



AFC'S GUIDE TO

Section 504

February 2016



Advocates for Children of New York
Protecting every child's right to learn

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This guide does not constitute legal advice. This guide attempts to summarize existing policies or laws without stating the opinion of AFC. If you have a legal problem, please contact an attorney or advocate.

INTRODUCTION

As the parent of a child in a NYC public school, you may be familiar with the special education system. What you may not know is that children with disabilities may also be entitled to services and accommodations through a federal law called “**Section 504 of the Rehabilitation Act of 1973**,” or “Section 504.” This law can be especially helpful to you and your child if your child has a disability and:

1. Does not qualify for special education services, or
2. You do not want to go through the special education system to get services or accommodations for your child, or
3. Your child requires additional supports or services that are not provided through the special education system.

Because Section 504 is not widely used in NYC public schools, AFC has written this guide to explain:

1. What is Section 504?
2. What accommodations and services could a student receive under Section 504?
3. How do you get Section 504 services and/or accommodations in NYC?
4. What are your rights under Section 504?
5. How can you enforce these rights?



WHAT IS SECTION 504?

Section 504 of the Rehabilitation Act of 1973 is a **federal civil rights law** that makes it illegal for any program receiving federal funds to discriminate against people with disabilities. Because the New York City public schools receive federal funding, New York City public schools cannot discriminate against children with disabilities. Section 504 also requires public schools to provide students with disabilities free appropriate public educations.

WHAT KINDS OF DISABILITIES ARE COVERED BY SECTION 504?

Under Section 504, a student is considered to have a disability if the following conditions are met:

1. The student has a **physical or mental** impairment.
2. The impairment affects a **major life activity**. Major life activities include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities can also be bodily functions including functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and/or reproductive functions.
3. The impairment must **substantially limit** the major life activity. The limiting nature of the impairment should be considered without any treatment or assistive measures, except for glasses and contacts.

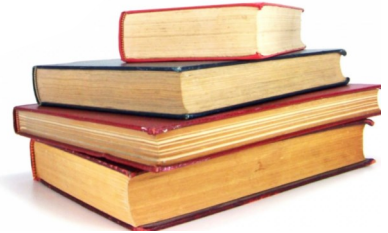
Some commonly covered disabilities of students:

- Asthma
- Attention Deficit Disorder (ADD)/
Attention Deficit Hyperactivity
Disorder (ADHD)
- Auditory or visual processing delays
- Cancer
- Depression
- Diabetes
- Dyslexia
- HIV/AIDS
- Limited or no eyesight or hearing
- Medically fragile children
- Mobility issues or physical disabilities
- Severe allergies/chemical sensitivities

HOW DOES SECTION 504 HELP CHILDREN IN PUBLIC SCHOOLS?

Section 504 means two important things for students in public schools:

1. A public school or school district **cannot discriminate** against a child with a disability, and
2. A child with a disability can get reasonable **accommodations and services** so that he/she can participate in and benefit from all federally-funded school programs and activities to the same extent as children without disabilities.



WHAT KINDS OF SERVICES AND ACCOMMODATIONS CAN MY CHILD GET UNDER SECTION 504?

Section 504 services and accommodations might be very simple. For example, a child with writing challenges might need a pencil grip or computer for writing assignments. On the more complicated side, a child with a severe seizure disorder may need a nurse to travel with her on the school bus and to assist during school, or a child with Attention Deficit Disorder may need an aide (also called a para-professional) to help him stay focused on his school work.

Depending upon how knowledgeable your school's Section 504 Coordinator is, some of the services and accommodations for your child may be easier to get than others. Section 504 is most often used in New York City to allow schools to give students needed medications during the school day. If your child needs accommodations in the classroom, you may find that schools are less familiar with the law and you may have to educate your school about Section 504. To get accommodations and/or services that will cost the school district money, you should be prepared to provide detailed documentation and use your due process rights to fight for those accommodations.

Examples of Some Services and Accommodations

*Below are listed **some** accommodations and services that can be available under Section 504. These examples are intended to give you an idea of possible accommodations and services available under Section 504 and is by no means a complete list.*

FOR STUDENTS WITH MEDICAL NEEDS

- Getting medicine during the school day.
- Receiving periodic blood tests for blood sugar levels.
- Using a nebulizer.
- Removing particular allergens such as food, chalk, bleach, or pesticides.
- Learning in a chemical-free environment (for chemical sensitive students).

