

Section 504: A Parent's Guide

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Disclaimer: The information presented is a general and limited overview of very complicated material and is neither complete nor intended as legal advice. It is for general informational purposes only. Individuals with questions or legal problems should consult with a person knowledgeable in special education law.

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AGENDA

- ◆ What is Section 504?
- ◆ History of Section 504
- ◆ What is Office for Civil Rights (OCR)?
- ◆ Identification and Evaluation
- ◆ Process and Plan
- ◆ Procedural Safeguards
- ◆ Dispute Resolution



What is Section 504?

- ◆ Civil Rights Law
- ◆ Prohibits discrimination
- ◆ Protects rights of students with disabilities in programs and activities that receive federal financial assistance from the US Department of Education.
- ◆ Implementation responsibility of general education
- ◆ Requires FAPE ** and Accommodations



History ADA – Section 504

- ◆ 1973 - Section 504 of the Rehabilitation Act of 1973
- ◆ 1975 – Education for All Handicapped Children Act (now IDEA Individuals with Disabilities Education Act)
- ◆ 1990 – American with Disabilities Act (ADA)
- ◆ 2008 – American with Disabilities Act Amendments Act (ADAAA)



What is OCR?

- ◆ Office of Civil Rights
- ◆ Part of the U.S. Department of Education
- ◆ OCR enforces civil rights laws which work to end discrimination in education programs
- ◆ 12 offices in the United States
- ◆ OCR's Boston regional office covers: RI, CT, MA, ME, NH & VT



OCR's Role



- ◆ Complaint Processing
- ◆ Compliance Reviews
- ◆ Technical Assistance



Did you know ...

Effective January 2009, eligibility for protection under Section 504 of the Rehabilitation Act became broader?



Free Appropriate Public Education (FAPE)

"Appropriate" education programs for students with disabilities ***must be designed to meet the unique needs of students with disabilities to the same extent that the needs of non-disabled students are met.***



Identification

Identifying a student with a disability under Section 504 ***begins with the evaluation process.***



Evaluation

- ◆ Schools must evaluate all students suspected of disability requiring Section 504 protection.
- ◆ All factors related to student's learning process must be considered AND documented.
- ◆ Includes Academic AND Functional Needs



Definition of Disability

- Having a physical or mental **impairment** which substantially limits one or more major life activities
- Having a record of such **impairment**, or
- Being regarded as having such **impairment**



Does student's *impairment* substantially limit one or more Major Life Activities?

- ◆ Caring for one's self
- ◆ Performing manual tasks
- ◆ Walking
- ◆ Seeing
- ◆ Hearing
- ◆ Speaking
- ◆ Breathing
- ◆ Learning
- ◆ Working



- ◆ Eating
- ◆ Sleeping
- ◆ Standing
- ◆ Lifting
- ◆ Bending
- ◆ Reading
- ◆ Concentrating
- ◆ Thinking
- ◆ Communicating



(This is NOT a limited list).



What is *Impairment*?

- ◆ Functions of the immune system
- ◆ Normal cell growth
- ◆ Digestive
- ◆ Bowel
- ◆ Bladder
- ◆ Neurological
- ◆ Brain
- ◆ Respiratory
- ◆ Circulatory
- ◆ Endocrine
- ◆ Reproductive
- ◆ Mental or psychological disorder



Disability Determination

*"In determining whether a student has a physical or mental impairment that **substantially limits** that student in a Major Life Activity, schools must **not** consider the ameliorating effects of any mitigating measures that student is using."*

www.ed.gov/print/about/offices/list/ocr/504faq.html



Mitigating Measures Examples

1. Medication
2. Medical Supplies, equipment or appliances
3. Low-vision devices (not eyeglasses or contact lenses)
4. Prosthetics (including limbs and devices)
5. Hearing aids and cochlear implants or other implantable hearing devices
6. Mobility devices
7. Oxygen therapy equipment/supplies
8. Assistive technology
9. Reasonable accommodations or auxiliary aids or services
10. Learned behavioral or adaptive neurological modifications

www.ed.gov/print/about/offices/list/ocr/504faq.html



Episodic Impairment

Conditions that are episodic or in remission are covered when they are active.

