

Protecting Students with ADHD



THE OFFICE OF CIVIL RIGHTS of the US Department of Education (OCR) issued new guidance about the implementation of

Section 504 for students with ADHD to every public school district in the country on July 26, 2016. CHADD's public policy committee and professional advisory board provided significant input as the OCR was developing this guidance.

Through ongoing and active discussion with OCR, CHADD shared the concerns of our members about the implementation of Section 504 and the effects on their children. CHADD provided scientific research and information about ADHD as well as best practices for educating students with ADHD. CHADD also provided ideas about how to improve the implementation of Section 504 in schools.

A 2014 survey of its membership reinforced CHADD's concerns that the Section 504 process in the schools was not working. Parents reported major violations in every step of the process: referral, evaluation, 504 plan development and implementation, as well as in the frequent suspensions and expulsions. The lack of appropriate referral, evaluation, and eligibility practices was particularly problematic, suggesting that many children with ADHD who need Section 504 protection were not being referred or found eligible for a 504 plan. Implementation violations were especially troubling; two thirds of parents reported that their child's 504 plan was not implemented in the classroom.

The survey's statistics and anecdotal reports were consistent with concerns parents and professionals frequently voice to CHADD. The individual stories, albeit brief, were heart wrenching and added a painful human dimension to the statistics. These students with ADHD were being denied a free and appropriate public education and an equal opportunity for participation in school. The safeguards of the Section 504 regulations were not providing adequate protection from the problems these children experienced.

CHADD urged stronger action from the US Department of Education to ensure that schools would understand both their obligations under Section 504 and the symptoms of ADHD (along with best practices for responding to it). Equally important, CHADD urged stronger guidance and enforcement from the OCR to ensure that appropriate safeguards and supports be put in place

for all students with ADHD who are or should be eligible for the protections of Section 504.

In a press release announcing the new guidance, OCR reported that more than one out of every nine complaints alleging discrimination on the basis of disability in elementary and secondary schools that OCR received in the past five years involved students with ADHD. OCR stated that the most common of these complaints concerned "academic and behavioral difficulties students with ADHD experience at school when they are not timely and properly evaluated for a disability, or when they do not receive necessary special education or related aids and services." This verifies the seriousness of CHADD's concerns about noncompliance with Section 504.

CHADD applauds OCR's efforts to make sure that the civil rights of students with ADHD are protected in the nation's public schools. We will continue to provide OCR with feedback about the effectiveness of the new guidance and evidence-based findings that address the educational needs of students with ADHD. CHADD will continue to be a leader in providing high quality teacher training, so that students with ADHD and their teachers will be partners in education.

Watch for additional coverage on the new guidance in upcoming issues. 🗨️

*The following members of CHADD's public policy committee contributed to this article: **Ingrid Alpern, JD, LL.M.**; **Matthew Cohen, JD.**; and **Jeffrey Katz, PhD.** An earlier version was posted on the CHADD Leadership Blog on 7/26/16.*

