

What's Your 504 IQ? Answers to the Quiz, with Explanations

In December 2016, the U. S. Department of Education, Office for Civil Rights (OCR) published the “*Parent and Educator Guide to Section 504 in Public Schools*,” a comprehensive 52-page guidance document.

The URL for the *Parent and Educator Guide to Section 504* is:

<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>

The *Parent and Educator Guide to Section 504* includes eleven scenarios. These scenarios are used to educate readers about legal issues and concepts under Section 504.

Wrightslaw used these scenarios to create a quiz called “**What’s your 504 IQ?**” The quiz includes eleven questions. Each question has several multiple-choice answers.

Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools

Eleven Scenarios

Scenario 1 – Suspected Disability & Evaluation

Rosita is a fourth grade student at her local public elementary school. Her teacher notices that Rosita has trouble concentrating during class lessons and that it takes Rosita significantly longer than most students to complete in-class assignments. While the teacher acknowledges that it is very difficult for Rosita to stay seated and on-task, she does not think Rosita needs special education services because she is earning B’s and C’s. From a legal perspective, what should the teacher do?

- A. Rosita’s teacher needs to obtain parental consent to implement more restrictive strategies, (such as restraints) to ensure that Rosita stays in her seat and on task.
- B. Rosita’s teacher needs to inform the proper individuals in the school system that Rosita needs to be evaluated.**
- C. Because Rosita is earning passing grades, there is no legal basis to seek an evaluation.
- D. Rosita’s teacher should share her concerns with the child’s parent and request consent to refer Rosita to Tier I of the school’s Response to Intervention program.

ANSWER # 1

(Section 504 Resource Guide, page 14)

Correct answer is **B**.

In this situation, **Rosita’s teacher needs to inform the proper individuals in the school system that Rosita needs to be evaluated.** It is only through an evaluation process that a school district can properly determine if a student has a disability and needs Section 504 services. Note that grades alone, whether good or bad, do not necessarily indicate whether a student has or does not have a disability. Even if Rosita does not require special education, she could still receive other Section 504 services if she meets the Section 504 definition of disability and is in need of related aids or services or supplemental services. For example, Rosita may have ADHD and may, because of her ADHD, need extra time to complete assignments and assistance from a classroom aide to stay on task during class. However, even if Rosita does not require either special education or related aids and services, as long as she is a student with a disability under Section 504, she is still protected under that law from other forms of discrimination (for example, bullying and harassment - see the discussion on page 32). The teacher’s referral of Rosita for evaluation is central to complying with Section 504 here.

Scenario 2 – Suspected Disability & Involvement of Knowledgeable People

Robert’s seventh grade teachers report that he often falls asleep, without warning, during class and misses instruction. His parents insist that he gets a good night sleep but note that their pediatrician told them Robert might have narcolepsy, a chronic brain disorder that involves poor control of sleep and wake patterns. From a legal perspective, what should the teachers do?

A. Staff should seek an evaluation to determine whether Robert has a physical or mental impairment that is interfering with his ability to stay awake.

B. Teachers should talk with Robert and his parents, individually and separately, to determine if Robert really gets a good night sleep. Determine if he has a television in his room and / or internet access after his parents go to bed. If onset of sleep is questionable, his teachers should help the parents investigate options to automatically turn off Wi-Fi and TV access to cable or satellite service after a specific time at night or remove the television and computer from his room.

C. School staff cannot rely on a pediatrician’s opinion that Robert “might have narcolepsy.” To address the behavioral issue of falling asleep in class, the staff should initiate a “Positive Behavioral Intervention” (PBI) and create a “Behavioral Intervention Plan” (BIP).

D. Staff should seek parental consent to talk with Robert’s pediatrician about prescription medication options that may be helpful.

ANSWER # 2

(Section 504 Resource Guide, page 15)

Correct answer is **A**.

