

REHABILITATION SERVICES

Source:

*“Client Information Booklet”*  
California Department of Rehabilitation

*“Vocational Rights and Services  
Under the Federal Rehabilitation Act”*  
P.A.I.

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Supported Employment***  
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## Contents

Introduction -  
Rehabilitation Services  
Application Process  
Order of Selection  
Planning  
Your Individualized Written Rehabilitation Program (IWRP)  
Case Closure  
Your Responsibilities -  
Counselor's Responsibilities  
Your Rights and Remedies Regarding Your Rehabilitation Program  
The Client Assistance Program  
Discrimination  
Supported Employment  
The 1992 Amendments To The Rehabilitation Act of 1973  
The Americans with Disabilities Act  
State of California - Health & Welfare Agency Department of Rehabilitation  
Section 504

## INTRODUCTION

The federal Rehabilitation Act provides for vocational and independent living services to person with disabilities. The Act sets forth the following principles for implementation of rehabilitation programs:

- ☆ Individuals with disabilities, including most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.
- ☆ Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.
- ☆ Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.
- ☆ Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.
- ☆ Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.
- ☆ Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.
- ☆ Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.

States can choose to participate in the program and receive monies to provide services. In exchange, they must abide by the federal mandate. The California agency responsible for providing vocational rehabilitation services is the Department of Rehabilitation (DR).

The mission of the Department of Rehabilitation is to assist individuals

with disabilities, emphasizing those with the most severe disabilities, toward informed choice and success in education, vocational training, career opportunities, independent living and in the use of assistive technology to improve their employment opportunities and their lives

This manual is intended to provide you with information about the Department of Rehabilitation and the services that can be provided. You will learn:

- ◆ about your rights as a Department of Rehabilitation consumer
- ◆ about the roles and responsibilities for you and your counselor
- ◆ how you and your counselor will work together throughout the rehabilitation process and
- ◆ about information, services and resources available to assist you in making informed choices regarding your rehabilitation program and employment outcome.

Your rehabilitation program will be cooperatively designed and carried out by both you and your counselor. Because every person is different, every rehabilitation program will be individualized. You will have the lead role in creating and carrying out your own Individualized Written Rehabilitation Program (IWRP), also called a plan or program. Your counselor will work with you to achieve your goals, inform you of what services the Department of Rehabilitation can provide, and direct you to other agencies for additional services you may need.

If you have any questions, refer to this booklet first. If you can't find the answers, please feel free to talk with your counselor.

## REHABILITATION SERVICES

What services does the federal Rehabilitation Act provides?

As necessary to make an individual with disabilities employable, goods and services available under the Act include, but are not limited to, the following:

- ☆ Assessment to determine eligibility and/or scope of services including an extended evaluation or assessment in rehabilitation technology as needed;
- ☆ Counseling, guidance, job search and placement services including follow along, personal assistance and specific post-employment services;
- ☆ Vocational and training services including personal and vocational adjustment, books, materials, tuition to the extent it is not available through other sources;
- ☆ Services to families as needed to the adjustment or rehabilitation of the disabled individual;
- ☆ Physical and mental restoration services, including, but not limited to, corrective surgery, therapeutic treatment, prosthetic and other devices, eyeglasses and visual services, kidney transplant and dialysis, diagnosis and treatment for mental and emotional disorders;
- ☆ Income maintenance for additional costs while in rehabilitation;
- ☆ Interpreter and reader services for individuals who are deaf of blind;
- ☆ Orientation and mobility services;
- ☆ Occupational licenses, tools, equipment and initial stocks and supplies;
- ☆ Transportation in connection with any vocational rehabilitation services;
- ☆ Telecommunications, sensory and other technological aids and devices;
- ☆ Rehabilitation technology services;
- ☆ Transition services
- ☆ On-the-job and other related personal assistance services provided while an individual with a disability is receiving rehabilitation services;
- ☆ Supported employment services.

## APPLICATION FOR SERVICES

You can file an application in person at your local Department of Rehabilitation office, or call to request an application through the mail. Everybody has the right to apply for services and to receive an assessment to determine eligibility.

Once you have applied for services, a counselor will assess your eligibility. In most cases, you will know whether you are eligible within 60 days from the date your application is received by the Department. Your participation in this process is necessary. The counselor needs to record and review the following basic information:

- ◆ name, social security number, citizenship status, date of birth, and address
- ◆ information about your disability
- ◆ information about your income, primary source of support, and/or public assistance
- ◆ whether or not you receive Social Security benefits or Supplemental Security Income (SSDI, SSI)
- ◆ information about your education and work history
- ◆ whether you have previously applied for services from the Department

If you wish to allow your counselor to contact employers on your behalf, you will need to authorize this on your application.

The counselor will need some documentation of your disability. This may include getting medical records, school records, or arranging for examinations and evaluations. Whenever possible, the Department uses information available from you and other agencies where you have received services. Stay involved. You can help to keep the process moving quickly by:

- ◆ telling your counselor of existing information about you and your disability
- ◆ assisting your counselor to obtain additional information when needed
- ◆ asking your counselor to explain further if you don't understand something

- ◆ keeping appointments, and completing any assignments your counselor may suggest
- ◆ calling your counselor if you can't keep an appointment
- ◆ letting your counselor know if you move or change your telephone number

Supply this information in a timely manner may speed your eligibility determination.

## **ELIGIBILITY**

You are eligible for services if:

1. You have a physical or mental impairment which results in a substantial impediment to employment; and
2. Can benefit in terms of employment outcome from vocational services provided; and
3. Require vocational rehabilitation services to support for, enter, engage in, or retain gainful employment.

You are considered an individual with a severe disability (which entitles you to have first priority for services if the state does not have enough money to serve all clients), if:

1. You have a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skill) in terms of an employment outcome; and
2. Your vocational rehabilitation can be expected to require multiple service over an extended period of time; and
3. You have one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal paraplegia, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs which cause comparable substantial functional limitations.

Determinations made by the Social Security office, school districts or other agencies shall be used for making determination regarding disability for DR services.

## **EMPLOYMENT OUTCOME**

“Employment outcome” means entering or retaining full-time or, if appropriate, part-time competitive in the integrated labor market (including satisfying the vocational outcome of supported employment).

The law presumes that you can benefit in terms of an employment outcome from vocational rehabilitation services unless the state can demonstrate “by clear and convincing evidence” that you are incapable of doing so.

