Section 504 is part of the Rehabilitation Act of 1973 that was designed to protect the civil rights of people with disabilities. It is only one sentence long: No otherwise qualified individual with a disability shall solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

**Otherwise Qualified**
Otherwise qualified means that the individual with a disability must meet all of the required qualifications before the presence of a disability can be a factor in discrimination.

**Definition of a Disability**
Under Section 504, a person is considered to have a disability if the person (29 U.S.C.Sec.706(8)):
1. has a physical or mental impairment which substantially limits one or more of such person's major life activities,
2. has a record of such an impairment, or
3. is regarded as having such an impairment

*Note:* Only individuals meeting part 1 of the definition are eligible for a 504 plan. Parts two and three of the definition only provide the individual with protection from discrimination.

The presence of one of these conditions in itself does not qualify an individual for protection. The impairment must also cause a substantial limitation of a major life activity.

**Determining Substantial Limitation**
Section 504 does not define substantial limitation. The Office of Civil Rights (OCR) allows this subjective determination to be made by each school. However, the Americans with Disabilities Act of 1990 defines substantially limits as:
1. Unable to perform a major life activity that the average person in the general population can perform, or
2. Significantly restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity. (Section 1630.2(j)(1)(i)(ii)).

Factors that should be considered when determining if the substantial limitation requirement is met include (Section 1630.2(j)(1)(i)(ii)(iii)):
1. How severe is the impairment?
2. What is the expected duration of the impairment?
3. What will be the permanent or long term impact resulting from the impairment?

The standard used to determine if a physical or mental impairment results in a substantial limitation is average performance in the general population. This does not mean the optimal performance level for a person, but the average performance of individuals found in the general population.

When medication or other mitigating factors result in the student NOT having a substantial limitation, the student is not eligible under Section 504 or the ADA.

*Note:* Under the law, an eligible child’s placement cannot be changed as a result of disciplinary action unless the Section 504 Committee first finds that the behavior was NOT related to the disability or due to the local system’s failure to implement the accommodations in this plan. Generally, any form of exclusions from the child’s normal educational setting for more than ten days (cumulatively) constitutes a change in placement.