



Educational Rights for Children with ADHD

Two federal laws, the **Individuals with Disabilities Education Act (IDEA)** and **Section 504** of the Rehabilitation Act of 1973 (Section 504), guarantee children with attention-deficit/hyperactivity disorder

(AD/HD) a free and appropriate public education (FAPE). Both laws also require that children with disabilities be educated to the maximum extent appropriate with children who do not have disabilities. Because there are different criteria for eligibility, different services available, different procedures for implementing the laws, and different procedural safeguards, it is important for parents, educators, clinicians and advocates to be well aware of the variations between these laws and to be fully informed about their respective advantages and disadvantages.

Perhaps the most substantial difference between these two laws is that eligibility for IDEA mandates that a child have a disability requiring special education services, while eligibility for Section 504 may occur when the child needs special education OR related services. Because of this distinction, children covered under Section 504 include those who typically either have less severe disabilities than those covered under IDEA, or have disabilities that do not neatly fit within the categories of eligibility under IDEA.

Section 504 - What Does it Provide?

If the child is eligible under Section 504, the school district must develop a Section 504 plan.

However, the regulations do not dictate the frequency of review of the 504 plan, and do not specify the right of parents to participate in its development.

Several examples of classroom adaptations for children with AD/HD include:

1. Tailoring homework assignments
2. Providing a structured learning environment
3. Simplifying instructions about assignments
4. Supplementing verbal instructions with visual instructions
5. Using behavioral management techniques
6. Modifying test delivery
7. Using tape recorders
8. Computer-aided instructions
9. Providing nursing services to supervise administration of medication
10. Providing counseling or other forms of therapy

Which One is Right for My Child?

In general, Section 504 provides a faster, more flexible and less stigmatizing procedure for obtaining some accommodations and services for children with disabilities. By virtue of the looser eligibility criteria, some children may receive protection who are not eligible for services or protection under IDEA, and less information is needed to obtain eligibility. Thus, Section 504 can provide an efficient way to obtain limited assistance without the stigma and bureaucratic procedures attached to IDEA. On the other hand, IDEA offers a wider range of service options, the procedures for parent participation and procedural safeguards are far more extensive, and the degree of regulation is far more specific than that found in Section 504.

If a child has behavioral challenges that could lead to the possibility of excessive discipline, suspension and expulsion, parents should be particularly aware of the less rigorous safeguards provided by Section 504. Although parents can file a request for an impartial due process hearing under Section 504, there is no "stay-put" provision keeping the child in his current placement until the matter is resolved. It is important to realize that because Section 504 provides a school district with greater administrative latitude and less accountability than does IDEA, many school districts will push for the child to be served under Section 504.

Ensuring Services for Children with AD/HD

Despite the protection guaranteed by the IDEA and Section 504, many children with AD/HD continue to be denied access to an appropriate range of special education and/or related services. Myths and ignorance about AD/HD continue, even though scientific research has documented AD/HD as a neurological disability.

CHADD has several recommendations for any parent who suspects that a child's educational performance is being adversely affected by AD/HD:

1. Meet with your child's teacher to share your concerns. Seek written documentation from the teachers describing their behavioral or academic concerns. Where possible, obtain appropriate behavior rating scales from a clinical or school psychologist or physician for the school staff to complete.
2. You may request an evaluation of your child at any time. All requests for evaluations and services should be made in writing, dated and a copy of such requests kept.
3. Parents should play an active role in preparing the IEP or Section 504 plan. This plan is a legal document that the school must follow. Keep careful records. This should include a record of observations reported by your child's teachers and any relevant communications between home and school. All letters sent to the school should be copied and filed. Keep in mind that the findings of the evaluation team are not final. You have the right to appeal the conclusions. The school is required to provide you with information about appeal procedures.
4. Parents and their children are guaranteed rights under federal and state laws. The process for ensuring these rights, however, can be confusing and intimidating. Check with your child's school or local CHADD chapters about a parent advocate service in your community. A parent advocate service may be able to help locate a qualified attorney if one is needed.
5. Whenever possible, try to work things out with the school in a mutually acceptable manner.

Sample Letter:

Date: _____

Dear Principal:

I am the parent of _____, whose date of birth is _____ and who is a student in the _____ grade at school. _____ was recently diagnosed with attention-deficit/hyperactivity disorder. Since _____ entered school, teachers have been raising concerns about (his)(her) academic performance and behavior. My child is not doing well in school and may need special education services. I am therefore requesting a multidisciplinary team evaluation to determine if _____ is eligible for special education and/or related services under both the IDEA (including the IDEA "Other Health Impairment" category) and Section 504, in accordance with the IDEA regulations 34 CFR 300.7, plus the public education regulations of this state.

I look forward to hearing from you and to working with you and your staff to ensure a successful educational experience for _____.

Sincerely,