If you are an individual with a severe disability and DR is unable to determine whether you would benefit in terms of an employment outcome by reason of the severity of your disability, the state must do an extended evaluation before determining you are not eligible. DR cannot make a determination that you are ineligible because you cannot benefit unless there has been an extended evaluation.

## **EXTENDED EVALUATION**

The DR conducts an extended evaluation in cases where, by reason of the severity of the disability, DR is unable to determine whether the individual is eligible and the nature and the scope of DR services needed. If needed, goods and services can be provided for the purposes of assessment.

An extended evaluation can take up to 18 months; however, the DR must assess progress at least once every 90 days to determine if eligible or type of services needed can be determined within a shorter timeline.

## ORDER OF SELECTION

Federal law and State regulations require that when a State vocational rehabilitation agency does not have sufficient funds to serve all eligible individuals who apply for services, an Order of Selection must be used to determine the order in which individuals with disabilities will be provided services.

If the Department of Rehabilitation is operating under an Order of Selection when you apply for services, the Department will accept, process your application, and determine if you are eligible for services. If you are eligible for services, your priority category will be established, and you may be placed on a waiting list. As funding is available to provide services to new consumers, you will be served according to the priorities discussed below.

The priority category will be established:

**First** Based on an individual's level of severity of disability.

Level of severity of disability means disabled, severely disabled or most severely disabled. The most severely disabled will be served first, followed by the severely disabled and then by the disabled.

**Second** Within an individual's level of severity of disability, based on a numerical score on a significance scale.

The significance scale is the "tool" used by the Department to determine the impact of an individual's disabilities on ten functional capacity areas, such as Work Skills and Work Tolerance, as they impact an employment outcome. Fifty (50) is the highest possible total significance scale score.

EXAMPLE: Given two individuals determined to be most severely disabled, the one with a higher significance scale score would be served before the other.

**Third:** Based on the date of the application.

EXAMPLE: Given two individuals determined most severely disabled with identical significance scale scores, the one with the earlier application date may be served before the other.

If you are placed on a waiting list, you will be contacted every 90 days and informed of, among other things, your priority category and the priority category being served.

Please direct any questions you may have to your Rehabilitation Counselor.

## PLANNING

Deciding on an employment goal is an important step and may take time. Immediately following determination of eligibility, DR shall perform a comprehensive assessment. You and your counselor will explore your unique strengths, resources, priorities, interest, and needs, including the need of supported employment, to determine the goals, objectives, nature, and scope of DR services to be included in the Individualized Written Rehabilitation Plan (IWRP). Your counselor can suggest and provide career exploration opportunities which will help you make an informed choice about your employment goal. Whenever possible, the Department uses information available from you and other agencies where you have received services.

## YOUR INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM (IWRP)

After the comprehensive assessment, or after determination of eligibility if no assessment is needed, DR holds a planning meeting with you, or if appropriate your parent, family member, guardian or advocate to jointly develop and agree on a written rehabilitation plan (“IWRP”).

The IWRP must be designed to achieve your employment objective, consistent with your unique strengths, resources, priorities, concerns, abilities and capacities, and must include:

- ◆ Long-term vocational goals based on any assessments, including assessment of your career interest; and to the maximum extent appropriate include placement in integrated setting.
- ◆ Immediate rehabilitation objectives to achieve the goal.
- ◆ Specific vocational rehabilitation services to be provided, and the dates for initiation and duration of each service.
- ◆ Specific rehabilitation technology service to be provided to assist in implementation of the goal and objectives.
- ◆ Specific on-the-job and related personal assistance services to be provided to you.
- ◆ Post-employment services and, if appropriate, extended services.
- ◆ How extended services, beyond the point of successful rehabilitation, shall be provided through cooperative agreements with other service providers.
- ◆ Objective criteria and evaluation procedure and schedule for determining whether goals and objectives are met.
- ◆ Include how goods and services will be provided in the most integrated

setting.

- ◆ Identify provider of good and services and process.
- ◆ Describe how you (using your own words or those of your advocate or legal representative) was informed about and involved in choosing among alternative goals, objectives, services, and providers and methods of services.
- ◆ Right the remedies available to you.
- ◆ Description of the client assistance program.
- ◆ your responsibilities as the key person in carrying out the IWRP
- ◆ your counselor's responsibilities in assisting you in your plan

Services provided by the Department of Rehabilitaation may include:

- ◆ counseling and guidance
- ◆ medical services and equipment
- ◆ additional assessments through medical specialty exams, psychological and vocational testing as needed
- ◆ vocational training and education
- ◆ on-the-job training
- ◆ referral to other community resources
- ◆ telecommunications, sensory and other technological aids and devices
- ◆ transportation assistance
- ◆ assistance with maintenance costs

## *Rehabilitation Services*

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- ◆ reader, interpreter, tutorial and notetaker services
- ◆ job seeking skills training
- ◆ job development and placement
- ◆ supported employment services including job placement and coaching
- ◆ work tools, equipment, and license fees
- ◆ work clothes, uniforms and safety equipment
- ◆ personal assistance services
- ◆ services for family members
- ◆ self-employment services
- ◆ post-employment services

In most cases you will have a choice in how and where to obtain these services. You must have written approval by a departmental employee before you purchase any goods or services. Funds are not available until your program has been developed in the form of an approved IWRP. Feel free to talk with your counselor if you have any questions.

## CASE CLOSURE

Your case may be closed for a variety of reasons. The best reason, of course, is because you have been successfully employed or at least 60 days in a position consistent with your Plan. You are eligible for post-employment services for 12 months after your case is closed.

There are also a number of other reasons why your case may be closed. For example:

- ◆ if you indicate you are no longer interested in services
- ◆ if your counselor is unable to locate or contact you
- ◆ if you are no longer available to receive services
- ◆ if you cannot achieve suitable employment
- ◆ if you fail to cooperate

The Department of Rehabilitation can disclose information about your case to the Social Security Administration, and is required to submit a report if you are currently receiving SSA benefits and have failed to participate in achieving your employment goal.

