



Understanding Section 504 & the Recent Decision in Texas v. Kennedy

1. What is Section 504 and why it is so important to people with disabilities?

Section 504 of the Rehabilitation Act of 1973 is the first FEDERAL CIVIL RIGHTS LAW that prohibits discrimination against individuals with disabilities in any program or activity that receives federal funds. It requires institutions like public schools to provide reasonable accommodations and equal access so that eligible individuals can fully participate in educational and public programs.

The implementing regulations enforce this law by setting clear compliance standards, evaluation procedures, and operational rules for accessibility. One of the KEY regulations requires providing services in what is known as the Least Restrictive Environment.

Section 504 also has a very important enforcement mechanism – known as the Spending Clause, Congress attaches “strings” to federal money. When an institution (school, hospital, state agency) voluntarily accepts federal funding it agrees to comply with Section 504’s civil rights regulations. Section 504 is THE foundational legal framework for disability rights in the United States. It has also served as the structural blueprint for the ADA.

2. How does Section 504 differ from the Individuals with Disabilities Education Act, or IDEA, and the Americans with Disabilities Act?

Section 504 and the ADA are federal civil rights laws that prohibit discrimination based on disability. IDEA is a federal education law that requires states who accept certain funding to meet a specific set of education obligations for children from birth through the age of 21 who have been verified as needed special education assistance.

3. When we talk about disability rights, we often focus on access to buildings or accommodations in the classroom. How does Section 504 extend beyond those issues?

Section 504 requires education services and accommodations for public school students in K-12 and higher education. But is also requires medical equity, such as accessibility in hospitals, clinics, and nursing homes. It makes sure we have sign language interpreters, accessible medical exam tables, accessible buildings for individuals trying access unemployment offices, welfare programs, food assistance agencies, public transport and our ever-increasing digital world. It makes sure buses and trains are navigable, and requires government portals, telehealth systems and school websites to have assistive software and it is a founding method through which Congress can attach civil rights conditions to federal money.

4. What was this lawsuit Texas v. Kennedy lawsuit about, and what prompted the states to challenge the federal government's 2024 Section 504 regulations?

The original lawsuit was brought by 17 states. DHHS had updated its regulations, and for purposes of integration, put into regulation what the United States Supreme Court and other federal courts had held: that states had to provide healthcare and human services to individuals with disabilities “in the most integrated setting appropriate.” States said this was going to impact their budgets by forcing states to transition individuals from facilities and centralized institutions to community-based settings, which was already the goal established by the U.S. Supreme Court in *Olmstead v. L.C.* (527 U.S. 581 (1999)). The regulations gave DHHS the authority to enforce the goal. There also was a statement in the preamble of the regulations (e.g., it wasn’t law, just a statement) that it was possible for gender dysphoria to legally qualify as a disability in some instances. The lawsuit ostensibly was about “over-regulation,” but hidden at the end of the complaint was a request to have the judge find the entirety of Section 504 unconstitutional.

5. The case was originally known as Texas v. Becerra. Why did the name change?

Xavier Becerra was the head of DHHS at the time the suit was brought, he served under President Biden between 2021 and 2025. He was named because DHHS was the federal agency responsible for updating and enforcing Section 504 regulations. When the administration changed, the states updated their claim because Robert F. Kennedy Jr. is now in that position.

6. The 2024 Section 504 regulations included provisions addressing community integration. What did those provisions require, and how were they intended to protect people with disabilities?

The revised regulations are the first comprehensive DHHS update in nearly 50 years. The previous DHHS regulations were more about principles to apply, and the new regulations contain more specific, enforceable mandates. For example, the old regulations didn’t address clinical bias, and the new ones prohibit doctors from denying lifesaving care based on a subjective belief that a person with disabilities’ “quality of life” is less valuable. In the old regulation, digital rights were just inferred, in this new regulation there are specific requirements for websites and mobile applications; and the new regulations address physical accessibility for diagnostic equipment. The most critical update is the one objected to, which is the formal codification into regulation that services be delivered in the most integrated setting appropriate to a person’s needs.

7. On September 23, 2026, a federal judge approved an agreement vacating specific community integration provisions of the regulations. What did that ruling do?

The Judge essentially wiped-out portions of the new regulation that defined “most integrated setting” and that required transitioning or sustaining individuals in in-home and community-based settings. The Judge did not rule on the constitutionality of the law, instead he signed off on a deal cut between the remaining states in the lawsuit and the new DHHS Secretary of Health (Kennedy).

