**ADA and School**

ADA mandates that reasonable accommodations must be provided to eligible students “to perform essential functions of the job.” In other words, a school is required to provide a student with disabilities with those accommodations that help him or her learn most effectively. The requirements this law sets for schools is similar to the expectations set in Section 504 of the Rehabilitation Act of 1973. Unlike Section 504 and IDEA, ADA does not make schools responsible for the free and appropriate education of all children. However, the protections that are guaranteed by ADA apply to public and private schools equally. These protections do not extend to organizations controlled by religious groups.

**The No Child Left Behind Act - An Overview**

The No Child Left Behind Act of 2001 (NCLB) is the current version of the *Elementary and Secondary Education Act (ESEA)* – the principal federal law affecting public education from kindergarten through high school in the United States. The ESEAwas originally passed in 1965. NCLB is important legislation for students with learning disabilities (LD), because it ensuresthat they reach high levels of academic standards, just like other children in America’s public schools today.NCLB is based on four principles of educational reform – (1) stronger accountability for results, (2) increased flexibility andlocal control, (3) expanded options for parents and (4) an emphasis on teaching qualifications and methods. Of these four,accountability for results is the principle that has the potential to greatly improve the educational results for children with

LD.

**How does NCLB hold schools accountable for results?**

Several critical elements in NCLB ensure that schools are held accountable for educational results so that the best education possible is provided to each and every student. The three most critical elements to understand are:

• academic content standards (what students should learn)

• academic achievement standards (how well they should learn)

• state assessments (whether a school is teaching all students successfully)

*Academic content standards and academic achievement standards* in reading and mathematics have been defined by each state (science will be added in 2007-2008). These standards define what all children should know and be able to do to be considered “proficient.” Information about each state’s standards should be available on the state’s education department Web site and in print materials.

*State assessments* are the way schools must prove that they have successfully taught their students. By 2005-2006, all states must provide assessments that are appropriate for all students in grades 3 through 8 and once in high school.

These assessments must include students with disabilities. Schools must also provide the accommodations and alternate assessments that may be needed by students with disabilities. Accommodations are changes to the assessment materials or procedures that allow students to demonstrate their knowledge and skills rather than the effects of their disabilities.

Students with learning disabilities should be participating in the state assessments with or without accommodations.

Alternate assessments are the assessments designed to measure the performance of students with disabilities who are unable to participate in state and district assessments even with appropriate accommodations. These alternate assessments are typically designed for students with complex disabilities and would not be appropriate for students with learning disabilities.

**How does NCLB work with the Individuals with Disabilities Education Act (IDEA)?**

IDEA specifically provides services to students with disabilities. Each student served under IDEA has an Individualized

Education Program (IEP) that defines the special education and related services needed by the student. NCLB holds schools accountable for the educational outcomes of those children, as well as all others. In the past, students with disabilities were frequently left out of state and district level assessment and accountability systems; and in many cases did not have access to the general curriculum on which these assessments are based. Because this type of access and assessment did not happen, there was no external measure to indicate whether special education students were learning enough to move onto a post-secondary education or to get a job.

The IEP that is designed for each individual IDEA-eligible student must address how that student will participate in state assessments. Students with disabilities may participate in state assessments in the same way as other students, or with accommodations or by participating in alternate assessments. The IEP team should not be deciding whether a student will participate is state assessments, but how, so as to hold the educational system responsible for the student’s learning. If the IEP team determines that an accommodation or modification needed by a child will invalidate a test’s results for state accountability (such as, perhaps, having questions read aloud to the student), the team should decide how that student can appropriately be assessed through alternate methods.

**Section 504 of the Rehabilitation Act of 1973 - An Overview**

Section 504 of the Rehabilitation Act of 1973 is a civil rights law that prohibits discrimination on the basis of disability in programs and activities, public or private, that receive federal financial assistance. The law does not provide funding for special education or related services, but it does permit the federal government to take funding away from programs that do not comply with the law.

**How does an individual qualify as disabled under Section 504?**

There is no specific mention of learning disabilities in Section 504, however the law defines a person as disabled if he or she:

• has a physical or mental impairment which substantially limits one or more major life activities,

• has a record of such an impairment, or

• is regarded as having such an impairment.

Under the regulation, learning is considered a major life activity. As a general rule, if a child is eligible for services under

IDEA, he or she qualifies for protection under Section 504. However, not all students covered by Section 504 are eligible for

IDEA related services. Section 504 has much broader definitions of disability and so it pertains to many more people.

**What does an evaluation involve?**

For school-age children, If parents (or guardians) believe their child should qualify for protections under Section 504, they should contact their child’s school about an evaluation. The law mandates that an evaluation must include a variety of assessment tools that will accurately demonstrate the child’s specific areas of educational need. The evaluation process should also consider various other factors, such as teacher recommendations, physical condition, social and cultural background, behavior and any independent evaluations. Evaluation and service decisions are made by a multi-disciplinary team of people familiar with the child, who understand the means of evaluation and the special service options. Section

504 requires the use of evaluation procedures that ensure that a child is not misclassified, unnecessarily labeled as having a disability or incorrectly placed. The child must be re-evaluated periodically.

**What happens if a child is eligible for services under Section 504?**

If a child is considered disabled under Section 504, school district personnel must create a Section 504 plan. If that child isalso eligible for services under IDEA, then in most cases the Individualized Education Program (IEP) will take the place of a

Section 504 plan. Some school districts use a separate form.

In order to determine what kind of services would be most appropriate for a child, a team of regular and special education teachers, as well as the school principal, will meet to consider the child’s disability, how it affects the child’s education and what services would be most helpful. Parents (or guardians) should be present for all planning sessions regarding their child.

**What services are available under Section 504?**

Section 504 clearly states that a free and appropriate education must be made available to all qualified students with disabilities. The educational needs of students with disabilities must be met as adequately as the needs of students without disabilities. A child may be placed in regular education classes with accommodations such as a tape recorder, extended time for test taking or special services such as after school tutoring. Modifications in academic requirements and expectations may also be considered. In each case, the individual educational needs of the child should be addressed in the least restrictive environment (LRE) possible.