's program are required. A §504 Accommodation Plan is designed for each student according to individual need. Examples of potential §504 disabling conditions not typically covered under IDEA are:

- Communicable diseases, such as HIV/AIDS, tuberculosis
- Medical conditions, such as asthma, diabetes, allergies
- Temporary medical conditions due to accident or illness
- Attention Deficit Disorder
- Other condition

Section 504 Eligibility Components



1. Physical or Mental Impairment

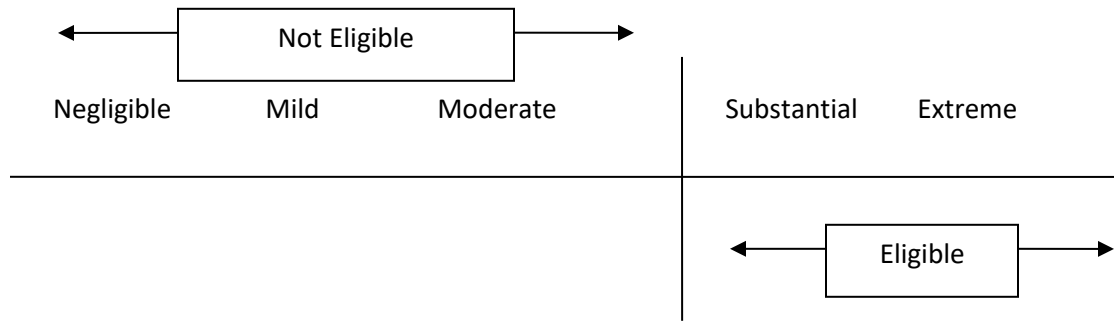
Any physical or mental impairment may result in qualification under Section 504. Unlike IDEA, there are no categories of qualifying disabilities. This step in the 504-evaluation process relies heavily upon medical/psychiatric diagnosis by qualified professionals.

2. Major Life Activity

The identified physical or mental impairment must affect a major life activity: caring for oneself, performing manual tasks, breathing, hearing, learning, seeing, speaking, walking and working. Learning is most often determined to be the major life activity affected by a student's impairment.

3. Substantially Limited

The impairment must substantially limit the major life activity and, thereby, create a **significant barrier** (see below) to the student's ability to access the same educational opportunities afforded to non-disabled students.



THE PROCESS

Child Find Requirements

FSD 145 is required to make sure every child with a disability is getting an appropriate education. This is known as Child Find. As part of Child Find, FSD annually publishes the Child Find Notice in local newspapers and student handbooks and places the Notice in locations likely to be seen by parents of eligible students.

Teachers are required to refer students who are struggling academically to SAT. If the student has a disability, s/he may be referred for evaluation for special education or §504.

1. If you think a student needs §504 services

For this step in the process, use the General Education Intervention Team or SAT forms. (See the first section of the §504 manual). Send a referral to the school GEIT. Use the GEIT forms to indicate if the problem is speech, fine/gross motor, behavior or academic concerns. A parent may also refer their child. Referrals should include documentation of what has been done in the general classroom to resolve the problems.

A student may be §504 eligible IF:

- S/he is returning from a medical, rehabilitation or psychiatric facility (except for short-term medical problems).
- S/he has been identified by a doctor, psychologist, or licensed counselor as having a medical, emotional, behavior or physical problem.
- S/he on medication at school.
- S/he needs specialized medical procedures or equipment at school.
- S/he is struggling academically.
- S/he has a disability but is dismissed from needing special education services. The student may be eligible for §504 services, but it is not automatic.
- S/he is evaluated for IDEA and has an identified disability, but does not qualify for special education. If a student has a disability that is not in need of special education, the student may qualify for §504.
- S/he is diagnosed as an addict but is not currently using drugs or alcohol (e.g., has been in a drug rehabilitation program and is no longer using drugs). A person who is **currently** using illegal drugs or alcohol can't get §504 services.

2. Referral and Evaluation

If school personnel think a student has a disability, the student must be evaluated. The school or parent may ask for evaluation. You must first get parental consent. Use the Permission for Initial Assessment under Section 504 form. Also send a copy of Section 504/ADA Notice of Rights.

§504 eligibility is based on the existence of a mental or physical disability. This must be verified in student medical records or by using the Medically-Based Disability Certification form

§504 - SAT Committee

The decision to qualify a student for §504 services is made by a multidisciplinary team of people, composed of at least three members. It should include persons knowledgeable about the student, the meaning of evaluation data, and educational interventions.

