Section 504: Students with Hidden Disabilities/Medical Disabilities

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Disability-Related Education Complaints Trending Up

- Across the nation, disability-related education civil rights complaints are on the rise.
  - 2014: There were 3,900 complaints.
  - 2009: There were less than 3,000 complaints.
- Factors in the rise of complaints:
  - Increased awareness of civil rights laws
  - Increased confidence in the Office for Civil Rights
What Are the Parts of the Section 504 Regulations?

- **Section 504** has several areas of particular importance for schools:
  - Subpart B: Employment Practices
  - Subpart C: Program Accessibility
  - **Subpart D: Requirements for Preschool, Elementary, and Secondary Education**
  - Subpart E: Requirements for Post-Secondary Education
How Does Section 504 Relate to Schools?

Students in school settings fall under the protection of Section 504, which prohibits discrimination on the basis of disability from all school programs and activities in public, charter, and private schools receiving direct or indirect federal funding.
Is Section 504 funded like other federal programs?

- **NO**… There is no State or Federal funding provided to assist in complying with section 504.

- **All** costs are the obligation of the general school district/charter budget.

- **Many schools** have established a Section 504 line item in their general fund budget to cover necessary accommodations for individuals with disabilities.
Section 504 Requirements

**Child Find:** 34 CFR 104.32 (a), to identify, locate and evaluate children that might have a disability.

**For example:** A student is struggling in several classes. RTI interventions have been in place, the student is doing better in some classes. However, if the interventions are removed, the child returns to struggling.

This would be a red flag that the child needs to be evaluated for IDEA or Section 504.
Section 504 Requirements

FAPE: 34 CFR 104.33 (c) Free education—(1) General. For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person or refers such person for aid, benefits, or services not operated or provided by the recipient as its means of carrying out the requirements.
What disabilities are covered under Section 504?

1. **Student has a mental or physical impairment that substantially limits one or more of such person’s major life activities.**

   “Major life activities” include, but are not limited to:

   - Walking
   - Seeing
   - Learning
   - Breathing
   - Sleeping
   - Standing
   - Lifting
   - Reading
   - Concentrating
   - Thinking
   - Communicating
   - Eating
   - Bending
   - Operation of a bodily function
   - Other
What disabilities are covered under Section 504?

2. Student has a record of such an impairment.
3. Student is regarded as having such an impairment.

Important: The second and third prongs of the definition become a factor if discrimination or negative action has occurred because of the “record” or “history” of being regarded as having an impairment.
How is "substantially limiting” defined?

The disability substantially _limits_ the ability of an individual to perform a major life activity” compared to the average person in the general population.

(29 CFR 1630.2 (j), May 25, 2011)
Notices Required for Section 504

- General non-description notice
- Annual Child Find/504 duties notification
- Procedural Safeguards
- Notice of and participation in Section 504 meeting
- Notice of Section 504 evaluation and re-evaluation
- Notice of Section 504 evaluation and eligibility decisions
- Notice of Section 504 plan (accommodations, modifications, service placement)
- Notice of termination of Section 504 eligibility or services
- Notice of right to due process
Identification/Evaluation

- The regulations, at 34 CFR 104.35(c), tell schools how to develop 504 accommodation plans. Three steps are required in interpreting evaluation data and in making placement decisions. A school shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered.

3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of evaluation data, and the placement options.
Can You Consider Mitigating Measures When Determining Eligibility for Section 504?

Can the LEA refuse services based on mitigating factors?

Decisions to provide services *must* be made with *disregard* for mitigating factors. (ADAAA) 1987

**ADA list of mitigating factors:**

- Medication
- Medical supplies, equipment, or appliances
- Low-vision devices (which do not include ordinary eyeglasses or contact lenses)
- Prosthetics
- Hearing aids or implants
- Mobility devices
- Oxygen therapy equipment
- Assistive technology
- Learned behavioral or adaptive neurological modifications
- Surgical intervention (EEOC expanded ADA list by adding this)
A student with ADHD allegedly punched a counselor. The principal suspended the student for 10 days and referred him to the review committee for possible expulsion. He was expelled and placed in an alternative setting. His parents filed a complaint with OCR because the school district did not determine whether the student’s conduct was a manifestation of his disability. The OCR determined that the district had violated Section 504 when it expelled a seventh grader with ADHD without conducting a manifestation determination.

