

Ask the Expert

Department of Education Guidance Broadens Understanding of 504 Rights for Kids with ADHD



Paul Grossman, JD

The National Resource Center on ADHD: A Program of CHADD is the nation's clearinghouse for evidence-based information on ADHD. This *Ask the Expert* webcast is supported by Cooperative Agreement Number NU38DD005376 from the Centers for Disease Control and Prevention (CDC) and does not necessarily represent the official views of the CDC. The National Resource Center on ADHD, CHADD and the CDC do not endorse, support, represent or guarantee the accuracy of any content presented or endorse any opinions expressed in this webcast.



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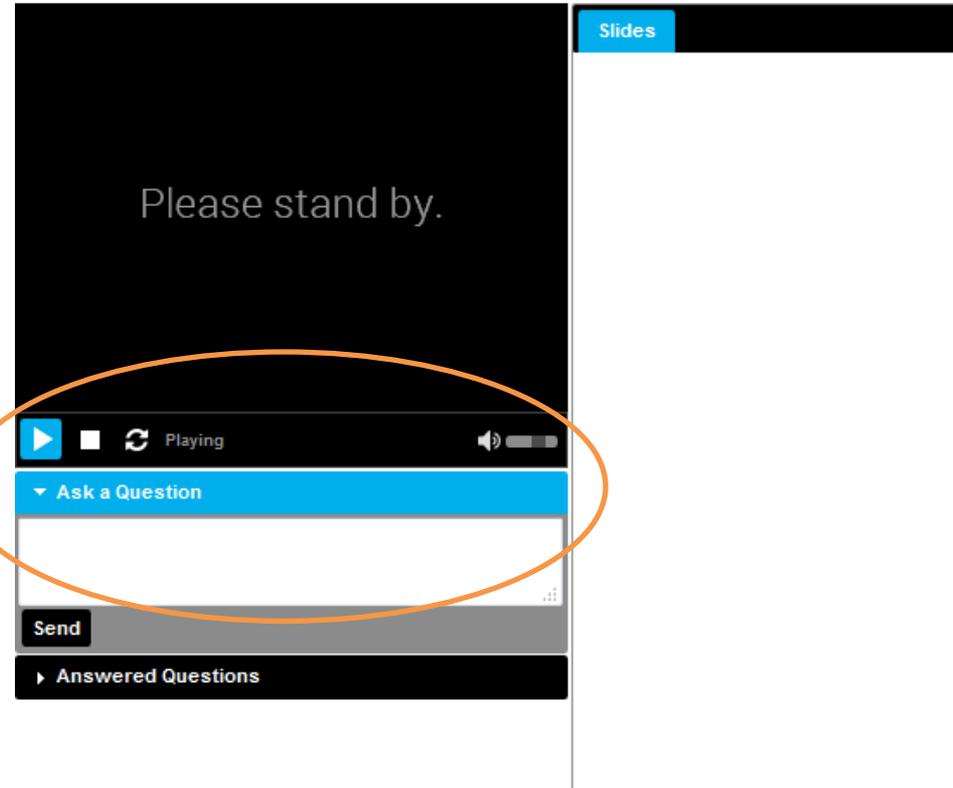


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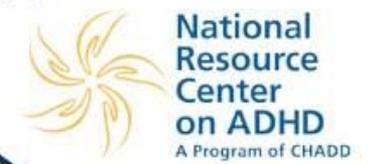


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**The US Department of Education (ED),
Office for Civil Rights (OCR),
Dear Colleague Letter (DCL) and
Resource Guide
on Students with ADHD**

***Part I: What the Letter Says and Why It Is
Important***

Presenter
Paul Grossman, JD

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Presenter (I)

- **Paul D. Grossman, J.D.**

- OCR Chief Regional Attorney, S.F., Retired, 40 years of service
- Adj. Prof. of Disability Law, Hastings College of Law, U.C., 22 years and continuing
- AHEAD Board Member, current
- CHADD Public Policy Committee Member, current
- CAPED Lanterman, President's, Career Achievement Award
- AHEAD Blosser award recipient
- Member HRC for President, Disability Rights, Civil Rights, and Education task forces
- Co-author with Dist. Prof. Ruth Colker, ***The Law of Disability Discrimination***, a leading law school textbook

<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodId=prod20900324>

Presenter (2)

Though the presenter has experience and teaches about elementary and secondary disability law, he does not take individual clients or provide advice to school districts with regard to this area of law.

