

Quick Facts



WHY

Avoid Disability-based Discrimination

Due to a disability, **not be excluded** or **denied benefits** at school that are available to students without disabilities. § 504 ensures -

- Fair differential treatment.
- What is needed because of a limitation to (1) access a free & appropriate public education (FAPE) & (2) receive an **education comparable in quality** to that of students without disabilities.
- Reasonable **modifications to a policy** that is inadvertently & unjustifiably unfair.

Attendance policies may detail how disability-related absences are reviewed. **Schoolwide absenteeism goals** may reflect a culture of care & disability-related support.



HOW

Understand Disability-Based Limitations/Barriers

Excessive disability-related absences may (1) cause suspicion of a disability/needed services & (2) **prompt an individualized § 504 evaluation** (or re-evaluation due to changed conditions).

- Long-term or infrequent school **policy violations** may indicate a disability.
- Consider a variety & all **pertinent information** concerning the student & the impairment such as –
 - Past/current attendance patterns, medical guidance (e.g., practitioner, nurse).
 - Vital input from parents/students due to personal experience. Be aware of influences on the willingness to share the cause of absences (e.g., sensitivity of health-related info., embarrassment, stigma, lack of trust). Use trust-building communication strategies & relay the desire to learn more to support.

Determine the **reason** for disability-related absences or policy violations.

- Identify any **limitations** at school & underlying causes of policy violations with a case-by-case analysis & **fact-seeking questions** such as –
 - Are absences caused by, substantially, or directly related to the impairment?
 - Do symptoms occur more at certain times, locations, school activities, or triggers?
 - How frequent are symptoms in a typical week? How long do symptoms last?
- Ascertain if the limitation is a **barrier** that cannot be mitigated with support.

Determine the **impact on learning** of disability-related absences.



WHAT

Determine Tools for Access

Team **duty to determine** (1) if the use of a policy is discriminatory or unfair OR (2) if the disability increases the likelihood of a policy violation. Cannot delay an "appropriate" (FAPE)/effective plan that avoids discrimination. Members* –

- Are **familiar** with the student, impact of the impairment, & options for supports/policy modifications (*e.g., educators, nurse, counselor, administrators, etc.).
- Review the **language of the policy** being considered for modification.
- Decide if there is (1) a **limitation** in need of support OR (2) a **barrier** in need of supports/policy modifications.
- Limit the influence of **assumptions/subjectivity** about the impact of the disability; analyze facts not assumptions.
- **Document** decisions & efforts to improve absenteeism/loss of learning.

Policy modifications (determined or denied) by individuals **outside of the § 504 Team** may be a violation.



Disproportionate & Unjustified Impact

Not all neutrally written policies will have a fair impact. *Some* blanket, zero-tolerance, inflexible policies may have a disproportionate effect.

Example:

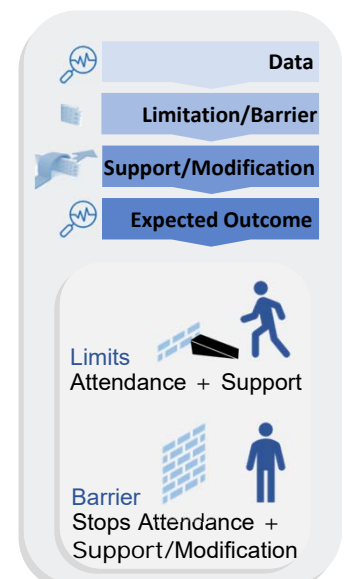
- 50 total violations of the Attendance Policy in Oct.
- 30 violations of the Policy were disability related.
- Outcome - 60% disability-related Attendance Policy violations disproportionate to 13% of students with disabilities.

Consider if the Attendance Policy has been modified for students without a disability (e.g., athletes, congressional pages, 4-H).



EXAMPLE INFLUENCES ON ATTENDANCE

- Fatigue
- Anxiety/Depression
- Headaches/Migraines
- Appointments/Hospitalization
- Medication side-effects
- Nausea/Dizziness
- Pain

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Arkansas
Student
Attendance Rates

92.62%

Students
without a
disability

92.56%

Students with a
disability*

Source: ADE Data Ctr. (SY 21-22)

*Analysis of attendance patterns by student subgroup & disability type (e.g., cognitive, physical, emotional) can help identify schoolwide strategies to reduce chronic absenteeism.

