

February 1, 2013
USOE Educational Equity Section
SEA Civil Rights Monitoring Office

Executive Summary Section 504

“Substantial Limitation” should be viewed as a prerequisite for Section 504

Dear Colleague:

The following is a summary of guidelines to follow when determining eligibility for Section 504

Without a “substantial limitation” of a major life activity or major bodily function, a student is not eligible for Section 504. However, neither Section 504 or ADA Amendment act define the term “substantial limitation” Congress does define what it is not. It is not defined as “*significantly restricted*” because it is inconsistent with the intent of congress as they state it is too high of a standard.

Which impairments require less analysis to determine substantial limitation?

In a 2012 Dear Colleague Letter (58 IDELR 79), The following are some of the examples given that almost always result in a substantial limitation of a major life activity or major bodily function.

- Deafness (hearing)
- Blindness (seeing)
- Cystic fibrosis (pulmonary function)
- Intellectual disability (brain function)
- Autism (brain function)
- Cerebral palsy (brain function)
- Diabetes (endocrine function)
- Epilepsy (neurological function)
- HIV infection (immune function)
- Multiple sclerosis (neurological function)

*Note: Having one of these impairments does not automatically ensure eligibility. The team should always follow the Section 504 evaluation process.

Comparative analysis is one tool to establish the existence of substantial limitation

Consider the following:

- What are the circumstances? Can the students’ manage his/her impairment on his/her own?
- How much time does it take a student to complete a task?
- How difficult is it for a student to complete an assignment? Is it difficult for a student to go from class to class?
- Does pain affect a student’s ability to complete assignments or gross motor tasks? (i.e. fibromyalgia or juvenile arthritis)
- How does the impairment affect a major bodily function?
- Does the student’s medication result in substantially limiting a major bodily function because of lethargy or the inability to remain in the classroom?

Use the following key points when determining substantial limitation

- To be considered a disability, an impairment that substantially limits one major life activity does not need to limit other major life activities.
- If a student has an impairment that is episodic or in remission, consider what major life activity it would substantially limit if active.
- There are some impairments that will not require an extensive analysis to determine eligibility.
- To be considered a disability, an impairment does not need to prevent or severely or significantly restrict a major life activity or major bodily function.
- In determining whether an impairment substantially limits a major life activity shall be made without regards to mitigating measures.

Note: Keeping these key points in mind will more likely bring consensus on whether a child has a substantial limitation.

Note:

This document is a USOE-specific summary of information from guidance material adapted from the January, 2013 Section 504 Compliance Advisor, Volume 16, Issue 11

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