

(1.16) If my child does not meet special education eligibility, is there any other way to obtain some special services to address educational problems?

A student who may have problems learning may not be found eligible for special education services because she does not fit into one of the special education eligibility categories and/or because her learning problems are not severe enough to qualify her for special education. A student, however, may be eligible for special services and program modifications under a federal antidiscrimination law designed to reasonably accommodate her condition so that her needs are met as adequately as the needs of non-disabled students. The law is commonly known as Section 504 of the Rehabilitation Act of 1973. [29 U.S.C. Sec. 794 (implementing regulations at 34 C.F.R. Secs. 104.1 and following).] See [Chapter 16, Information on Section 504 and Disability-Based Discrimination](#).

Section 504 eligibility is not based on a categorical analysis of disabilities. Rather, Section 504 protections are available to students who can be regarded as “disabled” in a functional sense. These students must:

1. Have a physical or mental impairment which substantially limits a major life activity (such as learning);
2. Have a record of such an impairment; or
3. Be regarded as having such an impairment. [See 34 C.F.R. Sec 104.3(j) for further definition.] For more information on *Eligibility*, see Chapters [3](#) and [16](#).