The presenter's sole objective is to reduce the widespread discrimination endured by children with ADHD who attend public school; something he observed directly while working for OCR for over 40 years.

Introduction

What is the significance of these two documents?:

1. *Dear Colleague Letter (DCL) and accompanying Resource Guide on Students with ADHD*
2. *Know Your Rights: Students with ADHD*

Respectively: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>

<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201607-504.pdf>

Why These Documents Are Important (I)

- These documents contain the most explicit, current guidance issued by the US Department of Education, Office for Civil Rights on the topic of children with ADHD in public school
- These documents interpret the Regulations implementing Section 504 of the Rehabilitation Act of 1973, the law that compels public elementary and secondary schools to protect children with ADHD from discrimination and provide them with a “free appropriate public education” (FAPE)

Why These Documents Are Important (2)

- These documents are less authoritative than a regulation or a Federal court decision; they are nonetheless, the interpretation of the agency designated by Congress to issue regulations implementing Section 504 and to interpret and administer Section 504 with regard to such children, as such these documents are entitled to considerable deference by both school districts and the courts

Note: All students with disabilities who are eligible for special education and related services under the IDEA, are also protected by Section 504

Note: Students with disabilities in public elementary and secondary school may have additional rights under Title II of the ADA and students attending private school may have other rights under Title III of the ADA

Why These Documents Are Necessary (1)

- For at least the past 8 years, OCR has been receiving multiple complaints from parents of children with ADHD that their school districts were:
 1. Refusing to identify their children as needing an evaluation to determine if they needed special education, related aids and services, or regular education with supplementary services, even though there was a reasonable basis to believe that such an evaluation was needed by their children
 2. Delaying, failing to pay for, or in a number of ways improperly evaluating their children to determine whether they had ADHD and need special education, related aids and services, or regular education with supplementary service

Why These Documents Are Necessary? (2)

3. Even if evaluated as in need of special education, related aids and services, or regular education with supplementary service, districts frequently failed to provide such services, providing none, delaying the provision of services, or providing highly limited services – less than necessary or called for in the evaluation, sometimes basing the denial on unlawful cost considerations
4. Schools which denied requests for evaluation or requests for appropriate services failed to inform parents of their rights to challenge such denials through due process proceedings or to convene due process proceedings, even when requested

Why These Documents Were Necessary? ⁽³⁾

In 2015, CHADD conducted and shared with OCR the results of a survey of its members revealing that these kinds of violations of the rights of children with ADHD were pervasive throughout our public schools

Why These Documents Are Necessary? (4)

In 2016, OCR conducted its own analysis which revealed that, “[o]ver the past five fiscal years (2011-2015), ... one in nine of [complaints alleging disability discrimination in elementary and secondary education]involved allegations of discrimination against a student with ADHD. In resolving such complaints, OCR has found that many teachers and administrators often take appropriate action to ensure that students with ADHD receive the protections to which they are entitled under Federal law, ***but many others are not familiar with this disorder , or how it could impact a student’s equal access to a school district’s program***” [emphasis added].

What Types of Schools Are Covered by this Guidance?