What Constitutes a Significant Change in Placement?

- OCR policy states, “When the exclusion of a child with a disability is permanent (expulsion), or for an indefinite period, or for more than 10 consecutive school days each or fewer in duration, this may create a pattern of exclusion that constitutes a significant change in placement. The determination of whether the series of suspensions creates a pattern of exclusion that constitutes a significant change in placement must be made on a case-by-case basis.”
What Are the “Red Flags”? 

- When a student is evaluated and does not qualify for special education services under IDEA
- When a parent frequently expresses a concern about the child’s performance
- When a suspension or expulsion is being considered for a student
- When retention is being considered
- When a student shows a pattern of not benefiting from classroom instruction
- When a student returns to school after a serious illness or injury
- When a student exhibits a chronic health condition
What is considered a “hidden disability”? 

- A physical or mental impairment that is not readily apparent to others.

- They include such conditions as specific learning disabilities, diabetes, epilepsy, allergies, low vision, poor hearing, heart disease, or a chronic illness.

- A chronic illness involves a reoccurring or long-term disability which can include diabetes, heart disease, kidney and liver disease, high blood pressure, cancer or ulcers.
Example Accommodations for Students with Hidden Disabilities

- A student with cancer may need a class schedule that provides opportunities to rest and recuperate after chemotherapy.
- A student with a learning disability may need oral testing, extended time on test, or testing in a setting without distractions.
- A student with impaired vision may need a note taker or tape recorder.
- A student with a chronic medical condition may have difficulty climbing stairs, moving quickly from one class to another. This student may need extra time to get to their next class or a class schedule that does not require the student to climb stairs.
Example Accommodations for Students with Hidden Disabilities

• A student with diabetes may need a schedule that accommodates their medical needs.
• A student with mental illness may need time allowed for regular counseling or therapy, a modified schedule which could be a mix of home instruction and part school day.
• A student with arthritis may need a modified physical education program.
Should students with an Individual Health Plan (IHP) also have a Section 504 plan?
Health Plan vs. Section 504 Plan

• Even if you think a child just needs a health plan to meet his/her needs, a Section 504 evaluation should be considered.

• If the student qualifies for a Section 504 plan and a health plan, complete them separately.

• OCR determined that a district’s practice of providing health care plans to a student with diabetes, instead of determining the student’s eligibility for a 504 plan, was a violation of Section 504 child find requirements. Districts must evaluate a student’s eligibility for a section 504 and related aids and services, rather than automatically writing a health care plan.

Tyler (TX) Indep. Sch. Dist., 56 IDELR 24 (OCR 2010)
Health Plan vs. Section 504 Plan (cont.)

- A district in Tennessee was found lax in not evaluating students with health plans for further special services such as Section 504 and IDEA.
- It was found that a district may not forgo evaluating a student with asthma, food allergies, diabetes, or other health issues.
- If there is reason to suspect a student might need special education or related services, a determination must be made for Section 504 services and provided procedural safeguards.
Health Plan vs. Section 504 Plan (cont.)

Agreed-upon corrective action:

- Have a policy to send pertinent information to the school nurse when a student registers.
- The nurse immediately determines whether the student needs more services than a health plan.
- If the nurse does determine that an evaluation should occur, she/he meets with other appropriate school or district staff and parent(s) (best practice) to determine whether a Section 504 or IDEA evaluation is needed.

Memphis City (TN) Sch. Dist., 112 LRP 26130 (OCR04/23/12)
What Steps Should We Take to Ensure the Student’s Health Plans Address Their Needs and Avoid Violations?