FOR STUDENTS WITH PHYSICAL DISABILITIES

- Use of the school elevator or wheelchair lift.
- Modified participation in gym or adaptive physical education.
- Assistance of a health para-professional in school and/or on the bus.
- Use of a computer or other needed technology.

FOR STUDENTS WITH LEARNING DISABILITIES

- Use of a tape recorder or calculator.
- Testing accommodations, such as: having test directions and/or questions read aloud; more time to complete tests; or taking tests in quiet locations.
- Adjustments to high school diploma requirements.

FOR STUDENTS WITH EMOTIONAL OR OTHER BEHAVIORAL DISABILITIES

- Modified classroom schedule.
- Behavior intervention plan.
- Assistance of a para-professional.
- Access to a guidance counselor or social worker.

Accommodations for Graduation

Although students must pass 5 Regents exams with scores of 65 or higher to graduate with a Regents diploma, a state provision known as the “Safety Net” allows students with disabilities to earn local diplomas with Regents scores between 55 and 64, or in some cases students can use the “Compensatory Safety Net” option with scores between 45 and 54. For details on the Safety Net, see www.p12.nysed.gov/special/publications/safetynet-qa.htm. The Safety Net applies automatically to students with IEPs. If a student has a disability, but does not have an IEP, the student must have a Section 504 plan that states that the Safety Net applies to be eligible for this graduation option.

WHY MIGHT I REQUEST SECTION 504 SERVICES INSTEAD OF SPECIAL EDUCATION SERVICES?

Some good reasons why you may want to consider using Section 504:

1. **Many children with disabilities do not qualify for special education.** They may not fit into one of the 13 defined disabling conditions included in special education law, or they may not need any special services to be able to learn. Nonetheless, a child with a disability may be entitled to services or accommodations under Section 504. For example, a student who cannot walk and needs to use a wheelchair may not need any specialized educational instruction or services, but would be entitled to have building access via the installation of a ramp (or some other accommodation). Another common example is of a child with a specific reading disability (such as dyslexia) who is able to read on grade level, but still reads very slowly. Even if the Committee on Special Education (CSE) does not classify him as "learning disabled" via special education, he may be entitled to testing accommodations, such as extra time to take tests, under Section 504.
2. A student may qualify for both special education services and Section 504, but **some parents prefer using Section 504 because they feel they have more control** over the process. By seeking services and accommodations through Section 504, a parent may get support for his/her child in a general education setting.

NOTE — A student who receives special education services through an IEP is also protected by Section 504. Therefore, she may not be discriminated against due to her disability, and she is entitled to reasonable accommodations and services. Because special education-classified students typically receive services and accommodations through the special education system, they do not need to apply separately for the same services via Section 504.

To learn more about special education in New York City, please see AFC's "**Guide to Special Education**," available on our website, www.advocatesforchildren.org, in English, Spanish, Bengali, and Chinese.

HOW DO I GET SECTION 504 SERVICES OR ACCOMMODATIONS FOR MY CHILD?

Although the law says that schools have a duty to identify children who may need Section 504 assistance and to evaluate those students for their needs, in New York City, parents almost always have to take the first step. To get Section 504 services or accommodations:

For medical disabilities:

You must have a licensed doctor fill out a form describing your child's condition and the medical services that he/she requires during school hours. For distribution of medicine, you need to submit a *Medication Administration Form*. For services other than medication, you must submit a *Provision of Medically Prescribed Treatment Form*. For services related to diabetes monitoring, you must submit a *Diabetes Medication Administration Form*. All of these forms are available on the DOE's website: <http://schools.nyc.gov/offices/health/schoolhealthforms/default.htm>.

For physical or learning disabilities:

You must have a licensed doctor (for physical disabilities) or a trained evaluator (for learning disabilities) fill out a form describing your child's condition and the services that he/she requires. This form is called a *Request for Section 504 Accommodation* (s). This form is also available on the DOE's website: <http://schools.nyc.gov/offices/health/schoolhealthforms/default.htm>.

