



## Know Your Rights: Students with ADHD

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If you are the parent or guardian of a student in public elementary or secondary school, including a charter school, and that student has attention-deficit/hyperactivity disorder (ADHD), the information below summarizes your rights and your school district's legal obligations under a Federal civil rights law that prohibits disability discrimination called Section 504 of the Rehabilitation Act of 1973 (Section 504).

### **Federal Law Protects Students from Disability Discrimination**

- Section 504 protects any student with a disability from discrimination based on disability.
- Regardless of how well he or she performs in school, a student who has trouble concentrating, reading, thinking, organizing or prioritizing projects, among other important tasks, because of ADHD may have a disability and be protected under Section 504.
- A student with ADHD who has a disability under Section 504 may also be entitled to special education or related aids or services from his or her school district.

### **Your School District Must Determine if A Student Has a Disability and Needs Services**

- Under Section 504, your school district must evaluate a student, at no cost to you, if the district believes or has reason to believe a student has a disability and needs special education and/or related services because of that disability.
- You can also request that the school district evaluate a student. For example, you might request an evaluation if you suspect a student has ADHD, or a student has received a diagnosis of ADHD outside of school.
  - A district must either: (1) conduct the evaluation, or (2) explain why it is refusing to evaluate the student and notify you of your right to dispute that decision through the due process procedures under Section 504.
  - During an evaluation process, you can, but are not required to, provide information to the school to consider before an evaluation.
- Signs that a student may need an evaluation could be: considerable restlessness or inattention; trouble organizing tasks and activities; communication or social skill deficits; or significant difficulty related to beginning a task, recalling information, or completing assignments.
- Your school district must determine if an evaluation is necessary even if a student exhibits behavioral (and not academic) challenges.
- If the school district suspects a student has a disability, the district cannot deny or delay this disability evaluation in order to first provide the student with intervention strategies.
- If your school district requires, as part of the evaluation, a medical assessment to determine whether a student has ADHD, the school district must ensure that the student receives this assessment at no cost to you.



- When conducting the disability evaluation, your school district cannot consider the positive effects of mitigating measures in determining if a student has a disability. For example, if your daughter uses medication to address ADHD, the school district cannot consider the positive effects of that medication as a basis to determine she does not have a disability.

### **A Student May Be Entitled to Individualized Services to Meet His or Her Needs**

- All elementary and secondary school students who are individuals with disabilities as defined by Section 504 are entitled to a free appropriate public education (FAPE). Under Section 504, FAPE is the provision of regular or special education and related aids and services designed to meet a student's educational needs as adequately as the needs of students without disabilities are met.
- School districts often set forth these needed services in a document, typically referred to as a "Section 504 Plan."
  - The school district cannot limit FAPE to those aids or services that are free or low-cost, and cannot exclude needed aids and services just because of their expense.
- Not every student with ADHD needs the same set of services, or any services at all. School districts cannot simply provide the same aids and services to all students with ADHD. Each student's needs may be different, and Section 504 requires school districts to provide for those individual educational needs.
- The special education or related aids and services that are included in a student's Section 504 Plan, or similar document, should be clear and detailed so that you and the school both understand what the plan requires, and can make sure it is implemented consistently.

### **Your School District Must Provide You with Due Process Under Section 504**

- The school district must allow you to appeal district actions regarding the identification, evaluation, or educational placement of a student with a disability. This obligation is more commonly known as "due process."
- The school district must tell you about this due process system, notify you of any evaluation or placement actions, allow you to examine the student's records, provide you an impartial hearing, allow you to have a lawyer at that hearing, and provide you a review procedure.

### **Resources**

To learn more about a school district's Section 504 obligation to provide FAPE to students with ADHD, please see OCR's July 2016 Dear Colleague Letter and Resource Guide, at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>, and visit OCR's website, at [www.ed.gov/ocr](http://www.ed.gov/ocr).

If you want to learn more about your rights, or if you believe that your school is violating Federal law, you may contact the U.S. Department of Education, Office for Civil Rights, at (800) 421-3481, (800) 877-8339 (TDD), or [ocr@ed.gov](mailto:ocr@ed.gov). You may also file a complaint online at [www.ed.gov/ocr/complaintintro.html](http://www.ed.gov/ocr/complaintintro.html).