

FAPE under Section 504

Eligibility for services under Section 504 is frequently confusing for parents. The Office of Civil Rights developed a document on what FAPE means under Section 504. This fact sheet covers key information from that document.

How Is an Appropriate Education Defined?

An appropriate education may comprise education in regular classes, education in regular classes with the use of related aids and services, or special education and related services in separate classrooms for all or portions of the school day. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions, and may be accompanied by related services such as speech therapy, occupational and physical therapy, psychological counseling, and medical diagnostic services necessary to the child's education.

An appropriate education will include:

- education services designed to meet the individual education needs of students with disabilities as adequately as the needs of nondisabled students are met;
- the education of each student with a disability with nondisabled students, to the maximum extent appropriate to the needs of the student with a disability;
- evaluation and placement procedures established to guard against misclassification or inappropriate placement of students, and a periodic reevaluation of students who have been provided special education or related services; and
- establishment of due process procedures that enable parents and guardians to receive required notices, review their child's records, and challenge identification, evaluation and placement decisions, and that provide for an impartial hearing with the opportunity for participation by parents and representation by counsel, and a review procedure.

Education Services Must Meet Individual Needs

To be appropriate, education programs for students with disabilities under Section 504 must be designed to meet their individual needs to the same extent that the needs of nondisabled students are met. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of these students.

While not required, one way for ensuring that Section 504 programs meet individual needs is through the development of an individualized education program (IEP). IEPs are required for students participating in the special education programs under the *IDEA* state regulations.

The quality of services provided to students with disabilities must equal the quality of services provided to nondisabled students. Teachers of Section 504 students must be trained in the instruction of individuals with disabilities. Facilities must be comparable and appropriate materials and equipment must be available.

Students with disabilities under Section 504 may not be excluded from participating in nonacademic services and extracurricular activities on the basis of disability. Persons with disabilities must be provided an opportunity to participate in nonacademic services that is equal to that provided to persons without disabilities. These services may include physical education and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, and referrals to agencies that provide assistance to persons with disabilities and employment of students.

Students With Disabilities Must Be Educated With Nondisabled Students

Students with disabilities and students without disabilities must be placed in the same setting, to the maximum extent appropriate to the education needs of the students with disabilities. The school must place a person with a disability in the regular education environment, unless it is demonstrated by the school that the student's needs

cannot be met satisfactorily with the use of supplementary aids and services. Students with disabilities must participate with nondisabled students in both academic and nonacademic services, including meals, recess, and physical education, to the maximum extent appropriate to their individual needs.

As necessary, specific related aids and services must be provided for students with disabilities to ensure an appropriate education setting. Supplementary aids may include interpreters for students who are deaf, readers for students who are blind, and equipment to make physical accommodations for students with mobility impairments.

An individual evaluation must be conducted before any action is taken with respect to the initial placement of a child who has a disability under Section 504, or before any significant change in that placement. Periodic reevaluation is required. This may be conducted in accordance with the IDEA regulation, which requires reevaluation at three-year intervals or more frequently if conditions warrant, or if the child's parent or teacher requests a reevaluation.

Public schools must employ procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services. Parents must be told about these procedures. Parents or guardians must be notified of any evaluation or placement actions, and must be allowed to examine the student's records. The due process procedures must allow the parents to challenge evaluation and placement procedures and decisions.

If parents or guardians disagree with the school's decisions, they must be afforded an impartial hearing, with an opportunity for their participation and for representation by counsel. This hearing is set up by the school and is different than the due process hearing required under IDEA regulations. A review procedure must be available to parents or guardians who disagree with the hearing decision.

The entire document (revised September, 2007) developed by the Office of Civil Rights of the Department of Education can be found at: www2.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html. A current Question and Answer document covering all aspects of Section 504 is available at: www.ed.gov/about/offices/listocr/504faq.html; and Q&A document on discrimination and Section 504 is available at: www2.ed.gov/about/offices/list/ocr/qa-disability.html.



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