

Chapter 10

The Educational Rights of Students with Chronic Disease

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ABSTRACT

Effective implementation of services for students with chronic disease in any school district relies on a solid understanding of the rules and regulations governing the educational rights of those with disabilities. This chapter enumerates the history of the educational rights of students with disabilities, describes the key laws as promulgated by the federal government, provides a definition of a disability based on these laws, possible categories of special education services and the qualification process for 504 or special education services. This chapter discusses the consideration for education in the least restrictive environment, and key components in the development of both IEP's and Section 504 plans, issues related to providing a free appropriate public education, and the Family and Educational Rights Privacy Act. It concludes with a discussion of working with related services personnel. The two main ways students with chronic disease receive services is under IDEA in the category of Other Health Impaired or under Section 504 of the Rehabilitation Act.

OVERVIEW

Effective implementation of services for students with chronic disease in any school district in the United States relies on a solid understanding of the rules and regulations governing the educational rights of those with disabilities. This chapter enumerates the history of the educational rights of students with disabilities, describes the key laws as promulgated by the federal government, provides a definition of a disability based on these laws, possible categories of special education services and the qualification

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process for 504 or special education services. This chapter will discuss the consideration for education in the least restrictive environment, and key components in the development of both IEP's and Section 504 plans, issues related to providing a free appropriate public education, and the Family and Educational Rights Privacy Act. It concludes with a discussion of working with related services personnel.

The two main ways students with chronic disease receive services is under IDEA in the category of Other Health Impaired or under Section 504 of the Rehabilitation Act. Each will be discussed in turn, describing the background on both, along with the United States federal definition of disabilities. Additionally, information will be provided on eligibility for the category of Other Health Impaired, especially clarifying the two-part test, examples of conditions, along with suggestions for programming. Section 504 of the Rehabilitation Act will also be clarified as well as expected programming needs for students with chronic disease. Specific accommodations will be delineated, along with tips for working with students with chronic disease. It is important to note the specific regulations in a state may be slightly different from those promulgated by the federal government. The regulations provided by the federal government serve as the minimum required for implementation.

The most important laws governing the education of students with chronic diseases are the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973. In addition to the laws as passed by Congress, are the codifying regulations that provide the specific "rules" for how special education should be implemented in order to get federal reimbursement. For purposes of this chapter, we will be using two definitions of disability; first the federal definition of disability from the Individuals with Disabilities Education Act and the second definition we will be using is from Section 504 of the Rehabilitation Act of 1973. Each will be addressed in turn. Understanding each will assist in providing appropriate services in your school.

Brief History of Rights of Students with Disabilities

Prior to the mid-1970s students with disabilities were often in programs away from their neighborhood school, if educated at all. Schools had the option to refuse to provide educational services to students whose abilities were different. Students with disabilities were denied access to public education and were in turn segregated and spent their days in settings outside of the educational setting. Section 504 of the Rehabilitation Act of 1973 and PL94-142 grew out of court cases where parents of students with disabilities challenged the public schools to give their children access to public education. *Section 504 of the Rehabilitation Act of 1973* was the first civil rights statute for those with disabilities. However, it did not take effect until 1977. Section 504 gained momentum over the years and paved the way for the Americans with Disabilities Act. Section 504 of the Rehabilitation Act of 1973 is a civil rights law administered by the Office for Civil Rights that does not provide funding but accompanies other sources of federal funding and essentially states that no program receiving federal funds may discriminate against a person based on their disability. Section 504 is an anti-discriminatory act ensuring individuals with disabilities received the same rights as those students without disabilities. Since Section 504 is an anti-discriminatory act and protects any person with a disability, Section 504's definition of disability is broader than the IDEA definition. Section 504 defines an individual with a disability in pertinent part as having (a) a physical or mental impairment that (b) substantially limits (c) a major life activity. This disability definition provides broader coverage than does the IDEA (Yell, 2012).

Individuals with Disabilities Education Act (formerly the Education of All Handicapped Children Act) (P.L. 94-142) is the law providing the basis for the implementation of special education as it is

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