



Section 504

Successful Implementation in New Prague

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Agenda:

- Overview of Disability Law
 - History
 - Common Elements
 - Non-compliance Ramifications
- Differences Between 504 and Special Ed
 - Services vs. Accommodations
- 504 Standards
 - Eligibility Criteria
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 - Your Building 504 Team
- Common Pitfalls
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- Disability Success Stories

History of Disability Law

- 1973 Section 504 of the Vocational Rehabilitation Act
- 1975 Education of the Handicapped Children's Act (EHA) (P.L.94-142)
- 1990 P.L. 94-142 reauthorized and becomes IDEA
- 1990 Americans with Disabilities Act (ADA)
- 2004 IDEA reauthorized and becomes IDEIA

All Students (100%)

All Students

Students with Disabilities (approx 15%)



**Students with
Disabilities (504 and
Special Education)**

All Students

Special Ed Eligible Students (10-12%)



Common Elements of Disability Laws

- Protect “otherwise qualified individuals with disabilities” from discrimination based solely upon their disabilities.
- Require an entity to provide, at its expense, a “reasonable accommodation” to employees, applicants for employment, and students unless it would present an undue hardship.
- Promote equity, not preference.



Where Do the Three Laws Intersect?

Meaningful access to public
schools for students with
disabilities.

Ramifications of Non-Compliance

- Institutions or employees who violate discrimination laws may:
 - Lose federal funding
 - Incur compensatory and punitive damages
 - At the individual and/or system level
 - Enter into settlements to remedy the violation

Special Education (IDEA)

- IDEA (and now IDEIA) guarantee children with disabilities a free, appropriate, public education (FAPE) in the least restrictive environment (LRE).
- It is built on the same constitutional principles applied to eliminate racial segregation in school – namely providing equal access.
 - If the state provides something to one class of individuals - public education in the case of schools - then it must give all members of the class the same opportunity to participate and benefit.

Differences Between 504 & IDEA

- Section 504 requires accommodations while IDEA requires services.
- IDEA provides schools with additional funding, but Section 504 provides no financial assistance
- The definition of a disability under Section 504 is much broader
- IDEA focuses on unique educational needs, while 504 looks at comparing the needs of students with and without disabilities

Section 504 Requires:

“No **otherwise qualified individual** with disabilities in the United States shall, solely by reasons of her or his disability, be excluded from the participation in, be denied the benefits or, or be subjected to discrimination under **any program or activity** receiving Federal financial assistance...”

(29 USC Sec. 794)

Otherwise Qualified Individual:

- has a physical or mental impairment which substantially limits one or more major life activities,
- has a record of such impairment, or
- is regarded as having such an impairment.

Physical or Mental Impairment:

- Any physiological disorder, cosmetic disfigurement, or anatomical loss
- Any mental or psychological disorder, such as mental retardation, emotional or mental illness, or specific learning disability

Conditions That May Qualify for 504 Protections:

Chronic Medical Conditions

Temporary Medical Conditions

Communicable Diseases

Drug/Alcohol Addiction

Physical Impairments

Attention Deficit Hyperactivity Disorder (ADHD)

Attention Deficit Disorder (ADD)

Mental Impairments

including emotional conditions

Behavior Disorders

Substantially Limits:

“A substantial limitation exists when the individual’s important life activities are restricted as to the condition, manner, or duration under which they can be performed by most people.”

Major Life Activities:

Caring for oneself
Performing manual tasks

Walking

Seeing

Hearing

Speaking

Working

Breathing

Learning

The 504 Process

- Child Find
- Referral
- Evaluation
- Placement
- Reasonable Accommodations

Your Building 504 Team

- Principal, Assistant Principal, or Dean
- School Social Worker
- School Counselor
- School Psychologist
- School Nurse

HOW DO YOU DECIDE?

Does the student have a disability
as specified in IDEA?

YES

Does the impairment have
an adverse effect on
educational performance?

YES

Eligible for
IDEA

Develop
an IEP

NO

Develop recommendations
for general education teacher

NO

Does the student have a physical
or mental impairment that
affects a major life function?

NO

YES

Eligible for
Section 504

Develop
Section 504
plan

Common Pitfalls: Parents

- Taking an “all or nothing” approach
- Attempting to micro-manage the details of their child’s life in school
- Focusing on minor, non-prejudicial procedural missteps by the school
- Not providing copies of independent evaluations to the school
- Trusting administrators and teachers too uncritically

Common Pitfalls: School Systems

- Failing or refusing to communicate and actively coordinate with outside experts working with a child
- Taking a patronizing and/or antagonistic and/or insulting attitude toward parents
- Failing to observe procedural timelines and notice requirements
- Failing to modify an IEP/504 Plan that is not working
- Failing to implement an IEP/504 Plan, and worse trying to cover up that failure

Doe v. Withers (20 IDELR 422, June 1993)

- The parents of a student with a learning disability alleged that one of the student's high school teachers had refused to provide their son with oral testing as required by his IEP. As a result, he failed tests in this class and consequently did not earn HS credit for the course.

Doe v. Withers (20 IDELR 422, June 1993)

- A jury returned a verdict in favor of the parents against one of the student's high school teachers, and awarded \$5,000 in compensatory damages and \$10,000 in punitive damages to the parents (plus attorneys fees and court costs).

For Additional Information:

- New Prague Area Schools Website
<http://www.np.k12.mn.us/SpecialServices/Section504/index.shtml>
- National Information Center for Children and Youth with Disabilities (NICHCY)
<http://www.nichcy.org/>
- U.S. Department of Education: Office of Special Education and Rehabilitative Services (OSEP)
<http://www.ed.gov/>

**If you need further information,
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