



# *Specialized Training of Military Parents*

## *(STOMP)*

*1-800-572-7368 (v/tty)*

FACT SHEET #10

## Section 504

### Nondiscrimination Rehabilitation Act of 1973

Section 504 at Reg. 104.4 states:

*“No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefit of, or otherwise be subjected to discrimination, under any program or activity which receives benefits from Federal Financial Assistance.”*

Established in 1973 and based on Civil Rights Legislation of 1964, Section 504 recognizes the rights of individuals with disabilities to receive the same level of benefits as those individuals without disabilities. When we mention “Section 504” we mean Section 504 of PL 93.112, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal Financial Assistance.

#### **Who is included in Section 504 definition?**

Any individual who:

- Has a physical or mental disability that substantially impact on major life activities;
- Has a history of disability as defined above;
- Is suspected of having a disability;
- Is treated as if having a disability (those with short-term or temporary condition also qualify), however, districts must evaluate needs and identify services to be provided.

**A school-age child who has a disability and does not qualify for Special Education, may still be entitled to accommodations or other services in Regular Education, under Section 504.**

#### **When assessing students under Section 504:**

- Evaluation must be performed in a timely manner if disability is suspected (provision of services may not be delayed until evaluation is completed);
- Must consider all areas of needs;
- District is not required to provide an independent evaluation at public expense;
- Parental consent must be obtained for initial evaluation;
- Cannot require parents to provide medical documentation as a prerequisite for evaluation (may be provided to the school district if same documentation is required from non-disabled students to participate in activities);

- Periodic re-evaluations are required (however, no specific time frame is given);
- Re-evaluation before any change of placement;

**What is provided by Section 504?**

- |                           |   |
|---------------------------|---|
| ◆ employment practices    | ◆ health, welfare and social services           |
| ◆ postsecondary education | ◆ admissions and recruitment protections        |
| ◆ program accessibility   | ◆ preschool, elementary and secondary education |

It provides (refer to Part C & E of Section 504):

- Equal access to education as that provided to non-disabled peers;
- Provision of FAPE;
- Non discriminatory testing;
- Related aides and services, to include transportation if necessary for the provision of FAPE;
- Procedural safeguards.

**What are “accommodations” under Section 504?**

Accommodations are basic adjustments or support that may be needed by the student with a disability in order to access programs on an equal basis to their non-disabled peers. They may include: modified testing, books on tape, readers, personalized homework or assignments etc.

**Procedural Safeguards Requirements.**

Section 504 has established specific requirements concerning legal rights and the protection given by procedural safeguards. Districts are required to establish policies to insure the general public is aware of services provided under Section 504 and the ADA.

A district should evaluate the need to modify policies and practices that do not meet Section 504 requirements. Districts must take appropriate steps to insure persons with disabilities and their parents are aware of districts’ duties under Section 504.

The Office of Civil Rights (OCR) investigate complaints of alleged discrimination through a Compliant Officer.

Procedural Safeguards include (refer to Sec. 504, part D, reg. 104.36):

- ◆ Notice;
- ◆ Review of all “relevant” records;
- ◆ Impartial third party hearing;
- ◆ District’s review procedures;
- ◆ The right for parents to be represented by a counsel.

**Things to remember:**

- Section 504 is based on Civil Rights Legislation of 1964.
- IDEA has its roots in Section 504, known as PL 93.112.
- Recognizes the rights of individuals with disabilities to receive same access to services as their non-disabled peers.
- Is designed to insure qualified individuals with disabilities have access to any entities/ programs/activities who receive Federal Financial Assistance.
- Section 504 does not require an IEP.
- Requires a plan that describes the services to be provided, to include necessary accommodations.
- Provides Procedural Safeguards in case of non-compliance or violation.
- Provides a broader definition of FAPE.
- Provides protection to qualified students with disabilities, regardless if they need special education.
- May provide compensatory damages.

**For military families.**

Section 504 applies in the US and territories. This means that it applies to all US schools and the US Sec. 6 DDESS schools. In the DDESS system, Section 504 is implemented through DODI 1020.1.

It does not apply to overseas DODDS schools systems because while overseas families are on a host country agreement (Status Of Forces Agreement or SOFA law) and that means the installation is not part of a US territory, therefore Section 504 cannot be applied to such schools.

- When considering overseas assignments, families who have children with special needs should be aware that Section 504 does not apply overseas.
- When coming to the US from an overseas assignment, know that Section 504 protects all students and individuals with disabilities under the conditions above described.

*“Working Together with Military Families of Individuals with DisAbilities!”*



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