The §504 Committee includes persons such as the student's teacher, school psychologist, guidance counselor, school nurse, and school administrator. The parent should be invited to participate with the committee in the §504 process for eligibility and services.

The §504 Committee should be chaired by a person appointed by the school principal, preferably the §504 SAT Building Coordinator.

The kind of evaluation done is based on the type of disability suspected and the kind of services needed. In some cases, the evaluation is done by the §504 Committee. The team can look at existing evaluation data, review school records, obtain observation data, evaluate effectiveness of educational interventions over time, determine eligibility under §504, and recommend programming within general education.

3. Notice of Meeting

Parents should be invited to be part of the §504 Committee and notified of all meetings regarding their child. Use the Notice of Section 504 Meeting.

4. If a student is eligible

The student's ability to learn or behave in an appropriate manner **must be substantially limited**. Just because a student has a disability does not mean s/he will qualify for an accommodation plan under §504.

Educational need is defined as a serious academic deficit, a serious behavior problem resulting from the suspected disability and not from other causes, or any other physical or mental impairment which seriously affects the student's opportunity to benefit from educational services.

The §504 Committee documents their decision on the Eligibility Determination for §504/ADA. (If the student is **NOT** eligible for §504, use the Notice of Section 504 Ineligibility. When giving this to parents, include a copy of the Section 504/ADA Notice of Rights. This will give them information on how to appeal if they disagree with the decision.

5. Accommodation Plan

The §504 Committee determines what educational services are needed. Students must also be given the opportunity to participate in nonacademic and extracurricular services and activities, such as recreational and athletic activities and school-sponsored clubs. Participation in non-academic activities may require accommodations.

The services for the student should be documented on the Section 504/ADA Accommodation Plan. Monitoring of the Plan should be done every nine weeks as reports to parents. Use the Section 504 Monitoring Plan.

6. Re-Evaluation Review

FSD 145 requires that each student's §504 Accommodation Plan be reviewed at least annually to determine if the plan continues to be appropriate for the student.

Before a change in placement, including long-term suspensions and expulsions, a reevaluation must be done along with notice to parents. A re-evaluation of the student's disability status should be conducted every three years or more often if needed.

CONFIDENTIALITY OF STUDENT RECORDS

Student Records: Parents or guardians have the right to examine all educational records of the student, including the records of the §504 Committee. Only those persons with the “right to know” have confidential information concerning the student’s disability.

§504 Student File: Each school will maintain a confidential §504 documentation file for each student referred to the §504 Committee. The confidential records of each student will be housed at the school. When a student transfers within FSD 145, this file is transferred as part of his/her student record as a confidential file. When a student transfers out of district, the §504 file may be transferred with parent permission or notification under FERPA requirements.

§504 Census Roster: Each school will maintain a §504 census roster, and will forward this list of §504 students receiving services to Pupil Personnel Services each semester.

PROCEDURAL SAFEGUARDS & DUE PROCESS

Notice

Parents will be provided notice of the actions of the §504 Committee with respect to the identification and education placement of their child. Use the Section 504 Meeting Notice. It will include a copy of Section 504/ADA Notice of Rights.

Evaluation

An evaluation must be done before initial placement, provision of related services and before any significant change in placement including certain disciplinary removals. Under §504, the nature and extent of the professional evaluation is left to the judgment of the §504 Committee and/or the persons performing specific portions of the evaluation.

Tests and other evaluation materials must:

- be tailored to assess the specific areas of educational need and not merely be those which are designed to provide a single score;
- be selected and administered to ensure the student’s aptitude or achievement level or whatever other factor the test purports to measure;
- not reflect a student’s impaired sensory, manual, or speaking skills except where those skills are the factors that the test purports to measure;
- be validated for the specific purpose for which they are used;

- be administered by trained personnel in conformance with the instruction provided by their publishers.
- also come from sources other than formal, validated testing; and
- be non-discriminatory.

Other Safeguards

If the parents of a student disagree with any actions of the §504 Committee regarding the identification, evaluation, and educational placement of a student, the parents have a right to an impartial hearing. They may be represented by counsel.

DISCIPLINE

Disciplinary procedures which apply to students with disabilities under IDEA also apply to §504 students. However, students with disabilities under §504 who have been expelled do not have to be provided with educational services following expulsion, and there is no “stay put” requirement under §504.

