**Parents may be able to recover damages under Section 504 and the Americans with Disabilities Act (ADA)**

If parents had to hire advocates and attorneys to compel a school district to provide appropriate dyslexia services this may apply. However, the availability of damages depends on the specific claims, the legal standard applied, and whether the school district’s actions (or inaction) rise to the level of **intentional discrimination or deliberate indifference**. Here’s how it generally works:

**1. Recovery of Attorney’s Fees and Costs in IDEA Due Process Cases**

If the parents filed for **due process under the Individuals with Disabilities Education Act (IDEA)** and prevailed, they would be entitled to recover **reasonable attorney’s fees**. However, you specified that the parents had to hire advocates and attorneys **just to secure basic services**, which may suggest they did not file for due process. Under **IDEA alone**, damages for attorney’s fees are typically only available if due process is filed and won.

**2. Damages for ADA and Section 504 Violations**

When a school district **violates Section 504 or the ADA** by failing to provide appropriate services, parents can potentially recover damages, including compensation for financial losses (such as advocate and attorney expenses), if they can demonstrate **intentional discrimination or deliberate indifference**. Courts have allowed monetary damages in cases where school districts were found to be deliberately indifferent or acted with reckless disregard for students’ rights.

**Key Legal Standard: Deliberate Indifference**

To succeed in a claim for **monetary damages** under Section 504 or ADA, parents must demonstrate:

* The student was eligible for services under **Section 504 or the ADA**.
* The school district failed to provide **appropriate accommodations or services**.
* The district’s actions amounted to **deliberate indifference** or **intentional discrimination**.
* The parents incurred **financial harm** as a result of the district’s failure (e.g., advocate/attorney costs).

**3. Case Law Supporting Damages for ADA/504 Violations**

Several court cases have recognized parents’ ability to recover monetary damages under **ADA and Section 504** in situations involving deliberate indifference:

* **Duvall v. County of Kitsap, 260 F.3d 1124 (9th Cir. 2001)**:
  + Established that **deliberate indifference** requires (1) knowledge of the harm and (2) failure to act to prevent it.
  + Monetary damages were awarded for ADA violations due to intentional discrimination.
* **Wiles v. Department of Education of Hawaii, 593 F. Supp. 2d 1176 (D. Haw. 2009)**:
  + Parents recovered damages for the school district’s failure to provide necessary services.
  + The court found **deliberate indifference** under Section 504.
* **Mark H. v. Hamamoto, 620 F.3d 1090 (9th Cir. 2010)**:
  + The court held that parents of students with disabilities could seek **compensatory damages** under Section 504 and ADA for a school district’s failure to provide services.
  + The parents were awarded damages for out-of-pocket expenses related to obtaining services the district failed to provide.
  + Here are several good resources (case law and legal updates) that support the idea that parents *may* recover monetary damages under **Section 504** of the Rehabilitation Act and the **ADA** in education settings. If you want, I can pull together a more tailored list by jurisdiction (Wyoming, U.S. Tenth Circuit, etc.).
  + **Key Cases and Legal Principles**
  + **A.J.T. v. Osseo Area Schools** (June 2025, U.S. Supreme Court)
  + The Supreme Court held that schoolchildren bringing claims under ADA and Section 504 related to their education are *not* required to show a heightened standard such as “bad faith or gross misjudgment.” Instead, the usual standard of intent in ADA / Section 504 cases (often “deliberate indifference”) applies.
  + This decision makes it easier for parents to claim compensatory damages under those statutes in educational contexts.
  + **S.H. ex rel. Durrell v. Lower Merion School Dist.** (Third Circuit)
  + A case in which a student/parent sought damages (including emotional distress, therapeutic expenses, etc.) under IDEA, ADA, and § 504 for misidentification of a disability.
  + The ruling emphasized the requirement of *intentional discrimination* (with “deliberate indifference” being a key standard) in § 504/ADA claims that seek monetary relief.
  + **Perez v. Sturgis Public Schools**
  + Legal updates (e.g. from the Education Law Center) show that courts may award compensatory damages under ADA and § 504, which are remedies not available under IDEA.
  + Also, that exhaustion of IDEA procedures may not be required if the claim seeks relief IDEA cannot provide (e.g. monetary damages under ADA/504).
  + **Recovery of Money Damages from Schools in Disability Discrimination Cases** (Legal Update / In Brief)
  + Explains the standard of intentional discrimination (deliberate indifference) as essential for claiming compensatory damages in § 504 / ADA cases.
  + **Barnes v. Gorman (2002)**
  + While not a school‐case, this Supreme Court decision is important because it clarifies that punitive damages are *not* available under ADA §202 and §504 private suits. Parents seeking damages must focus on compensatory (not punitive) relief.
  + **Key Legal Standards / Doctrines**
  + **Intentional discrimination / “deliberate indifference”**: These are critical to establishing entitlement to monetary damages under ADA / §504 in educational contexts. Negligence alone is insufficient.
  + **Exhaustion of IDEA remedies**: If a parent is seeking remedies that IDEA does *not* provide (like monetary damages under ADA / §504), they may not need to exhaust IDEA’s administrative procedures.
  + **IDEA Section 1415(l)**: This statutory provision clarifies that nothing in the IDEA limits rights or remedies that are available under ADA or Section 504. This helps ensure parents can pursue ADA / §504 remedies even in the educational setting.

**4. What Can Parents Potentially Recover?**

If parents successfully prove deliberate indifference under **ADA or Section 504**, they may be able to recover:

* **Reimbursement of advocate/attorney fees** and related expenses.
* **Out-of-pocket costs** for private dyslexia services the district failed to provide.
* **Compensatory damages** for emotional distress (in some cases).
* **Punitive damages** (rare in public school cases but possible in private institution cases).

**5. No Due Process Filing? You Can Still Sue for ADA/504 Damages**

Even if the parents **never filed due process** under IDEA, they can still sue under **ADA and Section 504** in **federal court** for monetary damages. These claims do not require prior exhaustion of administrative remedies if the parents are seeking **damages rather than educational remedies** (e.g., services or placement).

**6. Strategic Considerations**

If parents are seeking damages for advocate and attorney expenses:

* They must demonstrate that the school district’s failure to act was due to **deliberate indifference** or intentional discrimination.
* They can file in **federal court** under ADA and Section 504, even if they never filed due process under IDEA.
* **Evidence of deliberate indifference** (emails, meeting notes, refusal of services, etc.) will be critical in proving their claim.

**Bottom Line: Yes, Parents Can Sue for Damages**

Parents who had to hire advocates and attorneys due to a school district’s failure to provide basic dyslexia services **may have a valid claim for damages under ADA and Section 504**, even without having filed for due process under IDEA. The key is proving **deliberate indifference** or intentional discrimination, which allows for the recovery of monetary damages.