



Presents...

504 Plans: What are They And How Can They Help

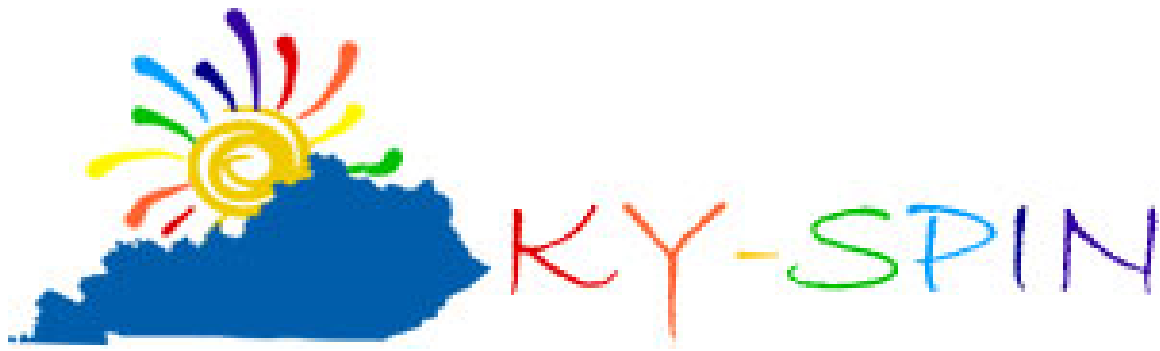
KY-SPIN

(Special Parent Involvement Network)

Parent Training & Information (PTI)

Center

Funded by the U.S. Dept. of Education under IDEA since 1988 when Kentucky first received a PTI. KY-SPIN Parent Center provides training, information and support for children and youth with all types of disabilities (birth through 26 years old), their parents, families, and professionals.



We do NOT:
Act as Attorneys

We DO:



- ♥ Empower Families to Effectively Advocate for their Children
- ♥ Provide peer support to help families access needed information and resources

504 Plans: What Are They And How Can They Help

Whitney Hayse

Kentucky Protection and Advocacy

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What is Protection & Advocacy?

- ▶ Federally funded agency
- ▶ Legally based individual and systemic advocacy and education
- ▶ Information and referral services, technical assistance, and full representation
- ▶ Funded by 7 different grants
 - ▶ Protection and Advocacy for Individuals with Mental Illness (PAIMI)
 - ▶ Protection and Advocacy for Individuals Developmental Disabilities (PADD)
 - ▶ Protection and Advocacy for Individual Rights (PAIR)
 - ▶ Protection and Advocacy and Advocacy for Assistive Technology (PAAT)
 - ▶ Protection and Advocacy for Beneficiaries of Social Security (PABBS)
 - ▶ Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)
 - ▶ Protection and Advocacy for Voter Access (PAVA)

What is a 504 Plan ???

504 Plans

- ▶ **Protects schools from discriminating against students with disabilities**
- ▶ **Based upon Section 504 of the Rehabilitation Act of 1973 (Section 504)**
- ▶ **1 of 2 primary laws that assist students with disabilities in schools**
- ▶ **Other law: Individuals with Disabilities Education Act (IDEA)**

IDEA compared with Section 504

IDEA

- ▶ Education Law
- ▶ Covers children from age 3-21
- ▶ Ends when the child graduates from high school.
- ▶ Provides specially designed instruction

Section 504

- ▶ Civil Rights Law
- ▶ Covers all ages
- ▶ Lasts through postsecondary education/vocational school
- ▶ Provides accommodations

Section 504 of the Rehabilitation Act

- ▶ **Federal civil rights law: 29 USC § 701 etc.:**
<https://www.law.cornell.edu/uscode/text/29/701>
- ▶ **Federal regulations: 34 CFR 104:**
<https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html#S1>
- ▶ **The Americans with Disabilities Act of 1990 expanded the protections.**

Section 504 (34 CFR 104.4(a))

“No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.”

<https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html#S1>

Affected Programs

- ▶ **Programs run by federal agencies**
- ▶ **Federal employment**
- ▶ **Any program that receives federal funding**
 - ▶ **Example: private and public schools that receive federal funding**

Eligibility Criteria

- ▶ **Students are protected if the student:**
 - ▶ **Has a physical or mental disability that substantially limits one or more of his major life activities,**
 - ▶ **Is regarded as having a disability, or**
 - ▶ **Has a record of the disability**

Substantial Limitation

- ▶ 504 law or regulation does not define “substantial limitation”
- ▶ Americans with Disabilities’ Act regulation, 29 CFR 1630.2 (J) (1) (ii):

“An impairment is a disability ...if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population.”

