

September 2nd PD

Section 504 of 1973 Rehabilitation Act

Topics

- Section 504
 - Title II (ADA-Disability)-Student Services
 - Title VI (Race, Color, National Origin)-HR
 - Title IX (Sex)-HR
 - 1975 Age Discrimination Act-HR
 - Boy Scouts of America Equal Access Act
 - Under the Boy Scouts Act, which became effective on January 8, 2002, no such public school, LEA or SEA that provides an opportunity for one or more outside youth or community groups to meet on school premises or in school facilities before or after school hours shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code as a patriotic society.
- Homebound

Section 504

- Prohibits discrimination and harassment on basis of disability by public entities that receive federal financial assistance, including public schools
- “Disability” includes students with disabilities, including IDEA-eligible students
- Under Section 504, recipients that operate a public elementary or secondary education program must provide students with disabilities equal education opportunities.

Section 504 vs. IDEA 2004

Comparison Highlights of IDEA, Section 504 and ADA
 Flow Chart of Services- Comparison Highlights of Each Law

ISSUES	SECTION 504	IDEA	ADA
TYPE	A Civil Rights Act	An Education Act	A Civil Rights Law
TITLE	The Rehabilitation Act of 1973	The Individuals With Disabilities Education Act (IDEA)	Americans With Disability Act of 1990 (ADA)
RESPONSIBILITY	Regular Education	Special Education	Public and Private Schools
FUNDING	State and Local Responsibility (No Federal Funding)	State, Local, and Federal	Public and Private Responsibility (No Federal Funding)
SERVICE TOOL	Accommodations and/or Services	Individualized Education Program	Suggested to Use 504 Coordinator
SERVICE TOOL	Accommodations and/or Services	Individualized Education Program	Reasonable Accommodation and Legal Employment Practices
PURPOSE	It is a broad civil rights law which protects the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education.	It is a Federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for students with disabilities	To provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.
POPULATION	Identifies student as disabled so long as she/he meets the definition of qualified persons with disabilities; i.e., has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded as disabled by others.	Identifies 13 categories of qualifying conditions.	Identifies persons as disabled so long as she/he meets the definition of qualified persons with disabilities; i.e., has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded as disabled by others.
FREE APPROPRIATE EDUCATION	Requires a provision of a free appropriate education to students covered under them including individually designed instruction.	Requires a provision of a free appropriate education to students covered under them including individually designed instruction.	Addresses education in terms of accessibility requirements.
	Requires a written accommodation plan. "Appropriate" means an education comparable to the education provided to disabled students.	Requires the district to provide IEPs. "Appropriate education" means a program designed to provide "educational benefit".	Requires private and public entities not to use employment practices that discriminate on the basis of a disability.

IDEALS	SECTION 504	IDEA	ADA
SPECIAL EDUCATION VS REGULAR EDUCATION	A student is eligible so long as she meets the definition of qualified person with disabilities, i.e. currently has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded as disabled by others.	A student is only eligible to receive special education and/or related services if the multidisciplinary team determines that the student is disabled under one of the thirteen qualifying conditions, and requires special education.	A person is eligible so long as she/he meets the definition of qualified person with disabilities, i.e. currently has or has had a physical or mental impairment which substantially limits a major life activity or is regarded as disabled by others.
	The student is not required to receive special education in order to be protected.		The student is not required to receive special education in order to be protected.
ACCESSIBILITY	Has regulations regarding building and program accessibility requiring that reasonable accommodations be made.	Requires that modifications must be made if necessary to provide access to a free appropriate education.	Requires public and private buildings and programs be accessible to individuals with disabilities.
PROCEDURAL SAFEGUARDS			Makes provisions for public notice, hearings, and awarding attorney fees.
	Does not require written notice but a district would be wise to do so.	Requires written notice.	
	Notice is required only before a "Significant change in placement"	Notice provisions are much more comprehensive. What the law requires a minimum must provide is specifically spelled out.	
		Written notice is required prior to any change in placement.	
EVALUATIONS	Evaluation draws information from a variety of sources in the area of concern; decision made by a group knowledgeable about the student, evaluation data, and placement options.	A full comprehensive evaluation is required assessing all areas related to the suspected disability. The student is evaluated by a multi-disciplinary team or group.	All schools should collect or provide information on a self-evaluation regarding services, accessibility, practices, and policies to assist in discrimination against individuals with disabilities.
	Does not require consent, only notice. However, good professional practice indicates informed consent.	Requires informed consent before an evaluation is conducted.	
	Requires periodic reevaluations.	Requires reevaluations to be conducted every 3 years.	

