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Educational Rights of ADHD

One of the great things about the living in the United States is that everyone has the right to free public education. There are laws that go even further to protect educational rights of children with learning disabilities, such as ADHD. These laws are section 504 of the Rehabilitation Act of 1973 (Section 504) and Individuals with Disabilities Education Act (IDEA). In general, milder cases of ADHD tend to be covered by Section 504, and more severe cases are covered by IDEA. Below are some key points regarding each of these acts:

Section 504

- Eligibility is based on the disability substantially limiting a major life activity, such as learning. Even if your child does not meet requirements for special education, he or she may be eligible for accommodations in the classroom, such as preferred seating.
- An evaluation is needed before your child is considered eligible, before a 504 plan is made, and before changes can be made to an existing 504 plan.
- The evaluation testing of your child must be nondiscriminatory, but there are no rules on the frequency of reassessment.
- Parents will be notified prior to testing, but the parental permission is not required.
- Once your child is eligible for Section 504, the school district must develop a written plan describing placement and services. Parents do not have the right to participate in the development of the plan.

IDEA

- Eligibility is based on your child's sensitivity to stimuli in the classroom affecting his or her educational experience. The effects of ADHD must be long lasting or have substantial impact on academic achievement or performance. The child must need special education to address the problem.
- An evaluation involving at least one teacher and at least one professional familiar with ADHD is required. The evaluation must be comprehensive including assessment of tests, review of grades, and a review of behavioral problems. The evaluation must identify your child's needs and a reevaluation must be done every three years.
- Parental permission is required prior to performing the evaluation.
- Under IDEA, your child is entitled to an Individualized Education Plan (IEP).
- If your child's school declines doing an evaluation, the parents must be informed in writing of their right to request a hearing to challenge the school's decision. Parents also retain the right to have an independent review of any evaluation performed by the school.
- Once your child is eligible for IDEA, there are many different service options and parents do have the right to participate in development of the plan.

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Classroom Accommodations May Be Available

Instruction

- Adjust reading level to child's needs
- Allow student to record lectures
- Permit child to submit homework done on computer or typewriter
- Permit a written outline for work when possible
- Use tutoring from other students
- Print chalkboard and oral instructions ahead of time so that student may use them later

Testing

- Allow open-book tests and provide extra time to complete work
- Provide practice questions for study
- Give multiple-choice instead of short-answer questions
- Permit the use of dictionary or calculator during tests

Grades

- Base grades on the amount of improvement made by student
- Base grades in IEP objectives
- Base grades on effort as well as on achievement
- Mark student's correct answers, instead of mistakes, on all classroom and homework assignments

Homework

- Evaluate homework based on amount of time student spends on it
- Permit student to work on homework while at school
- Give frequent reminders about due dates
- Give short assignments
- Allow extra-credit assignments
- Develop reward system for completed in-school work and homework

Physical Arrangement of Classroom

- Seat student near teacher
- Stand near student when giving instructions
- Provide a written schedule
- Provide organizational strategies, such as charts and timelines
- Use materials that address a student's learning style – visual, tactile (touch), auditory (listening)

Communication

- Create a daily/weekly journal
- Schedule periodic parent-teacher meetings
- Provide parents and students with a duplicate set of texts that they can use at home for the school year
- Develop weekly progress reports
- Mail a schedule of classroom and homework assignments to student's parents

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Help Outside the Classroom

Physical Education and Intramural Activities for Students With ADHD:

Once it has been established that a student's ADHD substantially limits a major life activity (such as learning), then his or her ADHD is considered a disability. *That disability (or any other) may not be used to exclude a student from athletics if he or she is "otherwise qualified" to participate with "reasonable accommodations" if necessary.* Who decides what is reasonable? In the end, the courts decide. Fortunately, the courts have handled many of these cases in the past. In general, it is easier to make accommodations for a child with ADHD in physical education classes and on intramural teams than in academic programs. When the sport or athletic activity is part of the regular education of the general student population, the school must justify excluding anyone. The most common reason for such exclusion would be safety, either of the other students or of the disabled student. *Age is another issue that may arise* if a child with disabilities is older than the others because he or she has repeated one or more grades. This might be determined to be unsafe, especially if there is substantial size difference among team members or between members of opposing teams. If such objections are raised, a parent may have to negotiate with school officials. The key points to remember are that a student will have to show that outside of the disability, he or she is otherwise qualified, and that the special needs arising from the disability can be met with reasonable accommodations that will not: A) Require unreasonable changes to rules, policies, or practices, B) Require a substantial lowering or change of standards, C) Require unreasonable costs or administrative burdens. If a suitable outcome cannot be arranged with the school, Section 504 provides the right to request a due process hearing, to seek a review by the courts, and to file a complaint with the Office for Civil Rights. One point should be noticed: a school's concern for the individual safety of a student with a disability, however sincere, is not enough to justify excluding that student from athletic activities when that fear is not shared by the student and his or her parents.