

STUDENTS' CIVIL RIGHTS ENFORCEMENT INITIATIVE

The Students' Civil Rights Act

ADVOCATE'S TOOLKIT

**PART 3:
STRENGTHENING DISABILITY RIGHTS &
PROTECTIONS IN PUBLIC SCHOOLS**

Part 3: Strengthening Disability Rights & Protections in Public Schools

About the Section

The *Strengthening Disability Rights & Protections in Public Schools* section adopts many of the core protections provided by Section 504 of the Rehabilitation Act of 1973. It creates a clear prohibition against discrimination based on disability in public preschool, elementary, secondary, and post-secondary schools. It also outlines what process students and parents can follow if they want to report discrimination directly to their school district.

DRAFTING CONSIDERATIONS

Additional Definitions

The model text for this bill section includes the definitions of key terms to ensure state lawmakers and the public can fully understand the protections for students with disabilities. Some states that are already considering a state version of Section 504 have included additional terms to further explain concepts that are not common in everyday conversation. For example, a [state Section 504 bill in Connecticut](#) also defined the following terms and phrases:

- “Physical or mental impairment”
- “Major life activities”
- “Has a record of such an impairment”
- “Is regarded as having an impairment”

Consider checking out the Connecticut bill, bills and statutes in other states, and the federal Section 504 statute, if you would like to learn more about other key terms.

Civil Rights Enforcement

Subsection (a) under Section 4 ties the enforcement of the rights of students with disabilities back to the core bill of the Students’ Civil Rights Act. This means that anyone who experiences a violation of this Section at their school or their child’s school can file a complaint with the state civil rights agency, and the state civil rights agency must take action.

The language in subsection (a) assumes that this whole bill section is being added to the core bill and that your state will adopt both. If you are trying to pass this section for students with disabilities without the core bill, you will want to consider replacing the current language in subsection (a) with language about your state’s existing nondiscrimination statutes and enforcement procedures that apply to education.

Stronger Procedural Safeguards

Section 11 of this part of the model that outlines protections for students with disabilities requires local education providers to establish a minimum set of safeguards that ensure procedures are fair and equitable for students and parents who are or should receive aids, benefits, or services from the school district or who take issue with how their district is providing aids, benefits, or services. The current list of safeguards in the model text is meant to set a floor, but you can try to include more robust safeguards to the list, such as:

- Defined qualifications for the impartial hearing officer.
- Timelines for hearings, including when they will occur based on when the complaint is filed.
- An explanation of who is responsible for making their case to the hearing officer and to what degree should their evidence prove their case, also called the “burden of proof.” (Tip: Start by looking into language for a “preponderance of the evidence” standard.)
- Clear language that explains what the review procedure (referenced in subsection (a)(8)) may be.