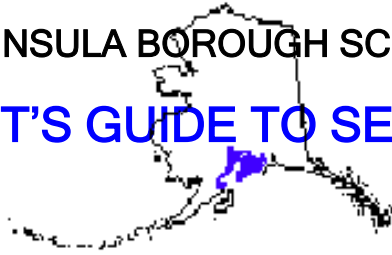


# KENAI PENINSULA BOROUGH SCHOOL DISTRICT

## PARENT'S GUIDE TO SECTION 504



*This brochure is distributed by Kenai Peninsula Borough School District to inform parents and the community about Section 504 of the Employee Rehabilitation Act which prohibits discrimination against students because of a disability.*

### What is “Section 504”?

Section 504 of the Employee Rehabilitation Act is a civil rights act prohibiting discrimination based on disability both in the workplace and in public schools. It was enacted to eliminate physical barriers, policies, and practices that deny persons with disabilities access to facilities or participation in programs. In the Kenai Peninsula Borough School District (KPBSD), all staff and administrators have the responsibility of ensuring that all students with qualifying disabilities are identified, evaluated and provided with accommodations and services needed for a free appropriate public education (FAPE). These accommodations and services focus on the limitations or restrictions imposed by the disability so that the student gains educational benefit. Courts have interpreted “educational benefit” to mean progress through the curriculum. The necessary services and accommodations are part of the student’s public education and are therefore provided at no cost to the parents. They must be provided in an environment that allows the student exposure to nondisabled peers when possible.

### What is the difference between “special education” under IDEAA and Section 504?

#### **Section 504:**

- A civil rights act prohibiting discrimination based on disability and mandating equal academic and physical access as well as opportunities to participate similar to non-disabled students.
- Unlike services offered through IDEA, school districts receive no additional federal or state funding to help them comply with Section 504 mandates.

#### **IDEAA:**

- Commonly referred to as “Special Education”, this is an education law which provides individualized education programming (IEP) including needed additional services to achieve a Free Appropriate Public Education (FAPE) beyond what is provided to persons without disabilities.
- IDEA covers children and adolescents with specific types of disabilities who require specially designed instruction to make progress.

### What is a “disability” under section 504 and how are students with disabilities identified?

Section 504 defines “disability” as a physical or mental condition which substantially limits or impairs a major life activity such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, working, focusing, concentrating, or learning (this is not an exhaustive list). Section 504 does not specifically list

or define all the possible qualifying disabilities like IDEA does. Congress has provided a non-exhaustive list of examples including:

- diseases and conditions involving orthopedic, visual, speech, and hearing impairments;
- cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, drug addiction and alcoholism (providing the person is in treatment), HIV/AIDS;
- learning disabilities, ADD/ADHD, mental retardation, emotional illness,;
- cystic fibrosis, severe allergies and asthma.

In all cases, determining a student is eligible under section 504 focuses on whether the condition or impairment substantially limits a major life activity. "Substantial" in this case means the person is unable to perform the activity at a level or similar to an average person in the general population. If your child has a substantially limiting condition that is likely to last more than 6 months or has a severely limiting impairment/condition or if you suspect he/she may have a disability, then you should inform your child's teacher, principal, or building 504 Coordinator. Following a referral, a 504 team will be formed which will nearly always include you. After examining the data and possibly deciding to conduct further evaluation with your permission, the team will convene to discuss your child's eligibility.

## SECTION 504 EVALUATIONS

"Evaluation" means gathering and reviewing information from a variety of valid, qualified sources using appropriate methods. This typically includes teacher reports, grades, standardized test scores, attendance and discipline reports, information from parents, in the case of medical conditions getting information from medical providers, in the case of psychological or emotional conditions getting information from licensed mental health professionals, etc.

## THE "504 TEAM"

The 504 team must include people who are knowledgeable about the child, the type of suspected disability, the data needed and being reviewed, and the accommodations which might be considered. Parents play an important role in this process.

It is not unusual for a school to receive a medical or psychological provider's letter stating that a student has a disability and needs certain accommodations. While the 504 teams carefully consider the recommendations of medical and mental health providers who work with the student, it remains the school's responsibility to determine 504 eligibility after reviewing multiple sources of information and to implement any necessary accommodations the student needs to make adequate progress. Having a physical or mental disorder does not automatically qualify a student under Section 504.

## SERVICES AND ACCOMMODATIONS

If a student is found to have a disability (under Section 504) that substantially impacts a major life activity, the 504 team will determine the student's educational needs and an accommodation plan will be developed.

Section 504 requires that disabled students be placed and receive services in the least restrictive environment where they can make adequate progress. Most accommodations are provided in the regular education classroom. Eligibility status and 504 plans

must be reviewed annually by district policy and their implementation as well as effectiveness monitored each semester. They may also be reviewed more frequently if the 504 team determines this is necessary.

Accommodations focus on minimizing the impact of the student's disability and meeting the unique needs of the student to prevent discrimination and provide a Free Appropriate Public Education (FAPE). They are determined individually for each student. Examples include:

- preferential seating to minimize distractions for a student with ADHD or similar condition;
- preferential seating for a student with visual impairment

- opportunities to snack as needed or leave class to go to the nurse and have their blood sugar checked for diabetic students

### **WHEN A 504 PLAN IS NOT APPROPRIATE:**

- A student has a disability, but is functioning well and making academic progress without accommodations, the student does not need a 504 accommodation plan. This might include a student whose parent feels could be making A's rather than C's; or a student who only experiences difficulty in one subject area and the team determines the difficulty is not a function of the disability.
- When a plan is created solely to support a request for extended time on standardized tests such as HSGQE or college board exams such as SAT's, ACT's. A student must also require and routinely receive the accommodation in their regular classroom tests.
- When a student is eligible for services under the Individuals with Disabilities Educational Act (IDEA) but the parents prefer Section 504 services. Students in KPBSD who meet the eligibility criteria for special education under IDEA will be offered an IEP and not a section 504 Accommodation Plan.

### **PARENTS' RIGHTS UNDER SECTION 504:**

- Have your child take part in, and receive benefit from, public education programs without discrimination based on disability.
- Have the school advise you of your rights under federal disability law.
- Receive notice and examine records with respect to the identification, evaluation, and placement of your child.
- Have your child receive a free appropriate public education (FAPE) that provides education benefit. This includes the right to be educated with other nondisabled children to the greatest extent possible. It also includes the right to have the school make reasonable accommodations to allow your student an equal opportunity to participate in school related activities.
- Have evaluation, educational and placement decisions made based upon a variety of information sources, and by individuals who know your child, the disability, the evaluation data and placement options.
- Request a due process hearing and/or the assistance of a mediator to help resolve issues with the school's decisions.
- File a formal complaint with the Office for Civil Rights (OCR).

### **FOR MORE INFORMATION CONTACT:**

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U.S. Department of Education, Office for Civil Rights  
206-607-1600  
OCR\_Seattle@ed.gov

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