



February 22, 2024

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Special Assistant to the President for Education  
Domestic Policy Counsel  
The White House

Catherine Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education Office for Civil Rights

Kristen Clarke  
Assistant Attorney General for Civil Rights  
U.S. Department of Justice

Dear Special Assistant Cardichon, Assistant Secretary Lhamon, Assistant Attorney General Clarke,

The Consortium for Constituents 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, free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. In support of CCD's overall mission, the Education Task Force advocates for federal legislation, regulations, and guidance that protect civil rights, ensure high expectations, and address the educational, as well as the social and emotional needs of infants, children and youth with disabilities and their families. In this work, we focus on the Individuals with Disabilities Education Act (IDEA), the Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and other applicable laws.

We write to strongly urge the Department of Education's (ED) Office for Civil Rights and the Department of Justice (DoJ) to swiftly release robust regulations for Section 504. Section 504 is a foundational federal law designed to protect the rights of individuals with disabilities in programs and activities that receive federal financial assistance. Section 504 provides: "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 . . ." Furthermore, the current Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability and also assures

that “no [handicapped] student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.”

In July 2022, the CCD Education Task Force, in conjunction with the Rights Task Force, responded<sup>1</sup> to the ED Office for Civil Rights’ (OCR) request for recommendations on how to best improve the current regulations regarding Section 504. We encouraged OCR to consider the following changes, updates, and actions:

1. Align various statutes, regulations, and sub-regulatory guidance with the disability community’s current preferred language and ensure the most rigorous protections for students with disabilities;
2. Clarify and strengthen obligations entities have under Section 504;
3. Provide clarity on the requirements of entities to provide FAPE and an education free from discrimination to students with disabilities in childcare, preschool, pre-kindergarten, and head-start; and
4. Clarify the requirements of Institutions of Higher Education (IHE) to prohibit discrimination of students with disabilities in higher education.

The CCD Education Task Force first wrote to ED in December 2021, formally requesting<sup>2</sup> that OCR take actions to address district and school compliance with Section 504. Chief among our concerns was a recent analysis of the 2017-2018 Civil Rights Data Collection<sup>3</sup> (CRDC) presented in the Center for Civil Rights Remedies (CCR) report, *Disabling Inequity: The Urgent Need for Race Conscious Resource Remedies*<sup>4</sup>, which revealed that thousands of school districts fail to identify even one student as eligible under Section 504. The CCR report found 3,434 districts (roughly 20% of all districts) serving over 1.8 million students identified zero

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<sup>1</sup> See: Consortium of Constituents with Disabilities, Education Task Force, Response to 504 Recs, (2022), at: [CCD-Response-to-504-Regulations.pdf \(c-c-d.org\)](https://www.c-c-d.org/fichiers/CCD-Education-TaskForce-Letter-on-504-Recs-12_18.pdf)

<sup>2</sup> See: Consortium of Constituents with Disabilities, Education Task Force, Letter on 504 Recs, (2021), at: [https://www.c-c-d.org/fichiers/CCD-Education-TaskForce-Letter-on-504-Recs-12\\_18.pdf](https://www.c-c-d.org/fichiers/CCD-Education-TaskForce-Letter-on-504-Recs-12_18.pdf)

<sup>3</sup> See: U.S. Department of Education, Office for Civil Rights, 2018-2018 Civil Rights Data Collection, Enrollment Section 504 Only, (2018), at: <https://ocrdata.ed.gov/assets/downloads/2017-2018/Student-Enrollment/AllEnrollment/Enrollment-Section-504-only.xlsx>

<sup>4</sup> See: Center for Civil Rights Remedies, *Disabling Inequity: The Urgent Need for Race-Conscious Resource Remedies*, (2021) at: [https://www.civilrightsproject.ucla.edu/news/press-releases/2021-press-releases/national\[4\]analysis-details-troubling-levels-of-pre-existing-education-inequities-for-students-with-disabilities](https://www.civilrightsproject.ucla.edu/news/press-releases/2021-press-releases/national[4]analysis-details-troubling-levels-of-pre-existing-education-inequities-for-students-with-disabilities)

504-only eligible students. These data strongly suggest that thousands of districts across the U.S. are failing to implement the requirements of Section 504.

The Section 504 regulations have a long and storied history in the disability community dating back to the historic 504 sit-ins.<sup>5</sup> Since then, individuals with disabilities and their allies have fought to ensure these regulations are properly implemented and strictly enforced. It has been nearly forty-six years since the 504 regulations regarding education were meaningfully updated. While there have been many gains for students with disabilities since 1977, gross inequities still remain. It is essential that 504 regulations are updated to ensure students with disabilities are provided with access to education free from discrimination that most appropriately fits their needs.

We urge the White House, ED and DoJ to take any necessary action to ensure a swift release of the proposed regulations. Assistant Secretary Lhamon and Assistant Attorney General Clarke, we ask that you devote all necessary resources to issuing the proposed regulations without further delays. Additionally, we urge you to ensure a timely review of comments and finalization of this rule following the comment period.

If you have any questions or concerns, please reach out to one of the CCD Education Task Force Co-Chairs listed below.

Sincerely,

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<sup>5</sup> See: Disability Rights Education & Defense Fund, Short History of the 504 Sit-In, at: [Short History of the 504 Sit in \(dredf.org\)](https://www.dredf.org/short-history-of-the-504-sit-in/)

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cc:

Rachel Patterson, Director of Disability Policy, The White House

Jennifer Mathis, Deputy Assistant Attorney General, U.S. Department of Justice

Glenna Wright-Gallo, Assistant Secretary, Office of Special Education and Rehabilitative Services, U.S. Department of Education

Seth Galanter, Principal Deputy Assistant Secretary, Office for Civil Rights, U.S. Department of Education

Valerie Williams, Director, Office of Special Education, U.S. Department of Education