

# Supplemental Section 504 Guidance for Universal Prekindergarten Education

## Purpose

This document describes the requirements of [Section 504 of the Rehabilitation Act of 1973](#) that uniquely apply to children with disabilities in state-funded universal prekindergarten education programs. It is intended to serve as a resource for educators who are seeking to support equitable access and participation for PreK students who are eligible to receive Section 504 support.

This guidance is intended to complement the U.S. Department of Education's Office for Civil Rights resources, including a [Parent and Educator Resource Guide to Section 504 in Public](#) and [Commonly Asked Questions about Child Care Centers and the American with Disabilities Act](#).

As with all Agency of Education (AOE) guidance documents, the information presented here should not be considered legal advice. Programs should consult with their own legal counsel concerning the specifics of the topics discussed generally in this document.

## What is a Section 504 Plan

A Section 504 Plan is a blueprint for how a child with disabilities will have access to learning opportunities in their classroom and/or in school. A Section 504 plan will ensure a child with an identified disability has equitable access to and participation in age-appropriate learning opportunities within the classroom/learning environment given necessary supports, services, modifications to curriculum, and/or accommodations. Section 504 services help to address students' specialized needs, to provide an equal learning opportunity for each child with a disability. See the [AOE Early Childhood Special Education Services page for more information](#).

## Why is Section 504 Important to a PreK Program?

Section 504 requires schools to provide each and every child the same learning opportunity as children without disabilities who are enrolled in prequalified public or private PreK programs as stipulated in [Act 166](#). The school or private PreK may do this by offering "reasonable accommodation or modification." Reasonable accommodations are modifications or adjustments to the tasks, environment or to the way things are usually done that enable individuals with disabilities to have an equal opportunity to participate in an academic program or a job.

A Section 504 plan is developed by a team of people who are familiar with the student and who understand the evaluation data and special services



options. This team is sometimes called the Section 504 Committee; its composition can vary by school or programmatic setting. For a prequalified public or private PreK program, a Section 504 Committee should ideally include:

- Representation from the student’s family
- Program Director
- Classroom Teacher(s)
- Early Childhood Special Educator
- School principal, and/or
- PreK Coordinator

**Reference:** [U.S. Department of Education Individuals with Disabilities](#)

## **Section 504 Eligibility and Access**

As defined by federal law: “An individual with a disability means any person who: (i) has a mental or physical impairment that substantially limits one or more major life activity; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment”.

Eligibility for protection and services under Section 504 and the American Disabilities Act (ADA) is not the same as eligibility for the Individuals with Disabilities Education Act (IDEA). Please note that all PreK and school-age children who are individuals with disabilities, as defined by Section 504 and IDEA, are entitled to a Free and Appropriate Public Education (FAPE).

Key points to use when determining eligibility for the Section 504 plan include the following:

- Eligibility is based on the federal definition of disability.
- Eligibility is not age-restricted, as required for IDEA, but covers individuals from birth to death.
- Eligibility is not related to specific categories of disabilities, as is required for IDEA.
- Eligibility is based on the functional impact of physical or mental impairment.

Young children with disabilities have equal access to early care and education programs, as described in the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (See: [Including Children with Disabilities in State PreK Programs](#)). If a child is otherwise eligible to attend a public or private prekindergarten education program, the child cannot be denied access based on disability and must be considered for enrollment in the same manner as their peers ([Early Childhood Technical Assistance Center](#)). For more information specific to developing Section 504 plans for children enrolled in private prequalified prekindergarten education programs, please contact [AOE.UPK@vermont.gov](mailto:AOE.UPK@vermont.gov).

## Key Terms Defined

Under Section 504, a student is considered to have a disability if the following criteria are met:

- A student has a physical or mental impairment.
- The impairment substantially limits one or more major life activities.
- Temporary impairments may qualify a student for accommodations under Section 504 depending on the nature, duration and severity of the impairment (e.g., a broken limb).
- Episodic impairments may qualify a student for accommodations under Section 504 if they substantially limit a major life activity when active (e.g., asthma).

Physical or mental impairments may include but are not limited to physical disabilities or conditions, psychological disorders, and specific learning disabilities.

Major life activities may include but are not limited to, caring for oneself, walking, seeing, hearing, speaking, breathing, eating, sleeping, standing, lifting, bending, thinking, communicating and learning.

## Examples of Section 504 Accommodations and Modifications

Section 504 accommodations and modifications may look different in a PreK classroom than they might look in an elementary, middle or high school setting. The following are some examples of what Section 504 supports might look like at the PreK level.

- Provide self-regulation activities such as exercise balls, mini-trampoline, fidget toys, playdough, etc.
- Provide suggestions for participating during circle/morning meeting time such as choice of carpet square, cube chair, small exercise/playground ball, wiggle pads and different positions such as laying on their belly or standing.
- Focus on Universal Design for Learning to inform necessary supports/accommodations/modifications.
- Provide visual cues, cards, charts, schedules, transition, scripted stories, first/then, stop/plan/do, timers etc.
- Assistive technology and communication supports such as computer software tablets, or iPhones.
- Early MTSS universal and targeted supports.
- Develop an individualized response plan to focus on teacher practice/supports.
- Rearrange PreK classroom environment to define learning centers to ease transition between areas and daily routines.
- Provide classroom auditory system to support children with hearing loss.