- All public elementary and secondary schools
- All public charter and magnet schools
- All juvenile justice facility schools
- Any other non-sectarian elementary and secondary educational school, even if “private,” that receives Federal financial assistance

Five Topics Covered by the Guidance

- Coverage under Section 504 and the IDEA
- Identification
- Evaluation
- Placement (services)
- Due Process (procedural safeguards)



Coverage

Are Students with ADHD Covered by Section 504? (I)

- Under Section 504 (and Title II of the ADA) an individual with a disability is one who has “an impairment that substantially limits a major life activity”
 - Under guidance from the US Department of Justice, implementing Title II of the Americans with Disabilities Act, issued after the release of the Dear Colleague Letter, ADHD is now explicitly listed as an impairment
- ADHD is disability if this impairment manifests itself in such a manner as to substantially limit a major life activity and, **most important**, in the DCL, OCR states:

“OCR will presume , unless there is evidence to the contrary, that a student with a diagnosis of ADHD is substantially limited in one or more major life activities”

Are Students with ADHD Covered by Section 504? (2)

- Since the adoption of the Americans with Disabilities Americans with Disability Amendments Act in 2008 (ADAAA), it has become considerably easier and more likely that ADHD in a given individual is a disability, because
 - “Substantial” is no longer a demanding term
 - The list of major life activities has been expanded to include a number of activities frequently impaired by ADHD including “functions of the brain, thinking, concentration, reading and writing”
 - Determining whether a major life activity is substantially impaired must be made without regard to mitigating measures such as medication and “coping strategies” [such as seeking help from others]

Note: Some school districts still hold students with ADHD to the demanding pre-ADAAA definition of disability

OCR considers this a violation of Section 504 and Title II of the ADA!

Coverage under Section 504:

Even if the Student Needs No Special or Supplemental Services

- “If the student has a disability, but does not need any special education or related aids or services from the school district[,] ... the student is still a person with a disability ... and so is protected by Section 504’s general nondiscrimination prohibitions and Title II’s statutory and regulatory requirements”
- Nondiscrimination:
 - Protected from a hostile environment on the basis of a disability
 - Protected from exclusion from a program or activity on the basis of having ADHD, e.g., for an athletic, extracurricular, or school-sponsored trip or summer program

Coverage Under the IDEA: In General

- Must meet criteria for one or more of 13 eligibility categories
- In order to qualify under IDEA, the student's disability must cause an adverse affect on educational performance (*educational performance includes both academic and non-academic functioning*)
- Must require special education intervention

Note that special education is a service, not a place, and students can be served in regular education and still qualify for special education

Coverage Under the IDEA: ADHD

- Students with ADHD may be covered under IDEA under the OTHER HEALTH IMPAIRED category based on ADHD as the primary disability
- Students with may also be covered under IDEA if they have a different primary disability, e.g., Specific Learning Disability or Emotional Disturbance, but also have ADHD

Coverage Under the IDEA: Definition of “Other Health Impairment”

- “Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that—
 - (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
 - (ii) Adversely affects a child’s educational performance.”

34 CFR 300.08(c)(9)



Identification

OCR's Concern

“[S]tudents [with ADHD in some districts are] never being referred for, or identified by the school district as needing, an evaluation to determine whether the student has a disability and needs special education or related services”

Evaluation Requirements: When?

(I)

- A district must conduct an evaluation of any student who because of a disability “needs or is believed to need” special education or related services

Note the standard is based on a belief, not something that is proven, which can only occur after the evaluation

- A school district must conduct an individual evaluation:
 - Before taking any action with respect to the student’s initial placement; and
 - Before making any subsequent significant change in placement

Evaluation Requirements: When?

