

## The Meaning of Disability Under Section 504 (From the MN Department of Education 504 Resource Guide)

Below is a discussion of what it means to be a student or individual with a disability, and of related terms that help to comprehensively define *disability* as it is used in Section 504 and its implementing regulations.

**Disability.** Under Section 504, an individual with a disability (also referred to as a *student with a disability* in the elementary and secondary education context) is defined as a person who: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.<sup>1</sup>

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) must be made on a case by case basis.<sup>2</sup> In addition, when determining if someone meets the definition of a disability, the definition must be understood to provide broad coverage of individuals.<sup>34</sup>

**Physical or mental impairments.** Section 504 defines a physical or mental impairment as any

- physiological disorder or condition,
- cosmetic disfigurement, or
- anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine.<sup>10</sup>

The Section 504 definition of physical and mental impairment also includes any mental or psychological disorder.<sup>5</sup> The definition does not include all specific diseases and conditions that

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<sup>1</sup> 29 U.S.C. § 705(9)(B), (20)(B).

<sup>2</sup> 34 C.F.R. § 104.35.

<sup>3</sup> 42 U.S.C. § 12102(4)(A). The Americans with Disabilities Act Amendments Act of 2008 (Amendments Act) amended both the Americans with Disabilities Act (ADA) and the Rehabilitation Act definition of disability for Section 504 to broaden the meaning of disability and the protections under these Federal laws. *See* 42 U.S.C. § 12101 notes; 154 Cong. Rec. S8342, 8346 (daily ed. Sept. 11, 2008) (statement of the Managers to Accompany S. 3406, The Americans with Disabilities Act Amendments Act of 2008). *See also* OCR, *Dear Colleague Letter: Americans with Disabilities Act* (Jan. 19, 2012), [www.ed.gov/ocr/letters/colleague-201109.html](http://www.ed.gov/ocr/letters/colleague-201109.html) and accompanying *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools* (Jan. 19, 2012), [www.ed.gov/ocr/docs/dcl-504faq-201109.pdf](http://www.ed.gov/ocr/docs/dcl-504faq-201109.pdf).

<sup>4</sup> C.F.R. § 104.3(j)(2)(i).

<sup>5</sup> *Id.*; *see also* OCR, *Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities* (FAQ 12) (last modified Oct. 16, 2015), [www.ed.gov/ocr/504faq.html](http://www.ed.gov/ocr/504faq.html).

*Major life activities.*

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To summarize, major life activities include certain acts a person does (such as hearing, speaking, lifting) and a person's bodily functions (such as lung disease that affects a person's respiratory system, or a traumatic brain injury that affects the function of the brain).

The list of major life activities under Section 504 includes, but is not limited to, the activities listed below.<sup>55</sup>

- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working

Major bodily functions are also major life activities under the law, and these major bodily functions include functions of the bowel, bladder, and brain; normal cell growth; and the immune, endocrine (for example, thyroid, pituitary, and pancreas), respiratory, reproductive, circulatory, digestive, and neurological systems.<sup>13</sup>

These lists, however, do not provide every possible major life activity or bodily function; therefore, if an activity or bodily function is not listed in the Amendments Act, it might still be considered a major life activity under Section 504.<sup>5</sup>

*Substantial limitation.* The determination of substantial limitation must be made on a case-by-case basis with respect to each individual student.<sup>21</sup> Section 504 requires that, for elementary and secondary school students, a group of knowledgeable persons draw upon information from a variety of sources in making this determination.<sup>22</sup>

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