

Civil Rights and Section 504

Middleborough Public Schools



Laws and Regulations - Federal

- Education for All Handicapped Children Act of 1975 referred to as Public Law 94-142:

Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94- 142), the educational needs of millions of children with disabilities were not being fully met because...

- *children did not receive appropriate educational services;*
- *the children were excluded entirely from the public school system and from being educated with their peers;*
- *undiagnosed disabilities prevented the children from having a successful educational experience; or*
- *a lack of adequate resources within the public school system forced families to find services outside the public school system.*



Laws and Regulations - Federal

- IDEA 1997 - Enhanced PL 94-142
- IDEA 2004 - Reauthorized IDEA
 - The Individuals with Disabilities Education Act (IDEA) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities.
 - Infants and toddlers with disabilities (birth-2) and their families receive early intervention services under IDEA Part C. Children and youth (ages 3-21) receive special education and related services under IDEA Part B
 - Effective July 1, 2005 (HQ provision effective 12/04)
 - Aligns closely with NCLB



Laws and Regulations

- The No Child Left Behind Act of 2001 (NCLB) reauthorized the Elementary and Secondary Education Act (ESEA) -- the main federal law affecting education from kindergarten through high school. Proposed by President Bush shortly after his inauguration, NCLB was signed into law on January 8th, 2002. NCLB is built on four principles: accountability for results, more choices for parents, greater local control and flexibility, and an emphasis on doing what works based on scientific research.



Laws and Regulations - State

- In Massachusetts, the special education regulations were formerly referred to as Chapter 766 of the Massachusetts General Laws (MGL),
- Now we abide by MGL 603 CMR 28.00
 - Details available at the DOE Website
<http://www.doe.mass.edu/lawsregs/fedlaws.html>



Laws and Regulations - Federal

- Section 504 is a civil rights law that prohibits discrimination against individuals with disabilities. Section 504 ensures that the child with a disability has equal **access** to an education. The child may receive accommodations and modifications to assist with access.
- Unlike the Individuals with Disabilities Education Act (IDEA), Section 504 does not require the school to provide an individualized educational program (IEP) that is designed to meet the child's unique needs and provides the child with educational benefit. Under Section 504, fewer procedural safeguards are available to children with disabilities and their parents than under IDEA.



Laws and Regulations - Federal

- American's with Disabilities Act (ADA) and Amendments - January 2009
 - ADA Amendments applicable to Section 504
 - Broaden the scope of who is covered under 504
 - Expounds on areas of Major Life Activities that are impacted by disability



Laws and Regulations - Federal

- Section 504 of the Rehabilitation Act of 1973
 - States that: *"No otherwise qualified handicapped individual in the United States...shall, solely by reason of...handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."*



Section 504

- Mandatory legal requirement for teachers/staff to provide accommodations to a student who is eligible under section 504 Federal statute.
- Developed and monitored by school counselors and teachers
- Responsibility of the school to conduct it's own evaluation
- Need for annual meeting, and 3 year re-evaluation meeting
- Annual update and approval by parent.
- District 504 Coordinator - oversees and monitors program compliance



Who is protected under the law?

- A person who
 - has a physical or mental impairment which substantially limits (materially restricts) one or more major life activities
 - has a record of such an impairment, or
 - is regarded as having such an impairment



Who is protected

- Section 504 protects the civil rights of individuals who are qualified to participate and who have disabilities such as, but not limited to, the following:
 - blindness or visual impairments
 - cerebral palsy



Who is protected....

- chronic illnesses, such as AIDS, arthritis, cancer, cardiac disease, diabetes, muscular dystrophy, psychiatric disorders;
- deafness or hearing impairments,
- drug or alcohol addiction (Note: Section 504 covers former users and those in recovery programs and not currently using drugs or alcohol.)



Who is protected...

- epilepsy or seizure disorders
- Intellectual impairment
- orthopedic handicaps
- specific learning disability
- Health impairments, such as ADHD
- speech disorders
- spinal cord or traumatic brain injury, etc.