## YOUR RESPONSIBILITIES

You and your counselor will work together cooperatively, and each has responsibilities. It is your responsibility to:

- ◆ seek assistance when it is available, to pay for some services through outside sources such as financial aid (scholarships, grants, loans), insurance benefits and other agencies
- ◆ communicate with your counselor about any problems or changes, including changes of address, medical or financial status
- ◆ attend and fully participate in training programs and classes
- ◆ provide reports of your progress and your grades to your counselor
- ◆ fully participate in a job search and in job placement activities
- ◆ talk with your counselor if you are having a problem which is affecting your program
- ◆ discuss the purchase of any goods or services with your counselor to receive approval prior to purchasing such goods or services.

## COUNSELOR'S RESPONSIBILITIES

It is your counselor's responsibility to:

- ◆ inform you of your rights and responsibilities, including your right to appeal and your right to file a discrimination complaint
- ◆ coordinate the services needed for your Plan
- ◆ provide counseling and guidance
- ◆ inform you of potential resources available to you
- ◆ review your progress at least once every 12 months
- ◆ revise your Plan if needed
- ◆ notify you prior to any major changes affecting your Plan (including case closure)
- ◆ keep your information confidential
- ◆ make sure you are aware that goods and services cannot be purchased without prior approval from him/her.

## YOUR RIGHTS AND REMEDIES REGARDING YOUR REHABILITATION PROGRAM

### YOUR RIGHTS

As a DR client, you have certain rights:

#### Application:

You have the right to receive an application and apply for DR services.

#### Services:

You have the right to participate in the planning of your rehabilitation program, receive services in a timely manner and receive a review of your case annually.

#### Confidentiality

The Information Practices Act of 1977, California Code, Sections 1708 et. seq., established the Office of Information Practices within the State Personnel Board to assure that state departments comply with the intent of the law. This office helps individuals to identify records that may contain information about them and helps in securing access and amendments to such records. It also guarantees you certain rights:

- ★ ***The right to privacy.*** Only information about you that is relevant and necessary to carry out the purpose of the Department will be collected. This information will be used only in the administration of the program.
- ★ ***The right to access.*** You may request access to any records about you that are maintained by the Department. The Department shall promptly let you or your chosen representative<sup>1</sup> inspect or shall provide you copies of any

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<sup>1</sup> In a few cases, medical or psychological information will be released only to an appropriate licensed professional chosen by the client or applicant.

document or item of information in your case record at a charge not to exceed ten cents per page. If fewer than ten pages are requested, no charge will be made.

- ★ ***The right to request an amendment to your records.*** You can seek correction of any misinformation in your records by making the request to your rehabilitation counselor. It should be in writing and as specific as possible. If the Program Supervisor does not agree with your amendment to the record, you may request an Administrative Review and/or Fair Hearing. If the Department does not agree with you to amend your recent record, you may submit a written statement of reasonable length with your views of the disputed information. This statement will be put in your records.
  
- ★ ***Protection against disclosure.*** All persons who are allowed access to your records are prohibited from disclosing this information to anyone else without your specific, informed, written consent. There are specific instances where information may be released without your informed, written consent, as the case of medical emergency.

## REMEDIES

The Department of Rehabilitation wants you to succeed in your rehabilitation program. If questions or problems arise while you are involved with the Department, please talk with your counselor. You may bring a family member or representative with you at any time to meet with department staff.

If you are dissatisfied with any action or decision of the Department, you have the right to contact the Client Assistance Program, and to appeal the action either locally, through an Administrative Review, or by directly requesting a Fair Hearing.

Local. Most misunderstandings and problems can be solved by talking them over with your ***counselor***. If you and your counselor cannot resolve the issue, you may ask for a meeting with your counselor's ***supervisor*** to discuss the problem.

Administrative Review. If the issue remains unresolved, you may request a

review by the ***District Administrator***. If the issue is still not resolved at this level, or if you wish to skip the local levels of review, you may request a Fair Hearing.

Fair Hearing. At any time, you may request a Fair Hearing. A Fair Hearing must be held within **45 days** of the request. The hearing is before the Rehabilitation Appeals Board (RAB), an important seven-member board established to perform the function of hearing officer. The RAB must meet at a time and place convenient and accessible to the appellant. Interpreters and readers shall be provided for those individuals who request assistance.

The appellant may appear alone or with authorized representative, or may be represented by an authorized representative without attending the hearing. Hearings must be before a minimum of three Appeals Board members and are conducted by one of the members. The technical rules of evidence which apply in court do not apply at the RAB hearing. However, the appellant has the right to review the record, present evidence, examine witnesses and be represented by counsel or an advocate. All witnesses must testify under oath.

The DR is represented by the employee who make the decision or the supervisor. Two weeks before the hearing, the DR must provide the RAB with a case review, copy of its written administrative review decision and any documents to be presented as evidence. The appellant must also supply the RAB with a copy of all documents to be used as evidence two weeks prior to the hearing. Materials will be distributed to all parties no later than one week prior to the hearing. The RAB must give the appellant an opportunity to submit a written response, which must also sent to the DR. The RAB is required to hear all relevant evidence and consider each issue before them.

The regulations regarding notice of attendance at the hearing are strict. The appellant or authorized representative must give written notice of their intent to attend within seven days of the hearing. If they fail to do so, the hearing will be canceled and the issues decided on the written materials submitted. If the appellant fails to appear at a hearing within 30 minutes of the schedule time, again it will be canceled.

The appellant or representative may submit a written request to

withdraw the request for the hearing at any time. A scheduled hearing can be postponed for up to 90 days if good cause exists and if requested at least 5 days prior to the hearing date. Good cause is defined as death in the family, personal illness or injury to the appellant or authorized representative or sudden and unexpected emergencies.

The RAB may continue a hearing to receive additional evidence or may close the hearing and hold the record open for 30 days to receive additional evidence. The RAB must make any additional evidence available to both you and the DR for a written response.

### ***Rehabilitation Appeals Board Decision And Timelines***

The Rehabilitation Appeals Board (RAB) sends a proposed decision to the state's Director of the Department of Rehabilitation, within 30 days of the completion of the hearing. The decision must be set forth:

1. the issues;
2. the findings of fact;
3. reasons for the decision referencing the law, regulations, and policy; and
4. the recommended decision.

When the RAB sends the proposed decision to the Director, a copy is sent by certified mail to all parties as well. The proposed decision includes the issues, findings of fact, reason for the decision referencing applicable laws, regulations and policies, and the recommended decision.

