



## *School Law FYI*

# ***Top 3 Misconceptions about Section 504 Accommodations***

SHERRICE PERRY | 10.03.24

An accommodation plan under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a way for schools to support students in classrooms and activities when a disability substantially limits a major life activity.

Unlike the Individuals with Disabilities Education Act (“IDEA”), which is a federal special education law, Section 504 is a federal civil rights law that protects against discrimination. Accordingly, Section 504 plans in schools are meant to “level the playing field” and ensure that schools provide equitable services and support for students with disabilities.

There are 3 common misconceptions of Section 504 that schools should consider.

## ***1. Only certain impairments are covered under Section 504***

Unlike under IDEA where a student must be eligible under one of the 12 impairment categories to receive special education, the eligibility criteria under Section 504 offers much broader protection and is not limited to certain impairments. For a student to be eligible for Section 504’s protections, a student must demonstrate that they:

- Have a physical or mental impairment which substantially limits one or more major life activities;
- Have a record of such impairment; or
- Are regarded as having such impairment.

Schools should broadly construe the definition of disability. Additionally, the determination of whether a student has an impairment should not require extensive analysis and need not affect a student’s learning. For example, students who have conditions such as ADHD, anxiety, or depression may academically excel in school but have a disability under Section 504. It is also important to note that the “major life activity” does not have to be an activity that has central importance to a student’s daily life. Activities such as thinking, sleeping, reaching, bending, sitting, eating, or breathing are all examples of a “major life activity” under Section 504. Additionally, the disability need not completely prevent or severely restrict a major life activity. Instead, if a student’s anxiety or depression is considerably (i.e., for the most part) affecting their ability to come to school or succeed at school, then the student may be eligible for accommodations under Section 504.

## ***2. School policies and procedures that apply to all students, such as a school’s attendance policy, cannot be modified***

To ensure equal access and opportunity to participate in public education, Section 504 accommodations include reasonable adjustments and modifications to school policies that allow students with disabilities equal access to educational programming and activities. For example, if a student has depression, a modification to the school’s attendance policy may be appropriate. Schools are required to make *reasonable* modifications to school policies when such modification or adjustment is necessary to prevent discrimination on the basis of disability.

## ***3. Students who are performing in the average range academically or who have “good grades” are not eligible for Section 504 accommodations***

A request for Section 504 accommodations should never be met with an automatic “no” without consideration. Schools should consider every request in accordance with the procedural protections of Section 504. Simply because a student is not significantly below grade level or has good grades does not mean that the student does not have a disability that requires accommodations under Section 504.

When assessing eligibility under Section 504, schools should consider all of the following, not just academic concerns:

- Behavioral Concerns
- Health condition (e.g., asthma, epilepsy, diabetes)
- Food allergies
- Student is on medical leave for illness or accident
- Student was found not eligible for IDEA
- Gifted student struggling with mental health issues or medical issues

For more information on this topic, please attend Boardman Clark's complimentary [Special Education Law Learning Lunch Series](#). You can [register here](#) and are encouraged to invite other members of your district's staff to attend. Finally, if you have any questions, please contact the author of this article or contact any member of the [School Law Practice Group](#) for assistance.

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### ***Primary Author***



**Sherrice Perry**  
(608) 286-7242

## ***School Law Practice Group Members***

**Sherrice Perry**  
(608) 286-7242

**William L. Fahey**  
(608) 286-7234

**Douglas E. Witte**  
(608) 283-7529

**Steve Zach**  
(608) 283-1736

**Rick Verstegen**  
(608) 286-7233

**David P. Weller**  
(608) 286-7235

**Jennifer S. Mirus**  
(608) 283-1799

**Rhonda R. Hazen**  
(608) 283-1724

**Matthew W. Bell**  
(608) 286-7239

**Christopher T.  
Schmidt**  
(608) 286-7157

**Brian P. Goodman**  
(608) 283-1722

**Daniel T. Fahey**  
(608) 286-7216

**Eric B. Hagen**  
(608) 286-7225

**Michael C. Wieber**  
(608) 283-1797