(2)

- “[A] student’s needs can change over time ...
 - [A] student with ADHD might experience changes in his or her academic performance or behavior as he or she learns to cope with the impairment, adjust to medication, or learn new behavioral techniques
 - “Therefore, reevaluations of a student with ADHD, and changes in placement, could become necessary”

Identification: A Range of Persons Can Recommend or Request an Evaluation

- A teacher, school administrator, any staff member who “perceive(s) or receive(s) information to lead them to suspect that a student has a disability
- Parents can request an evaluation:
 - Parents should let the school know when there has been an outside diagnosis of ADHD
 - If the parents’ request is denied, they must be offered due process – more later

Identification: Indicators that an Evaluation is Necessary (I)

- “[S]chool districts must consider all the potential major life activities that may be impacted by the student’s impairment, *not just learning*”
- Signs that a student has ADHD and may be in need of an evaluation, according to OCR, include:
 - “considerable restlessness or inattention inappropriate for their age and grade level;
 - trouble organizing tasks and activities; or
 - communication or social skill deficits”

Identification: Indicators that an Evaluation is Necessary (2)

- Other indicators to consider as a reason to conduct an evaluation, identified by OCR, include:

Demonstration of “significant difficulty related to beginning a task, organizing and recalling information, and completing assignments such as homework and multi-step class projects”

Identification: Indicators that an Evaluation is Necessary ⁽³⁾

- These kinds of challenges may indicate a need for “behavioral and **executive function** supports to improve focus and organizational skills, such as support in organizing a task, getting started, and remaining engaged in a task [emphasis added]”
- The fact that a student demonstrates age-inappropriate behavioral actions even without demonstrating academic challenges may be a legitimate grounds for evaluating a student

Identification: Indicators that an Evaluation is Necessary (4)

- Not all “supports” are provided by parents or school districts; A student him/herself may develop their own supports or “mitigating measures”

Examples identified by OCR might include:

- “[T]aking extra time to complete one homework assignment because it takes the student longer to employ the strategies developed over time to break down a study question, conduct the research, and write an essay”
- Seeking help from parents, tutors, or study group buddies
- Taking frequent study breaks or working in a quiet, isolated environment

Identification: Indicators that an Evaluation is Necessary (5)

- Other “mitigating measures” might require parental or medical intervention such as taking a medication
- The very fact that a student must rely on mitigating measures may raise an inference that the student is an individual with a disability in need of special education, related aids and services or regular education with supplementary services; in other words, reliance on mitigating measure can raise inference that the student is need of an evaluation

Identification: Indicators that an Evaluation is Necessary (5)

- ***The converse is not true:*** the fact that a student is academically successful because he/she makes effective use of mitigating measures must not by itself be an arbitrary reason to deny providing a student with an evaluation
 - An academically successful student may still need supports to address challenges related to:
 - Executive functioning
 - Behavior
 - Reliance upon mitigating measures that need to be extinguished such as heavy reliance on parental assistance to complete homework
 - Reliance upon mitigating measures that create substantial negative side effects like intense anxiety or lead to hostility by other students

Identification: Indicators that an Evaluation is Necessary (6)

- What happens off campus but is school-related should be taken into account, e.g., completing homework:
 - “[A] student’s use of ... mitigating measures could be an indication to the school district that the student may have a disability”
 - “[A] student with ADHD might take extra time to complete one homework assignment because it takes the student longer to employ the strategies developed over time to break down a study question, conduct the research, and write an essay”
 - “Even though that student may be timely in turning in homework assignments, she or he may still be substantially limited in a major life activity, such as thinking or organizing, because of ADHD”



Evaluation

OCR's Concerns (I)

- Some districts arbitrarily refuse to recognize ADHD as a disability
- Some students who are identified for evaluation do not receive them
- Individuals used by some districts to conduct an evaluation are not qualified to do so with regard to ADHD
- Some districts fail to give any or enough consideration to independent (outside) evaluations
- Some districts impermissibly rely on cost as the reason to deny a student a necessary medical or psychological evaluation

OCR's Concerns (2)

- Some districts fail to apply the legally required standards and analytical approach in their evaluations; for example,
 - They fail to consider “condition, manner, and duration” with regard to how the student accomplishes major life activities, such as reading
 - They improperly take mitigating measures into account when considering the degree to which ADHD impairs major life activities such as thinking or functioning of the brain

