



COLLEGE ADMISSIONS FRAUD AND 504 PLANS: A Q&A WITH NEPC FELLOW EDWARD GARCIA FIERROS



The “varsity blues” college admissions scandal earlier this year brought attention to a previously obscure section of federal law. Celebrities and other affluent parents were accused of, among other things, abusing Section 504 of the Rehabilitation Act of 1973 in order to get their children accommodations (such as additional time) on ACT and SAT exams. But even before these particular fraudulent activities began, the prevalence of so-called “504 plans” was already on the rise, especially in affluent schools like those attended by the families involved in the scandal.

In the Q&A below, National Education Policy Center Fellow Edward Garcia Fierros sheds light on these plans, which are intended to accommodate students with physical or mental impairments that substantially limit one or more major life activities. He concludes with recommendations for ensuring that students who need the plans receive them, regardless of the income levels of their families, while also cracking down on fraudulent claims.

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Q: What is a 504 plan? What is the plan’s relationship to the recent college admissions scandals?

A: Section 504 of the Rehabilitation Act of 1973 mandates that students with physical or mental impairment must receive an equal opportunity to a “free and appropriate public education” among other important factors. 504 plans, as they are called, are designed to ensure that students in education programs receiving federal funds are not excluded, because of their real or perceived disabilities, from educational opportunities. In particular, the law provides as follows:

No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . .

A student with a disability is any student who: has a physical or mental impairment which substantially limits one or more major life activities (including standardized testing), has a record of such an impairment, or is regarded as having such an impairment. There are a number of common disabilities or conditions that would warrant a 504 plan (e.g., dyslexia, ADHD, diabetes, depression, allergies, and cancer). A 504 Plan ensures that a child with a disability receives the appropriate accommodations to succeed. Accommodations for students may include extra time on tests and schoolwork, taking tests in a different room with fewer distractions, or giving verbal answers to test questions instead of written ones. The plans are overseen/enforced by the U.S. Office of Civil Rights (OCR).

The college admissions scandal brought to light how dishonest parents may try to game the system by getting a child without a legitimately diagnosed disability placed on a 504 plan to gain additional time on college admissions tests like the SAT and ACT. The scandal also revealed that wealthier families often hire psychologists or other consultants to assess their children for 504 plan eligibility in their elementary and secondary school years. Studies have shown that in affluent school districts, students are enrolled in 504 plans at higher rates than students in poorer school districts. The 504 designation and this extra time can provide a child a clear advantage in the college admission process. Furthermore, a 504 designation does not carry the same stigma that can sometimes come with being placed on an Individualized Education Plan (IEP) under the Individuals with Disabilities Education Act (IDEA).

Q: How widespread are 504 plans? Are they increasing or decreasing in prevalence?

A: 504 plans are more common in wealthier school districts than in poor ones. Nationally, high school students on 504 plans make up three percent of enrollment, but in the wealthiest districts the percentage is closer to six percent, according to a New York Times analysis of federal data. A majority of students on 504 plans are White (65%) and male (62.3%).

Over a short period of time—2002-2016—requests for these plans tripled. Some experts believe that 504 plans have increased in prevalence in wealthier school districts because they do not have the negative stigma of an IEP, which is defined under Part B of the IDEA. Wealthier school districts are able to pay for 504 accommodations which do not qualify for federal or

state funding. Also, a common accommodation for students on 504 plans is additional time on standardized tests, which clearly has implications for college admissions exams.

Q: How does a student obtain a 504 plan accommodation?