Include all of the accommodations that you are requesting on your form.

Once you have completed the appropriate form, write to your child's principal requesting Section 504 services, and submit a copy of the form, evaluations, and other relevant documents. Make sure to **make the request in writing** and to keep a **copy** for yourself. **Get confirmation** from the school that they have received it. If you fax your request, get a fax confirmation sheet. If you mail or email it, do so via certified mail and request a return receipt. If you submit it in person, obtain a date-stamped receipt.

TIP:

To find an evaluator, you can either consult your child's doctor, your insurance company's list, or call AFC's Education Helpline and ask for a list of evaluation sites. It is important that you speak with the evaluator before the evaluation and explain that you are trying to get Section 504 accommodations and that the report and form are important factors in whether the accommodations request will be approved. The evaluator should write a report with his/her diagnoses and recommendations. You should also ask the evaluator to complete the *Request for Accommodations Under Section 504* form.

HOW DOES THE SCHOOL DETERMINE IF MY CHILD IS ELIGIBLE FOR SECTION 504 ACCOMMODATIONS?

Whether or not a student is eligible for Section 504 services or accommodations is determined at a **Section 504 Team Assessment Meeting**. This meeting is to be scheduled within 30 school days of receipt of an initial written request for Section 504 services or a written request for a change to a student's plan, if he/she already has one. You must receive written notice of the meeting at least 5 days before it takes place.

At the meeting, the Section 504 Team must consider all available information (evaluations, progress reports, report cards, health information, disciplinary records, test scores, teacher's comments, and parent input). Based on the review of these records, the team will determine if the student is eligible for services under Section 504.

If the student is found to be eligible for services, the Section 504 Team will also decide what accommodations the student needs in order to participate in school. These services will be included in a **Section 504 Accommodations Plan**, which specifies the recommended accommodations, the names and titles of the Section 504 Team, and the documents considered in making the decision. (See page 6 for examples of services and accommodations under Section 504.) If the student is found not to be eligible for services and accommodations are denied, the school must notify you in writing on how to appeal the decision.

The Section 504 Team includes:

- The student's parent;
- At least one person familiar with the student's disabilities;
- At least one person able to interpret the student's evaluations;
- At least one person who knows about the services available to meet the student's needs; and
- The Health Director for the child's school for cases where extra services are being considered.

Also note that:

- In addition to the parent, there must be at least two additional members in the team, as long as they meet the requirements listed above.
- Team members may participate in the meeting in person or over the phone.
- If possible, school staff (teachers, psychologists, nurses) should participate. The parent may invite other people familiar with the student's disabilities to the meeting.
- The Team can hold the meeting and make decisions without the parent, if the parent was notified of the meeting and he/she does not attend or declines to attend. At least two attempts to notify the parent should be made before a meeting is held without him/her.

WHAT HAPPENS IF THE SCHOOL DOES NOT APPROVE MY REQUEST FOR ACCOMMODATION FOR MY CHILD?

If the school denies your child's requested services and you want to challenge the decision, you can:

1. REQUEST A REVIEW.

You have the right to ask the Health Director in the Borough Field Support Center in which your child's school is located to review the decision made by the School-based Section 504 Coordinator or the School-based Section 504 Team. You will need to make the request in writing within 10 school days of receiving written notice that the accommodation request has been denied. The Health Director is required to give you a written decision within 15 days of receiving your request for review.

NOTE — Although the review process is offered in the Chancellor's Regulations, advocates have found that the process is generally ineffective. If you are concerned about time deadlines, you can skip this step and move onto the next step, a due process hearing.

2. REQUEST A DUE PROCESS HEARING.

If you receive a negative decision from the Health Director, you should receive instructions about how to appeal that decision by filing a request for an Impartial Due Process Hearing. You will need to appeal within 10 school days of receiving the Health Director's decision. The hearing is a formal process during which you will be able to contest the school's decision. You have the right to bring an attorney or advocate to represent you, to present evidence and testimony, and to question the school's witnesses. Your complaint will be decided by an impartial hearing officer. If you or the school disagree with the hearing officer's decision, the appeal is made directly to federal district court.

