

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (hereinafter Section 504) is a federal law prohibiting discrimination on the basis of disability. It applies to any entity that receives federal funding. Section 504 is similar to federal laws prohibiting discrimination in federally funded programs on the basis of race, national origin and gender. Public school districts and independent schools that directly or indirectly receive federal funds must comply with Section 504 both as providers of education to children and as employers.

Recipients of federal funds (hereinafter referred to as recipients) are individually responsible for compliance with Section 504. If an individual feels that he or she has been subjected to unlawful discrimination by a Vermont school district or independent school, he or she may ask the U.S. Department of Education's Office for Civil Rights to investigate and enforce compliance with this law.

SUMMARY OF SECTION 504

Section 504 prohibits discrimination on the basis of disability. The Rehabilitation Act itself states the nondiscrimination standard:

“No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The regulations adopted by the U.S. Department of Education, Office for Civil Rights (OCR) to govern the enforcement of Section 504 elaborate on this standard by prohibiting certain “discriminatory actions.” Among the actions prohibited by the regulations are the following:

- Denying a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit or service provided by an entity covered by the Act;
- Affording a qualified person with a disability an opportunity to participate that is not equal to that afforded others;
- Providing a qualified person with a disability an aid, benefit, or service that is not as effective as that provided to others;
- Providing different or separate benefits or services to qualified persons with disabilities or to any class of qualified persons with disabilities unless such action is necessary to provide benefits or services that are as effective as those provided to others;
- Aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization or person that discriminates on the basis of disability in providing any aid benefit or services;
- Otherwise limiting a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others.

Section 504 in the Classroom

Students with a documented disability who do not otherwise qualify for Special Education *may* qualify for a Section 504 Plan. The purpose of a 504 Plan is to document the existence and nature of a student's disability and how that disability impacts the student's *access to education*. In addition to describing the disability itself, the Section 504 Plan will include modifications, accommodations and services that are necessary to ensure that the student has equal access to the educational facility and instructional content.

The determination for eligibility for a Section 504 Plan is the responsibility of the 504 Team, at the direction of the school's 504 Coordinator. The makeup of the 504 Team depends on the nature of the student's need, including the child's classroom teacher(s), and at least one person who has specific knowledge of the child's disability. For example, the school nurse would typically be involved in a medical disability, whereas a special educator would be involved when he or she conducted one or more assessments that identified a learning disability that did not otherwise qualify the student for an Individualized Education Plan (IEP).

However, it is not the case that students who were evaluated for special education, found to have a disability, but did not otherwise meet eligibility criteria for special education are *automatically* eligible for a Section 504 Plan. In that case, as with all others, it is the responsibility of the school's Section 504 Coordinator to determine eligibility for 504 and, if the student is eligible, to develop a 504 Plan that documents eligibility in accordance with federal and state regulations.

Parents or other caregivers may provide information to the school identifying the existence of a disability or medical condition that warrants the development of a Section 504 Plan. If a parent presents you with documentation related to a disability or medical condition that might fall under the criteria of Section 504, you as the classroom teacher should forward that information immediately to the school's Section 504 Coordinator.

If a student has a Section 504 Plan, the classroom teacher is required to follow its guidelines, including the implementation of any documented accommodations and/or modifications to instruction that are prescribed in the plan.