

19. SECTION 504

Section 504 of the Rehabilitation Act is another law designed to protect children with disabilities. A child is considered disabled under Section 504 if he or she has an actual, or perceived mental, psychological or physiological (physical) disorder that interferes with his or her ability to participate in one or more major life activities.

Major life activities include:

- Self-care
- Learning
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Working



The law is designed to prevent discrimination by ensuring that all children have the opportunity to access the same programs and services as nondisabled children. Section 504 can be especially relevant to children in dependency, who have a greater risk statistically for disabilities. Many of these children who need extra help are not considered disabled under strict IDEA guidelines and do not qualify for services under special education laws. These children may have an actual or “perceived” disability that qualifies them for services under Section 504.

The Law

Section 504 law states that no handicapped individual shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

School districts receive federal funds and must therefore follow the requirements of Section 504. School districts must provide a free appropriate public education to each qualified handicapped child

who lives in the school district, regardless of the nature or severity of the person's handicap.

An appropriate education includes regular or special education and related aids and services designed to meet individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons.

A developed and implemented IEP meets the requirements of Section 504.

If a student is referred to another program outside the school, the school remains responsible for ensuring that that program meets the individual's needs.

A 504 Plan should be considered:

- When assessments were conducted, but the child was not found to have a qualifying disability under IDEA
- When the child is diagnosed with a disability that does not qualify him or her for services under the IDEA
- Whenever a parent or advocate feels a child may have a disability that interferes with their access to FAPE

Some disabilities that might require 504 accommodations include:

Depression, anxiety, attention deficit/hyperactivity disorder, diabetes, cerebral palsy, cystic fibrosis, severe allergies, asthma, epilepsy, AIDS or HIV, cancer, visual and hearing impairments, and chemical dependency.

If a child has a qualifying condition under IDEA, he or she will also automatically qualify for special services under Section 504 of the Rehabilitation Act.

Section 504 may also be used to address the specific needs of children in dependency who may suffer from:

- Depression
- Post-traumatic stress disorder
- Temporary disability due to insufficient medical care, nutrition, mental health problems, etc.

Section 504 can also be used to access services for older children who may not want to be identified as Special education students and for those students suffering from mental health concerns who do not wish to be identified as "seriously emotionally disturbed" to access services through IDEA.

Section 504 also provides a way to access services for children whose problems may be temporary, but prevent the child from fully accessing and benefiting from their education. Examples include short-term counseling or rehabilitative services.

To refer a child for possible qualification for services under Section 504 see special section on "Referral".

Evaluation procedures.

Evaluation criteria for assessing a child under Section 504 is similar to assessment criteria under IDEA. Tests must be:

- Validated for the specific purpose for which they are used
- Administered by trained personnel
- Tailored to assess specific areas of educational need
- Designed to accommodate impaired sensory, manual, or speaking skills

The Office of Civil Rights also states that if a parent or advocate can document “either through testing by the school or outside professionals that the child has difficulties which interfere with his or her ability to learn in the classroom,” the school must make reasonable accommodations to address the student’s needs.

The Plan

Accommodations and modifications outlined in the Section 504 Plan will vary depending on student needs. The general education teacher(s), parents/caregivers, advocate and principal or administration representative should work together to create a plan to meet the student’s needs based on all available information.

Considerations

Like the IDEA, Section 504 requires that children with disabilities be educated with their non-disabled peers whenever possible. The child should be removed from the regular classroom only when it can be shown that the child cannot receive FAPE in the regular classroom even with supplementary aids and services.

A child placed in a special classroom should still participate in group activities such as meals, recess periods, and other school activities with non-disabled peers whenever possible.

Specific Services

Section 504 services are accommodations intended to remove disability-related barriers to a child’s full participation in school.

This includes access to all academic (classroom instruction) as well as non-academic programs such as:

- Counseling services, including personal, academic or vocational counseling
- Physical recreational

- Athletics
- Health services
- Recreational activities
- Special interest groups or clubs sponsored by the school
- Referrals to outside agencies that provide assistance to handicapped persons, and employment of students
- Residential placement, when necessary

Further discussion of residential placement is beyond the scope of this publication.

Section 504 accommodations can include any modification or accommodation the child requires to access all programs and services available to non-disabled children, including:

- The administration of medication
- Special seating in the classroom
- Training of school personnel
- Transportation
- Modifying facilities to ensure accessibility and ease of use
- Provision of special equipment like tape recorders and calculators.
- Modification of learning materials, tests, etc.
- Positive behavioral interventions
- Regular/scheduled communication between teacher and care giver
- Vocational and/or life skills training

Due Process for Section 504 Plan Accommodations

Schools are required to address the needs of all students with disabilities that interfere with their access to a FAPE. If a school fails, either by refusing to assess a student to determine needs, or failing to address those needs in a timely manner, the child's parent has a right to hold the school accountable. It is important to document all concerns and communication, including dates and names of contacts, requests and responses, etc.

The parent should send a letter to the school administration outlining concerns and the ways the child's needs are not being met. The parent should request a meeting to address these concerns.

Advocates and parents also have a right to file a complaint with the Office of Civil Rights if they feel the school is not adequately addressing their concerns. In addition, the parent can file a lawsuit on behalf of the child against the district, school, and individual staff members.

Review

All Section 504 Plans should be reviewed annually. The parent or advocate can also request a meeting if he or she has any concerns about the child's Section 504 plan, or feels the child needs additional or different services. If the parent, teacher and other school staff all agree that the accommodations continue to meet the child's needs, no formal review meeting is needed.

For more information:

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