r

EVALUATIONS (Continued)	Reevaluation is required before a significant change in placement	Reevaluation is not required before a significant change in placement. However, a review of current evaluation data, including progress monitoring, is strongly recommended.	
	No provision for independent evaluations at district expense. Districts should consider any such evaluations presented.	Provides for independent educational evaluation. At district expense; if parent disagrees with evaluation obtained by school and hearing officer concurs.	
	Notice should be given. A meeting is not required for change of placement.	Notice must be given to parents and an IEP conducted before any change of placement.	Public notice is required of all school agencies regarding students, parents, and employee rights under ADA.
GRIEVANCE PROCEDURE	Requires districts to provide more than 15 employees to designate and employees to be responsible for as district compliance with Section 504 and provide a grievance procedure for parents, students and employees.	Does not require a grievance procedure, not a compliance officer.	
DUE PROCESS	Statute requires district to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of student with disabilities.	Statute requires district to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of student with disabilities.	Due process: hearings can be initiated by either party. The court may allow the prevailing party, other than the United States, a reasonable attorney's fee.
	Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district. Policy statements should clarify specific details.	Delineates specific requirements.	

Section 504

- Definition of Disability:
 - A physical or mental impairment
 - Physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting following body systems: neurological, musculoskeletal;, special sense organ, respiratory, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic and endocrine...
 - This may include students on a HCP only

504

- Impairment **substantially* limits one or more major life activity
 - Caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, concentrating, working, reading, bending, lifting, thinking, sleeping, communicating, standing...

*Term not defined in statute or regulations; consider whether activities are limited in condition, duration or manner

504

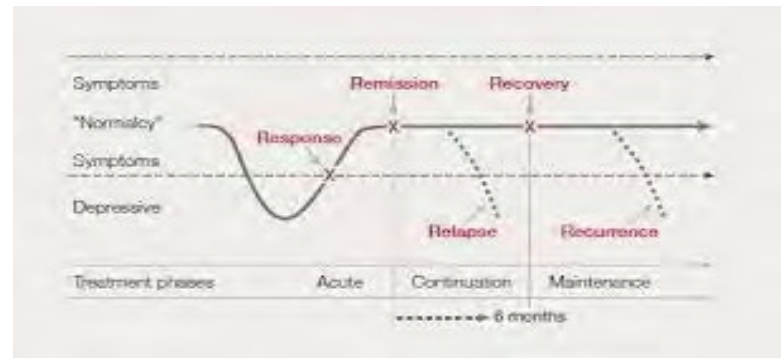
– A record of impairment

– An impairment that is episodic or in remission meets the definition of disability, if, when active, it substantially limits a major life activity

– E.g. anxiety, epilepsy, depression...

Or

– Being regarded as having an impairment



Mitigating Measures

- May not consider ameliorative effects of mitigating measures when determining 504 eligibility (except normal eyeglasses/contact lenses).
 - Examples of mitigating measures:
 - Medication
 - Inhaler
 - Epi-Pen
 - Hearing Aids/Cochlear Implants
 - Assistive Technology
 - Reasonable accommodations/related services (e.g. medication administration, classroom-based accommodations, modification of policies/procedures)

Mitigating Measure Example

- A student with allergies that requires allergy shots to manage the condition would be covered under Section 504 if without the shots the allergy would substantially limit a major life activity

Procedure for Eligibility

- Suspect Disability
 - Notice of Referral form and Parental Consent
 - Teacher input
 - Physician form

- Notice of Meeting Invitation

Staff Intranet

- Section 504 forms are located under "Departments"; "Student Services"; 504

504 Eligibility

- Student must be found to have a disability that limits a major life activity to be eligible for a plan
 - Provides student equal educational opportunity e.g. “equal playing field” and access
 - A student may be eligible, but NOT require 504 accommodations

Section 504

- Procedural Rights
 - If eligible, student has the right to due process for disciplinary action
 - You *MUST* document and record number of suspensions
 - Once student accumulates 10 or more suspensions you *MUST* hold an MDR.
- Periodic re-evaluations and annual review

Parent Rights

Section 504 regulations describe the following rights for parents and students:

- Right to be informed by the district of specific due process rights.
- Right for the child to have access to equal academic and nonacademic school activities.
- Right for the child to have an appropriate education in the least restrictive setting, which includes accommodations, modifications, and related services.
- Right to notice regarding referral, evaluation, and placement.
- Right for the child to have a fair evaluation conducted by a knowledgeable person(s).
- Right to an administrative appeals process.
- Right to examine and obtain copies of all school records.
- Right to provide consent prior to their child being evaluated or placed in Section 504 services.

“504 Plan” describes services, accommodations & modifications

Students may receive services, accommodations and modifications for “equal access” to educational opportunities afforded all students.

Accommodations are program adjustments made to remove disability-related barriers to full participation in school: “leveling the playing field”

Academic modifications may be necessary even if major activity of “learning” is not affected.