DUE PROCESS refers to your right to make a complaint and have a hearing if the school makes a decision about your child's right to Section 504 services with which you disagree.

3. FILE A FEDERAL COMPLAINT.

If the services you are seeking are not related to special education services, then you may have the option to request relief directly from federal court. We suggest that you seek the advice of an attorney before proceeding.

4. FILE AN OCR COMPLAINT.

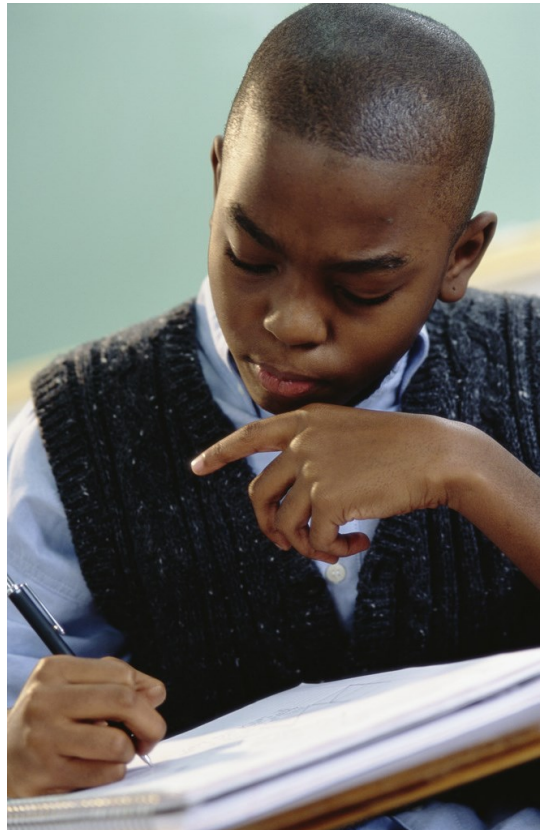
You may also file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR). OCR will investigate your claim. You may file an OCR complaint even if you pursue the other options described above.

**For NYC students,
hearing requests
should go to:**

NYC Department of Education
Impartial Hearing Office
131 Livingston Street, Room 201
Brooklyn, NY 11201
Phone: 718-935-3280
Fax: 718-391-6181

**OCR Complaints
should go to:**

New York Office
Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Phone: 646-428-3800
Fax: 646-428-3843
Email: OCR.NewYork@ed.gov



DOES SECTION 504 APPLY TO PRIVATE AND PAROCHIAL SCHOOLS OR ANY OTHER PROGRAMS?

Sometimes. **Any group that receives federal financial assistance, directly or indirectly, must comply with the Section 504 requirements** or risk losing federal funding. Groups receiving federal funding may include private schools, nurseries, day care centers, community based organizations, summer camps, after school programs, and special events. If your child has been denied services or access to a federally funded program because of his/her disability, you may file a complaint with the Office for Civil Rights (see page 11 for contact information) or file a complaint in federal court (we suggest asking for advice from an attorney first).



DOES SECTION 504 APPLY TO POSTSECONDARY SCHOOLS?

Section 504 applies to colleges and universities that receive federal financial assistance. Another anti-discrimination law, the **Americans with Disabilities Act (ADA)**, applies to state colleges and universities. Both laws provide that qualified individuals with disabilities may not be excluded from participation, denied benefits, or otherwise subjected to discrimination on the basis of disability.

The meaning of “qualified individual with a disability” is different on the postsecondary level. A qualified individual with a disability in a postsecondary institution must meet the academic and technical requirements for participation in the institution’s educational program or activity. The type of accommodations available in postsecondary schools are generally more limited than the accommodations available in lower grades. In getting accommodations in college, it is helpful to show the college the Section 504 Plan or IEP that was in place in high school.

A NOTE ABOUT BULLYING

Section 504 also protects children with disabilities from discrimination, including bullying and disability-related harassment. If your child is being bullied or harassed by other students or by school staff, first contact school officials. It is helpful to send any concerns to the school in writing. If you feel that your school has not taken effective action in a timely manner, you can email RespectforAll@schools.nyc.gov, or contact Advocates for Children or the Department of Education's Office for Civil Rights for help. (See contact information on page 11.)

