

504 PLANS AND IEPS:  
WHICH IS RIGHT FOR YOUR  
CHILD WITH ADHD AND  
HOW DO YOU GET ONE?



**CHADD**<sup>®</sup>

CHILDREN AND ADULTS WITH  
ATTENTION DEFICIT/HYPERACTIVITY DISORDER

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# Legal Protections for Students with ADHD and Their Advocates



- Americans with Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act (Section 504)
- Individuals with Disabilities in Education Act (IDEA)



# Americans With Disabilities Act

- Protects individuals with **physical and mental conditions** that **significantly impact** one or more **major activities of daily living** (Concentrating, learning, organizing)
- **Title II** of the ADA, which covers schools, requires qualified students with disabilities to be given **full access to all the programs and services** that other students are allowed to access
- **Protects** students with qualifying disabilities **against discrimination** on the basis of their disabilities
- **Prohibits retaliation** against **anyone who advocates** for a person with a disability (although this can be hard to prove.)

# Section 504

## Section 504 of the Rehabilitation Act

- Follows the ADA as to whom it covers and the protections. Section 504 has slightly expanded coverage in terms of **entities that accept federal funds**, which might include some private schools.
- Section 504 is the basis of **504 plans**, which provide accommodations to students with disabilities so they can fully access the curriculum and programs of the school.
- **Not everyone is entitled to a 504 plan.** Only those whose disability affects their education can get one.

# Individuals with Disabilities in Education Act (IDEA)



- This law **does not apply to all students** with disabilities. It requires a student to fit within qualifying criteria within specific categories and to need modification of the curriculum (such as services) in order to succeed in school.
- Students covered by the IDEA can get **Individualized Education Plans (IEPs)** that may include accommodations and also include services and alterations to the curriculum. It also **provides more comprehensive due process protections** to the student and family.

# IEP Categories for ADHD



## **Other Health Impaired (OHI):**

Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that—

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(ii) Adversely affects a child's educational performance. [§300.8(c)(9)]

**Needs medical documentation from an MD** (documentation from other healthcare providers, such as psychologist and therapists, will not be accepted alone).

**Specific Learning Disabilities:** ADHD is not generally considered a Specific Learning Disability for the purposes of the IDEA

# So Which Does Your Child Need?



# 504 Plans

## **Accommodations**

- Extra time for classwork, homework and tests
- Preferential seating, close to instructor, away from distractions
- Breaks and opportunities to move around
- Sensory diet, fidget toys, alternate seating
- Testing in an alternative location with fewer distractions
- Cues to redirect toward lecture or work
- Checking for understanding
- Checking test sheets for marks in correct places



# 504 Plans, continued

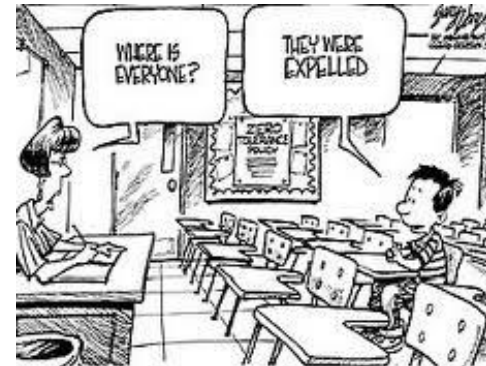
- 504 plans can include Related Services (Occupational Therapy, Physical Therapy, etc.)
- They can also include Individualized Healthcare Plans for students who need to take medication at school or whose medication side effects need monitoring
- Sometimes 504 Plans can include behavior contracts, but I would normally seek an IEP if behavior is impeding learning.
- 504 Plans are not always taken as seriously by schools as IEPs.

# IEPs

When accommodations are not enough, and services are needed, an IEP should be sought.

- **Executive Functioning Deficits:** May need coaching or instruction on organizational skills, time management, project management
- **Behavior Issues:** When student refuses to do work or engages in non-productive behaviors to avoid difficult tasks or gain attention, a Functional Behavior Analysis and Behavior Intervention Plan may be warranted.
- **Anxiety/Depression related to ADHD:** Counseling or therapy may be warranted
- **Social Skills:** Social skills training and lunch bunches

# Discipline Protections



If a school is aware of a student's disability, and the student engages in behavior related to that disability that results in proposed or actual disciplinary action, the student gets additional protections.

**Manifestation Determination:** If a student is removed from school for more than 10 days for behavior related to disability, the student is entitled to a Manifestation Determination hearing to find out if the conduct is disability related and then is entitled to a meeting to find ways to meet the student's needs.

Schools sometimes try to get around this by having parents pick kids up without actually suspending them. If they are removed from instruction, the rule should apply.

# Higher Education



- The IDEA does not apply to colleges, universities, or trade schools.
- However, students with disabilities can provide documentation of their condition and obtain **504 Plans** in college or post-graduate education
- Because they will be doing this without their parents, it is advisable to teach them self-advocacy skills in high school and to have them participate in their meetings after age 14, when appropriate.

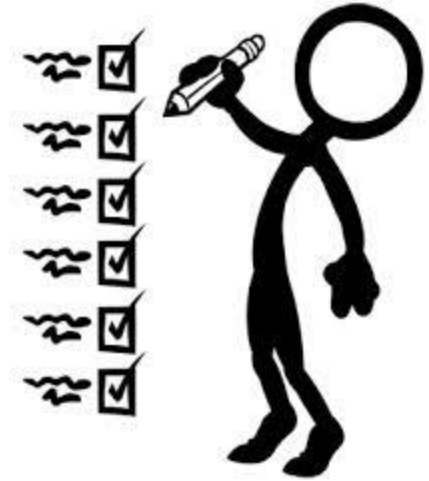
# PREPARING FOR THE MEETING



- Gather information
- Do your homework
- Take care of housekeeping issues in advance

# GATHER INFORMATION

- Evaluations (both private and school)
- Grades and test scores
- Work samples
- Past IEPs/504 plans
- Relevant medical information
- Pictures and personal information about child
- Communications between school and home



# ORGANIZE INFORMATION



## Develop a system that works for you

- Create a binder with different sections (such as those listed on previous page)
- Develop a portable file system
- Know where your information is so you can find it when you need it.

# DO YOUR HOMEWORK

Do research to learn about:

- your child's disability,
- potential interventions,
- potential placements,
- the IEP process, and
- your legal rights.



Contact (e-mail) teachers ahead of time and request their assessment of your child's **strengths** and **weaknesses**. Ask them to **prioritize** the needs.



# RESOURCES



- Support groups, such as CHADD
- Websites about ADHD and learning disabilities
- Websites about special education procedures, regulations and rules
- Books about these topics

**Your input is important!**



# Advocacy Support



- Bring a **friend** or **family member** with you to the meeting with the school for support
- Bring a **healthcare provider** or **allergy expert** to the meeting for expertise and to help educate school staff when possible (and when indications exist that the school is unknowledgeable about food allergies)
- Bring a **non-attorney advocate** who has training about the school's responsibilities and your rights (ex. PALs)
- Bring a **special education attorney** when you have experienced resistance or need legal expertise. (Florida Association of Special Education Attorneys on Facebook)

# HOUSEKEEPING



- Recording IEP Meetings: If you decide you want to record IEP meetings, notify the school ahead of time.
- Bringing an attorney or advocate: You are entitled to bring someone to the meeting with you for support or advice. Schools may choose to send an attorney if the parent is going to be accompanied by an attorney, so it's best to give notice in advance.
- Notify the school ahead of time if you have special needs, such as translation, time limitations, etc.

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