

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 87 (Quirk-Silva)  
Version: March 27, 2023  
Hearing Date: June 27, 2023  
Fiscal: No  
Urgency: No  
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**SUBJECT**

Pupils: Section 504 plans: meetings and team meetings

**DIGEST**

This bill grants parents, guardians, and local educational agencies (LEA) the right to audio record the proceedings of Section 504 meetings.

**EXECUTIVE SUMMARY**

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) (Section 504) prohibits an individual with a disability in the United States, as defined, from, solely by reason of their disability, being excluded from the participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance. This requirement applies to public schools.

The 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. FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. Potentially eligible students must be referred to a Section 504 Team to determine eligibility.

This bill authorizes parents, guardians, and local educational agencies the right to audio record the proceedings of Section 504 meetings and team meetings. This is in line with laws governing audio recording of the proceedings of individualized education program team meetings.

This bill is sponsored by Disability Rights California. It is supported by a number of disability rights and other children's advocacy organizations, as well as the California School Boards Association. There is no known opposition. This bill passed out of the Senate Education Committee on a 7 to 0 vote.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes the Individuals with Disabilities Education Act in order to ensure that all children with disabilities have a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, among other purposes. (20 U.S.C. § 1400 et seq.)
- 2) Establishes the Rehabilitation Act of 1973, which prohibits an individual with a disability, as defined, from, solely by reason of their disability, being excluded from the participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance. (29 U.S.C. § 794)
- 3) Establishes a right of parents, guardians, and LEAs to audio record the proceedings of individualized education program (IEP) team meetings. (Educ. Code § 56341.1(g).)
- 4) Requires a parent, guardian, or LEA to notify the members of the IEP team of its intent to audio record a meeting at least 24 hours prior to the meeting. (Educ. Code § 56341.1(g).)
- 5) Prohibits an LEA from recording an IEP team meeting if the parent or guardian objects or refuses to attend the meeting because it will be audio recorded. (Educ. Code § 56341.1(g).)
- 6) States the following findings and declarations:
  - a) Under federal law, audio recordings made by an LEA are subject to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) (FERPA), and are subject to the confidentiality requirements of the regulations under Sections 300.610 to 300.626, inclusive, of Title 34 of the Code of Federal Regulations.
  - b) Parents or guardians have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to do all of the following:
    - i. Inspect and review the audio recordings.
    - ii. Request that the audio recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the individual with exceptional needs.

- iii. Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading, or in violation of the individual's rights of privacy or other rights. (Educ. Code § 56341.1(g)(2).)

This bill:

- 1) Provides a parent or guardian or LEA the right to audio record the proceedings of meetings and any team meetings held pursuant to Section 504.
- 2) Requires the parent or guardian or LEA to notify the other members of the team of their intent to so record the meeting at least 24 hours before the meeting.
- 3) Prohibits an LEA from recording a meeting if the parent or guardian objects or refuses to attend the meeting because it will be audio recorded.
- 4) Defines "local educational agency" as a school district, county office of education, charter school, or any other educational entity that is subject to Section 504.

### COMMENTS

#### 1. Background on Section 504

The Section 504 regulations require a school district to provide a 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. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.

To be protected under Section 504, a student must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; or (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Section 504 covers qualified students with disabilities who attend schools receiving Federal financial assistance.

Any student believed by a parent or school professional to have an impairment that substantially limits a major life activity, such as learning, must be evaluated, and is generally to be referred to a Section 504 team to determine eligibility under Section 504. The Section 504 Team must be composed of persons knowledgeable about the student's individual needs, the student's school history, the meaning of evaluation data, and placement options. The Section 504 team will consider the referral. After reviewing the student's school records (including academic, social and behavioral records),

identifying the current strategies in place and the student's needs, the Section 504 team will make a determination as to whether or not additional evaluation is required.

If additional evaluation is needed, it will be conducted pursuant to Section 104.35(b), Title 34 of the Code of Federal Regulations. Students requiring further evaluation will be referred to the appropriate evaluation staff. A decision will then be made regarding eligibility under Section 504.

