Equal Educational Opportunity for Students Who Are Disabled

Nondiscrimination Rights under Subpart D, Section 504 and Hawaii Law and Regulations

How to Obtain Additional Information on the Nondiscrimination Rights of Students

Contact the following:

• Your School Principal

• Your District Offices:

  Honolulu District
  Farrington/Kaiser/Kalani Complexes ........... 733-4940
  McKinley/Roosevelt/Kaimuki Complexes ....... 733-4977
  Central Oahu District
  Aiea/Moanalua/Radford Complexes .......... 421-4263
  Leilehua/ Mililani/Waialua Complexes .... 622-6432
  Leeward Oahu District
  Campbell/ Kapolei Complexes ............... 675-0335
  Nanakuli/ Waianae Complexes ................. 784-5696
  Pearl City/Waipahu Complexes ............... 675-0384
  Windward Oahu District
  Castle/Kahuku Complexes .................. 784-5940
  Kailua/Kalaeo Complexes ................... 784-5940
  Hawaii District
  Honokaa/ Kohala Complexes .................. 775-8895
  Kealakehe/Konaewa Complexes ............... 323-0015
  Hilo/ Waiakea Complexes ..................... 974-4401
  Kau/Keaau/Pahoa Complexes ................. 982-4252
  Maui District
  Baldwin/ King Kekaulike/ Maui/ Hana/Lahaina/Lanai Complexes .......... 873-3520
  Molokai Complex ........................................... 553-1723
  Kauai District
  Kapaa/Kauai/Waimea Complexes ............ 274-3504

• The HIDOE Section 504 Coordinator:
  Office of Student Support Services
  Exceptional Support Branch
  475 22nd Avenue
  Honolulu, Hawaii 96816
  Telephone: (808) 305-9806

• Inquiries may also be made to:
  Office for Civil Rights
  U.S. Department of Education
  915 Second Avenue, Room 3310
  Seattle, Washington 98174-1099
  Telephone: (206) 607-1600

Office of Student Support Services
Exceptional Support Branch
Department of Education
State of Hawaii
RS 20-1233 (Rev. of 19-0180) May 2020
What is Section 504?
Section 504 is a federal civil rights law which protects persons with disabilities. Section 504 is enforced by the Office for Civil Rights (OCR), U.S. Department of Education.
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794 [a]) provides, in relevant part, that:
  - No otherwise qualified individual with handicaps...shall, solely by reason of her or his handicap, be excluded from the participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...
- Subpart D of the Section 504 regulations requires public schools to provide qualified students with disabilities an education comparable to the education provided to students without disabilities.

How does Section 504 define "disability"?
Section 504 defines a person with a disability as anyone who:
- has a physical or mental impairment which substantially limits one or more major life activities (such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working);
- has a record of such an impairment; or
- is regarded as having such an impairment.

What are the school's responsibilities?
Subpart D of Section 504 (34 C.F.R. §104.35 [a]) requires schools to evaluate students who are believed to be disabled. Should the student be determined to be a qualified student with a disability, a group of persons knowledgeable about the student will develop a Section 504 plan based on the evaluation. The plan will indicate the placement and appropriate accommodation to be made to ensure that the qualified student with a disability receives an education which is comparable to that received by a student without a disability.

Schools shall make appropriate accommodation to the disability of the qualified student within the regular education program. The appropriate accommodation shall be individualized to meet the needs of the qualified student with a disability.

Some examples of appropriate accommodation within the regular education program are: seating in the front row of the classroom, modifying homework requirements, changing the test types are given, using tape recorders or other audio-visual equipment, adjusting class schedules, selecting modified textbooks or workbooks, using behavioral management techniques, and providing a structured learning environment.

A parent/legal guardian or department representative who disagrees with the identification, evaluation, or placement of the student who is disabled or who is believed to be disabled within the meaning of Subpart D of Section 504, may examine relevant records, request an impartial hearing and be represented by counsel at the hearing, and request a review of the impartial hearing decision.

Relationship of Section 504 to IDEA
The Individuals with Disabilities Education Act (IDEA), administered by the U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS), also has provisions requiring states to provide a free appropriate public education (FAPE) for students who are disabled. The HIDOE has implemented these requirements under Chapter 60, Provision of a Free Appropriate Public Education for Exceptional Children Who Are Disabled. The requirements for FAPE under the IDEA (Chapter 60), are more detailed than those under Section 504. A student with a disability may be eligible for FAPE under IDEA or Section 504. In such cases where the student with a disability is eligible under IDEA, the chapter 60 procedures shall apply. These procedures will generally ensure compliance with Section 504.