Staff should seek an evaluation to determine whether Robert has a physical or mental impairment that is interfering with his ability to stay awake. The group who meets to review this evaluation and make a decision about services must consist of knowledgeable people (for example, school nurses, teachers, counselors, psychologists, school administrators, social workers, doctors, etc.) who, in interpreting evaluation data and determining the needed services, carefully review and analyze information collected from a variety of sources (for example, the pediatrician’s report; aptitude and psychological test results; the student’s grade reports; teacher observations; the student’s social and cultural background; the student’s family).

If the evaluation, which must be conducted at no cost to the parents or student, shows that the student has a disability, then the knowledgeable group (that is, people who are knowledgeable about the student, the meaning of the evaluation data and about the placement options), must together determine placement, including the special education or related aids and services the student needs under Section 504.

Scenario 3 – Disabilities in Remission

Doctors diagnosed Omar with cancer during at the beginning of the summer break, between fourth grade and fifth grade. When initially diagnosed, Omar was weak and tired all the time, and, at times, unable to even get out of bed or dress or feed himself. He received chemotherapy in July and August and returned to school, without any symptoms of his disease, at the beginning of the school year. At that time his parents informed the school of Omar’s cancer diagnosis. It is now November and doctors have informed Omar’s parents that his disease appears to be in remission. Omar’s mom notes that he runs and plays like all the other children and his grades are great. From a legal perspective, how would a group of knowledgeable persons determine if Omar has a disability?

- A. A “group of knowledgeable persons” must obtain medical confirmation that Omar’s cancer is in remission and, from their own observations, confirm that “he runs and plays like all the other children and his grades are great.” After receiving these confirmations, no further steps are required for the school staff to determine if Omar has a disability.
- B. Since Omar’s cancer is a medical condition and is in remission, a “group of knowledgeable persons” is not required to determine if Omar has a disability.
- C. Since Omar’s “grades are great” and “he runs and plays like other children,” there is no evidence that the cancer, now in remission, is adversely affecting his educational performance. An evaluation is not required at this time. If the cancer re-occurs, then an evaluation is required.
- D. A group of knowledgeable persons will determine if Omar is a student with a disability because a student who has an impairment that is episodic or in remission is a person with a disability if the impairment substantially limits a major life activity when it is active.**

ANSWER # 3
(Section 504 Resource Guide, page 15)

Correct answer is **D**.

A student who has an impairment that is episodic (for example, epilepsy or post-traumatic stress disorder) or in remission is considered to be a person with a disability if, when active (that is, when symptoms are evident or reoccur), the impairment substantially limits a major life activity. When active, Omar’s illness left him weak and unable to get out of bed. In other words, when active, cancer substantially limits his ability to care for himself which, under Federal law, is a major life activity. Moreover, the cancer substantially limits the major bodily function of normal cell growth, which is also a major life activity under Federal law. For this reason, the group of knowledgeable persons would determine that Omar is a student with a disability.

However, he may or may not require special education or related aids and services that are designed to meet his individual educational needs as adequately as the needs of non-disabled students are met. Even if Omar does not need special education or related aids and services, he would still be protected under Section 504, for example, from bullying and harassment based on his disability.

School districts must have standards and procedures to evaluate students who may have a disability and need special education or related services. **The evaluation of a student, however, must be individualized.** Although Section 504 does not require a specific process, the standards and procedures must meet certain requirements. Specifically, **the evaluation standards and procedures must ensure that:**

- Evaluations consist of more than IQ tests;
- Evaluations measure specific areas of educational need. These could include speech processing, inability to concentrate, and behavioral concerns;
- Tests are selected and administered to the student in a manner that best ensures that the test results accurately reflect the student’s aptitude or achievement or other factor being measured, rather than reflect the student’s disability, except where those are the factors being measured;
- Tests and other evaluation materials are validated for the specific purpose for which they are used; and
- Tests are appropriately administered by trained personnel.

Scenario 4 – Appropriate Testing

Juan is a student in the third grade. His teacher tests reading comprehension with written in-class quizzes. Juan has trouble finishing the quizzes on time, and his answers are short and incomplete. Because of the poor responses on the quizzes, Juan’s teacher believes he may have a disability related to his ability to understand what he reads (reading comprehension skills). The school conducts an evaluation that requires Juan to read a passage and to write responses to a

series of questions about the passage. From a legal perspective, was this testing appropriate to evaluate Juan’s suspected disability?