### ***How Does The Director Make The Final Decision?***

The Director, within 20 days of receiving the proposed decision, will either adopt the proposed decision by the RAB in its entirety or review the decision, in whole or in part, and issue a separate decision. If the Director decides to review the proposed RAB decision and issue a modified or separate decision, the Director must notify the appellant and provide him/her with an opportunity to submit additional evidence and information relevant to the portions of the decision that the Director intends to review. The Director can also decide to return the proposed decision to the RAB for reconsideration and, in these cases, the RAB may request new evidences and, if needed, conduct a new hearing. If the Director chooses to complete the additional review s/he must render a final decision within 30 days of mailing the notice of intent. The Director must take the final decision in writing, stating the

findings and grounds for the decision and notifying the individual of his/her right to appeal. Copies of the final decision will be sent to the appellant and authorized representative by certified mail.

If dissatisfied with the Director's final decision, you have the right to appeal the decision in Superior Court within six months. You have the right to ask for a legal review by the Client Assistance Program, to assist in deciding whether to go to court.

Requests for Fair Hearing Forms are available from Department staff and should be completed and mailed to:

Rehabilitation Appeals Board  
Department of Rehabilitation  
P.O. Box 944222  
Sacramento, CA 94244-2220  
(916) 322-6608 and (916) 323-4347 (TDD)

#### WHAT HAPPENS TO SERVICES DURING THE APPEAL PROCESS

Unless you or, if appropriate, your authorized representative requests otherwise, services shall continued until a final decision is made as a result of the hearing. The exception to this rule is when services have been obtained as a result of misrepresentation, fraud, collusion or criminal conduct by you.

## THE CLIENT ASSISTANCE PROGRAM

The Client Assistance Program (CAP) is available to inform and advise all clients and applicants of all available benefits under the Act and under the ADA, especially those individuals who have been traditionally underserved by vocational rehabilitation programs. Upon request, CAP can assist and advocate for clients or applicants regarding programs providing vocational rehabilitation services and regarding other services directly related to facilitating employment of the individual. CAP can also assist and advocate in pursuing legal, administrative or other appropriate remedies to ensure protection of the rights of individuals and access to services and funds through individual and systematic advocacy.

All programs that provide services under the Rehabilitation Act must advise individuals and, as appropriate, their authorized representatives or families of the availability and purposes of the Client Assistance Program and how to seek assistance.

CAP is not a substitute to the appeals process. CAP is designed to help you know about your rights and responsibilities and to assist you in presenting your concerns to Department staff toward resolution. CAP can also help you request and prepare for an Administrative Review or Fair Hearing.

If you would like CAP assistance, ask your counselor for your local CAP advocate's name and phone number or call toll free: Voice or TDD 800-952-5544, 24 hours a day.

## DISCRIMINATION

Discrimination is treating a consumer differently, when the treatment is based only on the consumer's disability, age, sex, color or other status protected by law.

It is the Department's policy to provide consumer services to qualified persons with disabilities without discrimination on the basis of physical or mental disability, age, sex, color, ethnic group, race, national origin, ancestry, religion, medical condition, sexual orientation or marital status.

Disagreements between you and your counselor are not discriminatory acts UNLESS the disagreement is based upon your protected status.

If disagreement is not based on one of the protected statuses, get help through the Client Assistance Program or the Administrative Review Process, or the Fair Hearing Process

If your disagreement with Departmental actions or lack of action is based on one of the protected statuses, you have the right to initiate the informal or formal discrimination complaint process within 180 days from the date of the alleged discrimination by following these steps:

1. Request orally or in writing a meeting with the counselor's District Administrator to discuss your concern and suggest how it can be resolved, or contact the Department's Office of Civil Rights to discuss your concern or to file a formal complaint.
2. If you are not satisfied with the District Administrator's decision, the District Administrator will forward your complaint for review and resolution or investigation by the Department's Office of Civil Rights.

You also have the right to file a discrimination complaint outside of the Department of Rehabilitation at any time (within 180 days of alleged discrimination) with the U.S. Department of Education, Office for Civil Rights.

For discrimination counseling and complaint filing:

\* Department of Rehabilitation

*Rehabilitation Services*

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District Administrator  
(Contact your counselor's office for the name and telephone number)

\* Department of Rehabilitation  
Office of Civil Rights & Affirmative Action  
P.O. Box 944222  
Sacramento, CA 94244-2220  
ATTN: Michael D. Fuentes (916) 327-9120 (Voice or TDD)

For Discrimination complaint filing:

\* U.S. Department of Education, Office for Civil Rights  
50 United Nations Plaza, Room 239  
San Francisco, CA 94102  
ATTN: John Palomino (415) 556-7000

## SUPPORTED EMPLOYMENT

### WHAT IS SUPPORTED EMPLOYMENT AND WHO IS ELIGIBLE?

Supported employment means a competitive work in integrated work settings for individuals with the most severe disabilities, including those with mental illness:

1. For whom competitive employment has not traditionally occurred; or
2. For whom competitive employment has been interrupted or intermittent as a result of severe disability; and
3. Who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

### WHAT SERVICES ARE INCLUDED FOR PERSONS WHO ARE ELIGIBLE FOR SUPPORTED EMPLOYMENT?

Supported employment services include ongoing support services and other appropriate services need to support and maintain an individual with the most severe disability in employment. It also includes transitional employment for persons with severe disabilities due to mental illness. Services are based on the needs of the individual as specified in the IWRP. Supported employment services can be provided singly or in combination in order to assist an eligible individual in entering or maintaining integrated, competitive employment.

Ongoing services are provided to severely disabled persons, at a minimum of twice monthly, for the purpose of assessing the work site or situation of the individual and providing coordination or specific intensive services needed to maintain employment. They include:

- ☆ Assessments in addition to the comprehensive one usually performed.
- ☆ On-site intensive job skills training.
- ☆ Job development and placement.
- ☆ Social skills training.
- ☆ Regular observation or supervision of the individual.

- ☆ Follow-up services such as contact with employers, family or the individual in order to reinforce and stabilize job placement.
- ☆ Facilitation of natural supports at the work site.
- ☆ Any other services provided for in the Act.