Evaluation: Scope of Duty

- The evaluation must cover all suspected areas of disability, such as other conditions that frequently accompany ADHD, including depression
- Section 504 requires a school district to identify and conduct an evaluation of any student who needs or is believed to need special education or related services because of a disability
- A school district must evaluate students who are suspected of having any kind of disability in all specific or all related areas of educational need, even if the students do not fit into one suspected disability category or fit into multiple disability categories
- Districts must take care to conduct the evaluation on a nondiscriminatory basis employing bias or stereotypes based on race, national origin, or sex

Evaluation: Condition, Manner and Duration (I)

- ***Good grades alone are NOT a legitimate basis to deny a request for an evaluation:***
 - “[I]t is critical to reject the assumption that an individual who has performed well academically cannot be substantially limited in activities such as learning, reading, writing, thinking, or speaking”
 - “[A] school district might erroneously assume that a student with an above- average GPA does not have a disability ... and therefore fail to conduct a Section 504 evaluation of that student, even if that student is suspected of having or has been diagnosed with ADHD and receives family provided academic supports outside of school”

Evaluation: Condition, Manner and Duration (2)

- ***Good grades alone are NOT a legitimate basis to deny a request for an evaluation (continued)***
 - Instead of just looking at grades or outcomes, “school districts should ***ask how difficult it is or how much time*** it takes for a student with ADHD, in comparison to a student without ADHD, to plan, begin, complete, and turn in an essay, term paper, homework assignment, or exam [emphasis added]”

Evaluation: Inattentive Type ADHD

- “School districts that are reluctant to evaluate students who exhibit behaviors consistent with inattentive-type ADHD could be doing a disservice to teachers who feel frustration about not being able to reach a generally quiet and cooperative student”
- “[They] could also be doing a disservice to families who are making extraordinary efforts to compensate for what is not learned in school by assisting the student and struggling nightly over homework and other assignments”
- “[T]he ability of a student to hyper-focus on a particular activity, such as a computer-based assignment, may not be sufficient to confirm that the student does not have ADHD and does not have needs associated with the disorder”

Evaluation: Delay for Intervention (RTI) Strategies (I)

- ***“Intervention Strategies Must Not Deny or Delay Evaluation of Students Suspected of Having a Disability”***
 - RTI and similar strategies ***can be helpful and part of both an evaluation or an intervention*** but such strategies cannot be an arbitrary reason for delaying an evaluation, particularly when the intervention does not seem to address all or even any of the impaired major life activities

Evaluation: Delay for Intervention (RTI) Strategies (2)

- ***“Intervention Strategies Must Not Deny or Delay Evaluation of Students Suspected of Having a Disability”*** [continued]
 - Districts should not use (or misuse RTI), or other intervention strategies, if they are not relevant to the child’s problems such as being distractible or having trouble being organized
 - “Implementing an intervention strategy and evaluating for a disability do not have to occur sequentially, but could be implemented at the same time”

Evaluation: Delay for Intervention Strategies (3)

- Students with ADHD should not be required to participate in inappropriate interventions which do not address “the obstacles to accomplishing schoolwork, or the underachievement in question” faced by the student in question
- “[Finally,] [“i]f a student continues to experience academic or behavioral problems, even after the implementation of intervention strategies, this may indicate that the student has a disability he or she needs special education or related aids and services”
- “School districts are in a better position to comply with their Section 504 obligations if they consider this evidence within a reasonable period of time in determining whether a Section 504 evaluation could be necessary”

Evaluation: Medical Assessments (I)

- “A medical assessment could be necessary to conduct an evaluation,” particularly if the student has not had a prior assessment for ADHD and other disabilities commonly associated with ADHD
- According to OCR, “[T]here is nothing in Section 504 that requires a medical assessment as a precondition to the school district’s determination that the student has a disability and requires special education or related aids and services due to his or her disability”
 - This should not be misinterpreted as meaning that it is acceptable for a district to conduct or arrange for a superficial or inadequate evaluation!

