

EPS & 504 PLANS

How to Stand Up for Your Child's Educational Rights

Students with ADHD and learning disabilities are entitled to educational rights to get support and accommodations in the classroom. Learn how 504 plans, IEPs, and an educational attorney can help with your process.

BY [ROYCE FLIPPIN](#)

Two years ago, when Jack Riley, of Marstons Mills, Massachusetts, was in the first grade, he was given [extra time on exams](#) and other accommodations for his ADHD symptoms. The teacher initially resisted, but Jack's mom, Christine, was able to win her cooperation.

Pushing for informal accommodations without ruffling the teacher's feathers is tricky, but it's essential to keep the teacher on your side.

"It's important for parents to approach this process as a partnership," says Maureen Gill, a pediatric social worker in Reston, Virginia. "You don't want to march in and say, 'You need to do X and Y.' Instead, say, 'My child has been having problems in class because of his ADHD, and I want to work with you to find out what will help him.'"

Your push for accommodations will be easier if the [teacher is knowledgeable about ADHD](#). Says Gill, "If the teacher has been trained to work with kids who have ADHD, she'll realize the importance of seating a child in the front of the room, or partnering him with a classmate. The teacher will know that ADHD kids often have problems with writing, so she may reduce the child's writing load. If a child also has auditory processing problems, she'll know to speak to him face to face. Unless the teacher has been trained, none of this is obvious."

ADHD training typically consists of a series of three-hour sessions, each led by a different expert. Find out if teacher training is available in your school system. If not, find local professionals qualified to do the instruction. Then band with other parents and request that the PTA pay for the training.

[\[Free Download: Fight for Your Child's Rights at School\]](#)

Making It Official

If the powers that be prove reluctant to agree to your informal requests-or if more involved accommodations seem necessary-request that your child be considered for a 504 Plan.

"A 504 is useful when you aren't getting cooperation from the teacher or the school, or in a situation like middle school, when there are seven teachers and not everyone is aware of the accommodations," says Gill. "It puts more pressure on the teachers to cooperate, and gets everything in writing, so you can be sure everyone is on the same page."

If you apply for 504 status (the forms should be available in the principal's office), the school is required to evaluate your child for academic and behavioral problems. Depending on the state you live in, evaluation can mean anything from comprehensive testing by an educational psychologist to simply getting a note from your child's doctor.

If your child is deemed eligible for 504 status, a school representative will help you and your child's teacher compile a written list of accommodations that must be followed at all times.

[Quiz: How Well Do You Know Special Ed Law?]

When kids need more help

If your child has severe ADHD, she may need the special-ed services and legal protections provided under IDEA.

"A 504 plan simply doesn't have teeth," says Luger. "If your child is having real problems academically or behaviorally, or if your school comes to you and says your child should be evaluated, insist on an IDEA evaluation."

Your request should be made in the form of a brief letter to the school district's director of special education.

Peter Wright, an educational attorney in Deltaville, Virginia, and co-author of *From Emotions to Advocacy: The Special Education Survival Guide*, suggests hand-delivering the letter to the director's office. (Be sure to note the date and time of delivery, as well as the name of the person who took the envelope.) "Do not send it by certified or registered mail," he says, "because then it will be red-flagged and a copy sent to the school attorney, which will cause the school to start circling the wagons."

One of three things will happen once you make the request. First, your child will be accepted for evaluation. Alternatively, you'll receive a call or letter asking you to explain why you want to have your child evaluated. Or, you'll be turned down flat.

Be prepared to provide a detailed argument showing how your child's disability hampers his academic performance. "Include all the documentation you can," says Wright, "including school papers, medical reports, samples of your child's writing and other schoolwork, and any private evaluations you have of your child."

If you've been turned down, send in copies of all the material with a second letter, asking the school district to reconsider in light of the information you're now providing. If you get turned down again, it's time to hire your own experts and have your child evaluated before reapplying.

Once your child has been accepted for evaluation, you'll be interviewed by a social worker from the school system, then meet with a child-study team. Typically, this team consists of a learning disabilities consultant, a special education teacher, a social worker, and the school psychologist.

Following this meeting, your child will undergo psycho-educational testing for learning disabilities as well as problems in language processing and attention. In addition, one or more members of the team will observe your child in the classroom.

