

## WHAT IS SECTION 504?

The Americans with Disabilities Act (ADA) protects the rights of students and parents with disabilities. Section 504 of the Rehabilitation Act prohibits discrimination against students with physical or mental disabilities, who attend public schools. Section 504 establishes that disabled/ "medically fragile" students, whose impairments may not limit their ability to learn, have a right to a free, appropriate public education. School districts have to provide the necessary educational services, aids and accommodations to ensure this right.

## WHO IS PROTECTED UNDER SECTION 504?

Students whose physical or mental impairments substantially limit one or more "major life activities," such as caring for oneself, seeing, breathing, learning and walking, are protected by Section 504.

Thus, students whose physical or mental disabilities limit their ability to attend school or participate in regular activities are protected by Section 504. Examples of protected students are children with asthma, diabetes, allergies, cerebral palsy, cancer, HIV related illnesses, epilepsy, dyslexia and spinabifida.

Section 504's definition of a disabling condition is broader than that of the Individuals with Disabilities Education Act (IDEA), which describes a disabled child as one whose impairment requires special education and related services because the disability limits the student's ability to learn. Medically fragile students, on the other hand, often need not and should not be placed in special education programs as called for in IDEA. Special education students, however, are also Section 504 eligible.

## WHAT SERVICES ARE REQUIRED BY SECTION 504?

The U.S. Department of Education, Office of Civil Rights

has determined that some of the required services include:

- the administration of oral medications, insulin and other injections,
- carrying out intermittent catheterization,
- monitoring students' physical well-being in the classroom,
- providing services in accessible locations,
- testing of blood levels,
- use of equipment such as tape recorders or calculators,
- counseling, and
- test modifications and extension of test time limits.

## WHAT IS THE BOARD OF EDUCATION REQUIRED TO DO?

Section 504 requires school districts to: develop and implement standards and procedures for the identification, assessment and proper placement of eligible students who may or may not be educationally disabled; ensure the provision of necessary individualized services and support; and train teachers and support staff to enable them to perform services or make appropriate accommodations in the general education classroom.

## ARE THERE ANY LIMITS TO SECTION 504?

In interpreting Section 504, the courts have held that schools must provide disabled students with appropriate

educational services and accommodations. Under no circumstance should medically fragile students be out of school because of the lack of support services, aids or accommodations.

## WHAT IF THE SCHOOL REQUIRES YOU TO SIGN A WAIVER OF RESPONSIBILITY?

The Board of Education is prohibited from requiring a waiver of liability as a condition to render services mandated by federal law. Should they attempt to require it, call Advocates for Children for assistance.

## WHAT SHOULD PARENTS DO?

If you believe that your child may be eligible for services, inform your school principal in writing that you are requesting the provision of services under Section 504. If for any reason you feel uncomfortable approaching the principal, you may choose to direct your request to:

**Chancellor's Section 504 Designee  
Division of Student Support Services  
New York City Board of Education  
110 Livingston Street, Room 510  
Brooklyn, NY 11201**

Within thirty days of receipt of all relevant documentation (or sooner if your child will be excluded from school pending a determination of eligibility) the principal or the Chancellor's Section 504 Designee will complete the process of determining eligibility for Section 504 services and will respond to your request in writing.

## DECISION ON YOUR REQUEST

In this written response, the principal or the Chancellor's Section 504 Designee will:

- inform you in writing whether or not your child is eligible for Section 504 services;

- if services have been approved, prepare and provide you with a written Section 504 plan (you may participate in this process if you wish);
- if services have been denied, notify you of what steps can be taken to appeal the decision.

## ARE PARENTS PROTECTED UNDER ADA?

Schools are required to make reasonable accommodations to ensure that parents with disabilities are given the opportunity to fully participate in school related meetings or activities such as parent-teacher conferences, suspension hearings, special education conferences, etc.

Examples of "reasonable accommodation" include: appointing a sign/oral interpreter to assist a parent who has a hearing impairment, moving the location of a meeting to make it more accessible to a physically-challenged parent, and scheduling meetings during times that would not interfere with a parent's regularly scheduled medical treatments.