- A. Since Juan is in the third grade, it is premature to test Juan for difficulties in reading comprehension.
- B. The question fails to clarify whether the test is truly “related to his ability to understand what he reads” or his ability “to write responses to a series of questions about the passage.” Based on the facts presented, it cannot be determined if the test is appropriate.
- C. Since Juan was not referred for a comprehensive evaluation under the IDEA and a single test cannot be used in isolation to determine if a child is eligible for services, the test was not appropriate to “evaluate Juan’s suspected disability.”
- D. The test is not appropriate for determining whether Juan has a disability related to reading comprehension if he has a disability related to writing.**

ANSWER # 4

(Parent and Educator Guide to Section 504, page 17)

Correct answer is **D**.

This test would not be appropriate for determining whether Juan has a disability related to reading comprehension if he has a disability related to writing. Specifically, if Juan struggles with writing, such as trouble staying in the margins, organizing words left to right and getting words on paper, Juan may have a disability related to his ability to write manually and may not score well on the test because he cannot finish answering questions in the time given, not because he does not understand the reading passage. In this example, Juan may have excellent reading comprehension skills, but his inability to write well quickly may result in a low test score. (Parent and Educator Guide to Section 504, page xxx.)

Scenario 5 – Timeframes for Evaluation

Mr. Williams is very concerned. In September, two weeks after the new school year began, his 16-year-old son told him that he was having a hard time hearing his teacher and, as a result, he is unable to take detailed notes during class lectures. The school promised to evaluate the student, and Mr. Williams consented to the evaluation before the end of September. However, it is now December and, to date, his son has not been evaluated. From a legal perspective, should the school have completed the evaluation before December?

- A. While the school “promised to evaluate the student,” the failure to complete the evaluation is a “de minimis” procedural issue and not a violation of Section 504 if the school initiates and completes the evaluation immediately.

B. The parent provided no independent hearing screening or audiology evaluation and wanted to the school to do an evaluation. Because the school had no such “Notice” of the need for an evaluation, the school did not need to rely on “hearsay” allegations from the parent. Since the school was not required to conduct an evaluation at this time, the school did not violate Section 504 by failing to complete an evaluation.

C. Answers A and B above are both essentially correct.

D. The school should have completed the evaluation before December. Although Section 504 does not provide a specific timeline for a school district to complete an evaluation, incorporating by reference the IDEA requirements, the initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation unless the State established a different timeframe for conducting evaluations under IDEA.

ANSWER # 5

(Parent and Educator Guide to Section 504, page 17)

Correct answer is **D**.

Most likely, yes. **Section 504 does not provide a specific amount of time for school districts to complete an evaluation.** However, under the IDEA (another Federal law that protects students with disabilities and of which schools should be aware), an initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation or if the State has established a different timeframe for conducting the evaluation, within that timeframe. **OCR generally looks to the IDEA timeline, or if applicable, to State requirements or local district policy to assess the reasonableness of the time it takes the school to evaluate the student once parental consent has been obtained.**

Scenario 6 – Disagreement Over Need to Evaluate

Maya is a good student who has an A in reading, an A in math, and a B in each of her other classes. She maintains these grades even though she has been absent several times since the beginning of the school year for a gastrointestinal disorder. In addition, she often has to leave school early because of vomiting. Maya’s mom took Maya to the doctor and, the following week, Maya’s mom presented Maya’s teacher with a medical report indicating that Maya suffers from gastroesophageal reflux disease (GERD). Maya’s mom then asked the teacher if the school would evaluate Maya to see if she is eligible for Section 504 services. The teacher told Maya’s mom not to worry, noting that an evaluation “is not necessary at this time because Maya continues to do well in all her classes.” The teacher then promised to let Maya’s mother know immediately if Maya’s grades begin to decline. From a legal perspective, should the teacher have responded in this manner?

A. Neither GERD nor vomiting are classified as conditions that mandate eligibility under IDEA or Section 504 so an evaluation is not necessary.

