

Students with Transitory Impairments and Section 504

Section 504, part of the Rehabilitation Act of 1973, is a Federal law designed to protect the rights of students with disabilities who attend schools receiving Federal financial assistance. To be protected under Section 504, a student must be determined to (1) have a physical or mental impairment that substantially limits one or more major life activities, or (2) have a record of such an impairment, or (3) be regarded as having such an impairment (ADA Amendments Act of 2008, Section 3 (1)(A–C)).

A student is not regarded as an individual with disabilities if the impairment is transitory and minor (ADA Amendments Act of 2008, Section 3 (3)(B)). A transitory impairment is an impairment with an actual or expected duration of six months or less. A transitory impairment does not constitute a disability for purposes of Section 504 *unless* its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time.

The issue of whether a transitory impairment is substantial enough to be a disability must be resolved on a case-by-case basis with respect to each individual student, taking into consideration both the duration (and expected duration) of the impairment and the extent to which the impairment limits one or more major life activities of the affected student. Eligibility decisions are made by a school-based committee, which includes persons knowledgeable about the student.

On a case-by-case basis where appropriate documentation exists, students who are identified with a transitory impairment (i.e., not Section 504-eligible) may receive testing accommodations. As with all testing accommodations, accommodations that are being considered for use during testing must be used routinely during instruction and similar classroom assessments when possible. Approved accommodations for students identified with transitory impairments include those accommodations that are approved for use by Section 504-eligible students. The need for accommodations must be documented prior to testing. Copies of this documentation must be kept at the school and made available to test coordinators. Those administering tests with accommodations must be trained prior to the administration by the school system test coordinator or designee in the use of the specified accommodations.