If a student is being suspended for more than 10 days in a school year or expulsion, including suspension or expulsion from a school bus, the §504 Committee must determine if the behavior is related to the disability. This process is known as “manifestation determination.” Use the Manifestation Determination form to document this decision. If the team determines that the behavior is caused by the disability, the Committee should look at the Accommodation Plan, Behavior Plan, services and placement to determine if they were appropriate and were being implemented as written. If not, this must be corrected immediately. The Committee may also want to consider if any changes need to be made to better meet the needs of the student. It is also important for the Committee to decide if the student needs a Functional Behavior Assessment or a Behavior Plan, if one is not already in place.

FSD 145 may discipline a student with a disability under §504 who is currently using illegal drugs or alcohol to the same extent as action taken against nondisabled students. In such cases, §504 due process procedures, namely evaluation and manifestation determination, are not required. Special procedures also apply in the discipline of students with disabilities for possession of firearms.

DUE PROCESS HEARING PROCEDURES

§504 requires that school systems have a procedure for conducting impartial due process hearings with opportunity for participation by the student's parents or guardian and representation by counsel. Either the parent or the public education agency may request a hearing.

A due process hearing is a legal procedure, which is conducted by an administrative law judge. This method of resolving disagreement is usually sought after formal complaint processes and mediation have failed to resolve disputes. A list of trained hearing officers is available from the Illinois State Board of Education, Division of Special Education.

Parents requesting a hearing should submit a written request to the Director of Pupil Personnel Services, and include the following information:

- The reason for the request
- A suitable time for the hearing
- Two possible dates for the hearing
- Whether the hearing will be closed or open to the public.

The hearing must be held no less than 15 days and no more than 30 days from the time you asked for the hearing. The administrative law judge may grant a continuance at the request of one of the parties, if the other party agrees.

Reasons to Request a Hearing

- Disabled student who needs or is believed to need special instruction or related services is denied identification, evaluation or educational placement.
- Placed in a setting that is not the least restrictive environment.
- Denied appropriate services due to inaccessibility of programs.
- Denied accommodations and/or modification to general education program because of identified disability.
- Denied participation in extracurricular and nonacademic activities because of a disability.

FSD 145 Responsibilities

- FSD will provide a location for the hearing.
- FSD will pay the cost of the Administrative Law Judge and the Court Reporter. FSD will provide the parents with a copy of the hearing transcript at no cost.
- FSD will allow the child to remain in his/her current placement until after the hearing, unless the parents agree that a change in placement would be best for the child.
- FSD must inform the parents of any free or low-cost legal services or other relevant services available in the area.

Before The Hearing

- At least 5 days before the hearing, FSD and the parents will give each other all exhibits to be presented at the hearing.
- FSD must allow the parents to examine the child's records and make copies if requested.

During The Hearing

Parents and FSD may be represented by legal counsel or some other professional who may be knowledgeable about the child or be an advocate.

FSD and the parents may present and cross-examine witnesses who know about the child's disability.

The child may be present at the hearing.

After the Administrative Law Judge has heard the case, s/he will give a written decision.

The Administrative Law Judge is impartial, and is not an employee of any school system. S/he will be well trained and understand what the law requires for children with special needs.

After The Hearing

The parents will receive a written record or tape recording of all that was said at the hearing.

A copy of the Administrative Law Judge's decision will be given to both FSD 145 and the parents. The Judge must render a decision within 45 days after the Director of PPS's receipt of the request for a hearing. This can only be delayed if the parents agree otherwise or the Judge has granted a continuance at the request of one of the parties.

The decision made by the Administrative Law Judge is final unless the parents of FSD appeal the decision to the appropriate state or federal court.

**NOTICE OF RIGHTS FOR DISABLED STUDENTS AND THEIR
PARENTS UNDER §504 OF THE REHABILITATION ACT OF 1973**

The Rehabilitation Act of 1973, commonly known in the schools as “Section 504,” is a federal law passed by the United States Congress with the purpose of prohibiting discrimination against disabled persons who may participate in, or receive benefits from, programs receiving federal financial assistance. In the public schools specifically, §504 applies to ensure that eligible disabled students are provided with educational benefits and opportunities equal to those provided to non-disabled students.

