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Uncovering Hidden Disabilities Through Increased Collaboration Between Medical Providers and Schools (page 8)

**The ACA's Nondiscrimination Regulations: Eradicating
Discriminatory Communication Barriers to Access in
Health Care (page 14)**

**New Wine in Old Wineskins: Mitigating Fraud and
Abuse Risks in Value-Based Reimbursement (page 22)**



Uncovering Hidden Disabilities Through Increased Collaboration Between Medical Providers and Schools

By Aaron T. Martin, Snell & Wilmer

The provisions of Section 504 of the Rehabilitation Act of 1973 (Section 504),¹ the federal statute protecting disabled students in public schools, are easy enough to understand. Section 504 requires that “[n]o otherwise qualified individual with handicaps in the United States . . . shall, solely by reason of her or his handicap, 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.”² The difficulty with Section 504 is not in understanding or applying its plain language. Instead, the difficulty is in identifying students with a disability and developing an adequate plan to help them succeed. This article discusses the requirements of Section 504, the difficulty of identifying students who have “hidden disabilities,” and how pediatric providers and hospitals can partner with schools to identify and address conditions sooner and with better outcomes.

Section 504 of the Rehabilitation Act of 1973

Section 504 is a federal law that protects “individuals with handicaps,” which includes “any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.”³ Section 504 and the Americans with Disabilities Act (ADA) have the same definition of “disability,” and the ADA definitions and regulations are instructive in how to interpret Section 504 requirements.⁴ Under the ADA, “major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.”⁵

The protections of Section 504 are meant to ensure that students with disabilities have equal access to education. This often means that students will be given certain accommoda-

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tions or that their educational program will be modified. Section 504 is not as specific as the Individuals with Disabilities Education Act (IDEA), another federal law protecting students with disabilities.⁶ Under the IDEA, students whose disabilities affect their educational performance are entitled to an education designed to meet the student's unique needs.

Students must receive a “free, appropriate, public education” (FAPE).⁷ Under Section 504, a FAPE is defined as “the provision of regular or special education and related aids and services that . . . are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met and . . . are based upon adherence to specified procedures.”⁸ These specific procedures can vary widely and are less formal than those outlined in the IDEA. The Section 504 procedures are meant to provide “meaningful access” to programs for handicapped students, even if they never achieve equal access.⁹ In other words, “Section 504 seeks to assure evenhanded treatment and the opportunity for handicapped individuals to participate in and benefit from programs receiving federal assistance The Act does not . . . guarantee the handicapped equal results”¹⁰

Although they may never achieve equal results, disabled students are to be given the “regular or special education and related aids and services”¹¹ that will meet their needs and provide them with equal access. Section 504 requires school administrators to consider the “individual education needs” of students with disabilities in both academic and nonacademic, e.g., extracurricular, situations.¹² These individualized assessments take into account information received from teachers, parents, advocates, and medical professionals. These individuals are part of the Section 504 team because they know about the student, the evaluation data, and accommodation options.¹³ Although a medical diagnosis of an illness does not automatically qualify a student for services, medical professionals are integral to the Section 504 process because they can speak most intelligently about the condition and possible medical interventions and accommodations available to a student.

Dealing with Hidden Disabilities

Medical professionals can be key members of the Section 504 team particularly when the student has what may be called a “hidden disability.” Even though disabilities under Section 504 affect “major life activities,” they are not always noticeable to others. Conditions like visual, speech, and hearing impairments; some forms of muscular dystrophy, multiple sclerosis, and cancer; heart disease, diabetes, emotional illness, drug addiction, and alcoholism are often hidden from others until

the parents or student makes them known. These “hidden disabilities” require special attention from school administrators and teachers. But teachers and administrators are not always equipped to either identify such conditions or to develop an appropriate plan to address them.

When teachers or administrators are unfamiliar with the signs or symptoms of a particular disability, they may not be able to identify or address the particular needs of the affected student. In these cases, schools, teachers, and administrators could greatly benefit from additional resources to assist them in their efforts to understand and address these hidden conditions. For example, in cases of mental illness, students may display behavior that could be mistaken for common junior-high or teenage emotions. Without additional guidance and training, a teacher or administrator may not be able to identify the potential disability, seek help, and develop an appropriate plan for the student.

In this regard, the participation of medical professionals in developing a Section 504 plan for a student has never been more needed. But medical professionals have traditionally not been involved with students' special education beyond providing an initial diagnosis or evaluating a child in the context of behavioral problems or other issues. Collaboration between medical professionals, teachers, and school administrators leads to benefits for all involved, but it often goes untried because of the time and costs involved.





Opportunities for Collaboration

Some hospitals have taken the initiative and developed resources to educate parents and schools so they can help children, particularly those with chronic illnesses.¹⁴ However, these resources, while helpful, may not on their own increase the quality of care available to students with hidden disabilities. Regular interaction between physicians, teachers, students, and families, on the other hand, can provide significant opportunities to improve care and achieve better results for the student.

The ideal model is one where the school and medical professionals interact on a regular basis and cooperate to craft a holistic and individual program for each student. This type of program usually only occurs in residential psychiatric hospitals or other similar residential sites that have educational components in addition to treatment services. In these types of programs, a special education teacher is typically included as part of the overall team coordinating a student's care, which also may include a physician, psychiatrist, social worker, medication nurse, psychologist, and perhaps others. The team members all participate in rounds with each student and can provide direct and immediate feedback for the rest of the team. This collaboration allows for real-time adjustments to a student's program and better outcomes.