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Resource
ADE COM 12-013,
Resource Guide to
Section 504, OCR, 2016

Student Attendance & Policy Exceptions



Action Planning

Plan **actions** that influence the disability from blocking student access/participation to what is provided to students without disabilities – this includes the impact of disability-related absences on academic progress & other school opportunities.

- Limit unilateral & broad policy waivers (e.g., free pass to attend or not).
- **Clearly detail** in the plan the **supports** & **policy modifications** that are fact-dependent & based on actual need.

→ **Supports** such as –

- | | |
|---|--|
| Elevator access | Behavior intervention plan |
| Light/Noise sensitivity tools | Attendance incentives |
| Hydration/Rest breaks | Tutoring or Online learning |
| Adjusted schedule | Counseling |
| Specific/extra time for class transitions | Home/Hospital-based instruction |
| Supervised/private location for brief health episodes/mental recovery | Services compensating for disability-related lost instructional time |

→ **Modifications*** such as –

- TARDY POLICY waiver (e.g., individualized arrival time)
- ATTENDANCE POLICY waiver (e.g., specific # of additional absences)
- MAKE-UP WORK POLICY waiver (e.g., individualized deadlines)
- SEMESTER EXAM CRITERIA waiver (e.g., specific # of additional absences)
- SCHOOL ACTIVITY REQUIREMENTS waiver (unless a fundamental alteration)
- MINIMUM GRADE/CREDIT HOUR POLICY waiver (if FAPE not provided)
- FACILITATE TRUANCY COMPLAINTS with caution

*Not applicable to non-disability related absences (e.g., flu) or violations.

Monitor the plan for impact on learning & improving attendance.

- **Track** how often policy waivers are utilized.
- Schedule team meeting to review how absences are affecting FAPE.

School-based healthcare services (e.g., nursing, counseling, therapy) may proactively mitigate absenteeism due to chronic health needs.

Regularly shared attendance strategies (e.g., routines, healthy eating) may assist students with health-related disabilities.

EXAMPLE METHODS FOR IMPLEMENTATION & MONITORING

Request to use an Attendance Policy Modification

Specify staff needing to be contacted

Set time by which a request should be submitted

Relay to parent upon each request the total # of days the waiver has been used to date

Relay to school upon each request the barriers experienced by the student

Evaluate each request individually

Submit documentation of appointments, if available

Home/School Communication System (convenient method for parents) for sharing information on symptoms & medication side effects

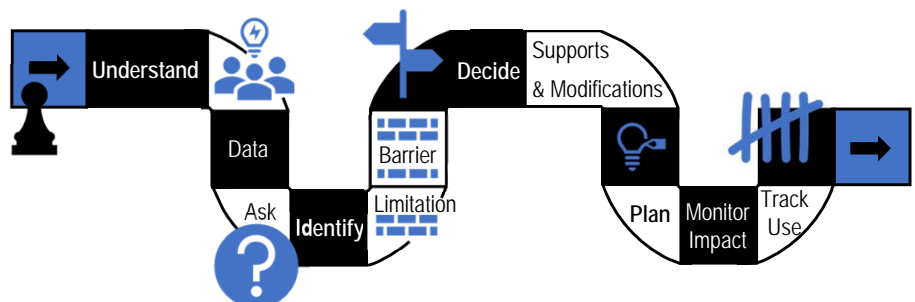


Due Process

§ 504 safeguards for parents include the opportunity to –

- Submit a **grievance** for allegations of discrimination and/or non-compliance.
- Request an **impartial hearing** to resolve disagreements with team decisions.

Process Visual



School **policy** determines:

- If a student's absences are **excused or unexcused**.
- The **impact** of a student's absence (e.g., missed work & semester exam procedures).

§ 504 **team/plan*** determines:

- If a student is **exempt** from a school policy.
- If a student is **exempt from the impact** of their absences (e.g., missed work & semester exam procedures).

*§ 504 Plan is a "policy" to be implemented for that student.