Impact of the law on education

- Student must have disability that substantially limits one or more major life activities.
- Major Life Activities include:
 - Caring for one's self
 - Performing manual tasks
 - Walking
 - Seeing Hearing
 - Speaking
 - Breathing
 - Learning
 - Working



Impact of the law on education

- As per the January 2009 ADA Amendments, major life activities also include:
 - Standing
 - Lifting
 - Reading
 - Concentrating
 - Thinking
 - Communicating
 - Bending
 - Speaking
 - Operation of a bodily function



Impact of the law on education

- Substantial Limitation
 - Unable to perform a major life activity that the average person in the general population can perform
 - Significantly restricted as to the condition, manner, or duration under which an individual can perform a major life activity as compared to an average person in the general population
 - One major life activity need not limit other major life activities in order to be considered a disability



Impact of the law on education

- The definition of disability must be construed in favor of broad coverage
- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active
- Mitigating factors can not deter the consideration of accommodations (i.e. medication, assistive technology, mobility devices, etc.)



Impact of the law on education

- Schools or any entity receiving federal financial assistance must not discriminate in the admission or treatment of students/employees, considered to have disabling conditions.
- Any entity receiving federal financial assistance must not discriminate in any situation regarding employment practices



Impact of the law on education

- Students considered to have a disability, or their parents/guardians, may request modifications, accommodations, or auxiliary aids which will enable the student to participate in and benefit from all educational programs and activities.
- State Assessment Accommodations: Students may receive accommodations on MCAS only if those accommodations are identified in the 504 plan AND the student requires them to fully participate in the assessment (access)
- Accommodations are meant to "level the playing field", not "benefit from".



Impact of the law on education

- The school must evaluate and determine eligibility for 504 services for students referred.
- It is the schools responsibility for making the determination of whether a student qualifies for 504 accommodations.
- Parents/students may provide documentation, however are not required to do so.



Impact of the law on education

- If eligible, school personnel must implement the accommodations determined by the team to ensure that the academic program is accessible to the greatest extent possible by all students with disabilities.
- 504 is implemented in the general education environment and therefore it is the responsibility of all staff, including regular educators, to abide by the recommended plan



Discipline Under 504

Students covered under Section 504 are provided with protections under Federal and State regulations with regard to discipline.

- Develop, implement and revise Behavior Intervention Plans, as necessary
- Consider FBA if appropriate
- Perform Manifestation Determination for change in placement for exclusion over 10 days or a pattern of instances over 10 days
- No need to provide {504) services during periods of exclusion



District Responsibility

- What happens when 504 is not followed or implemented?
 - BSEA-All special education and 504 complaints
 - OCR - Federal level
- *The best defense to a complaint regarding violation of 504 is to show that the district has consistently and appropriately followed the process*
- *Most complaints filed at the BSEA and OCR are relative to procedural errors*

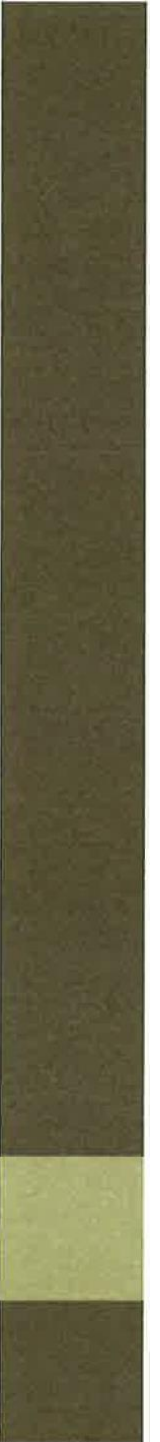


Impact on School Personnel

- Section 504 is a civil law
- 504 is not special education; it does not provide specially designed instruction
- The responsibility for 504 falls within general education and therefore is the responsibility of all staff within the school building
- Individuals who intentionally discriminate against the civil rights of a student *can be held personally responsible. Hearing officers at the BSEA have held individuals financially liable for intentionally refusing to implement accommodations in a 504 plan.*

District Responsibility

- Case Examples
 - BSEA 08-0998- BSEA ordered restitution to parent under IDEA, 504 and ADA (Mashpee Public Schools ordered to pay legal fees and punitive damages due to discrimination)
 - Middleborough OCR Complaint 2007
 - Middleborough OCR Complaint 2009



Impact on District

- When a complaint is filed, the district must respond within designated time frames
 - Complaint forwarded to Superintendent
 - Administrative review
 - Review files and timelines
 - Written response
 - Onsite investigation
 - Report of findings from OCR/BSEA
 - Corrective action



Who coordinates services?

- In Middleborough, 504 for students is coordinated through each building via individuals assigned by the principal
- The 504 Coordinator for the district is determined by the Superintendent. In Middleborough, the District 504 Coordinator is Carolyn J. Lyons, J