- Identify the student’s needs.
- Be as specific as possible in determining accommodations.
- Notify teachers and relevant staff (include transportation if student rides bus) about plan accommodations and their responsibilities.
- Be willing to modify the plan when necessary.
- Document student’s plan implementation.

Consider the Health Plan/Section 504 as a work in progress.
Will All Students With Diabetes Qualify for a Section 504 Plan?

• “Many if not all students with diabetes should qualify under Section 504.” — M. DeSisto, Section 504 coordinator and Director of Nurses for Waltham (Mass) Public Schools

• Evaluate students with diabetes for Section 504:
  ▪ Do not consider mitigating measures such as insulin in making your decision.
  ▪ When the evaluation is complete, convene a team of people who are knowledgeable about the student. This should include the school nurse, the child’s parents, and the child’s teachers.
  ▪ Include the student in the 504 plan. This gives the student the opportunity to share information such as which teacher will not allow him/her to bring his/her backpack containing diabetes supplies to class, and which times of day he/she is tired or thirsty.
What Disabilities are Eligible in Almost Every Case?

- Diabetes
- Epilepsy
- Bipolar Disorder
- Autism

Students with these disabilities should not need extensive documentation or analysis to determine them eligible.
Should Students With Allergies Be Evaluated for Section 504 Plans?

- Yes, it is possible that many students with food allergies should be evaluated for Section 504.
- Consider the following steps:
  - Make sure the team understands the difference between the IHP and the Section 504 plan.
  - Refer and evaluate students with health plans.
  - Work closely with your child nutrition department to identify students with food allergies.
  - Don’t wait for parent referrals; the school should identify the student (i.e., the Child Find Law).
Can Districts Choose Out of Evaluating a Student for a Section 504 Plan When They Have an IHP?

Districts may choose to offer an IHP to address a student’s diabetes or other medical conditions. However, that is not a substitute for completing a Section 504 evaluation when there is reason to suspect that, because of the student’s condition, he/she needs special education or related aids and services.

Tyler (TX) Indep. Sch. Dist., 56 IDELR 24 (OCR 2010)
How Do You Address the Medical Needs of Students?
What Is the District’s/Charter School’s Duty When Evaluating Students With Medical Needs and Excessive Absences?

In Hamilton (OH) Local School District, 58 IDELR 82 (OCR 2011): The school was aware of a first grade student who had absences related to her chronic hypoglycemia and migraines. The district began truancy proceedings against her and reassigned her to an online program. Her parent filed due process, alleging that the district denied her daughter FAPE. OCR stated that Section 504 requires districts to provide qualified students with disabilities with FAPE. The investigation found that the school district habitually failed to evaluate students for 504 eligibility after becoming aware of the students’ physical and mental impairments that impacted their attendance.
Should a District Informally Accommodate a Student With a Medical Disability?

A district allowed a student with medical disabilities bathroom breaks, late arrival to class, and long term homebound instruction instead of completing a Section 504 evaluation to determine accommodations the student needed.

Craven County (NC) Schools, 114 LRP36292 (OCR 03/28/14)

- Staff should be trained on “Child Find” duty.
- Do not deny evaluation/eligibility considering only good grades.
- Are excessive absences related to students disability?
- Parents should not have burden of requesting a Section 504 evaluation.
  - Also, take into consideration requests for a Section 504 evaluations from other sources, such as medical providers.

Section 504 Compliance Advisor, Vol. 19, Is. 2, April 2015
What Steps Should You Take to Evaluate a Student With a Medical Disability?

1. **Train your staff on its child find duty:** When a staff member has knowledge that a student has a medical condition, he/she should refer the student to the 504 coordinator or team that assesses at-risk students.

2. **Communicate often with the attendance office:** The attendance office not only knows when a student is absent, but why he/she is absent. They know if a child exceeds a certain number of absences or if there is a pattern, such as a student with frequent absences due to migraines.

3. **Contact the parents and let them know of the school’s obligation to evaluate:** Inform them the district can help if a disability or medical condition is the reason for the absences.
What Steps Should You Take to Evaluate a Student With a Medical Disability? (cont.)

