

### *The Rehabilitation Act of 1973*

The Rehabilitation Act of 1973 may not be as well known as one of its sections, Section 504, but it funds vocational rehabilitation, employment and independent living programs in the states. Although the state programs funded through the Act focus on adult services, planning the "transition services" needed for children who are receiving special education services begins when the child is 14. (For more information on IDEA, see Section...). Many of these children will be eligible for services from these state programs. The services focus on what the individual needs in order to succeed in postsecondary education, employment and independent living.

Section 504 of the Rehabilitation Act of 1973 was the first significant piece of federal legislation to prohibit discrimination against individuals with disabilities. It applies to programs and entities that receive federal financial assistance. Many public programs, including schools and other institutions receive federal funding. Section 504 covers anyone who meets the definition of disability:

- *A person who has a physical or mental impairment which substantially limits one or more major life activities;*
- *A person has a record of such an impairment;*
- *Or is regarded as having such an impairment.*

This is also the definition that was adopted in the Americans with Disabilities Act (ADA). Many children with special health care needs may not be eligible for special education under IDEA but will be eligible for the protections and services required by Section 504. The law is intended to provide opportunities for persons with disabilities equivalent to those enjoyed by non-disabled persons.

Generally, Section 504 requires schools to provide children with disabilities with a free, appropriate, public education (FAPE). Section 504 also requires that schools ensure that students with disabilities participate in regular education, nonacademic and extracurricular activities with non-disabled students to the "maximum extent appropriate." The meaning of a FAPE is essentially the same for both IDEA and Section 504 – the child's educational program must be designed to meet the child's individual education needs. The quality of the services must be the same for all students, so schools are required to ensure that teachers be appropriately trained and that appropriate services, materials, equipment and adaptations are available to the child. The services may include the typical related services provided under IDEA, such as:

- *speech and language therapy,*
- *occupational therapy,*
- *physical therapy,*
- *psychological counseling,*
- *assistive technology devices and services; and*
- *medical diagnostic services necessary to the child's education, and*

*other supplementary aids and services.*

Schools are required to either establish discrete procedures for 504 compliance or adopt the procedures used for IDEA. These include identifying children covered under the law and notifying students and parents of the school's obligation under the law. Schools must conduct evaluations of the children identified in order to determine their educational needs. A group of persons knowledgeable about the child make the placement decision based on the evaluation data and placement options. This same group or team develops a 504 Plan for the child.

The school is also obligated to have in place a grievance procedure that incorporates due process standards and is designed for prompt and equitable resolution of parental complaints. The due process standards require that schools provide parents with:

- *appropriate notice,*
- *an opportunity to examine records,*
- *an impartial hearing with the opportunity for parental participation and representation by counsel; and*
- *a review procedure.*

All children who are eligible for services under IDEA are eligible for Section 504 protections. Most schools use the IDEA procedures and the special education system to meet Section 504 compliance. However, children with special health care needs may not be eligible for services under IDEA but may be eligible for Section 504 services. This means that parents will have to work with the regular education system and individuals in regular education are not always aware of the requirements of Section 504. Parents can file a complaint with the U.S. Department of Education, Office of Civil Rights (OCR). OCR will determine whether a school's policies and procedures are sufficient to meet the due process requirements and whether the requirements were met in an individual case. Each regional office has a toll free number and the web site is [www.ed.gov/offices/OCR](http://www.ed.gov/offices/OCR).

Section 504 applies to postsecondary education settings well as preschool, elementary, and secondary education. However, postsecondary educational institutions do not have the same requirements or obligations. The institution cannot exclude students because of a disability and must make appropriate accommodations for the students. However, it is the student that must document the disability and provide the required documentation and materials to the institution. It can be very helpful to have a copy of the child's 504 Plan from high school. The student is not entitled to a special plan in a postsecondary environment and will have to request each accommodation that is needed. While the school must have grievance procedures in place, there is not a comparable due process provision. Generally, the school must provide access to their classes and programs through accommodations and modifications. Most postsecondary institutions have an Office of Student Support Services or Student Disability Support Office that will provide



information and some assistance to students. Parents and the student should contact this office before beginning school to understand what services the office will provide and what are the obligations of the student.