Section 504
BPS Standards & Procedures

Presented by

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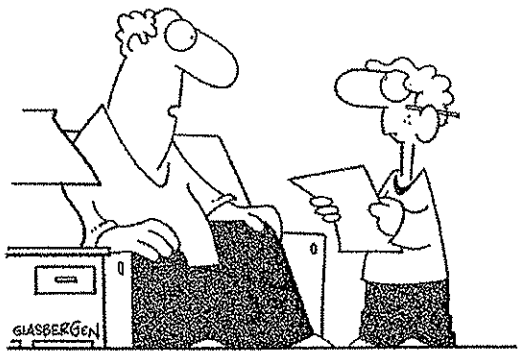


"It's been 20 years since I went to school, but as I recall, E = MC Hammer."

Section 504 -- History

- In 1973 when the Rehabilitation Act was passed, little was being done on a federal level to encourage participation and equal access to federally funded programs by the disabled.
- While largely geared toward providing job opportunities and training to disabled adults, the Act also addressed, though very discreetly, the failure of the public schools to educate disabled students.

What Is Section 504?

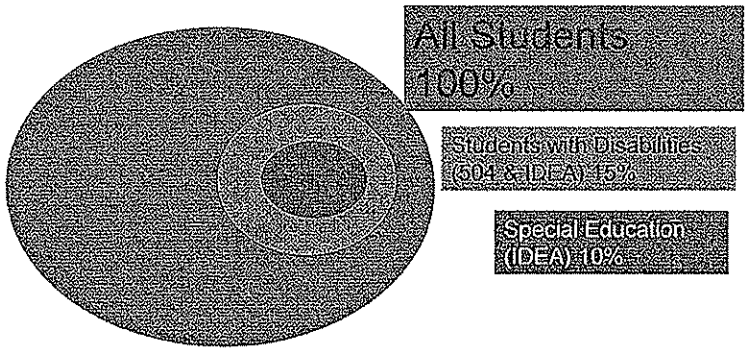
Section 504 is a civil rights statute that prohibits discrimination/harassment on the basis of a disability

THE STATUTE

- "No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

29 U.S.C. § 794 (a)

What Is Section 504?



Section 504 definitions of an individual with a disability

(9) Disability The term "disability" means—

- * * **(B)** * * * a physical or mental impairment that substantially limits one or more major life activities.

29 U.S.C. § 705(20)

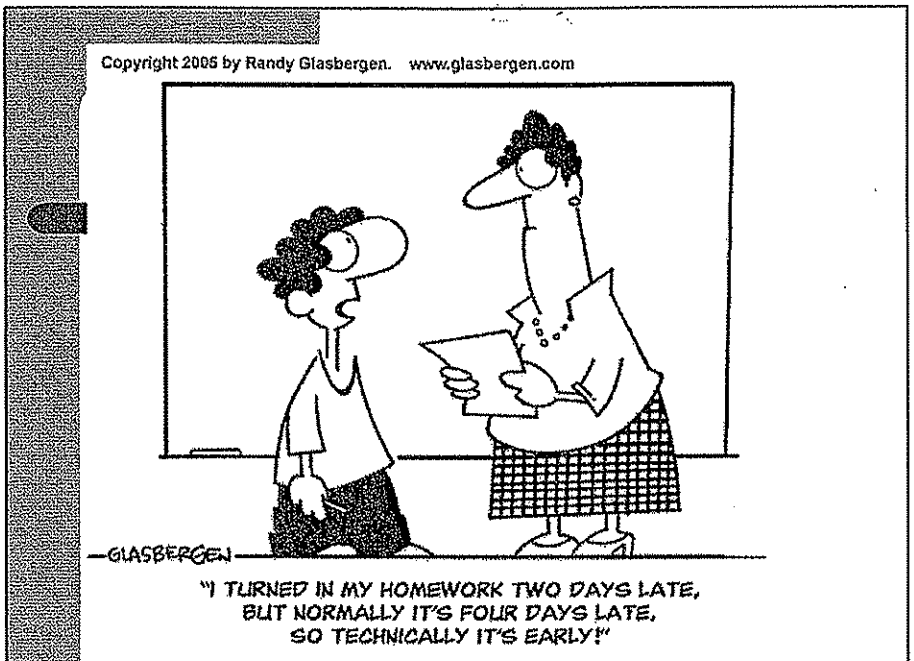
Section 504 definitions of an individual with a disability

