

SECTION 504 INFORMATION AND PROCEDURAL SAFEGUARDS

Section 504 of the Rehabilitation Act of 1973 requires that: *"No otherwise qualified individual with a disability in the United States...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."*

Section 504 applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance for the operation of such programs or activities. Each recipient that operates a federally assisted public elementary or secondary education program must provide a free and appropriate public education to each qualified person in its jurisdiction, regardless of the nature or severity of the person's disability. Recipients that operate a public elementary or secondary education program must also annually attempt to identify and locate unserved children with disabilities.

Section 504 regulations define a person with a disability as any person who: has a physical or mental impairment which limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.

For purposes of public educational services, a qualified person with a disability is: of an age that persons with disabilities are provided such services; of any age that it is mandatory under state law to provide such services to persons with disabilities; or a person for whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).

The procedural safeguards afforded to parents under Section 504 are much less extensive than those under IDEA. Each school district shall establish and implement, with respect to actions regarding the identification, evaluation or educational placement of persons, who, because of a handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes (1) notice which includes child find, notice of parent rights, prior notice of evaluations and meetings, and notice of the results/actions taken at 504 committee meetings, (2) an opportunity for the parents or guardian of the person to examine relevant records, (3) an impartial hearing with an opportunity for participation by the person's parent or guardian and representation by counsel, and (4) a review procedure.

Provision of an appropriate education is the provision of regular or special education and related services that:

- Educational services are designed to meet individual educational needs of children with disabilities as adequately as the needs of non disabled persons are met.
- Nondiscriminatory evaluation and placement procedures are established to guard against misclassification or misplacement of parents, and a periodic reevaluation is conducted of students who have been provided special education or related services.
- Procedural safeguards shall be established and implemented so that parents and guardians: receive notice with respect to actions regarding the identification, evaluation, or educational placement of children who, because of a disability, need or are believed to need special instruction or related services; have the opportunity to review relevant records; may challenge the identification, evaluation and placement decisions made with respect to their children; and have the opportunity to participate and be represented by counsel in any subsequent impartial hearing and review procedures.

Provision of a FAPE requires recipients that operate a public elementary or secondary education program to provide services without cost to the person with a disability, or to the child's parents or guardians, except for those fees imposed on non disabled persons, parents or guardians. It also means that, if a school district is unable to provide a child with a disability with an appropriate education and places or refers that child to a program it does not operate, the district is still responsible for the costs of the program including tuition, room and board, transportation, and non medical care.

An appropriate education could consist of education in regular classes, education in regular classes with the use of supplementary services, or special education and related services. Special education may include specially designed instruction in classrooms, at home, or in private or public institutions, and may be accompanied by such related services and developmental, corrective, and other supportive services, including psychological counseling and medical diagnostic services.

Children with disabilities must also be afforded an equal opportunity to participate in non academic and extracurricular services and activities such as counseling, physical education, recreational athletics, transportation, health services, recipient sponsored clubs, recipient employment and assistance in obtaining employment. These services must be provided by the recipient in such manner is necessary to afford students with disabilities an equal opportunity for participation.

Elementary and secondary school recipients operating preschool and adult education programs may not exclude qualified persons with disabilities and must take into account their needs in determining the aid, benefits, or services to be provided under these programs or activities.

The Office for Civil Rights of the United States Department of Education enforces the requirements of Section 504 of the Rehabilitation Act of 1973. The address of the Pennsylvania Regional Office: Philadelphia Office, Office for Civil Rights, U.S. Department of Education, The Wanamaker Building, 100 Penn Square East, Suite 515, Philadelphia, PA 19107-3323. Phone 215-656-8541, Fax 215-656-8605, TDD 800-877-8339, or email OCR.Philadelphia@ed.gov.