



December 18, 2021

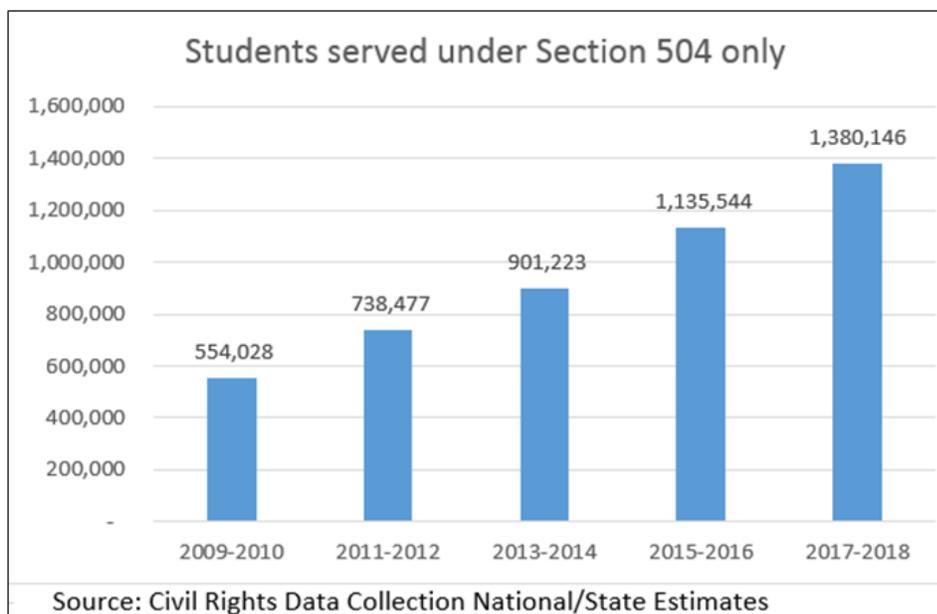
The Honorable Catherine E. Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education  
Office for Civil Rights  
400 Maryland Avenue, SW  
Washington, DC 20202-1100

Dear Assistant Secretary Lhamon:

The undersigned organizations write to request that the U.S. Department of Education's Office for Civil Rights (OCR) undertake actions to address district and school compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504).

According to the Civil Rights Data Collection (CRDC) ([most recent data available \(School Year 2017-18\)](#)), there were 1.4 million public school students with disabilities served solely under Section 504 – or 2.7 percent of public school enrollment.

While the number of 504-only students has increased steadily over the past decade See: Chart), based on a recent analysis of the 2017-2018 CRDC presented in the Center for Civil Rights Remedies (CCRR) report, [Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies](#), thousands of school districts fail to identify even one student as eligible under Section 504. The CCRR report found 3,434 districts (roughly 20% of all districts) serving over 1.8 million students **identified zero** 504-only eligible students.



Many more school districts fall well below the national rate of 2.7 percent of all students. These data strongly suggest that thousands of districts across the U.S. are failing to implement the requirements of Section 504.

Adding to this clear lack of compliance is the fact that white students have the highest 504-only identification rate of all reported racial/ethnic groups. This raises serious concerns regarding the possibility that many districts are denying FAPE to a broad subset of students of color with disabilities. As the CCRR report noted,

“One additional reason to be concerned about pre-pandemic lower rates of 504-only identification is that, as we will discuss in Part II, the evidence suggests that many children who have emotional or behavioral disorders due to experiencing trauma could be eligible for supports under 504-only, and could receive earlier intervention if so identified. However, if some large districts do not provide supports and services for 504-only students as a matter of policy, that would be unlawful, and an indicator that the district is unprepared to provide for the continuum of supports and services that will likely be in much greater demand in the near future.” (Page 16)

Based on the most recent CRDC and the CCRR analysis, the OCR should initiate activities to ensure district and school compliance with Section 504, including the law’s Child Find requirements. It is clear that OCR’s [policy guidance on Section 504](#) has not resulted in compliance. The significant under-identification of students with disabilities as eligible under Section 504 is depriving thousands – perhaps millions – of students of their civil rights, including supports and services to help them achieve their full potential as well as protections afforded to them with regard to disciplinary actions.

Enforcement of Section 504 is also critical given the recent guidance, [Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families](#), which provided information about schools’ and public agencies’ responsibilities for the provision of services and reasonable modifications to children and students for whom long COVID is a disability and noting that “a child or student experiencing long COVID or other conditions that have arisen as a result of COVID-19 may be eligible for special education and related services under IDEA and/or may be entitled to protections and services under Section 504.” Such students may have substantially limited opportunities for protections and services in the thousands of school districts that clearly are failing to properly implement Section 504.

OCR should consider the following efforts to address various compliance issues:

**Inaccurate data reporting.** As school districts begin to submit data for the 2020-2021 school year (which will open for data submission from December 13 to February 28), any school district that reports having zero 504-only students should get a warning when they enter their data that their information seems unlikely and they need to confirm that their data is accurate. OCR might focus this action on districts with total enrollment of 5,000 or more students. According to the CCRR analysis, in 2017-2018 there were 40 such districts across 16 states.

**Inaccurate data collection.** Any district that reports zeroes for the 2020-2021 school year should be required to develop a work plan to ensure the district is tracking data in the current 2021-2022 school year. Here again, OCR might focus this requirement on large districts reporting zero 504-only students in order to keep the review and monitoring of district work plans to a manageable level.

**Noncompliant 504 implementation.** Districts that report zero 504-only students in the 2020-2021 school year and confirm that their data is correct via the warning system described above should be subjected to a directed investigation since such districts are clearly failing to implement the Child Find requirements of Section 504. Districts selected for directed investigations should focus on those with large enrollments and a history of reporting zero 504-only students.

**Continued Cross-Collaboration Between OCR and OSERS.** Given the intersection of Section 504 with other key disability laws, we encourage OCR to continue to collaborate with the Office for Special Education and Rehabilitative Services (OSERS) on these recommendations and any other policy work focused on protecting civil rights and promoting opportunity for students with disabilities.

Given that OCR will be collecting two consecutive years of the CRDC (2020-2021 and 2021-2022), CCD believes this offers a unique opportunity for OCR to closely examine and address the important issue and need to address 504-eligible students.

If we can provide additional information, please let us know. Thank you for your prompt attention to this request.

Sincerely,

American Foundation for the Blind  
American Psychological Association  
American Speech-Language-Hearing Association  
Association of University Centers on Disabilities  
Autism Society  
Autistic Self Advocacy Network  
Bazelon Center for Mental Health Law  
Center for Learner Equity  
Children and Adults with Attention-Deficit/Hyperactivity Disorder  
CommunicationFIRST  
Council for Learning Disabilities  
Council of Parent Attorneys and Advocates  
Disability Rights Education & Defense Fund  
Easterseals  
Learning Disabilities Association of America  
National Association of Councils on Developmental Disabilities  
National Center for Learning Disabilities

National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)  
National Council on Independent Living  
National Disability Rights Network (NDRN)  
National Down Syndrome Congress  
Parent to Parent of Georgia  
Spina Bifida Association  
The Advocacy Institute  
The Arc of the United States

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*The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Education Task Force monitors federal legislation and regulations that address the educational needs of children with disabilities and their families, including the Individuals with Disabilities Education Act (IDEA) programs. The Education Task Force advocates for enhanced opportunities for children under these laws.*  
[www.c-c-d.org](http://www.c-c-d.org)