Is defined as any person who:

- *Has a physical or mental impairment which substantially limits one or more major life activities;*
- *Has a record of such an impairment; or*
- *Is regarded as having such an impairment*

504

- Protect "otherwise qualified individuals with disabilities" from discrimination based solely upon their disabilities.
- Require an entity to provide, at its expense, a "reasonable accommodation" to employees, applicants for employment, and students unless it would present an undue hardship.



504

- Promote equity, not preference.
- Section 504 requires accommodations while IDEA requires services.
- IDEA provides schools with additional funding, but Section 504 provides no financial assistance.
- The definition of a disability under Section 504 is much broader.
- IDEA focuses on unique educational needs, while 504 looks at comparing the needs of students with and without disabilities

Conditions That May Qualify for 504 Protections:

- Chronic Medical Conditions
- Temporary Medical Conditions
- Communicable Diseases
- Drug/Alcohol Addiction
- Physical Impairments
- Attention Deficit Hyperactivity Disorder (ADHD)
- Attention Deficit Disorder (ADD)
- Mental Impairments including emotional conditions
- Behavior Disorders

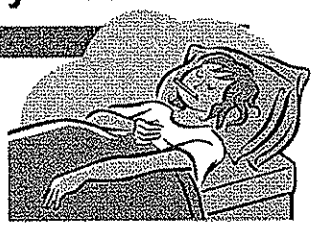
Substantially Limits:

- *A substantial limitation exists when the individual's important life activities are restricted as to the condition, manner, or duration under which they can be performed by most people.*

Major Life Activities

- Functions such as caring for one's self;
- Performing manual tasks;
- Walking, seeing, hearing, speaking, breathing, ***learning*** and working.

What About Temporary Disabilities?



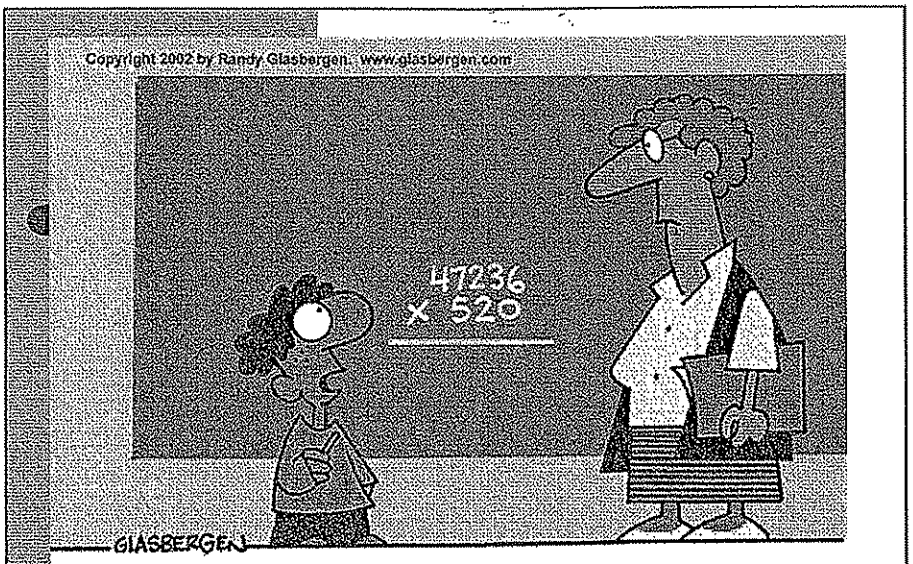
The proper question "is not whether the impairment is temporary or permanent; rather, the appropriate inquiry is whether the impairment substantially limits one or more major life activities."
Letter to Wright (OCR 1993)

Accommodation

- ***Accommodation****—refers to a change in the educational setting, materials, and/or strategies that does not significantly alter the content of the curriculum or level of expectation for student's performance and which allows students to access the general education curriculum.*

Consequences?