If your child is deemed eligible for special services, you'll meet again with the team to devise an IEP. (It's helpful to have your advocate or attorney at this meeting.) An IEP might call for time in a resource room, where your child gets one-on-one instruction, for speech and/or physical therapy, or for psychological counseling. In some instances, IEPs mandate placement in a private school, the cost to be reimbursed by the school system. Any 504 accommodation may also be written into an IEP.

Overcoming hurdles

The process sounds straightforward. In practice, however, parents often have trouble getting school authorities to accept a request for an IDEA evaluation. As you go about securing services for your child, put everything in writing and keep a file of all related documents-requests to school officials, concerns about the process, thank you letters. Even a note asking for your child's test scores can be valuable if you later have to document that the request went unmet.

After IEP and other meetings, summarize the main points in a letter to participants to establish a record of what was said. When appropriate-such as a letter requesting a change in services-include a brief history of your child's problems and an update of his progress. Always maintain a professional and courteous tone, but be firm about what you want.

Dawn Hayes of Laverne, Tennessee, knew that ADHD was causing her daughter, Rachel, big trouble at school. "Rachel is easily distracted, and doesn't like participating in large group activities," says Hayes. "Her teacher would tell me, 'Rachel's the best reader in the class.' But Rachel was always getting sent home for bad behavior. Worst of all, when I visited the class, I could tell that Rachel's teacher had given up-she was just done with her."

When Hayes asked that her daughter be evaluated under IDEA, the school psychologist and vice principal demurred. Rachel was doing well academically, they said, so she didn't qualify for testing. Hayes enlisted the help of a local ADHD parents' advocacy group, which helped her complete her written request and send it to the appropriate person in the school district. Three days later, she got a letter saying that Rachel had been accepted for testing.

Hayes is still waiting for an IEP to be drawn up. In the meantime, the school system has provided Rachel with a full-time classroom aide, and her behavior has improved dramatically.

"Rachel is really doing OK, after having been beaten down there for a while," says Hayes. "She looks forward to school every day, knowing that the aide will be there. She says, 'I'm going to see my friend today.'"

Taking Charge

Once you've handed in a request for an evaluation under IDEA, the school has 60 days (calendar days in some states, business days in others) to complete all testing and devise an IEP for your child. What happens during these 60 days—and how well you prepare before the clock starts ticking—is critical to your child's academic future.

One thing to consider is who should conduct the psycho-educational testing. The results of these tests will determine what goes into your child's IEP. For this reason, many experts strongly recommend that parents hire their own psychologist to administer the tests rather than rely only on a psychologist provided by the school district (who may be inclined to interpret test results in a way that minimizes costs to the district).

"IDEA requires the school district to provide a 'free and appropriate public education,'" Luger explains. "People think the most important word is 'free,' but it's not. The most important word is 'appropriate.' That's why the testing is so important, because the test results determine what's appropriate for your child." Hiring a tester isn't cheap—it can cost \$500 to \$3,000, depending on where you live. But it often makes all the difference.

"I always like parents to get a private psycho-educational evaluation of their child by someone with expertise in ADHD," says Wright. "For one thing, many school systems haven't updated the way they evaluate ADHD and other disabilities. This way, you have your own set of data to present."

According to Wright, testing is typically done by a neuropsychologist, educational psychologist, or clinical psychologist. "Talk to other parents in your area, and find out who does good work," he says. "The private evaluation should explain clearly how your child's disability interferes with the learning process. I also want that evaluator to talk about what program will work best with your child, in his view and yours, and why."

Experts also recommend bringing an advocate along to the IEP meeting. This advocate could be the professional who conducted your child's neuro-psych testing, a professional educational advocate, a former special-ed teacher, or an educational attorney.

"The purpose of the advocate is to monitor and observe the process, and present the data in a more objective fashion," says Luger. "As a parent, it's hard to sit there and to present the data about your child and not get emotionally involved."

To find an educational advocate or attorney in your area, go to chadd.org, ldanatl.org, copaa.org, or wrightslaw.com.

Your child's IEP is not set in stone. According to the law, it must be reviewed annually by the IEP team, and a new psycho-educational evaluation must be conducted every three years. (See "[Reviewing the Road Map](#)") In addition, says Luger, "You can ask for a meeting to review the IEP any time you think there's reason to, and you can ask for a new round of psych-ed testing."

[Sample Letter: Request an IEP/504 Evaluation]

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