

# DISABILITY JUSTICE

## Individualized Education Programs and 504 Plans

The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 provide students with disabilities more help in school.

### Frequently Asked Questions

#### **How do I know if my child should get more help in school?**

A child may be able to get more help due to a disability in school under the IDEA or Section 504 if they:

- Have a hard time reading, writing, or doing math.
- Have difficulty speaking or listening.
- Struggle with sitting still or following rules.
- Are often needing extra attention from the teacher.
- Need extra time to do things.

#### **My child may need more help due to a disability in school, what do I do?**

Under the IDEA and Section 504, a school is supposed to identify children who may need more help due to a disability and make sure they are tested to see if they need more help. Sometimes schools miss the signs a child may need more help. A parent or guardian can ask the school to test or evaluate the student.

#### **How do I ask the school to test or evaluate my child?**

Submit a written request to the school. The request should:

- Include the date.
- Be in writing.
- Be provided to the principal and Section 504 and/or [Special Education Coordinator](#).
- Include a list of the reasons you believe the child should be tested (the issues they are having in school).
- State how you and the school have tried to help the child.
- Ask that this written request for a test or evaluation be put in your child's school records.
- Request the school send back a written response.

Be sure to save this request for your records.

### **Does the school have to do the testing if I request it?**

No. If the school refuses to do the testing, they have to say in writing that they do not believe the child has a disability that qualifies for extra help and why. That is the only legal reason they can give to say no to a request for testing. If you believe they are wrong or gave a different reason you can file a complaint. (See our [School Complaints section](#) in the Education Rights Toolkit)

### **Do I need to pay for the testing?**

If the school agrees that your child needs to be tested, you do not have to pay for an evaluation. If you have outside evaluations you want the team to consider, you can provide those as well at your own expense. Decisions by the IEP or 504 Team cannot be based upon one source of information. They must consider all sources provided.

### **What is the testing like?**

Testing should fit a student's needs. Testing will be different for different children depending on their needs.

The testing when determining eligibility for an IEP should include:

- Health and medical diagnoses
- Whether the student sees and hears well
- How the student works with others and handle their emotions
- General intelligence
- How the student is doing in school
- If the student has any issues speaking to others and saying what they mean
- If the student has any difficulty with walking, holding things, writing, or drawing

Testing for a 504 plan should be based on the student's needs and include multiple sources of information. The 504 plan testing is not as prescriptive as for an IEP.

### **How long does testing take?**

The school has 60 calendar days to complete the testing for an IEP. Testing for a 504 plan must be completed in a "reasonable" amount of time (60 days is generally considered a good guideline, but there is no strict deadline for Section 504).

### **What happens after testing?**

The school should invite you to a meeting. Make sure you ask for copies of the test results before the meeting.

If the test results show the child has a disability that makes doing well in school difficult and they need specialized instruction (often with a special education teacher), the team will likely decide to create an IEP for the student.

If testing shows the child has a disability that creates challenges in school but they do not need specialized instruction, then the team will likely create a Section 504 plan.

If you disagree with the test results, you can ask for an Independent Education Evaluation (IEE).

If the school agrees, they will have to pay for the additional evaluation. School districts may have minimum requirements for independent evaluators, but they

cannot be stricter than the requirements for their own evaluators. They may also have a list of pre-approved independent evaluators who meet these standards. You do not have to choose someone from their list, but it may make the process go more quickly.

If the school does not agree to pay for an IEE, they will have to file for a Due Process Hearing to prove why their evaluations were sufficient. (See the [School Complaints section](#) of the Education Rights Toolkit)

### **How often should my child be retested for an IEP?**

The IDEA requires that your child is retested (reevaluated) at least every three years unless you and the school agree that retesting is not needed. The school may also need to retest if there are significant changes to your child's behavior or academic performance, they suspect an additional disability, and before they remove a child from an IEP.

### **What is an IEP?**

It is the program that you and the school create to help your child succeed in school. It should include what help your child will get in school, including what services your child will get and what type of classroom setting they'll be in during the day. It must also include goals your child should be able to do by the time of the next annual review. These goals should change over time because the law requires that students make progress on achieving their goals.

### **What goes into an IEP?**

- Strengths and needs. An IEP should say what your child can and cannot do compared to other children their age. It should be specific and detailed.
- Annual goals. These should address your child's biggest needs. It should be clear to you whether your child is making progress and whether the goal is met or not. For example, "Michael will read three books at grade level by the end of the year," instead of, "Michael will improve his reading."

- Services. This includes special therapies or teachers that will help them learn. Some examples are:
  - A teacher who is trained to work with students with disabilities
  - A counselor or social worker to help the student with anxiety
  - Physical therapy to help a child with walking
  - Speech therapy to help a child with talking
- Accommodations and Modifications. If your child has a lot of difficulty with a certain school rule, they might get an exception to having to follow that rule. For example, if there is a rule about no toys in a classroom, your child might get an exception to be allowed to have a fidget toy to help them pay attention.
- The school/classroom your child needs. Your child might need to be in a classroom that is led by a teacher who is specially trained to work with students with disabilities for part or all of the day. The law requires that your child be in a regular classroom as much as possible.
- Other parts of an IEP: An IEP can include other items like a [transition plan](#) (see our section on transition plan, a behavior intervention plan, special equipment needs, extended school year, and transportation plans.)

### **What is a 504 plan?**

A 504 plan explains your child's disability. It states what your child needs to be able to take part in school like any other child. Common accommodations in Section 504 plans include extra time on tests, extra time to change classes, preferential seating in the front of the class, and extra time to turn in assignments. Services like occupational and physical therapy can also be included on a 504 plan.

### **Does my child need a 504 plan?**

A child who has a disability and needs support in school can get a 504 plan. A disability is something that makes it harder to do something, such as walking, talking, thinking, learning, hearing, seeing, or breathing. A 504 plan does not have to be in writing, but it is best practice to get it in writing. A child does not need

both a 504 plan and an IEP. If a child qualifies for an IEP, everything that would be in a 504 plan can be included in the IEP.

### **What does a 504 plan do?**

It can ensure that your child with a disability has their individual needs met.

Examples include:

- Help moving in and out of a wheelchair to use the restroom
- Getting their medication
- Giving extra time to get to class

It is important to be specific with the accommodations a student needs in a 504 plan. For instance, instead of “preferential seating,” explain what that means and where in the class that is for that particular student.

### **How often should my child be retested for their 504 plan?**

The law doesn't give a specific time for retesting, it just says periodically. Generally, the three-year timeline of the IDEA is considered okay for Section 504 as well. If you believe your child's needs have changed you can ask for your child to be retested. If your school is going to take your child off of their 504 plan, they must retest them before doing so.

### **Are there any limits to a 504 plan?**

Yes. A school does not have to provide things that cost too much money for the school or would be too hard to provide. 504 plans also do not include specialized instruction (often time with a special education teacher).

### **What if my child changes schools?**

Ask the new school to look at the IEP or 504 plan. They must follow the previous school's plan if they agree the plan is good for the student. If not, they must retest the student before taking away the plan.

### **What if the school wants to take away services?**

The school might change your child from an IEP to a 504 plan or to no plan if your child has made good progress, their disability is no longer making it harder in school, or they no longer need services to assist with their disability. Testing should be done before this change is made or either plan is taken away from the student.

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