

**PARENT AND STUDENT RIGHTS UNDER SECTION 504, THE AMERICANS WITH
DISABILITIES ACT OF 1973 and AMERICANS WITH DISABILITIES ACT AMENDMENTS
ACT OF 2008**

Section 504 of the Americans with Disabilities Act of 1973 and its subsequent amendments of 2008, is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that students with disabilities have educational opportunities and benefits equal to those provided to nondisabled students.

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment which substantially limits one or more major life activities such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, reading, thinking, concentrating and performing manual tasks. The determination of whether or not a student has a physical or mental impairment that substantially limits a major life activity is made on the basis of an individual inquiry.

Dual Eligibility: Many students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act (IDEA). Students who are eligible under the IDEA have many specific rights that are not available to students who are eligible solely under Section 504. "Parents Rights in Special Education" (PRISE) is a handbook prepared by the New Jersey Department of Education and is available through the school district's Special Education Department. PRISE defines the rights assured by the IDEA. The purpose of this document is to define the rights assured by Section 504 to those students with disabilities who do not qualify under the IDEA.

The enabling regulations for Section 504, as written in §34 CFR Part 104, provide parents and/or students with the following rights:

1. You have a right to be informed by the school district of your rights under Section 504. (The purpose of this document is to advise you of those rights.) §34 CFR 104.32
2. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. §34 CFR 104.33
3. Your child has the right to free educational services except for those fees that are imposed on nondisabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. §34 CFR 104.33
4. Your child has a right to placement in the least restrictive environment. §34 CFR 104

5. Your child has a right to facilities, services, and activities that are comparable to those provided for nondisabled students. §34 CFR 104.34
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. §34 CFR 104.35
7. Testing and other evaluation procedures must conform to the requirements of §34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The district shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, and anecdotal reports. §34 CFR 104.35
8. Placement decisions must be made by a group of persons (i.e. the Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for the least restrictive environment and comparable facilities. §34 CFR 104.35
9. If eligible under Section 504, documentation of your child's disability shall be validated at least every three years or more frequently if necessary. §34 CFR 104.35
10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. §34 CFR 104.36
11. You have the right to examine relevant records. §34 CFR 104.36
12. You have the right to an impartial hearing with respect to the district's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. §34 CFR 104.36
13. If you wish to challenge the actions of the district's Section 504 Committee in regard to your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with the district's Section 504 Compliance Officer within fifteen (15) calendar days from the time you received written notice of the Section 504 Committee's action(s). A hearing will be scheduled before an impartial hearing officer and you will be notified in writing of the date, time, and place of the hearing.
14. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. §34 CFR 104.36

15. On Section 504 matters, other than your child's identification, evaluation, and placement, you have a right to file a complaint with the district's Section 504 Compliance Officer (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.

16. You also have a right to file a complaint with the Office of Civil Rights. The address of the Regional Office, which covers New Jersey is:

Region II
New Jersey, New York, Puerto Rico, Virgin Islands
Office for Civil Rights, Region II
U.S. Department of Education
26 Federal Plaza
33rd Floor, Room 33-130, 02-1010
New York, NY 10278-0082
212-264-4633 TDD 212-264-9464

Frank A. Mauriello
Section 504 Compliance Officer
973-571-2029, Ext. 7512