Under §504, a student is considered “disabled” if he or she suffers from a physical or mental impairment that substantially limits one or more of their major life activities, such as learning, walking, seeing, hearing, breathing, working, and performing manual tasks. Section 504 also applies to students with a record of having a substantially-limiting impairment, or who are regarded as being disabled even if they are truly not disabled. Students can be considered disabled, and can receive services under §504, even if they do not qualify for, or receive, special education services.

The purpose of this Notice is to inform parents and students of the rights granted them under §504. The federal regulations that implement §504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle parents of eligible students, and the students themselves, to the following rights:

1. You have a right to be informed about your rights under §504. [34 CFR 104.32] The School District must provide you with written notice of your rights under §504 (this document represents written notice of rights as required under §504). If you need further explanation or clarification of any of the rights described in this Notice, contact appropriate staff persons at the District’s Department of Pupil Personnel Services Office and they will assist you in understanding your rights.
2. Under §504, your child has the right to an appropriate education designed to meet his or her educational needs as adequately as the needs of non-disabled students are met. [34 CFR 104.33].
3. Your child has the right to free educational services, with the exception of certain costs normally also paid by the parents of non-disabled students. Insurance companies and other similar third parties are not relieved of any existing obligation to provide or pay for services to a student that becomes eligible for services under §504. [34 CFR 104.33].
4. To the maximum extent appropriate, your child has the right to be educated with children who are not disabled. Your child will be placed and educated in regular classes, unless the District demonstrates that his or her educational needs cannot be adequately met in the regular classroom, even with the use of supplementary aids and services. [34 CFR 104.34].

5. Your child has the right to services, facilities, and activities comparable to those provided to non-disabled students. [34 CFR 104.34].
6. The School District must undertake an evaluation of your child prior to determining his or her appropriate educational placement or program of services under §504, and also before every subsequent significant change in placement. [34 CFR 104.35].
7. If formal assessment instruments are used as part of an evaluation, procedures used to administer assessments and other instruments must comply with the requirements of §504 regarding test validity, proper method of administration, and appropriate test selection. [34 CFR 104.35]. The District will consider information from a variety of sources in making its determinations, including, for example: aptitude and achievement tests, teacher recommendations, reports of physical condition, social and cultural background, adaptive behavior, health records, report cards, progress notes, parent observations, and scores on ISAT tests, among others. [34 CFR 104.35].
8. Placement decisions regarding your child must be made by a group of persons (a §504 committee) knowledgeable about your child, the meaning of the evaluation data, possible placement options, and the requirement that to the maximum extent appropriate, disabled children should be educated with non-disabled children. [34 CFR 104.35].
9. If your child is eligible for services under §504, he or she has a right to periodic evaluations to determine if there has been a change in educational need. Generally, an evaluation will take place at least every three years. [34 CFR 104.35].
10. You have the right to be notified by the District prior to any action regarding the identification, evaluation, or placement of your child. [34 CFR 104.36]
11. You have the right to examine relevant documents and records regarding your child (generally documents relating to identification, evaluation, and placement of your child under §504). [34 CFR 104.36].
12. You have the right to an impartial due process hearing if you wish to contest any action of the District with regard to your child's identification, evaluation, or placement under §504. [34 CFR 104.36]. You have the right to participate personally at the hearing, and to be represented by an attorney, if you wish to hire one.
13. If you wish to contest an action taken by the §504 Committee by means of an impartial due process hearing, you must submit a Notice of Appeal or a Request for Hearing to the District's Director of Pupil Personnel Services at the address below:

Freeport School District #145

501 E. South Street

Freeport, IL 61032

815-232-0300

A date will be set for the hearing and an impartial hearing officer will be appointed. You will then be notified in writing of the hearing date, time, and place.

- 14.** If you disagree with the decision of the hearing officer, you have a right to seek a review of that decision before a court of competent jurisdiction (normally, your closest federal district court).
- 15.** With respect to other issues surrounding your child's education that do not specifically involve identification, evaluation, or placement, you have a right to present a grievance or complaint to the District's Director of Pupil Personnel Services (or their designee), who will then investigate the situation, taking into account the nature of the complaint and all necessary factors, in an effort to arrive at a fair and speedy resolution.
- 16.** You also have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. The address of the OCR Regional Office that covers Illinois is:

**Chicago Office
Office for Civil Rights
U.S. Department of Education
111 N. Canal Street, Suite 1053
Chicago, IL 60606-7204**

**Telephone: 312-886-8434
FAX: 312-353-4888; TDD: 312-353-2540
Email: OCR_Chicago@ed.gov**