#### Placement

Placing people with severe disabilities into real work/real pays jobs requires preliminary work by the employment specialist. Through observations and/or interviews with clients, the employment specialist determines the types of jobs that would be the most compatible with the skills and abilities to the clients. For example, lifting and carrying, endurance and the ability to communicate are the types of skills that may influence the kind of work a client can do. Family or primary caretakers are important with regard to issues related to employment. Transportation, wages and hours concerns, and work schedule need to be discussed with families, care providers and prospective clients before a placement is made so that the necessary adjustments and plans can be made. Also, because some people with severe disabilities may need encouragement and help with details such as remembering to bring daily bus fare, and to be on time, family or care providers support play an important role in the success of a job placement.

#### Job development

Another vital aspect of the job placement is job development. The employment specialist must locate entry level job possibilities in the community. This is accomplished by locating job openings, contacting employers, visiting job sites, and meeting with managers or personnel directors of various businesses. Finding a receptive employer can take time and effort. Once an interested employer is located, the employment specialist observes a non-disabled worker performing the job and write a job analysis or step-by-step description of the work. By comparing skills needed for the position to the skills of the prospective clients, the employment specialist chooses the person who is best suited to the job. For example, a client who can run a vacuum and who can be on his or her feet for extended period of time, would be a good candidate for a job cleaning offices. If the client has not had experience running a vacuum cleaner, this skill can be trained on the job by the employment specialist. When a job-client match is made, the employment specialist accompanies the client on his/her job interview. If the

employer decides to hire the client, the training phase begins.

### Training

Supported employment provides intensive 1 to 1 training in the job site only after the client is employed. There is **no pre-employment**. This training includes travel training and social skills training, in addition to training specific job skills. When a client requires bus training, the employment specialist meets the client at his/her home and together they take the bus independently. At the job site, the employment specialist trains the client to do all the tasks and duties required by the position. If at first the client is unable to complete the tasks at a desired rate, the employment specialist works along with the client so that the work is completed on time and to the employer's expectations. Other job related skills that the client learns include how to take breaks appropriately, how to interact with co-workers and supervisors, how and what to do with pay checks when received, how to take meal breaks appropriately, and so on. If the work supervisors or other employees have any questions or need help learning how to interact or communicate with the client, the employment specialist can respond and advocate for the client.

When the client is able to perform the job independently, and the employer is satisfied and comfortable, the employment specialist begins to gradually fade from the job site, spending less and less time with the client. If the client continues to do well, the employment specialist will continue to fade intervention until the client is working independently. Throughout this training and fading phase, the employment specialist works closely with the client's family or care provider, to report his/her progress or to discuss any problems or concerns.

### Job retention

To ensure job retention, Supported Employment requires ongoing long-term follow-along services. The employment specialist periodically visits the job site, calls the employer and/or contacts the client's parents to determine if there are any problems or changes. Evaluation of the client's work performance is an on-going process.

## HOW LONG CAN SUPPORTED EMPLOYMENT SERVICES BE PROVIDED?

The federal law states that DR only provide supported employment services for up to 18 months unless, under special circumstances, the eligible individual and rehabilitation counselor jointly agree to extend the time in order to achieve the objectives in the IWRP. However, state agencies or other resources may be used to fund the services beyond 18 months. For example, persons with developmental disabilities can receive additional assistance under state law through the habilitation program (Welfare & Institutions Code §§ 19000) or individuals on SSI could provide funding for extended support through a PASS and/or IWRP without adversely impacting on their SSI grant or earnings.

## WHAT ARE EXTENDED SERVICES?

The term “extended services” means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that --

1. Are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;
2. Are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and
3. Are provided by a state agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by DR.

## ARE THE FEDERAL REGULATIONS WHICH COVER SUPPORTED EMPLOYMENT VALID?

In June 1992, the federal Office of Special Education and Rehabilitation Services, U.S. Department of Education, promulgated regulations governing special grants to states for funding of supported employment. Much of the language in the regulations was included in the 1992 amendments to the Rehabilitation Act which was passed later that same year. Although new regulations to implement the 1992 statutory changes are expected in October 1993, there are no plans to change the current supported work regulations and they are still valid.

These regulations contain definitions not included in the Act which may be helpful in interpreting the new federal statutory requirements. Specifically, the regulations include definitions of “competitive work”, “integrated work setting”, and “transitional employment” as follows.

“Competitive work” means work that is performed weekly on a full-time or part-time basis, as determined in the IWRP, and for which the individual is paid consistent with the wage standards in the Fair Labor Standards Act.

“Integrated work setting” means:

1. Job sites where most employees are not disabled, and individuals interact with non-disabled employees, and, if part of a distinct work group of disabled individuals, the work group contains no more than eight persons; or
2. If there are no other employees other than individuals in the work group, the individual interacts on a regular basis as part of his/her job with non-disabled members of the public.

“Transitional employment” means a series of temporary job placements in competitive work in an integrated setting with on-going support services for individuals with chronic mental health.

## WHAT RESEARCH SAYS

There is no doubt that work is an integral part of society. We define ourselves, and others define us, by what we do. Most of us choose occupations with great care. From the time we are children, we ask, “What do I want to be when I grow up?” People with disabilities, like everyone else, want to work at a job in which they take pride. They want and need challenging work that is rewarding, just like everyone else, they want and need to make choices about employment and training as they finish school.

For many years, people with disabilities had few options. Adults with disabilities were placed in daycare situations to be supervised. Sometimes this was in institutions. Too many adults have been unnecessary institutionalized because “experts” believed, and told families, that some people could never be contributing members of society and should be protected. At the time, it seemed to be a major advance when sheltered workshops come into existence. In sheltered workshops, adults with disabilities are paid piece rate for their work. Workers often make products for

a company that has a contract with the shelter. Theoretically, sheltered workshops provide training so that adults with disabilities learn some skills needed to be employable. Well established in many communities, workshops may seem like the only solution for families too tired to buck the system. However, research shows, the work is repetitive. Workers stop learning new skills in workshops after a while and may actually be delayed in their development. This happens because workers are not continually challenged in their work and associate only with other workers who have disabilities. Another problem is low pay. Worker pay in workshops is usually well under the federal minimum wage, averaging little more than A \$1 an hour.

