

## **Key points:**

- Conduct 504 evaluations in accordance with procedures set out in 34 CFR 104.35
- Allow parents to participate in eligibility determinations
- Include school nurse, physician in cases involving medical data

## **Follow 504's evaluation guidelines to minimize error**

The Section 504 regulations set forth specific guidelines for making eligibility determinations.

Failing to follow those guidelines can quickly lead to a Section 504 violation. Such was the case in *Milton (MA) Pub. Schs.*, 52 IDELR 113 (OCR 2008). Here, the district violated Section 504 by failing to consider all relevant evaluation data for a student with a head injury.

The parent in this case contended her daughter's head injury interfered with her learning. As such, she submitted to an administrator and school counselor an initial 504 evaluation request, including an attachment about her daughter's condition. The parent also requested to participate in the eligibility determination meeting.

Staff members advised the parent that district policy did not allow parent participation in eligibility determinations. What's more, the attachment about the student's medical condition was never forwarded to the counselor responsible for initiating the evaluation process. The absence of relevant medical data and the exclusion of the parent during the process resulted in a finding of ineligibility. The parent subsequently filed an OCR complaint.

Review your district's policies and procedures for 504 evaluations this summer to ensure they are legally compliant. Also, make sure district staff members have access to and understand those policies to minimize evaluation errors.

"Avoiding a situation such as this one is dependent to a great degree on the development of a clear policy, staff training, and the availability of clear [evaluation] instructions and protocols," said Mary Colombo, assistant superintendent and Section 504 coordinator for Hopkinton (Mass.) Public Schools.

*Special Ed Connection*® related story and resources:

- Consider best-practice tips for conducting Section 504 evaluations (July 8)
- Sample Policy: Section 504 Evaluation Guidelines
- SmartStart: Evaluations -- Preplacement Procedures Under Section 504

Melissa Greenwood covers Section 504 issues for LRP Publications.

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## **Consider best-practice tips for conducting Section 504 evaluations**

Don't assume all district staff members who might be involved in Section 504 evaluations know the basic legal guidelines outlined in the regulations.

Take time at the beginning of the school year to highlight those guidelines for staff. Also, share with them some best-practice advice on conducting evaluations.

## Legal requirements

Mary Colombo, assistant superintendent and Section 504 coordinator for Hopkinton (Mass.) Public Schools, and Julie Fay, a school attorney with Shipman & Goodwin LLP in Hartford, Conn., highlighted the evaluation requirements set out in the 504 regulations. They noted the 504 evaluation should:

- Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior.
- Establish procedures to ensure information obtained from all such sources is documented and carefully considered.
- Ensure placement decisions are made by a group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

## Best practices

In addition to the legal requirements, Colombo and Fay offered these best-practice tips to share with your staff:

- Invite a school nurse or district physician to attend meetings that involve medical data. Also, invite a school psychologist if psychological reports will be reviewed, Colombo said.
- Implement policies and procedures consistently throughout the district to avoid having different standards at individual schools sites, Fay said.
- Respond to parent-led requests immediately in accordance with district policies and procedures. To start, forward the request and any attachments to the school's Section 504 coordinator, Colombo said.
- Involve the parent in eligibility determinations, Fay said. This would have gone a long way in helping the district in *Milton (MA) Pub. Schs.*, 52 IDELR 113 (OCR 2008) avoid a 504 violation. In this case, district staff members advised the parent that their policy did not allow for parent participation in eligibility determinations.

*Special Ed Connection*® related resource:

- FAQ About Section 504 and the Education of Children with Disabilities.

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