## 2. Audio recording Section 504 meetings

This bill grants parents, guardians, and LEAs the right to audio record the proceedings of Section 504 meetings and team meetings. The interested party must simply provide 24-hours notice to the other members of the team. To center the rights of the student and their parents or guardians, LEAs are prohibited from recording the meeting if the parent or guardian objects or refuses to attend the meeting if it is recorded. Given the importance of these meetings and the potentially overwhelming amount of information and technical jargon used, this arguably provides families with an important due process safeguard.

Students with qualifying disabilities are required to be provided an individualized education program (IEP). An IEP team (made up of the parents and qualified professionals) makes the actual determination of eligibility for special education and related services, based upon the assessment reports. The rights provided by this bill are identical to those granted in the IEP context. Current law provides parents, guardians, and LEAs with the right to audio record the proceedings of IEP team meetings. The same notice requirement and restrictions apply.

According to the author:

As a teacher for over 30 years, I understand how information provided to parents can be overwhelming. AB 87 provides parity for the right of parents, guardians and local school districts to record 504 planning meetings as is currently allowed in Individual Education Plan (IEP) meetings. The right for parents, guardians, and local school districts to record 504 Plan meetings is important due to the amount of information presented about the student and their needs. As a parent/guardian, it can be challenging to pay attention, take notes, and formulate questions based on what is discussed. This is especially true because parents and guardians may not be familiar with many of the "education" terms 504 team members use during 504 meetings.

3. Stakeholder positions

Disability Rights California, the sponsor of this bill, writes:

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) is a federal civil rights law that requires local school districts to provide equal educational opportunities to qualified students with disabilities. Pursuant to Section 504 and its regulations, school districts convene “504 team meetings” for qualified students with disabilities to identify necessary accommodations. The document that describes the accommodations is called a “504 Plan.” About 85,100 students in California have 504 plans according to the U.S. Department of Education’s Office for Civil Rights.

The California Education Code already permits the audio recording of Individual Education Program (IEP) team meetings in this manner. Cal. Educ. Code § 56341.1(g). But it does not extend this important right to 504 plan meetings. As a result, parents and guardians have no recourse when districts deny their requests to audio record their children’s 504 meetings.

AB 87 will close this arbitrary loophole and grant parents and guardians the right to record 504 meetings.

Writing in support, the California Parents Union argues:

During 504 plan meetings much information is presented about the students and their needs. AB 87 would create the right to record 504 meetings. This can only be helpful to a parent or guardian who didn’t get a chance to take notes, ask questions, or might not be familiar with the terminology used during the meeting. The recording of a 504 meeting will give a parent or guardian a chance to review the presented information so they can be better informed and understand the process.

**SUPPORT**

Disability Rights California (sponsor)  
California Alliance of Child and Family Services  
California Parents Union  
California School Boards Association  
California State Council on Development Disabilities  
Educate. Advocate.  
Epilepsy Foundation Los Angeles

**OPPOSITION**

None known

**RELATED LEGISLATION**

Pending Legislation:

SB 323 (Portantino, 2023) requires an LEA to create and maintain an Inclusive School Emergency Plan and require the IEP for a pupil with exceptional needs to include additional accommodations if the LEA's comprehensive school safety plan is insufficient to ensure the pupil's safety in an emergency. SB 323 is currently in the Assembly Education Committee.

AB 624 (Grayson, 2023) requires the Trustees of the California State University and would request the Regents of the University of California, to cover the costs of diagnostic assessments as proof for academic accommodations for any student who receives student financial aid or who is eligible for financial assistance from the institution's health or disability center. AB 624 is currently in the Senate Education Committee.

Prior Legislation: None known.

**PRIOR VOTES:**

Senate Education Committee (Ayes 7, Noes 0)  
Assembly Floor (Ayes 65, Noes 0)  
Assembly Education Committee (Ayes 7, Noes 0)

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