8. The ruling applies nationwide, not just in the states that brought the lawsuit. Why does a decision involving a handful of states have consequences for people across the country?

The judge took away the federal DHHS's ability to penalize or withhold federal funding from states that over-institutionalize people with disabilities. The broader obligation to provide integrated community care still technically exists, but regulators no longer have rules to enforce it.

9. What were the central legal arguments behind the challenge to the community integration provisions? How did the federal government's position affect the outcome?

With the change in administrations, the federal government's decision to abandon its defense of community integration aligns with a series of decisions we have seen. First, in 2024, the Supreme Court overturned the Chevron case, essentially saying that Courts do not have to give weight to agency interpretations of law; then in June of 2026, the Department of Justice (DOJ) issued a memo that "reinterpreted" the Supreme Court Olmstead case and the federal government's authority regarding Olmstead's integration mandate. DOJ took an "originalist" position, saying that the regulations (written by the former Biden administration) had stretched the definition of integration beyond the original statute. In essence, the DOJ shattered federal civil rights policy by simply declaring that neither Section 504 nor the ADA impose a legal "integration mandate" on states. This is a very narrow interpretation of the Supreme Court's Olmstead case, which is not how most federal courts have interpreted Olmstead for the last 30 years.

10. What does it mean for a person with a disability to live, learn, work, and participate in the community "in the most integrated setting appropriate for their needs?"

It means that a person with a disability has the legal right and opportunity to fully interact with non-disabled peers. Instead of being isolated, segregated or grouped solely with other people with disabilities, it ensures everyone can participate in everyday community life – like living in a typical house or apartment, choosing when to eat, who to visit, and how to spend one's day. It also means working a regular job at a standard business, earning the same prevailing wage as anyone else; attending school in general education classrooms; it is the opposite of the "one-size-fits-all" approach of institutionalization.

11. How have federal disability rights laws historically addressed the risk of people with disabilities being unnecessarily segregated in institutions or other settings?

The law shifted the definition of segregation from something that was "just unfortunate" into the idea that unnecessary segregation was illegal discrimination. This started with Section 504. Before Section 504, the public policy on disability was that isolation was a "logical necessity." The first regulations established that recipients of federal funds had to provide services in the least restrictive environment appropriate. Because Section 504 only applied to recipients of federal funds, large parts of society remained segregated until the Americans with Disabilities Act (ADA) in 1990, which legally required public entities to administer their services, programs and activities in the most integrated setting appropriate."

12. What is important about the Olmstead decision?

In 1999, the Supreme Court ruled that the unjustified institutional isolation of people with disabilities is a form of discrimination. The decision resulted in states actively auditing their

budgets and developing “Olmstead Plans” and was the catalyst for the creation of Medicaid Waiver Programs, which allowed public health dollars to be redirected toward funding home and community-based services (HCBS) instead of traditional institutional nursing homes and state hospitals.

13. The recent Texas v. Kennedy ruling removed certain regulatory language concerning community integration. What protections remain in place under Section 504, the ADA, and Olmstead?

Section 504 still exists, as does the ADA; Olmstead is still precedent; and federal court rulings still stand. The problem is that there are splits in the federal circuit courts now. For example, the 11th Circuit, in *United States v. Florida*, is in the middle of a case about how Medicaid-enrolled children with complex medical needs were placed in adult nursing homes due to funding. In March of this year, the 11th Circuit affirmed a lower court injunction against the State of Florida. But on August 13th, the DOJ under the current administration reversed its position and asked the court to throw out its ruling. At the same time, the 5th Circuit, in *United States v. Mississippi* held that when a child is at risk of institutionalization, that status is not discrimination. So now there is a likely split in the circuit courts, which means that the current Supreme Court could essentially be asked to reconsider its Olmstead decision, and could narrow it.

14. How might the removal of the specific DHHS regulatory provisions affect people who rely on publicly funded services, including individuals with intellectual and developmental disabilities?

It’s about money. If states determine that they don’t have to follow their Olmstead Plans because they know the DOJ won’t enforce integration mandates, they are likely to change their budgets. The federal government cut 1 trillion dollars from Medicaid under the “One Big Beautiful Bill” Act creating the perfect storm for the rapid dismantling of community-based services for people with disabilities. Unlike nursing homes, which states must fund, HCBS community waivers are optional programs. With billions of dollars being pulled from state Medicaid budgets, states are facing massive deficits, so they are heavily incentivized to cut optional HCBS programs, reducing caregiver hours, lowering home-care provider rates, freezing enrollment waitlists, etc.