It remains important to recognize that evaluations must be done by a person who is qualified and competent to diagnose ADHD and whether the child’s symptoms meet DSM diagnosis of ADHD and other impairments often associated with ADHD

Evaluation: Medical Assessments (2)

- If a school district requires a medical evaluation, the school district is required to pay for it. While the parents may volunteer to use their insurance coverage, they are not required to do so.
 - “[T]he school district must ensure that the student receives this assessment at no cost to the student’s parents”
 - Evaluation is part of a free appropriate public education (FAPE) procedure and “free” means free
 - This includes both medical and psychological diagnostic/evaluative procedures
 - A parent [particularly one with health insurance] may volunteer to pay for such a procedure
 - However, “[t]he district must make it clear that the parent has a choice and can choose to accept a school-furnished assessment”

“Compliance problems could arise when school districts and parents do not communicate clearly on this requirement”



Placement

Regular Special Education

Related Aids and Services

Supplementary Services

Placement: Insufficient Training of Teachers and Administrators Leads to Erroneous Beliefs (1)

- The DCL reflects the investigative and enforcement experience on the part of OCR; this experience revealed to OCR certain misconceptions or “erroneous” beliefs that are commonly applied by **some** school districts staff:
 - “[T]he related aids and services in an IEP or Section 504 Plan are optional ...”
 - The range of services that may be provided by a school district to a student with a disability under Section 504 are inferior to or limited in comparison to the range of services that may be provided under the IDEA
 - “[Services are] unnecessary because the student is academically gifted...”
 - A student who is eligible for services under Section 504, is not eligible to participate in a gift and talented, honors, accelerated, or similar program

Placement: Erroneous Beliefs (2)

- More “erroneous” beliefs:
 - A student who is succeeding academically cannot be an individual with a disability and thus is ineligible for an evaluation or services under Section 504
 - A student who is succeeding academically but is engaging in misbehavior is ineligible for an evaluation or services under Section 504
 - “[T]he student must specifically request [the] aids and services [provided in his/her 504 plan] on an as-needed basis” or cannot expect to receive them

Placement: Who Decides

“[A] school district must ensure that the placement decision is made by a group of individuals that includes individuals who are knowledgeable about the student (often called a Section 504 team)”

Logically this should include:

- Parents
 - “[P]arents can be an important source of information to the school district about what techniques, interventions, services and supports would be most effective in meeting that student’s needs”
- Teachers
- People knowledgeable about the results of any evaluation
- Administrators with the authority to implement any placement determined by the team to appropriate

Placement: 504 Plan

- On the one hand, the DCL does not hide the fact that the Section 504 regulations do not explicitly require a “504 Plan” or similar document
- On the other hand the DCL makes it clear that such a document is likely necessary to achieve compliance with Section 504 because of the importance of being able to communicate with administrators and faculty what was concluded by the 504 team as the necessary elements of each students placement.

“The special education or related aids and services a student needs that are included in a Section 504 Plan, or other document, should be clear and as detailed as necessary so that the school and parents both understand what the plan requires”

Placement: One Size Will Not Fit Every Student with ADHD (1)

- “School districts cannot simply group together a few aids and services and provide them in a blanket fashion to any student with ADHD”
- Examples, provided by OCR, of mitigating academic measures that may be appropriate to meet the individual students with ADHD include:
 - Extra time on exams
 - Essay rather than multiple choice exams
 - A quiet room for test-taking
 - Placement in the front of the class

Placement: One Size Will Not Fit Every Student with ADHD (2)

- Some examples provided by OCR of services that districts may provide students with ADHD appear calculated to address executive functioning skills, including:
 - “[D]irect instruction to address the needs created by [ADHD], such as teaching how to break up a large, multi-step assignment into smaller parts, or ordering strategies”
 - “[S]pecific and explicit instruction on how to reliably record homework assignments, organize information into class notes, start a multi-stage project, write more efficiently, or respond to challenges to ... attention or concentration in day-to-day activities”
- Other students may need mitigating measures in the form of “behavioral interventions”

Placement under Section 504 Must Not Equate to Inferior Services!