Ex: P.E. curriculum changes, school schedule

Nonacademic AND extracurricular activities are included. Ex: field trips, athletics and assemblies.

ALL determined by student’s individual needs.

Current Issues, Resources

Transportation

ISSUE: Students with Disabilities must have equal access to school sponsored events, including field trips, graduation ceremonies, etc.

EXP: Student not allowed to ride bus to field trip because not wheelchair accessible, or not able to get diploma on stage, no ramp. Center class not allowed to go to assembly (“they” won’t behave). These are ADA and 504 issues!

Remember—students with an IEP also covered under 504.

TIP: Make sure IEP or 504 plan ANTICIPATE these potential barriers and write goals around participation, and LRE

Current Issues, Bullying

- When a school knows or should know of bullying conduct based on a student's disability, it must take immediate and appropriate action to investigate or otherwise determine what occurred.
 - If the conduct was sufficiently serious to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by a school—the school must take prompt and effective steps reasonably calculated to end the bullying, eliminate the hostile environment, prevent it from recurring, and, as appropriate, remedy its effects.

Bullying

- Accordingly, under Section 504, as part of a school's appropriate response to bullying on any basis, the school should convene the IEP team or the Section 504 team to determine whether, as a result of the effects of the bullying, the student's needs have changed such that the student is no longer receiving FAPE
 - E.g. the adverse changes in the student's academic performance or behavior: decline in grades, emotional outbursts, missed classes, increase in the frequency or intensity of behavioral interruptions

Section 504 Reminders

- Provide Accommodations and Plan to all teachers each semester
 - May want to provide hard copy and email to document receipt
- Ensure implementation of the plan and document

Questions from the field

Can students with 504 accommodations access the building's RCR room?

1. RCR “room” is a service not a place
1. Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities
 - a. supplementary aids and related services

Questions from the field

Can changes be discussed on the phone and changes sent home for parent consent?

1. Best practice would be to hold a meeting, get to know the student and family and learn of any updates

Questions from the field

What are reasonable parent requests regarding accommodations?

1. “Reasonable” accommodations are determined by the staff and based on the students’ needs and follow district policies and procedures

Questions from the field

How do we implement general ed accommodations before the 504? What is reasonable?

Provide regular education teachers with instructional support and strategies for helping students in need of assistance.

Provide ideas and methods for helping students experience academic or behavioral problems

Team follows the responsible teacher(s) to determine whether the student's performance or behavior has improved.

Must be done with fidelity with data collection

May include before/after school programs/tutoring/mentoring

Questions from the field

How do EPT teams ultimately decide on plan approval and accommodations? Is it a vote/consensus?

It is what is in the best interest of the student

Questions from the field

If each HS has an assigned 504 coordinator, what is the counselor's role?

The counselor may have specific information related to the student, family and medical history

Homebound

- Homebound and hospitalized service is a *self-study program designed to help pupils, who are unable to attend school due to a medical condition, to keep up with their studies and to progress as far as possible given their medical condition. The homebound and hospitalized teacher carries the curriculum from school to the home or treatment facility to enable pupils to continue with their studies. It is important to note that these are services designed to help the classroom teacher(s) communicate with the pupil while away from school*

Homebound Requirements

- When school district personnel are notified that a pupil has a medical condition that is expected to result in the loss of more than five consecutive school days, the district must take steps necessary to determine eligibility for homebound and hospitalized service. Arrangements must be made within three school days after being notified a pupil is or will be homebound or hospitalized. If the district becomes aware that a pupil will be homebound or hospitalized at some future date, the district is responsible to make prior arrangements so that the service is available when needed.

Homebound Requirements

- The district must, within **three days** after being notified by a parent or legal guardian, make arrangements to provide these services *if* the following conditions are met:
- The pupil is enrolled in the public school district and assigned to an appropriate general or special education program.
- The pupil is unable to attend school because of medical condition. Pupils who are able to attend school part-time are expected to do so and **do not qualify** for homebound and hospitalized service.

Homebound Requirements

- The pupil's attending physician certifies a medical condition that requires that the pupil be confined to the home or hospitalized during regular school hours
- The pupil is physically able to participate in instructional activities while at home or hospitalized during regular school hours. This includes pupils in psychiatric hospitals, substance abuse centers, or pupils placed in other medical facilities by the parent or medical practitioners.
- It is anticipated that the pupil will be homebound or hospitalized for at least five consecutive school days.

Homebound requirements

- General education pupils shall receive a minimum of two 45-minute periods of instructional service per week. Pupils receiving the service under the special education rules receive a minimum of two nonconsecutive hours of instruction per week. The two one-hour sessions for a special education pupil may be on the same day; however, there must be an adequate break between the two sessions.