4. **Gather information from parents:** Teachers and staff can often report whether the child presents symptoms that suggest a disability. However, the school must do its best to gather information from parents. Keep documentation of all efforts through phone calls, e-mail, or letters to gather information. If parents file a complaint with OCR over the district pursuing state truancy proceedings, the district can show that it made an effort to conduct an evaluation.

5. **Evaluate a student for Section 504 eligibility even if the student has a health plan:** Some students with medical needs may already have an Individual Health Plan (IHP). Remember, do not take mitigating measures into account when determining eligibility.
What Steps Should You Take to Evaluate a Student With a Medical Disability? (cont.)

6. **Ask for consent to speak to the student’s medical provider:**
   Ask parents for a list of medical providers treating the student, and permission to speak with them.

7. **Convene a Section 504 team with those who have knowledge about the child:** This team would most likely consist of the principal, school nurse, parents, and teachers. This team would know about how the student’s medical condition affects his/her learning and attendance.
## Sample Procedures for Evaluation Students With Medical Conditions for Section 504

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<tr>
<th>Procedure</th>
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<tr>
<td>1. Student at-risk team should be convened within 10 days of parents’ notification that their child has a medical need that may affect attendance and school performance.</td>
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<td>2. Request permission to speak to medical providers regarding appropriate interventions, such as ways to prevent the condition from escalating. Have parents sign a form releasing child’s medical records to school.</td>
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<td>3. Make a suggestion that parents get notes from the doctor to excuse the student’s absences because of a medical condition. Provide missed work for the child to make up.</td>
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<td>4. Convene Section 504 team meeting to determine child’s eligibility. If the medical condition substantially limits the ability to perform one or more major life activity or bodily functions, then develop a Section 504 plan with appropriate classroom supports and accommodations.</td>
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<td>5. Consider accommodations such as reducing or modifying assignments or allowing extended or adjusted time to complete assignments, when condition is active. Consider using technology to fill the gaps caused by missed instruction (such as recording lessons when taught).</td>
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<td>6. If not already done, have school nurse complete an Individual Health Plan (IHP) with strategies for addressing symptoms of the medical condition, medication administration and their side effects. Attach the IHP to the Section 504 plan.</td>
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<td>7. Discuss how to avoid or reduce occurrences of the condition (e.g., by controlling exposure to foods, sounds, odors, stress, or weather changes).</td>
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<td>8. Be specific in the plan as to who will assist the student in using techniques and strategies to ease the symptoms of the condition.</td>
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<td>9. Revise the plan after six weeks to determine whether it is effective, and to make needed adjustments. Review data on grades, absences, and medical management.</td>
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<td>10. If the child continues to miss extended periods of school, the 504 team may want to reevaluate the child and consider temporary homebound instruction. Determine whether homebound instruction is the Least Restrictive Environment (LRE) to meet the child’s needs.</td>
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Section 504 Eligibility Consideration for a student with an Individual Health Plan

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<th>What to Consider</th>
<th>Students Data/Information to Consider</th>
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<tr>
<td>The <strong>Frequency</strong> of required IHP services. (For example; a student who rarely needs services during the school year is less likely to require a Section 504 Plan than a student who requires services on a daily or weekly basis.)</td>
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<td>The <strong>Intensity</strong> of required IHP services (For example; a student who self-administers medication for diabetes and needs infrequent assistance is less likely to require a Section 504 Plan than a student who relies on staff to assist with daily testing and medication.)</td>
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<td>The <strong>Complexity</strong> of the required IHP services (Whether services are complex or require a systematic approach to integrate or coordinate efforts of staff and others to meet the student’s needs. For example; a student who requires constant monitoring and exchange of information between staff, parents and doctors across different environments to meet health needs, the more likely a Section 504 Plan is needed.)</td>
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<td>The <strong>Health &amp; Safety Risk</strong> if IHP services are provided incorrectly (For example; the greater risk of serious injury or death to the student from the failure to provide appropriate IHP services across all environments, the more likely the student requires a Section 504 plan.)</td>
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<td>In <strong>Analyzing</strong> student’s data, the weight to be given any factor is to be determined by the school as appropriate in its case-by-case determination following the regulations.</td>
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*Remember to get parent/guardian permission to complete a Section 504 Evaluation.

