

Section 504 and Individuals with Disabilities Education Improvement Act – The Role of the School Nurse



National
Association of
School Nurses

Position Statement

SUMMARY

It is the position of the National Association of School Nurses that the registered professional school nurse (hereinafter referred to as school nurse) is an essential member of the team participating in the identification and evaluation of students who may be eligible for services through the implementation of Section 504 of the Rehabilitation Act and the Individuals with Disabilities Education Improvement Act (IDEIA, formerly IDEA). School nurses are the link between the medical and educational communities and are a primary resource to the school team (Zirkel, Granthom, & Lovato, 2012).

BACKGROUND

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794 § 504) is a federal civil rights law that prohibits discrimination against individuals on the basis of disabilities and guarantees access to federally funded programs, including public school, for disabled individuals. The Office for Civil Rights (OCR) is the federal administrative agency within the U.S. Department of Education charged with implementing the law and monitoring compliance (U.S. Department of Education [USDE], Office for Civil Rights [OCR], 2011). Section 504 along with IDEIA provides a comprehensive process in accommodating students with disabilities (Sampson & Galemore, 2012.)

In September 2008 the U.S. Congress passed the American with Disabilities Act (ADA) Amendments Act effective on January 1, 2009, in an effort to broaden the definition of a disability. "Section 504 and the ADA define disability as (1) a physical or mental impairment that substantially limits a major life activity; (2) a record of such impairment; or (3) being regarded as having such impairment (29 U.S.C. § 705(9) (B); 42U.S.C. § 12102(1))" (USDE, 2012, p.2). The Amendments Act does not change these basic elements but rather broadens them to be more inclusive. In addition, the Amendments Act provides a list of major life activities or major bodily functions, which are examples and are not limited to these lists (USDE, 2012).

The Section 504 regulations provide a framework for school district policy and procedure.

- Public, private, parochial and postsecondary education institutions must comply if they receive any form of federal funding (Sampson & Galemore, 2012).
- Schools must identify students who may have disabling conditions (Child Find).
- Schools must establish standards and procedures for evaluation of disabled students and eligibility determination.
- Schools must meet individual needs of disabled students to insure they have the same access to education as non-disabled students.
- Identification of students and determination of their individual eligibility for accommodations are to be a collaborative process accomplished by a school-based 504 team.
- Anyone can make a referral for evaluation of a student's eligibility.

Services provided under a Section 504 plan are meant to provide the student with disabilities a Free and Appropriate Public Education (FAPE). "Such an education consists of regular or special education and related aids and services designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met"(USDE, 2011. p. 1).

Individuals with Disabilities Education Improvement Act

The Education for All Handicapped Children Act (EHA), now known as the Individual with Disabilities Education Improvement Act (IDEIA), was passed as law in 1975 as IDEA and revised in 1997 and again in 2004 to IDEIA. This law established national standards for the free appropriate public education of children with disability-related learning problems in the least restrictive environment.

The focus of the 2004 amendment revision includes awareness of 1) the mislabeling and higher dropout rates among minority children with disabilities, 2) the increased number of minority children served in special education compared to the general school population, 3) the discrepancies in the number of minority children referred and placed in special education services, and 4) the schools that serve mainly white students and also have mostly white teachers. (This combination tends to place disproportionately higher numbers of minority children in special education [Dang, 2010]).

Careful consideration needs to be given when using the terms *disability* and *developmental disability*. A disability can be defined as “general limitations in a physical, mental, or sensory function caused by one or more health conditions” (Dang, 2010, p. 253) and a developmental disability is defined as “a severe, chronic disability that begins any time from birth through age 21 and is expected to last for a lifetime” (Dang, 2010, p. 253). Disabilities can be cognitive, physical, or a combination of both (Dang, 2010).

IDEIA 2004 mandates that states look at the individual student’s response to scientific, researched-based intervention when determining whether a student has a specific learning disability. Response to Intervention (RTI) is a three-tiered intervention process that assists schools in identifying students who are at risk of a learning disability. A student does not need to complete all three levels of RTI before an evaluation for special education is completed and should not be a reason for delaying a referral (NICHY, 2012).

The definition of school nurse was expanded and re-named in amendments made in 2004. In section 300.34(c) (13), the terms *school nurse services* and *school health services* were clarified. In this version, school nurse services are defined as services provided by a qualified school nurse and school health services can be defined as services provided by either a qualified school nurse or person otherwise deemed qualified (USDE, 2012).

RATIONALE

School nurses have been identified as integral members of multiple disciplinary teams. They use their expertise to identify students who have possible health, socio-emotional or developmental issues that put them at greater risk of learning issues, and by contributing to the individual health and educational plans.

The school nurse’s role in the 504 or IDEA process may include (Gibbons, Lehr, & Selekman, 2013, p. 269- 270):

- Assisting in identifying children who may need special educational or health-related services.
- Assessing the identified child’s functional and physical health status, in collaboration with the child, parent(s)/guardian(s), and healthcare providers.
- Developing individualized healthcare plans (IHP) and emergency care plans (ECP) based on a nursing assessment.
- Recommending to the team health-related accommodations or services that may be required.
- Assisting the team in developing an Individual Educational Plan (IEP) or 504 Accommodation Plan that provides for the required health needs of the child and enables the student to participate in his or her educational program.
- Assisting the parent(s)/guardians and teachers to identify and remove health-related barriers to learning.
- Providing in-service training for teachers and staff regarding the individual health needs of the child.
- Providing and/or supervising unlicensed assistive personnel to provide specialized healthcare services in the school setting.

- Evaluating the effectiveness of the health-related components of the IEP with the child, parent(s), and other team members, and making revisions to the plan as needed.

A school nurse who is knowledgeable of federal laws related to working with students with disabilities, long term illnesses, or other disorders can make significant contributions to the health and academic success of these students. It is the school nurse's responsibility to understand the laws, refer students who may be eligible for the services as outlined in these laws, and participate on school teams that determine eligibility for services covered by Section 504 and IDEIA. Through shared responsibility with other team members, the school nurse contributes to the planning and implementation of Individual Education Plans and Section 504 Accommodations. The student's IHP and/or ECP are an appropriate starting point for Section 504 accommodations (Sampson & Galemore, 2012).

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This document replaces the following Issue Briefs:

- School Health Nursing Services Role in Health Care Section 504 of The Rehabilitation Act of 1973 (Adopted: 2005)
- Individuals with Disabilities Education Act (IDEA): Management of Children in the Least Restrictive Environment (Adopted: 1996; Revised: 2002; Revised: July 2006)

For more information refer to:

- [504 and IDEA Comparison Chart](http://www2.ed.gov/about/offices/list/ocr/504faq.html), National Center for Learning Disabilities; <http://www2.ed.gov/about/offices/list/ocr/504faq.html>;
- Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>; and
- Protecting Students with Disabilities <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

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