(I)

- “[S]ome educators have the mistaken impression that placement options under Section 504 are limited to free or low-cost services, that provide limited, additional resources to students but may not be as robust or comprehensive as the special education and related services a student could receive under the IDEA. Likewise, some educators mistakenly equate reasonable modifications with low-cost or free services”
- “[T]he Section 504 team cannot limit its placement recommendations to those related aids or services that are free or low-cost, and cannot exclude them just because of their expense (although, of course, if there are equally effective related aids and services, nothing in Section 504 precludes a school district from choosing the less costly alternative)”

Placement under Section 504 Must Not Equate to Inferior Services!

(2)

- “If a student with a disability ... is eligible for FAPE under Section 504 but is not receiving FAPE services under the IDEA, that student is entitled to the provision of any services the placement team decides are appropriate to meet their individual educational needs, regardless of cost or administrative burden, and especially where such services have been provided to IDEA-eligible students in the past”
- “[Services for ‘Section 504 only’ students] can be as varied and as comprehensive as necessary to meet a student’s need”

Placement: Impact of Insufficient Communication

- “OCR cannot overemphasize the importance of making sure that school district personnel understand their obligations to implement appropriate plans for students with disabilities once the plans have been developed”
- “OCR has found that complaints ... are often the result of either the student or teachers and other staff being unaware that a plan exists or the plan being so vaguely worded that the parties are unclear or disagree about what the plan requires”

Placement: Medication

- “The administration of medication (or permitting a student to self-administer), ... could be a related aid or service, or supplementary aid or service, that is part of the placement that must be addressed by the Section 504 team”
- “If medication prescribed by a doctor needs to be taken during the school day, and a student cannot self-administer the medication, the school district must provide medication administration assistance to the student”
- “If a student can self-administer the medication, school districts must ensure the student is provided with whatever aid or service he or she needs in order to allow the self-administration”
- “[Other] related aids and services may still be required”



Due Process (Procedural Safeguards)

Due Process: Requirement

- “Districts must ensure that they have due process procedures that are available to parents, as required”
- “[S]chool districts must establish and implement a system of procedural safeguards [due process] for parents to appeal district actions regarding [:]
 - the identification
 - evaluation or
 - educational placement of students with disabilities, including students with ADHD, who need or are believed to need special education or related services”
- “[A] district [cannot] require a parent to pursue a FAPE- related complaint through the grievance procedure before a hearing under the system of procedural safeguards will be granted”

Due Process: Common Deficiencies

(I)

- Districts fail to give sufficient or any notice of their Section 504 due process procedures through their student handbooks or websites
- Districts deny a request for evaluation but don't inform parents that this denial may be appealed through due process procedures or how to do so
- Districts rely on their general due process notice and fail to provide specific, timely notice of when a denial has occurred that gives rise to an event that may be challenged in a due process proceeding

Due Process: Common Deficiencies

(2)

- The due process procedure maintained by the district does not include a hearing officer who is knowledgeable about the topic and impartial
 - Cannot be a district employee
 - This due process responsibility may be satisfied by use of the IDEA hearing procedure, provided the district is located in a state in which IDEA procedures include authority to hear claims arising under Section 504



Concluding Summary

Based on ***Know Your Rights: Students
with ADHD***

Summary: Know Your Rights - Coverage

- Federal Law Protects Students from Disability Discrimination
 - 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

Summary: Know Your Rights – Evaluation (1)