**The Section 504 Team met on ___________ and determined that the student’s health condition is: Substantially Limiting ________ is NOT Substantially Limiting ________**

**Section 504 Team Meeting Signatures:**
Name and Title; (i.e. Admin, Parent etc.)

____________________________________
____________________________________
____________________________________
____________________________________
____________________________________

Resource: Section 504 Update, Utah Institute, Richards, Lindsay & Martin L.L.P. pg. 23
What Should Be Considered When Considering the Location of a Medical Procedure at School?

- Privacy
- Scheduling
  - Will a particular location significantly interfere with a student's schedule, disruption of class time, and upsetting other students?
- Student's maturity to perform self care.
2010 OCR Case

Yosemite (CA) Unified School District, 55 IDELR 111 (OCR 2010): A student with **migraine headaches** and the request for enrollment in an independent work study should have promoted a Section 504 evaluation. OCR found that this misstep resulted in a denial of FAPE.

Districts should have procedures in place for serving students with medical needs.

This should include a timeline. (Recommended “best practice” is that an at-risk team meeting should be convened within **10 days** of knowledge of a student’s medical needs.)
What Is Considered a Major Life Activity When Evaluating a Student With a Medical Need for Section 504?

- Consider more than just “learning” as a major life activity when evaluating a student for Section 504 eligibility.

- In a case in Memphis (MI) Community Schools, 54 IDELR 61 (OCR 2009), the school took the position that a student with asthma only qualified for Section 504 if the disability impacted the major life activity of “learning.”

- After the district received training on the ADA Amendments, it began basing determination of eligibility on whether one or more of the student’s major life activities is substantially limiting. The district is also looking at whether a student is limited by a mental or physical impairment.

Section 504 Update, Richards Lindsay & Martin, L. L. P., Utah Institute Summer, 2013
What Is Considered a Major Life Activity When Evaluating a Student With a Medical Need for Section 504? (cont.)

- In Oxnard (CA) Union High School District, 55 IDELR 21 (OCR, 2009), a student who was diagnosed with irritable bowel syndrome (IBS) and another digestive condition was denied eligibility for a Section 504 plan.

- The OCR found the school in violation of the law because the school only considered “learning.” OCR said they should have also considered the major life activity of the digestive system.

- OCR also found that the school did not consider that the condition caused frequent absences and a declining GPA when they determined that his condition did not substantially limit his learning.

Section 504 Update, Richards Lindsay & Martin, L. L. P., Utah Institute Summer, 2013.
How Do You Address Episodic Impairments?

- Episodic impairments can include, but are not limited to, seasonal allergies or asthma, migraines, and cystic fibrosis.

- Schools don’t commonly qualify students under Section 504 if the condition rises to the level of substantially limiting a major life activity, even if it is episodic.

- Data should be considered over time. For example, a student who has heat-induced asthma that may occur in August, September, April, and May, should not be evaluated in January, when the medical condition is not substantially life limiting, without also considering its impact when the asthma is active.

Section 504 Update, Richards Lindsay & Martin, L. L. P., Utah Institute Summer, 2013
Should School Staff Assume Student’s Absences/Tardies are a “Home” Issue?

With a student that has a medical diagnosis, schools/districts should not assume it is the parents fault the child repeatedly misses school.
Should School Staff Assume Student’s Absences/Tardies are a “Home” Issue? (cont.)

Consider the following to avoid mistakes when a parent says an absent student can’t get up due to a medical disability.

• Consider student’s health history. (With parent permission)

• Don’t rush to the truancy office.
  - This may lead parent to a retaliation claim.

• Determine accommodations that assist student in being successful at school.

• Understand eligibility with the need for accommodations.
  - A student could technically be eligible under Section 504 even if they don’t require SPED/Section 504 or related services.