### **AFC's AIDS Education Project**

Since 1985, AFC has been working towards identifying the responsibilities of the schools regarding HIV/AIDS. AFC has: represented students with HIV infection; worked with the State Education Department to develop regulations requiring HIV/AIDS education; co-founded the Coalition for Responsible AIDS Education which rallied support for the Chancellor's Expanded HIV/AIDS program, including condom availability in the high schools; and commented on revisions of the Board of Education's guidelines regarding HIV-affected students.

AFC continues to be an active participant in several HIV related coalitions and networks including the AIDS and Adolescent Network of New York.

Under the AIDS Education Project, AFC also assists parents and professionals to access appropriate educational services for HIV-affected children and adolescents. We are available to help resolve a variety of HIV issues in the school, e.g., administration of medication during school hours, provision of counseling for HIV-infected students and HIV-related confidentiality issues.

Parent and staff training regarding HIV-related educational issues is available. Call (212) 947-9779. Si habla español. Nou palè kreyol.

**Advocates for Children (AFC)**, organized in 1970, works to ensure equal educational opportunities, promote quality education services, and overcome

school failures for New York City's one million public school students. AFC's commitment is to those children at greatest risk due to disabling conditions, poverty, race or sex discrimination, or inadequate academic preparation. AFC's program is carried out by a multi-racial, multilingual staff of attorneys, lay advocates, and researchers. Our multi-faceted program services New York City's children through:

**Individual Case Advocacy:** AFC represented 2,500 students last year. Our cases include the needs of children with disabling conditions, services to overcome truancy and return dropouts to school, suspensions and other school exclusions, issues of race and sex discrimination, and the rights of language minorities and children from immigrant and homeless families. We do not charge fees for our services.

**Training and Community Organizing:** AFC conducts extensive workshops on educational rights for parents, legal service organizations, community representatives, educators, and other professionals. We also publish materials for parents and youth advocates.

**Research and Administrative Negotiation:** AFC conducts action-based research on issues identified by our casework. Our reports are the basis of reform-directed negotiations with public officials.

**Litigation:** AFC's program includes a legal component which litigates on issues we cannot resolve by less adversarial means. AFC has served as plaintiff, co-counsel, or amicus curiae in most of the important NYC education litigation, including 12 precedent-setting cases, since 1970.

### **ADVOCATES FOR CHILDREN PROJECTS**

**Case Representation/Technical Assistance**  
Technical assistance to parents. Individual representation of at-risk students age 0-21.

**Training**  
Parent, youth, & preventive services worker trainings in English, Spanish & Haitian Creole. Train pro bonos &

paralegals.

#### **Homeless Students**

Assistance to homeless children and families. Research & administrative negotiation.

#### **Inclusive Special Education**

Assistance to children with educational disabilities. Parent, youthworker & attorney trainings. Research & administrative negotiation.

#### **Early Intervention/Preschool Special Education**

Assistance to infants, toddlers and preschoolers with developmental delays. Trainings for parents & service providers. Research & administrative negotiation.

#### **Section 504/Americans with Disabilities Act**

Assistance to children needing accommodations in their schools. Trainings for parents, medical personnel, service providers. Research & administrative negotiation.

#### **Alternatives to Suspension**

Assistance to suspended students. Trainings for parents, youthworkers. Research & administrative negotiation.

#### **Chapter I Remediation**

Assistance to children at risk for academic failure due to poverty. Training for parents. Research and administrative negotiation.

**Legal Education Assistance to Parents** Assistance to parent groups. Parent trainings. Research & administrative negotiation.

## **HELP FOR CHILDREN WITH MEDICAL CONDITIONS AND OTHER DISABILITIES UNDER SECTION 504 & ADA (AMERICANS WITH DISABILITIES ACT)**

***Advocates for Children  
of New York, Inc.***

***Dedicated to the protection of every  
young person's rights to a  
quality education.***

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