

Educational Rights of Students with Mental Health Needs

If your teen has mental health problems that get in the way of friendships, homework or anything having to do with school, there are federal laws that protect him/her. These laws were made to give students equal opportunity to access school facilities. These laws also give educational support services to students with mental health needs.

WHICH LAWS SUPPORT SCHOOL ACCOMMODATIONS?

Individuals with Disabilities Education Act (IDEA)

IDEA guarantees all children with disabilities ages 3-21 the right to a free and appropriate public education (the law was last updated in 1997). IDEA defines disabilities as autism, hearing & visual impairment, mental retardation, orthopedic impairments, serious emotional disturbance, specific learning disabilities, and other health impairment. Under IDEA, a student is eligible for an Individualized Education Plan (IEP). The IEP is a set of long-term goals and short-term objectives developed with the parents' and youth's input.

Section 504

Section 504 of the Rehabilitation Act of 1973 protects people with disabilities against discrimination in any program that receives federal funding. Any person with a physical or mental impairment that seriously limits one or more major life activities and has a record of such impairment or is regarded as having such an impairment is eligible for classroom accommodations. These accommodations may include adjusting homework assignments, providing a structured learning environment, simplifying instructions for assignments, adjusting a test taking setting, providing counseling or other therapy, and more.

Steps to access the services under these laws:

1. Meet with your teen's teachers and/or counselor and tell them about your concerns. Then, ask for an evaluation of your teen at his/her school. This evaluation should be free.
2. Always ask for evaluations and services in writing. Include the date on your letters and keep a copy for your records.
3. Always keep careful records of EVERYTHING. This includes communications from teachers and counselors and any notes, reports, and letters between home and school.
4. You can arrange for an evaluation from an independent professional instead of going through the school district, although this may cost money.

TIPS

- ★ Be active and speak up for your teen. Make sure to get answers to your questions.
- ★ Request and read a copy of your school's Section 504 plan.
- ★ Contact the U.S. Department of Education Office of Civil Rights Regional Office for help if the school does not respond to your concerns: 1-800-421-3481
- ★ If your school says your teen is not eligible for help or services under IDEA or Section 504, you have the right to appeal this decision.
- ★ Trust yourself, you know your teen best.

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Edu. Rights of Students w/ Mental Health Needs (continued)

What happens after the evaluation?

If your teen is eligible for services under IDEA, an Individualized Education Plan (IEP) is developed. If he or she is eligible for services under Section 504, a 504 Plan is developed. Parents cannot decide whether or not their child is eligible for the IEP or 504 Plan. If the evaluation team decides that your teen is not eligible, you have the right to appeal the decision. The school is required to give you information on how to make an appeal.

Is an IEP or a 504 Plan better for my teen?

An IEP is recommended for students who have a disability which causes major problems in school performance, as defined by IDEA.

Benefits of an IEP include:

- ▶ Short-term and long-term goals are developed for the student.
- ▶ IDEA law provides federal funding for IEP services (there is no federal funding through Section 504).
- ▶ IDEA law mandates a more in-depth evaluation process and more comprehensive services than Section 504.
- ▶ Private school students may be able to receive services if they are found eligible by an IEP.
- ▶ Students with IEPs are automatically eligible for civil rights protections under Section 504.

A 504 Plan is recommended for students with disabilities who do not meet the diagnostic criteria for an IEP, such as students with Attention Deficit Hyperactivity Disorder or learning disorders.

Benefits of a 504 Plan include:

- ▶ A 504 Plan is easier to get than an IEP and works well for students who do not need a lot of extra help.
- ▶ A 504 Plan works well for students who only need extra help in the classroom (i.e. adjusted homework assignments, tests that are not timed, tape recorders to record lectures).
- ▶ Students can continue to receive education-related services through Section 504 in college and graduate school if their school receives federal funding.

HELPING YOUR TEEN BECOME HIS/HER OWN ADVOCATE



- ▶ Teach your teen how to describe his/her disability and needs to others.
- ▶ Make sure your teen knows his/her rights.
- ▶ Involve your teen in making decisions around school accommodations. Encourage him/her to participate fully in school accommodation decisions while in high school. Teens need to advocate for themselves once they turn 18 years old.
- ▶ Help your teen understand which learning and behavioral strategies work best for him/her.
- ▶ Encourage your teen to meet with teachers when he/she needs extra help.

RESOURCES

- ♦ **Bazelon Center for Health Law:** www.bazelon.org
- ♦ **California State Department of Education:** www.cde.ca.gov/index.asp
- ♦ **Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD):** www.chadd.org
- ♦ **NICHQ ADHD Toolkit:** www.nichq.org/NICHQ/Topics/ChronicConditions/ADHD/Tools
- ♦ **Parent Advocacy Coalition for Educational Rights Center:** www.pacer.org
- ♦ **US Dept. of Education Office of Civil Rights Regional Directory:** <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>

Do you have any comments or questions about this handout? Please contact Adolescent Health Working Group by emailing feedback@ahwg.net or calling (415) 554-8429. Thank you.

Sources:

- 1) American Academy of Child & Adolescent Psychiatry. Services in School for Children with Special Needs: What Parents Need to Know. 2002, <http://www.aacap.org/publications/factsfam/83.htm>
- 2) CHADD. Educational Rights for Children with AD/HD: CHADD Fact Sheet #4. 2001, <http://www.chadd.org>