*The supported employment choice.* The key to rewarding employment for people with disabilities may lie in supported employment. Introduced in the Rehabilitation Act (Public Law 98-527), supported employment was defined as “paid employment for persons with developmental disabilities for whom competitive employment is unlikely because of their disabilities in a setting in which persons without disabilities are employed.” It is a real work for a real pay. Here, a regular business hires an adult with a disability. In most cases, this happens with the help of an agency that matches business to people with disabilities. Usually, the workers have some choice in their job placement. (If there is no agency, parents may have to be creative in developing employment possibilities.)

*Job coaches.* The agency that places workers may also have employees acting as job coaches. These employment specialists train the adult with a disability on the job, supplementing the employer’s training responsibility. The job coach also teaches work-related behaviors, such as when to take breaks and how to ask for help, and helps the person work as independently as possible. As the person with a disability becomes more independent, the job coach decreases his or her time, trains the person in new duties, intervenes for problems, and checks on progress. In time, the new worker will use support from managers, “old -timers” at the work site, and work friends instead of the job coach.

*Dependency costs.* One researcher said that if an adult enters a day activity program at age 21, moves at an average rate to a sheltered workshop, and goes on to a competitive job, the person would not work at a regular job until age 77! The costs of lifelong dependency are great. For example, states pick up a good deal of special service costs for adults with disabilities, at an

annual cost per person greater than the average U.S. wage earner's salary. Comparatively speaking, a private, non profit agency that assigns clients to supported employment jobs does so at much less cost to the public over time. Supported employment also can help adults with disabilities attain self-sufficiency, productivity, friends, and independent living.

*Increased earning power.* Supported employment can mean great individual financial gains as well. Most studies show that adults working in supported employment can make much more money than they could working in sheltered workshops. Research shows that people employed in supported employment jobs earn, on average, three times as much as sheltered workers. Multiply that difference in earning power over the years of employment: the difference is staggering.

*Desire for regular jobs.* A survey of sheltered workshop workers indicated that workers did hope to leave the workshop for outside work. In another survey, some adults with moderate mental disabilities rated vocational and social skills as most important in their lives, followed by personal, academic, and leisure skills.

*Employers gain.* Government wages subsidy program and tax credits can make supported employment financially attractive to employers. For employers who need convincing, research shows that adults with disabilities usually make good workers. In one study, worker attendance with and without mental retardation did not differ significantly. A 1993 study showed that 96% of employers in Oklahoma reported satisfaction with the work of their employees who had mental retardation. Another study showed that supported employment workers reduced turnover rates. One study of 167 people with disabilities, most on their first job, showed that they held those jobs for 19 months on average. By comparison, most employees without disabilities in the same jobs stayed less than a year.

*Americans with Disabilities Act.* Another good reason that employers should consider hiring people with disabilities is the Americans with Disabilities Act (ADA). Signed into law in 1992, the ADA prohibits discrimination based on employment. If a "qualified individual with disability" can do the "essential functions" of a job with or without accommodations, then an employer can be

charged with discrimination if that employer rejects a potential employee because of disability.

*Typical jobs.* A 1991 national study of 9,327 employees with disabilities showed custodial (3296), clerical (496), manufacturing (10%), food service (24%), and other positions. In Virginia, 1,800 supported employment workers revealed that their jobs included food service, custodial, clerical, grounds keeping, laundry, transportation, warehouse/stock clerk, benchwork, and unskilled labor positions. Other positions in which people with disabilities have had access are data entry, mail work, photocopying, animal care, and others.

*Transition from school.* Many parents welcome the good news about supported employment. They want their children to find happiness in their work. Added earnings also eases some worry. However, setting up a successful supported employment situation takes time. Families and people who work with families find that transition from school to employment is usually where this work begins in earnest.

*Employment as curriculum.* Students must be taught good employment skills, experts say, while still in high school. Ideally, the school should:

- include vocational training in the Individualized Education Plan
- allows students access to part-time vocation training as part of the curriculum
- encourage inclusion of students into the school itself and world of work
- strive for community-based instruction (which means that students work at job training sites)

*Career advising.* Students with disabilities should be encouraged to explore careers, have good self-concepts related to their careers, and re-evaluate choices once they start working.

*Practical matters.* When setting up an effective transition plan, families and those working with families need to look at all parts of the student's life. How is the student going to get back and forth from the job site? What happens when there is job failure? Can the personal care assistant work outside of our house on the job site, too?

*Supplemental Security Income.* Families often ask how supported employment will affect the Supplemental Security Income or Social Security Disability Income their child currently receives. Under regular rules, checks are reduced by other income. However, this differs when the person with a disability has a plan for achieving self-support (PASS). A *PASS* lets the person set aside money to start a business or get training for a job and that does not reduce government benefits. Contact the local U.S. Department of Health and Human Services office for further information.

*Family support.* Parents can be the most effective advocates for their children. Research has proven this. For example, one study found that adults with disabilities employed competitively for as long as five years had tremendous parent support. Things that families can do include:

- teaching the importance of work by assigning specific jobs around home
- encouraging their child to learn about jobs
- testing good personal appearance and social skills
- getting their child into training programs, so they can work part-time before graduation
- accessing state regulation information about disability and employment from established local organizations.

Researchers and other experts say that families have to be assertive to keep their children's employment options truly open. And when a job does not work out, families must not give up. They should continue seeking a good job match and be prepared to make several tries.

*Decision-Making.* Here are the pros and cons of supported employment and supported workshops. Which sounds right for you?

Supported employment: *Advantages:*

- Financial rewards reflect the "real" work
- Adults with disabilities are more likely to continue developing more skills
- Supported employment teaches individuals more about responsibility, self-sufficiency, and independence
- workers receive ongoing support from job coaches
- workers receive intensive, one-on-one training from job coaches
- adults can try out jobs to find activities they enjoy

- there is usually greater job satisfaction since workers will probably feel good about contributing a service leading to increased feelings of self-confidence, work, and pride
- inclusion with persons without disabilities can lead to new kinds of friendships
- workers are viewed in higher esteem by family and friends.

Supporter employment: *Disadvantages:*

- there is possibility of job failure
- transportation issues need to be resolved
- as with other workers, supported employment workers may have conflicts with co-workers, an unsatisfactory boss, and other common job risks
- workers may lose their place in the sheltered workshop and go back on the waiting list if the supported employment does not work out.

