

Section 504, ADA, and South Hills

Section 504 and ADA: Preventing Disability Related Discrimination

Students with disabilities have their civil rights protected by *Section 504 of the Rehabilitation Act of 1973* (Section 504) and the *Americans with Disabilities Act of 1990* (ADA). The major difference between the two laws is that Section 504 only applies to organizations who receive federal financial assistance, while ADA expands the protections to include private organizations.

Definition of an Individual with a Disability

Under Section 504 and ADA laws, a person with a disability is described as:

1. Having a physical or mental impairment that **substantially** limits one or more of a person's major life activities , or
2. Having a record of such an impairment, or
3. Being regarded as having such an impairment.

Types of Impairments

Physical Impairment—any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems: neurological, musculoskeletal, sensory organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

Mental Impairment—any mental or psychological disorder, such as mental retardation, organic brain syndrome, mental illness, or specific learning disability.

Substantially Limits—being unable to perform or being significantly limited in ability to perform a major life activity when compared to the average person in the general population.

Major Life Activities—functions such as caring for one’s self, seeing, hearing, speaking, breathing, learning, working, and participating in community activities.

Disabling Conditions (examples)—include previous disabilities identified in K-12 special education programs (e.g., learning disabilities, mental retardation, serious emotional disturbance), AIDS, cancer, alcohol or drug addiction (so long as the student is not a current user), environmental illness, attention deficit disorder, diabetes, asthma, physical disabilities, psychological disorders, etc. **The condition must substantially limit a major life activity.**

Differences between Secondary Education and Higher Postsecondary Education

Education Level	K - 12 (School years between Kindergarten and the End of High School)		Higher Education/Postsecondary Education
Pertaining Laws	IDEA (Individuals with Disabilities Education Act of 1997)	Section 504 (of the Rehabilitation Act of 1973)	<ul style="list-style-type: none"> • Section 504 (of the Rehabilitation Act of 1973) • ADA (Americans with Disabilities Act of 1990)
Student Success	Student success is more of a right.	Student success is not guaranteed.	Student success is not guaranteed. Student is responsible for their own success.
Who is responsible for identifying and documenting the student's disability?	The school district identifies the student's disability.	The parent/guardian and/or agency representative provides documentation of the student's disability.	The student provides appropriate documentation of their disability and specific needs for accommodation(s). The Disability verification must be current and any accommodation will be based on the student's educational limitations.
Who is financially responsible for evaluating the disability?	Free evaluation of the student's disability.	The parent is responsible for the evaluation of the student's disability.	It is the student's financial responsibility to take care of the evaluation of the disability.
Who identifies the student's educational needs?	The district develops an IEP (Individual Education Plan) for the student.	The parent and the school work together to develop a plan for the student.	The student identifies his/her own accommodation needs.
Who ensures that the educational goals are met?	The district ensures that the IEP is implemented and the goals are met	The district/school/parent are responsible for implementation of the educational plan and ensuring that the goals are met.	The student is responsible for their own goals and progress.

Who advocates for the student's needs?	The teacher, guardian, or agency representative is the advocate.	The teacher, guardian, agency representative and/or student are the advocate.	The student advocates for themselves.
What allowances are made in student accommodations?	Fundamental alterations are allowed to the: 1. Program of Study 2. Graduation Requirements 3. Instructional Methods	Fundamental alterations to the program of study are permitted as identified on the 504 plan.	Accommodations may NOT alter the: 1. Fundamental nature of degree applicable courses, 2. Degree requirements, 3. Instructional methods. Accommodations may NOT impose an undue burden on an institution.
Are personal services provided?	Personal services, such as: off campus transportation, personal attendant, nurse are provided for the student.	Personal services are the student's responsibility. None are provided.	Personal services are the student's responsibility. None are provided.
Is there transportation to school?	Depending on Handicapping Condition.	No.	No.