While this level of collaboration may not be realistic in more common educational settings, doctors, hospitals, teachers, and school officials can still find creative ways to work together to address disabled student needs.¹⁵ For example, potential programs between medical providers and schools could include the following:


- » Hospitals could have a social worker on staff in the hospital who is dedicated to (1) communicating medical information to parents and the school, and (2) educating physicians about special-education laws and procedures;
- » Hospitals could create more continuing medical education programs directed at informing physicians of special-education issues and procedures;
- » Hospitals or physicians could publish materials for teachers who have students with hidden disabilities to help them identify and address issues that arise in the classroom;
- » School districts could publish literature in conjunction with a local children's hospital focused on explaining the importance of the physician's role in the Section 504 team and how having a physician involved improves student achievement;
- » Hospitals and schools could work together to develop checklists for all members of the Section 504 team to ensure everyone knows about the process and their specific roles;
- » Nonprofit organizations focusing on pediatric disabilities could sponsor conferences or other forums for physicians to connect with school teachers and administrators to learn more about their roles in helping students.

Although many organizations and hospitals have considered these or similar programs, these efforts often fail due to lack of resources. Physicians may be hesitant to attend Section 504 meetings or to spend time speaking with school employees because they are not reimbursed unless the parents have the means to pay for their time. Some medical professionals and hospitals may be wary of allowing doctors to participate in such meetings due to medical privacy considerations, or because they fear liability under the federal Anti-Kickback Statute for providing free services to a potential referral source.¹⁶ While any collaboration between health care providers and schools should be appropriately vetted by legal counsel, these concerns should not preclude discussions among medical and educational providers on how they may be able to partner with each other to address the needs of disabled students.

REGULAR INTERACTION BETWEEN PHYSICIANS, TEACHERS, STUDENTS AND FAMILIES . . . CAN PROVIDE SIGNIFICANT OPPORTUNITIES TO IMPROVE CARE AND ACHIEVE BETTER RESULTS FOR THE STUDENT.

MEDICAL PROFESSIONALS CAN BE KEY MEMBERS OF THE SECTION 504 TEAM PARTICULARLY WHEN THE STUDENT HAS WHAT MAY BE CALLED A “HIDDEN DISABILITY.”

Conclusion

Students who have hidden disabilities present a special challenge for schools because many teachers and administrators may not be able to identify such disabilities, or do not know how to best assist students who have such disabilities. Greater collaboration between school representatives and individual medical professionals and hospitals help all involved by providing more data, quicker feedback, and additional perspectives. This kind of holistic approach can have a profound effect on students’ special-education programs. There are many opportunities for hospitals and schools to work together to educate each other about specific issues and challenges, particularly involving students with hidden disabilities. These types of programs can improve special-education services for a significant but often overlooked student population. 



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Endnotes

- 1 29 U.S.C. § 794.
- 2 Although Section 504 applies to “any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,” 29 U.S.C. § 794(a), this article focuses on Section 504’s application in elementary and secondary schools.
- 3 29 U.S.C. § 705(20); 34 C.F.R. § 105.3. “(1) Physical or mental impairment includes—
(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism;
(2) Major life activities includes functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;
(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; and
(4) Is regarded as having an impairment means—
(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Department as constituting such a limitation;
(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward the impairment; or
(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Department as having such an impairment.
- 4 Compare 29 U.S.C. § 705(20), with 42 U.S.C. § 12102(1).
- 5 42 U.S.C. § 12102(2); 34 C.F.R. § 104.3(j)(2)(ii).
- 6 20 U.S.C. § 1400, *et seq.*
- 7 20 U.S.C. § 1401(9).
- 8 34 C.F.R. § 104.33(b)(1).
- 9 *Alexander v. Choate*, 469 U.S. 287, 301 (1985).
- 10 *Id.* at 304.
- 11 34 C.F.R. § 104.33(b)(1).
- 12 34 C.F.R. § 104.33.
- 13 34 C.F.R. § 104.35(c)(3).
- 14 See Phoenix Children’s Hospital, *How to Get the Best Education for Your Child With Special Needs*, available at <http://www.phoenixchildrens.org/sites/default/files/health-information/the-emily-center/child-health-topics/handouts/Section-504-Education-843.pdf>; Cincinnati Children’s Hospital, *Special Needs Resource Directory*, available at <https://www.cincinnatichildrens.org/patients/child/special-needs/education/school/504>; Connecticut Children’s Medical Center, *504 Education Plans*, available at <http://www.connecticutchildrens.org/healthinfo/parents/school-and-family-life/learning-and-education/504-education-plans>; St. Louis Children’s Hospital, *Food Allergy Management & Education*, available at https://www.stlouischildrens.org/sites/default/files/health_professionals/files/Food%20Allergy%20Guide.pdf; University of Iowa, Center for Disabilities and Development, available at <https://uichildrens.org/medical-services/center-disabilities-and-development>.
- 15 For more information about how physicians and schools have worked together on these issues, see Mary Sheppard and Nancy Vitalone-Raccaro, *How physicians support children with disabilities and their families: Roles, responsibilities and collaborative partnerships*, 9 DISABILITY AND HEALTH J. at 692-704 (2016).
- 16 See 42 U.S.C. § 1320a-7b.