B. Because Maya is maintaining A's and B's and is doing "well in all her classes," an evaluation is not required at this time. Later, if Maya's grades decline or there are other indicators with problems in school related to GERD or vomiting, an evaluation may be appropriate at that time.

C. The teacher should not have refused the parent's request to evaluate Maya for 504 eligibility.

D. Since the vomiting occurred at school and necessitated early dismissal, that condition adversely affected Maya's educational performance. She should have been evaluated and found eligible for services under IDEA, which would also provide her with the protections under Section 504.

ANSWER # 6

(Parent and Educator Guide to Section 504, page 21)

Correct answer is C.

No. Not every illness will automatically result in Section 504 protection for the affected student. On the other hand, even if a student earns good grades, he or she may still have a disability. For example, even if Maya's disease did not interfere with her ability to attend school, **she might still be determined to be a student with a disability under Section 504** because the disease substantially limits a major life activity (that is, her ability to digest food). In such a situation, Maya may not need special education or related aids and services; however, she **would still be protected (for example, from bullying and harassment based on disability) under Section 504.**

Given these specific facts—a medically-diagnosed problem with the student's digestive system, and the parent's report that the student is frequently forced to miss school because of this medical problem - **Section 504 would require the school to refer Maya for a Section 504 evaluation to determine whether she needs special education or related aids and services, including modifications, because of a disability.** Note that if the school fails to conduct an evaluation of the student and it is later determined that a school evaluation was necessary, and that Maya needed, but did not receive, special education and/or related aids and services, **the school would be in violation of Section 504** and may be required to provide compensatory services for Maya for the period during which the school failed to offer FAPE.

The Section 504 regulations require school districts to draw upon information from a variety of sources in interpreting evaluation data and making placement decisions. In other words, while a medical diagnosis alone can inform school staff about whether a student has a disease that substantially limits a major life activity, it is unlikely that a medical diagnosis alone will also provide enough information for school staff to determine what services the student needs. Other information that could also be collected and analyzed includes, for example, attendance records, parent information, grade reports, aptitude and achievement tests, teacher recommendations, and

the student's physical condition, social or cultural background, and adaptive behavior.⁷³ The type of tests and other information obtained will vary for each individual student depending on the suspected impairment.

73 34 C.F.R. § 104.35(c).

In this scenario, Maya has a disability. Because Maya's medically diagnosed impairment interferes with her ability to attend school, the school district may need to, among other things, modify how the school's attendance policy applies to Maya to ensure that Maya is given extra time to complete assignments when she is absent because of her disability and that she is not penalized for absences resulting from her disability.

Finally, even if the teacher did not make the referral because she did not believe that Maya needed special education or related services as a result of her digestive disorder, the teacher or other school personnel should have provided Maya's mother with a copy of the district's procedural safeguards, which would include information about the opportunity to have an impartial hearing to resolve the disagreement over Maya's need for an evaluation, and an opportunity to review her daughter's records.

Scenario 7 – Reevaluations and FAPE

Salim is a student with a disability and he has a Section 504 plan. At the start of the spring semester, he received an out-of-school suspension for 12 consecutive school days. From a legal perspective, is the school required to reevaluate Salim?

A. The child may be suspended for 12 consecutive school days, or longer, until completion of a determination about whether his violation of the code of conduct was a manifestation of his disability.

B. Yes, a 12-day suspension is a significant change in placement that mandates a reevaluation.

C. IDEA, which controls in this instance, does not require an evaluation so a reevaluation is not necessary.

D. A disciplinary suspension does not require an evaluation, even if it is considered to be a significant change in placement.

ANSWER # 7

(Parent and Educator Guide to Section 504, page 23)

Correct answer is **B**.

Yes. Although the Section 504 regulations do not set a specific timeframe within which students with disabilities must be reevaluated to make sure that they are receiving the appropriate services, **Section 504 requires schools to conduct reevaluations periodically, and before a**

significant change in placement. OCR considers an exclusion from the educational program of more than 10 consecutive school days to be a significant change in placement. In this example, the school must reevaluate Salim, prior to imposing the 11th day of suspension, to determine whether his misconduct is caused by or related to his disability (manifestation determination), and if so to further evaluate to determine if his current placement is appropriate.