• The longer the student is without educational services, the greater the chance of a hearing officer finding deprivation of FAPE.
Should School Staff Assume Student’s Absences/Tardies are a “Home” Issue? (cont.)

- The fact that a parent has assisted or encouraged a student to not attend school is rarely a defense to an allegation they denied FAPE in the absence of steps to provide services.

_Homebound Services Under the IDEA and Section 504 An Overview of Legal Issues—Second Addition Han P. Graff, Esq. LRP 2013_
Traverse City (MI) Area Public Schools, 59 IDELR 144 (OCR 2012): This case is in regards to a student who is frequently absent due to multiple severe disabilities. His mother had requested multiple times that a plan be put in place for her son to receive automatic homebound services during ragweed season, and at times when he has other disability-related illnesses.

The district had a policy that stated that a student with an IEP or Section 504 plan had to accumulate 15 days of school before a homebound placement could be requested.

OCR found that the district had violated Section 504. Their refusal to modify their policies to provide the student with educational services for foreseeable absences related to recurring or episodic conditions unnecessarily delayed the student’s receiving needed services.

Teri Engler, a school attorney with Sraga Hauser, LLC in Oak Brook, Ill., states: “Strict adherence to such rules or policies is likely to be incongruent with both the laws [referring to IDEA and Section 504] and requirements of making student-centered decisions based on individualized needs.”

Should You Modify Policies That Are Incongruent With IDEA and Section 504, and How Do You Avoid Mistakes?

• Understand that the requirement is to make reasonable modifications of policies and practices when modifications are necessary to avoid discrimination based on disability.

• Provide training so that administrators and teachers understand the obligation to modify a policy or procedure. They need to know that Section 504 and IDEA require an individualized response.

• Administrators should encourage staff to share concerns with them (for example, when one teacher modifies an attendance policy, but another teacher does not).

• Communicate with parents about their concerns. Work to foster trust and encourage them to discuss problems with you.
What About Students With Mental Illnesses? Should They Be Evaluated for Section 504?

- Yes, you should evaluate a student with a mental illness. It is a medical condition, and you should follow procedures for evaluating students with medical conditions.

- A student with a mental disability such as bi-polar disorder is almost always eligible, according to OCR. Students with epilepsy, diabetes, and autism will almost always be found eligible for Section 504 as well.


- The following major life activities most likely will be “substantially limited” for students with bi-polar: learning, concentrating, sleeping, caring for themselves, and interacting with others (not an ADA requirement).

- Keep good documentation.
What About Students With Mental Illnesses? Should They Be Evaluated for Section 504? (cont.)

- Eligibility should not be based only on grades.
- Get as much information from parents as possible.
- Ask for permission to speak to medical providers.
- Consider parent input.
- Discuss strategies for teachers.
  - For example, a student who is experiencing a mood swing may have a hard time getting started on an assignment. The teacher could break the project down into small steps and assist the student in completing each step.
Homebound vs Home Instruction
What Is the Difference Between Home Instruction and Homebound Services?

Home instruction is a placement on the Least Restrictive Environment (LRE) continuum.

Homebound services are available to all students with temporary illnesses or injuries, regardless of their disability status.
What Is the Utah State Law Regarding Home Instruction/Homebound Placements?

277-419-5A(f)(ii)

(ii) Have direct instructional contact with a licensed educator provided by the LEA at an LEA-sponsored center for tutorial assistance or at the student’s place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

A. Injury, illness, surgery, suspension, pregnancy, pending court investigation or action; or

B. An LEA determination that home instruction is necessary.
Should Decisions Regarding Eligibility and Amount of Homebound Services Be Individualized?

- Yes, Section 504 requires districts to provide FAPE.
- Discern what is the “Least Restrictive Environment, LRE” when considering home instruction.
Who Considers the Needs of a Student Who Is Homebound?