- ◆ Asthma
- ◆ Epilepsy
- ◆ Multiple Sclerosis
- ◆ Hypertension
- ◆ Diabetes
- ◆ Major Depression
- ◆ Schizophrenia
- ◆ Bipolar Disorder



What are the student's individual education needs?

- ◆ Decisions are made:
 - by a **group** of individuals
 - with knowledge of the needs of the child
 - who draw upon information from a **variety of sources** in making this determination.



504 Accommodation Plan

Accommodations are tools and procedures that provide equal access to instruction and assessment for students with disabilities.



Accommodation Examples:



- Health Plan
- Communication needs
- Emergency Evacuation Plan
- Transportation needs (school and school-related activities)
- Counseling needs of student, peers, school and bus staff
- Assistive technology
- Adjust/modify Physical Education Program
- Adjust schedule to accommodate for medical needs
- Adjust/modify buildings or program location to meet physical needs of the individual
- Participation in school sponsored/extra curricular events
- Special dietary needs (peanut/food allergies)



Accommodations create **opportunity!**

"The ADA's (*Americans with Disabilities Act*) goal is not equal test scores, but equal **opportunity.**"

(JoAnne Simon, Esq. Before the U.S. Senate HELP Committee, 2008)



Where will the student be educated?

Location Settings:

- ◆ Regular education classrooms,
- ◆ Regular education classrooms with supplementary services, and/or
- ◆ Special education and related services
- ◆ Least Restrictive Environment (LRE) still applies



Implementing the 504 Accommodation Plan



- ◆ Everyone needs to know
- ◆ ***Everyone needs to implement!***
- ◆ Periodic re-evaluation

How does a 504 plan differ from an IEP?

- ◆ A 504 plan, is an attempt to remove barriers and allow students with disabilities to participate freely.
- ◆ A 504 plan seeks to level the playing field so that those students can safely pursue the same opportunities as everyone else.
- ◆ An IEP, which falls under the Individuals with Disabilities Education Act, is much more concerned with actually providing educational services.
- ◆ An IEP provides significant remediation and is needed when student requires **more** than a level playing field.

Procedural Safeguards



Parents have the right to:

- ◆ Notice of parental rights
- ◆ Relevant records review of records
- ◆ Impartial Hearing (RIDE)
- ◆ Hearing review

Other Procedural Requirements

- ◆ Districts required to designate at least one person to coordinate Section 504 compliance
- ◆ Adopt grievance procedures that:
 - ◆ Apply to any violation of 504 or the ADA
 - ◆ Provide for prompt and equitable resolution of complaints
 - ◆ Incorporate appropriate due process standards



Resolving Disputes

1. Discuss concerns with building principal
2. Discuss concerns with designated 504 Coordinator
3. Ask about district's grievance process
4. Contact RIDE Legal Department for assistance (401) 222-8979
5. Parent's should work through "chain of command" before filing a complaint with the Office of Civil Rights (OCR)
6. Parent can file with OCR at any point



How to File a Complaint

Individuals who disagree with the services offered by school, the process used to make decisions or feel the plan is not being implemented, may file a complaint:

Office for Civil Rights/Boston
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Tel.: (617) 289-0111
Fax: (617) 289-0150

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>



Office for Civil Rights Technical Assistance: RI, CT, MA, ME, NH, & VT

- ◆ Call the OCR Boston Regional Office at:
 - (617) 289-0111 (voice)
 - (877) 521-2172 (TTY) or Federal Relay Service (FRS) at 1-800-877-8339
- OCR on the internet: www.ed.gov/ocr



Resources

- ◆ Questions and Answers on the Notice of Proposed Rulemaking for the ADA Amendments Act of 2008
http://www.eeoc.gov/policy/docs/qanda_adaaa_nprm.html
- ◆ Free Appropriate Public Education for Students with Disabilities: Requirements Under Section 504
<http://www.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html>
- ◆ Auxiliary Aids and Services for Students with Disabilities
<http://www.ed.gov/ocr/docs/auxaids.html>
- ◆ Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities
<http://www.ed.gov/ocr/transition.html>



For more information about RIPIN and the other workshops we offer, please contact our Resource Center at:

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