



## **NASSET ADHD SERIES**

# **Part # 3 - Legal Requirements for Identification of Students with ADHD**

Two important federal mandates protect the rights of eligible children with ADHD the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504). The regulations implementing these laws are 34 CFR sections 300 and 104, respectively, which require school districts to provide a free appropriate public education to students who meet their eligibility criteria. Although a child with ADHD may not be eligible for services under IDEA, he or she may meet the requirements of Section 504.

The requirements and qualifications for IDEA are more stringent than those of Section 504. IDEA provides funds to state education agencies for the purpose of providing special education and related services to children evaluated in accordance with IDEA and found to have at least one of the 13 specific categories of disabilities, and who thus need special education and related services. Attention Deficit Hyperactivity Disorder may be considered under the specific category of Other Health Impairment (OHI), if the disability results in limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment and that is due to chronic or acute health problems.

Under IDEA, each public agency that is, each school district shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. The child's individualized education program (IEP) team uses the results of the evaluation to determine the educational needs of the child. The results of a medical doctor's, psychologist's, or other qualified professional's assessment indicating a diagnosis of ADHD may be an important evaluation result, but the diagnosis does not automatically mean that a child is eligible for special education and related services. A group of qualified professionals and the parent of the child determine whether the child is an eligible child with a disability according to

IDEA. Children with ADHD also may be eligible for services under the Specific Learning Disability, Emotional Disturbance, or other relevant disability categories of IDEA if they have those disabilities in addition to ADHD.

After it has been determined that a child is eligible for special education and related services under IDEA, an IEP is developed that includes a statement of measurable annual goals, including benchmarks or short-term objectives that reflect the student's needs. The IEP goals are determined with input from the parents and cannot be changed without the parents' knowledge. Although children who are eligible under IDEA must have an IEP, students eligible under Section 504 are not required to have an IEP but must be provided regular or special education and related aids or services that are designed to meet their individual educational needs as adequately as the needs of nondisabled students are met.

Section 504 was established to ensure a free appropriate education for all children who have an impairment physical or mental that substantially limits one or more major life activities. If it can be demonstrated that a child's ADHD adversely affects his or her learning a major life activity in the life of a child the student may qualify for services under Section 504. To be considered eligible for Section 504, a student must be evaluated to ensure that the disability requires special education or related services or supplementary aids and services. Therefore, a child whose ADHD does not interfere with his or her learning process may not be eligible for special education and related services under IDEA or supplementary aids and services under Section 504.

IDEA and Section 504 require schools to provide special education or to make modifications or adaptations for students whose ADHD adversely affects their educational performance. Such adaptations may include curriculum adjustments, alternative classroom organization and management, specialized teaching techniques and study skills, use of behavior management, and increased parent/ teacher collaboration. Eligible children with ADHD must be placed in regular education classrooms, to the maximum extent appropriate to their educational needs, with the use of supplementary aids and services if necessary. Of course, the needs of some children with ADHD cannot be met solely within the confines of a regular education classroom, and they may need special education or related aids or services provided in other settings.