

Purpose of Section 504

Section 504 of the Vocational Rehabilitation Act of 1973 forbids discrimination, on the basis of disability, in any program or activity receiving federal money from the U.S. Department of Education. The Americans With Disabilities Amendment Act of 2008 (ADAAA), effective January 2009, incorporated a conforming amendment to the Rehabilitation Act of 1973 that affects the definition of a person with a qualified disability. Any person, on the basis of that disability, cannot be:

- Denied the opportunity to participate in a service or activity open to other persons;
- Offered a service or activity not equal to that afforded others;
- Provided a service that is not as effective as that provided to others;
- Provided different or separate services or activities unless it is necessary to do so for the service to be as effective as those provided to others;
- Otherwise limited in the enjoyment of any right, privilege, advantage, or opportunity offered to others.

It is also important to know that a qualified person with a disability cannot be denied the opportunity to participate in programs with people who are not disabled even if a separate program exists.

What is a qualified disability?

Section 504 defines a person with a disability as any person who:

- 1) Has a physical or mental impairment that substantially limits one or more major life activities;
- 2) Has a record of such an impairment; or
- 3) Be regarded as having such impairment.

What is a physical or mental impairment?

This means 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; genito-urinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder; such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. This list is not exhaustive.

What are major life activities?

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The ADA Amendments provided examples of other general activities that are major life activities such as eating, sleeping, standing, lifting, bending, reading, concentrating, thinking and communicating.

What does this mean for my child who has a disability?

Programs which receive money from the US Department of Education cannot exclude your child from participating in activities that are available to others. Equal physical access must be provided so that a student in a wheelchair or one who has limited mobility can participate with other students.

Students with qualifying disabilities must have access to both academic and extracurricular activities. These activities include intramural sports, clubs and social organizations. It also means that schools may be responsible for providing special education and related services to students who qualify as disabled under Section 504. A student that qualifies under Section 504, may be entitled to academic adjustments and related services, even though the student may not be eligible for special education under IDEA (Individuals with Disabilities Education Act).

School accommodations may include

extended time for work completion, substitutions for course requirements, and adaptations to the manner in which a course is conducted.

Students with a qualifying disability must be tested in a non-discriminatory manner that reflects their achievement in the course, rather than their disability –related limitations.

Which disabilities are recognized?

Disabilities that are recognized under Section 504, if limitation in one or more major life functions exist, are:

- Attention disorders
- Cerebral palsy
- Epilepsy
- Muscular dystrophy
- Multiple sclerosis
- Cancer
- Diabetes
- Heart disease
- HIV/AIDS
- Specific learning disabilities, such as dyslexia or dysgraphia
- Alcohol and drug addictions
- Rheumatoid arthritis
- Asthma,
- Severe allergies and
- Cystic fibrosis.

Mitigating Measures

The term “major life activity” should be broadly interpreted to protect more people, rather than fewer. Even if a person has a disability or health condition that occurs only periodically (such as ADHD, depression, asthma, allergies, or diabetes), or is in remission (such as cancer), can trigger ADA protections when they are active. The 2008 ADA amendments do not allow the use of “mitigating measures” in determining whether a person has a disability, except for the use of glasses or corrective lenses if they fully correct the vision problem. “Mitigating measures” include interventions such as medication, prosthetics,

hearing aids, medical equipment, assistive technology or accommodations. This means that a person can still be protected as having a disability even if they take medication that usually removes most of their symptoms, such as students who take medication for ADHD, asthma, diabetes, or serious allergies. Mitigating measures include, but are not limited to, medication, prosthetics, hearing aids, medical equipment, learned behavioral or adaptive neurological modifications, assistive technology or accommodations.

What do I do if I think my child is being discriminated against?

Any person who has a complaint that discrimination on the basis of disability exists in any program funded with federal funds may notify the Office for Civil Rights (OCR). In Wyoming, a written complaint should be filed with:

Region VIII Office for Civil Rights
U.S. Department of Education
Cesar E Chavez Memorial Bldg
1244 Speer Blvd., Suite 310
Denver, CO 80204-3582
(303) 844-5695

Letters of complaint should explain:

- 1) Who was discriminated against;
- 2) In what way;
- 3) By whom or what institution;
- 4) When the discrimination took place;
- 5) Who was harmed;
- 6) Who can be contacted for further information;
- 7) The name, address and phone number of the complainant;
- 8) Background information.

OCR will review only those actions which occurred within six months (180 days) of the date a complaint is filed.

**For more information about
SECTION 504;
Contact:**



Parent Information Center

500 W. Lott St, Suite A
Buffalo, WY 82834
(307) 684-2277 (v/tdd)
tdawson@wpic.org
www.wpic.org

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Disability Brochure #15



**Of the Vocational
Rehabilitation Act of 1973
with the Americans With
Disabilities Act Amendments of
2008 (ADAAA)**

Parent Information Center
1-307-684-2277

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