

Procedural Safeguards under Section 504

The Rehabilitation Act of 1973, 29 USC 794, commonly referred to as "Section 504," is a non-discrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination, to ensure that students with disabilities receive a free appropriate public education, and to ensure that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities.³

An eligible student under Section 504 is a student who has, or has a record of having, or is regarded as having, a physical or mental impairment which substantially limits one or more major life activities such as learning, concentrating, thinking, eating, self-care, walking, standing, lifting, bending, seeing, hearing, speaking, communicating, breathing, working, and performing manual tasks. If a student has a physical or mental impairment which substantially limits one or more major life activities, such student is entitled to receive a free appropriate public education.

The enabling regulations for Section 504 as set out in 34 C.F.R. Part 104 provide parents and/or eligible students with the following rights:

- (27) You have the right to be informed by ALDCA of your rights under Section 504. (The purpose of this Notice form is to advise you of those rights.) (34 C.F.R. 104.32)
- (28) Your child has the right to a free appropriate public education (FAPE) designed to meet his/her individual needs as adequately as the needs of non-disabled students are met. (34 C.F.R. 104.33)
- (29) Your child has a right to placement with students without disabilities to the maximum extent appropriate to your child's needs (least restrictive environment). (34 C.F.R. 104.34)
- (30) Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. (34 C.F.R. 104.35)
- (31) Testing and other evaluation procedures must conform to the requirements (34 C.F.R. 104.35) as to validation, administration, areas of evaluation, etc. ALDCA 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 C.F.R. 104.35)
- (32) Placement decisions must be made by a group of persons, including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. (34 C.F.R. 104.35)

³ Equal educational benefits and opportunities does not mean the "same" benefits and/or opportunities.

- (33) If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. (34 C.F.R. 104.35)

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- (34) You have the right to examine relevant records. (34 C.F.R. 104.36)
- (35) You have a right to notice of any action by ALDCA in regard to the identification, evaluation, or placement of your child. (34 C.F.R. 104.36)
- (36) You have a right to an impartial hearing with respect to ALDCA'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 C.F.R. 104.36)
- (37) If you wish to challenge the actions of ALDCA's 504 Committee in regard to your child's identification, evaluation, and education placement, you should file a written request for a hearing with ALDCA's Special Programs Manager, Cynthia Mayo, cmayo@alvirtual.org. A hearing will be scheduled before an impartial hearing officer and you will be notified in writing of the date, time, and place for the hearing. Notice of these procedures is provided through Procedural Safeguards
- (38) Within 30 calendar days after the hearing, the hearing officer shall render a decision in writing. Such decision shall include findings of fact, conclusions of law, and order if necessary, which will be binding on all parties. The decision shall be sent by mail to the parent/guardian and the Superintendent (Head of Schools) and shall contain notice of the right to a review of the decision.

Grievance Procedure:

- (39) On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a discrimination complaint as described in the Complaint and Due Process outlined in this manual.

You have the right to file a complaint with the Office for Civil Rights, 61 Forsyth Street S.W., Suite 19T10, Atlanta, GA 30303-8927.