Sheltered workshop: *Advantages:*

- transportation is often provided to and from the workshop
- parents may feel their child is “safer” in a sheltered workshop.

Sheltered workshop: *Disadvantages:*

- workers may stop learning new skills
- there is limited integration with persons who do not have disabilities
- workers cannot try a variety of jobs to find one they like
- job training is not as structured as in supported employment and opportunities for one-on-one training are more limited
  
- there is often a waiting list
- typically, wages are extremely low
- some sheltered workshops often follow a calendar like the school year with early dismissals and time off in the summer

The following story is an example of one family’s experience with supported employment:

*When she left her son’s high school after a fateful IEE conference, Jan*

felt as if her world had been turned upside down. As she drove home, Jan went over the latest information about her son Mark, 16, with severe mental retardation.

Travis Hill, the new special education teacher at Mark's school, had said, "Jan, it is time to think about some of Mark's employment options. If I had been here before now, I would have had him in a part-time job already. It really is time to be teaching him employment skills. There is no better place to learn than on the job. And we also need to be thinking about kind of job he would like." "What kind of job?" Jan repeated, unbelieving. "We have been thinking that Mark could go to work at the workshop."

Travis answered that sheltered workshops were an option. But Mark could also work, Travis said, at a regular job with the help of a job coach in "supported employment". At this type of employment, Travis said, many choices are available to people with disabilities, the same choices that people without disabilities have. People with disabilities can have "real" jobs and be paid "real" wages. Travis said he had successfully placed several students in various supported employment jobs when he taught in another state.

Jan did not immediately like the idea. In fact, she was anxious about the suggestion that Mark could actually work at a regular job with regular people. She wanted to protect him despite knowing in her heart that protection wouldn't help him on the long run. Jan sat, allowing this new idea to sink in before she started asking questions. "How?" she asked Travis, "Who would hire him? What if he weren't able to do the job? Who would make sure the other employees weren't mean to him? Wouldn't it just be easier to have him placed at the workshop?"

Jan began checking things out on her own. The IEP conference gave her information to think about. She and another family members considered Mark's future. Their past imagination and expectation had not gone beyond the town's sheltered workshop. They also had thought Mark would probably live in a group home with other adults with developmental disabilities.

She remembered his early school years, when all the special education students were in their own building. Then they were moved to a classroom at a school attended by other children. Recently, Mark had been included in a

few classes. She thought how she had been worried at first how he would react to the other kids and they to him.. "It's been good for him," she thought. "He is becoming more outgoing and enjoys the contacts with kids his own age." Then Jan and her husband Gary discussed the "unkowns", yet kept their minds open because they wanted Mark's life to be happy. After several discussions, they decided to investigate supported employment on their own.

Jan visited the sheltered workshop and found many employees a bit dulled, as they did their job putting together pens. As Jan was leaving the workshop, she met Cindy, a girl she knew from Mark's school. Cindy barely greeted her. She mumbled and walked to her work place. Jan wondered whether the workshop was too hard on Cindy. This lead Jan to an important revelation: Anyone likes a job that challenges them, that allows them to work in a place they like, with people they like.

Gary and Jan talked with Travis, Mark's teacher, and Amy, the director of a new agency trying to get supported employment in the community. Amy eased many of the family initial worries. She explained about job coaches and suggested they observe workers at supported employment jobs. Amy also told them that most people with disabilities lose jobs because they lack social skills, not because they cannot do the work. Amy suggested that the family closely watch Mark's social interactions, encourage appropriate behavior, and tel him when behaviors were not appropriate.

Jan next visited job sites of people working through the supported employment agency. For the most part, Jan liked what she saw. The people worked in typical jobs, such as laundries and restaurants, with job coaches, who were invaluable. They not only helped the workers, but made sure communication lines were kept open between the worker and their co-workers. Jan and Gary also talked with other parents about supported employment. Most valued the experience, but painted a less rosy picture than Travis and Amy.

"You know how important this is. We want it badly. But I wish someone would have warned us about how hard this would be," one mother told Jan. Running through all this advice was one common thread: Nip problems in the bud. Continually search for way to make this work."

*The family decided to try supported employment while Mark was still in school. Knowing Mark and having talked with him, they asked whether he could work at a local tree nursery. Although they picked the best job for him, their first attempt failed. Mark's supervisor was uncomfortable with him and did Mark's work for him rather than letting Mark do it. Despite efforts on everyone's part, the situation was intolerable. Mark quit, Jan devastated. She felt better when her teen-aged daughter pointed out that most teens don't stay at their first job long. Why would Mark be any different.*

*Soon, Mark began working for the city parks outdoors doing odd jobs. But he wasn't "growing things" and this made him unhappy. The job coach and boss just could not motivate him. Mark's behavior worsened as his job dissatisfaction increased. He and his family decided to try another job.*

*Mark did find successful employment when he graduated. He worked at a large, family-owned garden store and even learned to take care of sick plants. The store had a low turnover rate, and he made friends with other workers. Mark needed his job coach less and less, and the family began placing a considerable portion of his earnings away for later. Sometimes Jan still worried. But she thought the benefits far outweighed the downsides. A special plus was the support network that Mark was building. His family knew that when they couldn't help, the network could protect Mark and guide him as he struggled to gain independence.*

THE 1992 AMENDMENTS  
TO THE REHABILITATION ACT OF 1973

“ It is the policy of the United States that all programs, projects and activities receiving assistance under this Act shall be carried out in a manner consistent with the principle of -

- 1) respect for individual dignity, personal responsibility and the pursuit of meaningful careers, based on informed choice of individuals with disabilities;
- 2) respect for privacy, rights and equal access (including the use of accessible formats) of an individual;
- 3) inclusion, integration and full participation of individuals;
- 4) support for the involvement of a parent, a family member, a guardian, an advocate or an authorized representative, if the individual with a disability desires, requests, or needs such support; and
- 5) support for individual and systemic advocacy and community involvement.”

