



# Section 504 Q&A with Jose & Dave

## 2026 End of School Year Edition

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## A little housekeeping ...

- Questions were selected from a list provided by participants.
  - We chose questions of the greatest interest to the group at large.
  - Some questions were combined and edited for clarity.
- Neither the slides nor presentation are legal advice. Please consult your school attorney for answers to particular fact situations.
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## Question 1: Evaluation Requirements & Sufficiency of Data

- Does a formal assessment need to be conducted for every initial 504?
- What type of evaluation is needed to qualify?
- Can a school rely on record review and teacher feedback for an initial?



## Question 2: Diagnosis vs. School-Based Evidence

- Do you need a medical diagnosis, or can schools determine eligibility independently?
- If a student has a medical diagnosis, do they automatically qualify?



## Question 3: Defining “Substantial Limitation”

- Is this term defined in the law?
- How does the group of knowledgeable people (504 Committee or Team) determine this?



## Section 504 Eligibility: The Elements of Prong 1

Physical or Mental Impairment	Substantially Limits	One or More Major Life Activities
Identify the impairment or impairments giving rise to the problem—what’s causing it?  EX: Struggling at school is not an impairment, it’s a result.  Focus on causation vs. result	How much impact is there on the student’s performance of the major life activity or activities?  This question asks if the student is impaired <i>enough</i> .	The area or areas of human life negatively impacted by the impairment or impairments.



## Defining “Substantially Limits”

### OCR Guidance prior to ADAAA

- Appendix A to ED’s Section 504 Regulations: “No definition of this term is possible at this time.”
- *Letter to McKethan*, 23 IDELR 504 (OCR 1995)(“neither the regulation nor this office has defined the word substantially.”).
- The decision about whether the student is substantially limited is “made by the school district not OCR.” *Id.*
- Lack of standard definition = the possibility of wide variation in how a particular student’s eligibility might be viewed by different Section 504 Committees.



## EEOC on “Substantial Limitation” prior to ADAAA

A person is substantially limited when she is

“Unable to perform a major life activity that the average person in the general population can perform;”

— OR—

**“Significantly restricted as to the condition, manner or duration under which an individual can perform a particular 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.” 29 C.F.R. §1630.2(j)(1)(i)&(ii).**



## Congress Expanded § 504 & ADA Eligibility in 2008

Congress' desire for increased eligibility required a change in EEOC's substantial limitation definition? Said Congress:

“Congress finds that the current Equal Employment Opportunity Commission ADA regulations **defining the term “substantially limits” as “significantly restricted”** are inconsistent with congressional intent, by expressing **too high a standard.**” 42 USC §12101(a)(8).



## EEOC on “Substantially Limits” post ADAAA: Relaxation of the Standard

EEOC's post-ADAAA substantial limitation regs at 29 C.F.R. 1630(2)(j)(*et seq.*) include the following on the lowering of the standard:

“(i) The term ‘substantially limits’ shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. **‘Substantially limits’ is not meant to be a demanding standard.**”

(iv) The determination of whether an impairment substantially limits a major life activity requires an individualized assessment. However, in making this assessment, the term ‘substantially limits’ shall be interpreted and applied to **require a degree of functional limitation that is lower than the standard for ‘substantially limits’ applied prior to the ADAAA.**”



## EEOC on “Substantially Limits” post ADAAA: Condition, Manner and Duration, 29 C.F.R. 1630(2)(j)(4).

- “(ii) Consideration of facts such as condition, manner, or duration may include,
- among other things, consideration of
  - the **difficulty, effort, or time** required to perform a major life activity;
  - **pain** experienced when performing a major life activity;
  - the **length of time** a major life activity can be performed;
  - and/or the **way an impairment affects the operation** of a major bodily function.
  - In addition, the **non-ameliorative effects** of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, **may be considered** when determining whether an individual’s impairment substantially limits a major life activity.”



## Question 4: Addressing Parent Pressure, Advocacy & Conflict

- How do you handle parents demanding specific wording?
- What if parent concerns aren’t observed at school (e.g., ‘masking’)?



## Question 5: Avoiding Over- and Under-Identification

- Who should qualify—and how do you avoid ‘everyone gets a 504’?
- Is it worth the argument for not finding the student eligible?
- When can a school say no—even with a diagnosis?



## Question 6: What Counts as an Accommodation?

- What is a true accommodation vs. good teaching practices?
- Should accommodations be general or very specific?
- What would be considered unreasonable accommodations?



## Question 7: Scope of 504 Services

- What is the legal position on providing related services through a 504?
- Can OT/PT be included in a 504?
- Are there limitations due to funding?

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## Question 8: Discipline, MDR & Behavior

- How do MDRs work for 504-only students?
- What qualifies as manifestation of disability?
- How do drug use or safety violations impact protections?

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## Question 9: 504 vs. IEP: Decision-Making & Messaging

- When is a 504 more appropriate than an IEP?
- Are 504s considered special education?
- How do you explain the difference to parents?



## Question 10: Implementation Fidelity & Staff Roles

- How do you get general education teachers to implement accommodations?
- How do you ensure fidelity when plans are just shared at the start of the year?
- Can one person be both evaluator and 504 chair?



# Question 11: Transitioning From Special Education

- Are students who exit special education automatically eligible for 504s?
- Is a 504 a ‘step-down’ or consolation?
- How should 504 be introduced after IEP exit?



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