- Institutions or employees who violate discrimination laws may:
  - Lose federal funding
  - Incur legal expenses



"AREN'T THERE ENOUGH PROBLEMS IN THE WORLD ALREADY?"

BPS Policies

Section 504 of the Rehabilitation Act of 1973 Policy: 2162

- It is the intent of the District to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services.

BPS Policies

Section 504 of the Rehabilitation Act of 1973 Policy: 2162

- For those students who need or are believed to need special instruction and/or related services under Section 504 of the Rehabilitation Act of 1973, the District shall establish and implement a system of procedural safeguards.

BPS Policies

Section 504 of the Rehabilitation Act of 1973 Policy: 2162

- The safeguards shall cover students' identification, evaluation, and educational placement. This system shall include: notice, an opportunity for the student's parent or legal guardian to examine relevant records, an impartial hearing with opportunity for participation by the student's parent or legal guardian, and a review procedure.

BPS Policies

- Section 504 of the Rehabilitation Act of 1973 Procedure: 2162-P1

  Impartial Due Process Hearing.
  Uniform Grievance Procedure.

BPS Policies

Discipline Procedure for 504 Students Procedure: 3300-P3

School Authority to Discipline

Students who qualify under Section 504 are subject to short-term (ten days or less) suspension on the same grounds as regular education students without the provision of services. The same rules and regulations apply to 504 students as to regular education students. Short-term removals from the current educational placement do not indicate a change of placement.

Change of Placement -- A change of placement for 504 students is defined as suspensions that are longer than (10) consecutive days (long-term suspension).

BPS Policies

Discipline Procedure for 504 Students Procedure: 3300-P3

School Authority to Discipline

504 Manifestation Determination

Law Enforcement and Judicial Authorities

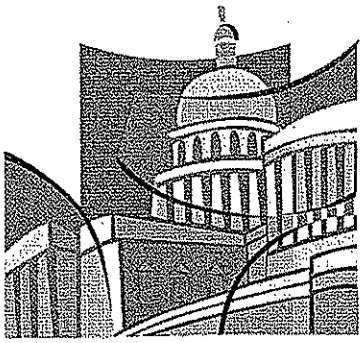
Developing a Section 504 Plan

- *Be sure that the accommodations are succinct and realistic*
- *Indicate the exact amount of time when extending the time for tests, and classroom/homework assignments*
- *Accommodations should be included that are required on a systemic and consistently implemented basis*

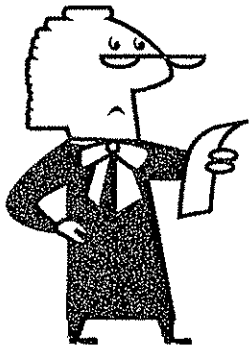
Discrimination/Harassment

The District will promptly investigate all claims of disability-based discrimination/harassment and take reasonable actions to stop future recurrence

Grievance Procedure . . .



- ***Note***
  The existence of the District's grievance procedure does not alter the right of any individual or group of individuals to file a formal complaint with the Office for Civil Rights (OCR)

Procedural Safeguards:

- *Identification, evaluation, or placement decisions may be appealed by submission of a written request*
- *Mediation may be used to resolve areas of dispute*
- *A Section 504 impartial hearing may be requested*
- *After mediation or impartial hearing, a written decision must be provided to person making the appeal*