Scenario 8 – Accessibility

Ayana recently enrolled in a school that does not have an elevator. The school was built in the early 1960s and, due to limited resources, the district has never altered the building. Ayana, who is unable to walk upstairs due to her disability, is dismayed when she discovers that the art studio is on the second floor; she had planned to take an art class the following semester. From a legal perspective, what should the school do to address this situation?

A. Move the art studio to the first floor. Access and equal opportunity to the studio are required for Ayana, yet structural change to the building may not be mandated for a building constructed “in the early 1960’s.”

B. Meaningful access to art education is required, so the art teacher should provide alternative or supplemental educational services to Ayana in an individualized setting to meet Ayana’s unique educational needs.

C. Schools are required to “consider” alternative or supplemental educational services offered or suggested by the parent, but are not required to implement the parent’s requests or suggestions.

D. The school must provide either an elevator or ramp or discontinue the art class for the next semester to avoid a claim of discrimination against Ayana.

ANSWER # 8

(Parent and Educator Guide to Section 504, page 29)

Correct answer is **A**.

Districts are not required to make each existing facility or every part of an existing facility accessible if the facility in question was constructed before June 4, 1977; however, districts must still provide students with disabilities access to the program or activity in question. Access to programs operated by a school in older facilities that are totally or partially inaccessible may, in some instances, be provided through means other than structural change, such as relocation of programs. School districts are required to have procedures in place to ensure that parents, students, and other interested persons can obtain information about the location of services, activities, and facilities that are accessible to and usable by individuals with disabilities. The school in this scenario is an existing facility because it was built before June 4, 1977, and therefore, program access is required to ensure compliance with Section 504 and the ADA. The

school may, for example, **move the art studio to a room on the first floor so that Ayana has an equal opportunity to participate in the art class with her peers.**

Scenario 9 – Unjustified Different Treatment

Ricardo has a peanut allergy. His fourth-grade class is going on a field trip to the local aquarium and Ricardo’s father is told that he must chaperone Ricardo on the trip because the teachers will be very busy and cannot ensure that Ricardo will be protected from exposure to peanuts or peanut products while on the trip, especially during the lunch break. Ricardo’s father cannot go on the field trip because he has to go to work. As a result, the teachers tell Ricardo he cannot attend the field trip. Ricardo’s father complains to the principal, noting that no other parent is required to attend the field trip. From a legal perspective, should the school have required Ricardo’s father to attend the field trip?

A. No. The school may not require Ricardo’s father to act as a chaperone on the field trip simply because Ricardo has a disability.

B. Exposure to peanuts can be a life-threatening condition for a person with this allergy. The possible death of Ricardo and the fear that his peers could see their classmate die is an extraordinary circumstance and a “reasonable” exception under Section 504 so Ricardo’s exclusion from the field trip is permissible.

C. During field trips, the school district is required to have a nurse or other staff person trained in the administration of life saving measures including CPR and “EpiPens.” The school district is solely responsible for the child’s welfare and cannot require the parent to participate as a chaperone on the field trip.

D. The school can require the parent to participate if that requirement was previously written into and is a part of the child’s Section 504 Plan, or IEP, or Individual Health Care Plan (IHCP / HCP).

ANSWER # 9

(Parent and Educator Guide to Section 504, page 31)

Correct answer is **A.**

No. In this case, none of the parents of students without disabilities were told that they must attend the field trip; therefore, **the school may not require Ricardo’s father’s attendance simply because Ricardo has a disability.** Under Section 504, the school is responsible for making it possible for Ricardo to participate in this learning opportunity like his peers, without parental assistance.

Scenario 10 – Procedural Safeguards

Ms. Lee told staff at her son’s school that she believes her son has a disability because he cannot seem to sit still and concentrate on his assignments. Although Ms. Lee has made multiple requests, the school has refused to evaluate him because the teachers do not believe the student has a disability. Ms. Lee does not receive any communication from the school about why they will not evaluate her son. From a legal perspective, is the school’s approach permissible?