Chancellor's Regulation A-832 establishes a procedure for filing, investigating, and resolving complaints of student-to-student bias-based harassment, intimidation, and/or bullying. A-832 can be found at: <http://schools.nyc.gov/RulesPolicies/ChancellorsRegulations/default.htm>.

HOW CAN I LEARN MORE ABOUT SECTION 504?

Helpful Resources:

- New York City Department of Education Chancellor's Regulation A-710: Section 504 Policy and Procedures for Students: <http://schools.nyc.gov/NR/rdonlyres/381F4607-7841-4D28-B7D5-0F30DDB77DFA/97054/A710120201FINAL1.pdf>
- United States Department of Education Office for Civil Rights: <http://www2.ed.gov/about/offices/list/ocr/504faq.html>
- Council of Parent Attorneys and Advocates: <http://www.copaa.net/>
- Wrightslaw: <http://www.wrightslaw.com/info/sec504.index.htm>

If you need further information on Section 504 in schools, or if you run into barriers while trying to get 504 accommodations in schools and need guidance, please call Advocates for Children's Education Helpline at 866-427-6033.

CONTACT INFORMATION

For questions, concerns, or complaints beyond the school-level, you may contact the following services:

- The Superintendent of your child’s school
- The Mayor’s Citywide Service Hotline: 311
- The Division of Family and Community Engagement: (212) 374-4118

You may also contact your **Borough Field Support Center Health Director**. The Health Director for each borough is listed below:

Borough	Districts	Health Director	Phone & Email
Bronx	7, 8, 9, 10, 11, 12	Eileen Cotter	718-828-2930 ECotter@schools.nyc.gov
Brooklyn North	13, 14, 15, 16, 19, 23, 32	Neil Somerfeld	718-935-3663 NSomerf@schools.nyc.gov
Brooklyn South	17, 18, 20, 21, 22	Raymond Johnson	718-630-1692 RJohnson28@schools.nyc.gov
Manhattan	1, 2, 3, 4, 5, 6	Alison Zucker	212-356-7530 AZucker6@schools.nyc.gov
Queens North	24, 25, 26, 30	Carine Jean-Pierre	718-391-8572 CPierre@schools.nyc.gov
Queens South	27, 28, 29	Amrita Harbajan	718-348-2956 AHarbajan@schools.nyc.gov
Staten Island	31	Stephanie Caloir	718-556-8383 SCaloir@schools.nyc.gov
Affinity Schools		Norberto Perez	718-935-3891 NPerez4@schools.nyc.gov

OFFICE OF SCHOOL HEALTH

Name	Phone & Email	Address
Roger Platt, MD <i>Chief Executive Officer</i>	347-396-4751 RPlatt2@schools.nyc.gov	2 Gotham Center, CN#25 42-09 28th Street, 11th Fl. Queens, NY 11101
Cheryl Lawrence, MD <i>Medical Director</i>	347-396-4715 CLawrence3@schools.nyc.gov	
Catherine Travers, RN <i>Director, School Nursing</i>	347-396-4714 CTravers@schools.nyc.gov	
Lindsey Harr <i>Executive Director, Office of School Wellness Programs</i>	212-374-0254 LHarr@schools.nyc.gov	52 Chambers St., Rm. 209 New York, NY 10007
Scott Bloom, LCSW <i>Director of School Mental Health Services</i>	212-374-6846 SBloom5@schools.nyc.gov	52 Chambers St., Rm. 209 New York, NY 10007
Gary Krigsman, MD <i>Director, Office of Health Services</i>	718-391-6117 GKrigsman@schools.nyc.gov	28-11 Queens Plaza North Long Island City, NY 11101



Contact information last updated February 2016

<http://schools.nyc.gov/Offices/Health/default.htm>



Our Mission

AFC promotes access to the best education New York can provide for all students, especially students of color and students from low-income backgrounds. We use uniquely integrated strategies to advance systemic reform, empower families and communities, and advocate for the educational rights of individual students.

Still have more questions?

Please Call

The Jill Chaifetz Education Helpline

Monday through Thursday

10AM to 4PM

866-427-6033 (toll free)

Advocates for Children of New York, Inc.

151 West 30th Street, 5th Floor

New York, NY 10001

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