<https://www.law.cornell.edu/cfr/text/29/1630.2>

Major Life Activities (34 C.F.R. 104.3(j)(2)(ii))

- ▶ Defined as functions such as:
 - ▶ Caring for one's self
 - ▶ Performing manual tasks
 - ▶ Walking
 - ▶ Seeing
 - ▶ Hearing
 - ▶ Speaking
 - ▶ Breathing
 - ▶ Learning
 - ▶ Working

Other Examples of Major Life Activities

- ▶ **Thinking**
- ▶ **Concentrating**
- ▶ **Emotional or Mental Learning Disability**
- ▶ **Reading**
- ▶ **Interacting with others**

Free and Appropriate Public Education (FAPE) (34 CFR 104.33 (a))

- ▶ A school must provide a student with a disability:
 - ▶ An education with accommodations that is comparable to the education of a person that does not have a disability
 - ▶ Equal opportunities to participate in the school's extracurricular activities

Accommodation Examples

- ▶ **Extra time on assignments or tests**
- ▶ **Modified assignments or tests**
- ▶ **Breaks during the day**
- ▶ **Preferential seating**
- ▶ **Visual aides**
- ▶ **Reader or scribe**
- ▶ **Extra time to transition from class to class**

How can a 504 help???

When to Ask for a 504 Plan

- ▶ **A student who:**
- ▶ **Does not qualify for an Individualized Education Program (IEP) (at any time)**
- ▶ **Attends a postsecondary school/vocational school who previously had an IEP or 504.**

504 Referral Process

- ▶ **504 Referral Processes differs between secondary post secondary**
- ▶ **Focus: Secondary Schools**

504 Referral Process

- ▶ **Make a referral to the 504 Coordinator**
- ▶ **Made by school personnel or parent**
- ▶ **Suggestion: put it in writing**
- ▶ **504 Coordinator: may be the district's Director of Special Education**

Evaluations

- ▶ **A District:**
 - ▶ **Decides on whether to evaluate**
 - ▶ **Chooses the evaluate process**
 - ▶ **Does not have to evaluate when a parent requests the district to do so**

Re-evaluations

- ▶ **Occur periodically**
- ▶ **The law does not provide a specific time period**

504 Team (34 CFR 104.35(c))

- ▶ Law does not state who is on the 504 Team
- ▶ Requires that the placement decisions are made up of persons:
 - ▶ knowledgeable about the child
 - ▶ the meaning of the evaluation data, and
 - ▶ the placement options
- ▶ Recommendation: Parent and student be involved as much as possible

504 Team's Job

- ▶ **Interpret evaluation data**
- ▶ **Determine accommodations**
- ▶ **Make placement decisions**

Behavior and Disciplinary Proceedings

- ▶ A behavioral plan CAN be part of a student's 504 plan.

- ▶ A school CAN discipline a student who has a 504 plan.

Manifestation Determination Meetings

- ▶ Only applies to out-of-school suspensions that are more than 10 days
- ▶ May not be called a manifestation determination meeting
- ▶ A school may call it a 504 meeting

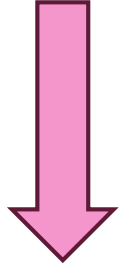
Questions Asked in Manifestation Determination Meetings

- ▶ **Did the student's disability directly cause the behavior (i.e. manifestation)?**

- ▶ **Was the student's behavior the result of the school's failure to implement the student's 504 plan?**

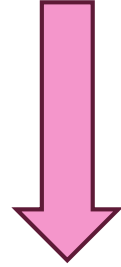
Manifestation Determination Meetings

- ▶ The answer to either of these questions is a YES



- ▶ The behavior IS a manifestation
- ▶ The school can NOT change placement.

- ▶ The answer to the either question is NO



- ▶ The behavior is NOT a manifestation.
- ▶ The school CAN change a student's placement.

If the Behavior was a Manifestation of the Student's Disability

- ▶ **Conduct a Functional Behavior Assessment (FBA)**
- ▶ **Create a Behavior Intervention Plan (BIP)**

Special Circumstances

- ▶ **3 situations where a school can discipline a child in spite of the student's behavior being a manifestation of his disability:**
 - ▶ **Weapons**
 - ▶ **Drugs**
 - ▶ **Serious Bodily Injury**

Disagreements

- ▶ **Request the local grievance policy from the 504 coordinator**
- ▶ **File complaint with the U.S. Department of Education's Office of Civil Rights Division (aka OCR complaint)**

OCR Complaints

- ▶ **Must be filed within 180 days of the violation**
- ▶ <http://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>
- ▶ **Anyone can file a complaint**
- ▶ **Early Complaint Resolution: OCR may offer to facilitate a mediation to resolve a complaint**

Portions of This Presentation Were Adapted From:

- ▶ **U.S. Department of Education’s Office for Civil Rights’ “Frequently Asked Questions About Section 504 and the Education of Children with Disabilities”**
- ▶ **Kentucky Protection and Advocacy’s “Section 504 of the Rehabilitation Act A Guide for Parents and Public School* Students”**

Questions????

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Questions are the path to learning



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