- To continue to provide FAPE, districts must tailor homebound services based on the individual needs of the student.
- The Section 504 team or IEP team needs to convene and determine the individual needs of the student.
- The Office for Civil Rights (OCR) found a district in violation of FAPE because they did not have a Section 504 team or an IEP team determine the individual needs of each student on homebound placement.

Tuscaloosa County (AL) Sch. Dist., 65 IDELR 308 (OCRIV, Atlanta (AL) 2014).
Can Homebound Students Participate in School Activities?


- A school district barred a homebound high school student from entering a senior dance. They stated if he was too sick to attend school, he was too sick to attend the dance.

- The court stated that denying the student entrance into the dance could be seen as a pattern of exclusion.

- At the very least, even a temporary disabling condition is covered under Section 504. So not allowing a homebound student with a disability to participate in school activities can amount to disability discrimination.
What Can Be Done to Prevent Discrimination Against Homebound Students Who Want to Attend School Activities?

• Provide homebound students with notice of school activities.

• Discuss extracurricular activities at 504 meeting.

• Look at each student’s ability to participate in extra curricular activities individually. Avoid blanket statements such as, “If you’re too sick to come to school, you’re too sick to attend these events.”

• If the student is contagious, consider precautions. Consult with your school nurse.

• Know when to reconsider whether homebound placement is still the student’s LRE. If a student can attend school activities, there is a good chance that he/she can attend a few hours of school each day.
Can a Student With a Section 504 Accommodation Plan Qualify for an Extended School Year or Compensatory Education?

- A student with a Section 504 accommodation plan may qualify for an extended school year.
- The district/school should evaluate the student’s needs.
- A student who does not receive FAPE may qualify for an extended school year or compensatory education.
Students With Section 504 Plans Are Protected When Involved in Any Program Paid for With Federal Funds

“No otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance…”

——U.S. Department of Education (ED), Section 504
What about extra-curricular Activities?
What Is the Obligation of Schools to Provide Extracurricular Activities for Students With Disabilities?

- § 104.37 (a) General. (1) A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

- (2) Non-academic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referral to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.
Can a School Prohibit a Student From Going On a Field Trip or Require a Parent to Come?

- **No**, a possible emergency is not a valid basis for barring a student from participating in a field trip.
- **No**, a parent cannot be required to accompany a student on a field trip because the student may need medication or other care during the field trip.
Guidance from OCR

OCR receives complaints that a district is requiring a parent of a student with a disability to attend a field trip as a precondition to the student attending. This constitutes discrimination in nearly every situation. In a California district, parents were required to attend fieldtrips and extracurricular activities with their children, one who had Type 1 diabetes as well as other students with disabilities.

Clovis (CA) Unified Sch. Dist., 52 IDELR 167 (OCR 2009)
Guidance from OCR

Some of OCR’s letters of findings indicated that a district must provide the support of a trained aide to facilitate the student’s participation where necessary to make nonacademic and extracurricular activities accessible to a student with a disability.

Do You Have to Allow a Student With a Disability to Automatically Be Made a Part of a Team?

- “Of course, simply because a student is a ‘qualified’ student with a disability does not mean that the student must be allowed to participate in any selective or competitive program offered by a school district; school districts may require a level of skill or ability of a student in order for that student to participate in a selective or competitive program or activity, so long as the selection or competition criteria are not discriminatory.”

Dear Colleague Letter, January 25, 2013, p. 3.
"In considering whether a reasonable modification is legally required, the school district must first engage in an individualized inquiry to determine whether the modification is necessary. If the modification is necessary, the school district must allow it unless doing so would result in a fundamental alteration or the nature of the extracurricular athletic activity. A modification might constitute a fundamental alteration if it alters such an essential aspect of the activity or game that would be unacceptable even if it affected all competitors equally (such as adding an extra base in baseball). Alternatively, a change that has only a peripheral impact on the activity or game itself might nevertheless give a particular player with a disability an unfair advantage over others and, for that reason, fundamentally alter the character of the competition. Even if a specific modification would constitute a fundamental alteration, the school district would still be required to determine if other modifications might be available that would permit the student’s participation.”
Contact Information

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