- Your School District Must Determine if A Student Has a Disability and Needs Services
 - Cost is not a legitimate basis to delay or deny an evaluation
 - Even if a medical or psychological evaluation is required, this evaluation must be provided at no cost to you
- “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”

Summary: Know Your Rights – Evaluation

(2)

- “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”

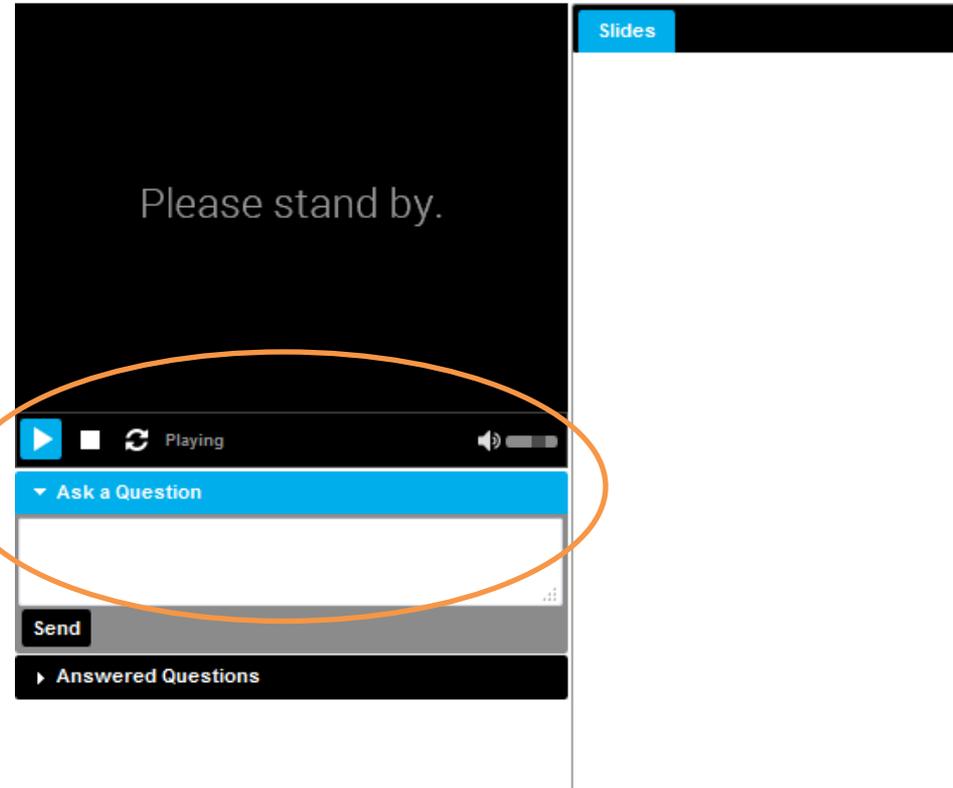
Summary: Know Your Rights - Services

- “All elementary and secondary school students who are individuals with disabilities ... are entitled to a [FAPE].”
- “The school district cannot limit FAPE [for students with ADHD] 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[;] [e]ach student’s needs may be different, and Section 504 requires school districts to provide for those individual educational needs”

Summary: Know Your Rights – Due Process

- The school district must allow you to appeal district actions regarding the identification, evaluation, or educational placement of a student with a disability”
- “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 [appeal] procedure”

To Ask A Question:



Ask the Expert

Department of Education Guidance Broadens Understanding of 504 Rights for Kids with ADHD



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Upcoming Webcasts

Department of Education Guidance Broadens
Understanding of 504 Rights for Kids with ADHD
Part II: Practical Strategies for Protecting Kids and Changing Systems

Monday, November 7, 2016 at 3pm ET

Guest expert: Matthew Cohen, JD

Register Now at

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Educator Edition

Creating the Best Learning
Environment for Students with ADHD

Thursday, November 3, 2016 at 4pm ET

Guest Expert: Sydney Zentall, PhD

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