15. What could this mean for families who are trying to secure community-based services rather than institutional care for a loved one?

The process is likely to get more competitive, litigious and dependent on geography. If you are in a state with strong civil rights you may have protections at the state level, but if not, and home care hours are cut, or aides don’t show up, families may be told that the only available option is a bed in a centralized nursing facility or state institution. Essentially, now that the federal government has pulled back enforcement, everything is going to be at a state level.

16. Education Rights Counsel’s focus is on education. What is the relationship between Section 504’s education-related protections and the community integration provisions affected by this ruling?

Section 504 is one law with different enforcement bodies. DHHS writes its regulations, and the Department of Education (DOE) writes different ones. The “least restrictive environment” (LRE) regulations for education haven’t been expressly impacted by the removal of LRE in health regulations. But it is a very dangerous precedent. The integration mandate in Section 504 for

education is also regulatory, not statutory. The DOE has been taken apart, with the Office of Civil Rights which enforces the discrimination claims now part of the Department of Justice (DOJ) and OSERS (the Office of Special Education and Rehabilitation Services) which oversees IDEA is now with DHHS. The DOJ's new interpretation of the integration mandate creates an immediate and severe conflict for K-12 schooling. DOJ has already expressly said that they will no longer investigate special education students being segregated into isolated rooms, and they will no longer investigate "disparate impact," only "intentional

17. What protections do students with disabilities continue to have under Section 504 in public schools?

Section 504 still exists in full, and education regulations haven't changed. The question is how to obtain enforcement and ensure accountability when the primary regulating body is looking the other way? Regulations are what have given meaning to what is discrimination; the regulations have stated that failing to provide students with equal, meaningful access to educational opportunities is discrimination. And the enforcement of that regulatory framework is being actively dismantled.

18. How does Section 504 help students who may not qualify for special education under IDEA but still need accommodations to access their education?

It is a common misunderstanding that Section 504 doesn't require educational instruction. It does. And its definition of a Free Appropriate Public Education (FAPE) is actually more robust than IDEA. However, when a child is verified for services under IDEA, if the Individual Education Program (IEP) developed under IDEA meets FAPE, then Section 504 is also deemed to have been met. When a child does NOT verify under IDEA for specialized instruction and services, Section 504 STILL provides accommodations like fidgets and breaks and extended time on tests, etc., and it still provides protections against disciplining someone for a manifestation of their disability.

19. What are some common misunderstandings parents have about Section 504 plans, and what should families know when requesting accommodations for their children?

Section 504 is a civil rights statute rather than an education law, so it operates very differently than IDEA. Section 504 doesn't change WHAT a student learns (as in, it doesn't allow modified grading, or a different curriculum), instead it changes HOW a student learns, by removing barriers to equal access. But schools also have misunderstandings: it is possible to obtain specialized services under a 504 plan if they are required for equal access. For example, a specialized FM transmitter for a student with a hearing impairment who doesn't require special education classes is something that could be provided under a 504 plan. Also, just because a child is doing well academically does not mean they are not eligible for a 504 plan. A high-achieving student with ADHD, or severe anxiety can absolutely qualify for a 504 plan if they need accommodations like extra testing or breaks.

20. What should parents do if a school denies a reasonable accommodation or fails to implement a student's Section 504 plan?

There are different things a parent could consider. Within 180 days of the failure, parents can file a complaint through the DOE OCR portal. It will then go to the DOJ for consideration. Neither Iowa nor Nebraska have any state-level system supporting or supervising Section 504 so there is no state complaint route. Parents can use a school district's internal grievance procedure with the district itself or the family can retain an attorney and file a lawsuit directly in district court.

21. Looking ahead, what developments should disability advocates and families pay attention to in the coming months?

The big questions are how will the DOJ and DHHS approach education and other integration mandates that are expressed regulatorily, and whether the Supreme Court will entertain reconsideration of *Olmstead* based on the split between the 11th and 5th circuits. Also, in 2025, the Supreme Court substantially limited the power of a single federal judge to issue nationwide injunctions, which was/is the position of the current administration. But that case was about injunctions, and this is a universal "vacatur" or a wiping away of a regulation. The Supreme Court didn't address this, and we need to see if they will.