A. If the parent’s “multiple requests” were made orally, not in writing, there was no written request nor written consent to evaluate. Given those facts, the school’s approach is legally defensible and permissible.

B. The parent’s belief is that her son “cannot . . . sit still and concentrate” is not a sufficient legal basis to justify a Section 504 evaluation or an evaluation under IDEA for an IEP. The school’s decision not to evaluate is permissible. The school should have helped the parent better understand that her concerns cannot be the basis to initiate an evaluation.

C. The school cannot ignore the parent’s request so the school’s approach is not permissible.

D. If there is no basis to suspect a disability, a school district is not required to respond to a parent’s request to evaluate their child.

ANSWER # 10

(Parent and Educator Guide to Section 504, page 36)

Correct answer is C.

No. **A school district cannot simply ignore a parent’s request to evaluate his or her child**, even if the school does not believe that the student has a disability. A school district is required to establish, implement, and inform parents about a system of procedural safeguards that are designed to help resolve FAPE-related disagreements regarding identification, evaluation, or educational placement of a student. **As part of this system, a school must notify parents of any evaluation or placement actions** and inform parents of their **right to: (i) examine records** or documents that the school relied on in making its decision about the student; **(ii) request an impartial hearing** that provides the parent with an opportunity to participate and permits representation by an attorney; and **(iii) have an opportunity for review** of the decision made at the hearing.

Scenario 11 – Retaliation

Ms. Chen, the mother of a student with a disability, complained privately to the principal that her daughter and other students with disabilities are not receiving an appropriate education at the school. The situation did not improve so Ms. Chen raised the issue with the principal again

at a recent Parent Teacher Association meeting in front of other parents and teachers. The following week, Ms. Chen, who had been a helpful and effective classroom volunteer for many months, received a letter from the principal indicating that Ms. Chen can no longer volunteer in her daughter's classroom. Moreover, the principal offers no explanation for this change in policy in the letter. Ms. Chen asks around and learns that none of the other parent volunteers received a similar letter. From a legal perspective, may the principal do that?

A. The principal may terminate the parent's volunteer activities and is not required to offer a reason for the termination.

B. If there was no evidence that the parent was disruptive or dangerous, the principal may not terminate the parent's volunteer activities. The termination of volunteer activity is retaliation, which is prohibited by Section 504.

C. If approved in advance, by the principal's immediate superior, such as the school superintendent, superintendent's designee, or the school board, the principal may terminate the parent's participation.

D. It is the building principal's responsibility to recognize that the parent has the potential to become disruptive in the public school setting so the principal has the discretion to terminate the parent's volunteer activities.

ANSWER # 11

(Section 504 Resource Guide, page 39)

Correct answer is **B**.

Denying Ms. Chen the ability to volunteer in her daughter's classroom would be unlawful retaliation if the school did so because the parent complained to the principal that her daughter was not receiving FAPE (either initially or in front of the Parent Teacher Association). However, if the school did so for a legitimate reason (for example, because the parent was disrupting instruction or endangering students), then the school may not have violated Section 504. The ultimate determination will depend on whether evidence indicates that the school's actions were based on a legitimate reason for keeping the parent out of the classroom or if the school's explanation was a pretext (excuse) for retaliation or if retaliation was a motivating factor in addition to the legitimate reason. In this case, **the school had no evidence to suggest that Ms. Chen had been, or would likely be, disruptive or dangerous.** Therefore, if the school allowed other parents, who did not file a complaint, to continue to volunteer in class, these facts would suggest that forbidding Ms. Chen from volunteering based on concern about disrupting class or endangering students is pretext and that the sole reason for banning her from class was to retaliate because she raised her concerns about services for students with disabilities.

END of 504 Quiz Answers and Explanation

Please download OCR's **Parent and Educator Guide to Section 504** located at:

<http://www.wrightslaw.com/law/ocr/sec504.guide.ocr.2016.pdf>