



Statement Concerning Parents Who Withdraw Children From Special Education and Demand Section 504 Plans

In December 2008, the United States Department of Education amended its regulations that implement the Individuals with Disabilities Education Act (IDEA). One amendment allows parents to unilaterally withdraw their children from special education under the IDEA. There have been questions raised about whether parents who withdraw their children from special education services under the IDEA may then demand services and accommodations under Section 504 of the Rehabilitation Act of 1973 (Section 504).

After considering this issue*, the Iowa Department of Education informs school districts and area education agencies that parents may not unilaterally demand Section 504 plans after withdrawing their children from special education. School districts and area education agencies may, but are not obligated to, evaluate a child for services under Section 504 when requested by a parent after revocation of consent for IDEA services, and provide Section 504 services if the child is found eligible. If a district refuses a parent request for Section 504 services after withdrawal from IDEA services, the district must provide notice to the parent and a copy of their procedural due process rights under Section 504. If a district decides to consider services under Section 504 in cases where parents have unilaterally withdrawn their children from special education, the district should give the parents a copy of their procedural due process rights under Section 504, obtain parent consent, and evaluate students for related aids and services under Section 504 as appropriate.

If you have any questions concerning Section 504, please contact Corwyn Moore at (515) 281-3010 or Corwyn.Moore@iowa.gov.

* In 1996, the United States Department of Education's Office for Civil Rights (OCR) concluded a parent could not reject an IEP and demand a Section 504 plan instead. OCR explained:

Therefore, the answer to your question would be that by rejecting the services developed under the IDEA, the parent would essentially be rejecting what would be offered under Section 504. The parent could not compel the district to develop an IEP under Section 504 as that effectively happened when the school followed the IDEA requirements.

Letter to McKethan, 25 IDELR 295 (OCR 1996). The rationale underlying OCR's conclusion is the same then as it is now. By rejecting continued services under the IDEA, a parent implicitly and simultaneously rejects the services and accommodations required by Section 504. Until OCR revises or withdraws this policy document, districts and AEAs may continue to rely on it. That being said, districts and AEAs must not read this OCR letter to mean that services under Section 504 are "optional." In all other situations, services and accommodations must be provided to children who are covered by Section 504.

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