A: Determination of eligibility for a 504 plan is made by individual school districts and depends on the student's education program. Some school districts have 504 plan coordinators to oversee the 504 plan application process, while other districts provide a team made up of teachers, school counselors, and school psychologists. Generally speaking, **an eligible student is of school age, who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental disability that substantially limits one or more major life activities.** Families wishing to have their child placed on a 504 plan make a request to their district 504 plan coordinator or person responsible for evaluating students for eligibility. Once a 504 plan request is made, the school or school district must set up a meeting to determine eligibility based on any details of a student's diagnosis and reason for obtaining the plan. The meeting may include students, parents, the principal, classroom teachers, and other school personnel (e.g., school nurse, school counselor, psychologist, or social worker). After reviewing medical and academic records and interviewing parents and students, the 504 team determines eligibility. Once 504 plan eligibility is determined, the team will create a plan specific to the student's learning needs and schedule a meeting to share that plan with parents and also with the student, if appropriate. A 504 plan is not the same as an IEP under IDEA. While Section 504 is an anti-discrimination law, IDEA focuses on setting up an IEP to make sure **eligible students with disabilities** receive needed services. The two laws overlap substantially, but they have different eligibility rules and different provisions for responding to students' needs.

Q: Why are such plans more common in high schools that serve affluent students?

A: These plans are more common in high schools that serve affluent students because parents in wealthier schools tend to be more knowledgeable about the available learning resources for their children. Wealthier high schools are more likely than poorer high schools to have the funding and the infrastructure to support students on 504 plans. These high schools not only have the financial resources necessary to provide accommodations that 504 plans require, they also have more parents who possess the social capital to navigate the process – including knowing about educational support programs such as 504 plans. As noted earlier, wealthier families often hire psychologists or other consultants to assess their children for 504 plan eligibility in their elementary and secondary school years. Also as noted earlier, a common accommodation for students on 504 plans is additional time on standardized tests. The extra time on college admissions tests serves as a clear motivator for parents seeking to have their children evaluated for 504 plan designation.

Q: How does this impact educational outcomes for students from higher- versus lower-income families?

A: Policymakers have long known that students from families of lower socioeconomic status

(SES) do not do as well in school as those from wealthier families, leading to the stratification of educational outcomes. While the relationship is not deterministic, students on 504 plans from higher-income families are more likely than their lower-income counterparts to achieve academic success, including higher school grades, greater school engagement, higher achievement test scores (e.g., ACT, SAT), and grade promotion. Further, students on 504 plans from higher-income families complete high school, enroll in college, and attain bachelor's degrees at rates that are much higher than students on 504 plans from lower-income families. Not surprisingly, these educational outcomes advantages are influenced by parental educational involvement, school-based involvement, and academic socialization. The overall trend is clear: [Being higher income greatly influences educational outcomes.](#)

Q: What are some ways educators or policymakers might ensure that students who need 504 accommodations receive them, regardless of socioeconomic status, while also weeding out bad actors who might make improper use of such accommodations?

A: Educators or policymakers wishing to eliminate the 504 plan accommodation gap between high SES and low SES students should consider [drawing attention](#) to existing procedures (e.g., [The Child Find Mandate](#)) for finding underserved children who might qualify for special education or Section 504 services.

Because the implementation of 504 plans takes place in schools, it makes sense that schools are best suited to be at the forefront of a campaign to provide all parents information about 504 plans and about the process for evaluating students for the designation. Information can be disseminated via staff, parent, and student handouts; bulletin boards; student/parent handbooks; school websites; and annual mailings to staff and parents. With proper identification and advocacy, students may realize the academic support they are entitled to, and school personnel will be better able to address students' specific learning needs. School districts and schools can also work to ensure that 504 plan information is easily accessible, in multiple languages, to all families regardless of socioeconomic status and background.

Bad actors who may have improperly gained accommodations through 504 plans should face consequences for breaking the rules. Determining consequences for those who abuse the 504 designation process will be challenging, but there are a number of checks in place that involve schools, school districts, state education agencies, and testing organizations. School districts, schools, and even testing companies suspecting problems with documentation require additional diagnostic testing or documented evidence of a "physical or mental impairment which substantially limits one or more major life activities." Yet, these existing defenses cannot prevent bad actors with the financial resources from gaming the system to get a 504 diagnosis for their child in order to obtain additional time on standardized tests along with other educational accommodations.

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