## THE AMERICANS WITH DISABILITIES ACT

This law was passed in 1990 for the purpose of eliminating discrimination against individuals with disabilities in employment, public accommodations, public services, transportation and telecommunication access. Your counselor can provide information and advocacy for you regarding the Americans with Disabilities Act (ADA). There is also an ADA Section within the Department of Rehabilitation in Sacramento. If you want additional information, you may contact an ADA consultant at (916) 322-0251 or (916) 322-1096 (TDD)

STATE OF CALIFORNIA -  
HEALTH AND WELFARE AGENCY  
DEPARTMENT OF REHABILITATION

The Department of Rehabilitation, as a recipient of federal and state funds, is covered by Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Government Code Sections 11135 et seq., and 19572 et seq.; other federal and state laws, and Executive Orders which prohibit discrimination. Consumer services, as well as employment practices and benefits, of the Department of Rehabilitation are provided to qualified persons without regard to physical or mental disability, age, sex, color, ethnic group, race, national origin, ancestry, religion, medical condition, sexual orientation or marital status.

## SECTION 504

Section 504 refers to the “Civil Rights” section of the Rehabilitation Act of 1973 (P.L. 93-112). It is a civil rights act and constitutional rights of persons with disabilities. The United States Congress passed this legislation in order to “eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.” The rules and regulations of Section 504 went into effect in April 1977 when they were signed by Joseph A. Califano, Jr. , the Secretary of the U.S. Department of Health, Education and Welfare (HEW), and applied to all recipients of HEW funds. Schools are “recipients” of Federal funds and therefore are required to avoid discrimination against persons who are otherwise qualified to participate but have some type of disability. Section 504 is enforced by the U.S. Department of Education, Office of Civil Rights (OCR).

Section 504 provides “guidelines for eliminating discrimination and denial of services on the basis of race, color, national origin, sex and HANDICAP.”

Section 504 prohibits exclusion of “qualified individuals with handicaps” from programs or activities because facilities are inaccessible or unusable.

Section 504 recognizes that many individuals with handicaps need more ACCESSIBILITY to education programs and services in order to participate in the integrated settings. Accessibility refers not only to physical barriers, but also students with disabilities. The intent of Section 504 is to remove the barriers with reasonable accommodations or adjustments so that people with disabilities can participate.

Simply stated, Section 504 requires that public schools provide a free and appropriate education to each qualified person with a disability who is within the school district’s jurisdiction.

### *3 POINTS TO REMEMBER ABOUT SECTION 504*

**1. Handicapped Person.** Section 504 defines “handicapped” person in much broader terms than IDEA, and requires adequate information collection and appropriate evaluation procedures to determine eligibility.

**2. Equal Treatment.** Nondiscrimination under 504 does not mean that equal treatment constitutes the “same treatment”. Section 504 requires that handicapped persons are protected by the procedures which are different from those afforded to persons *without* handicaps.

**3. Appropriate Education .** Section 504 requires that the handicapped student is provided regular or special education and related services designed to meet his or her individual needs as adequately as the needs of the non handicapped student are met.

*Denial of access* to any program operated by the agency (including extracurricular and non-academic activities) of an “otherwise qualified” person with a handicap is prohibited and the agency may be requires to make reasonable accommodations to ensure access (e.g., adaptive devices, distribution of medication, removal of physical barriers).

#### SCHOOL DISTRICT’S RESPONSIBILITY REGARDING SECTION 504

Section 504 requires school districts to do the following:

1. Identify and **Locate** qualified handicapped students residing in the school district and

**Notify** the student’s parents or guardians of the opportunity for the student to receive a free and appropriate public education.

**B. Evaluate** any student who, due to handicap, needs:

- accommodation in the regular education classroom,
- requires special education
- requires related aids and services.

**C. After the Evaluation**

- utilize a multi-disciplinary team of persons knowledgeable about the student to determine the appropriate placement, and
- develop an educational plan designed to meet the student’s needs as adequately as the needs of non-handicapped persons are met.

#### ELIGIBILITY UNDER SECTION 504

To be eligible for services under Section 504, a person must meet the definition of an individual with a disability under this law. This definition is much broader than that of IDEA. Therefore, students who do not meet the IDEA definition may still be considered as “individuals with disabilities” under Section 504.

#### WHO IS A “QUALIFIED HANDICAPPED INDIVIDUAL?”

Under Section 504, a handicapped person includes anyone who:

1. has a physical or mental impairment which substantially limits one or more major life activities. A “major life activity” includes: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, working and learning.
2. has a record of such impairment. A “record of impairment” means: (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body system: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and learning disabilities (3) is regarded as having such impairment.

Students who are already identified under IDEA meet the Section 504 definition of a handicapped individual and are therefore also eligible under Section 504.

However, students who do not meet the criteria for special education under IDEA, may still be “individuals with handicaps” who are protected by Section 504 and its regulations. For example, students with Attention Deficit Disorder (ADD) may be covered by Section 504 if this disorder “substantially” limits their learning. Or, a student may be identified as “learning disabled” but might not qualified for services under IDEA because he/she fails to meet the “two point” discrepancy score required. However, he/she could be considered a “person with a disability” under Section 504.

Other examples include students with asthma or juvenile arthritis who may not require special education services, but would require a modified physical education program, or individuals with communicable diseases, severe allergies, diabetes, behavior disorders, or temporary handicapping conditions.

Students who have exited from special education are eligible for protection under Section 504 because they have a “record” of a disability. A 504 Plan could provide them the support they may need in regular education.

## EVALUATION

When a handicap is suspected, a referral needs to be made and an evaluation completed before special services can begin. If the parent or guardian is making the referral, it is suggested that he/she :

- A. Submit the referral in writing, date the letter, and include the following:
  - a statement of the suspected disability;
  - a request for an evaluation to determine the disability;
  - the date you expected to hear from school;
  - your signature, address, and phone number.
- B. Send copies of the letter to the principal (certified mail), superintendent, special education director, and 504 coordinator.
- C. Keep a copy of this letter in your file.

The evaluation itself must:

- be non-discriminatory;
- be validated for use;
- be given by trained personnel;
  
- be administered according to instructions;
- assess specific areas of educational need and not simply be an IQ test (assessment should include tests, teacher recommendations, physical condition, social and cultural background, and other observations in a variety of settings);
- accurately reflect achievement or what the test is measuring; and
- include information from a variety of sources.

Section 504 Regulation, 35 CFR Section 104.35(a) requires school districts to evaluate a person “who because of handicap, needs or is believed to need special education or related services.” An evaluation is needed before any “significant” change in placement can occur.

However, *Section 504 does not require a school district to carry out full evaluation simply because a parent requests one*, but refusal by the district to do so constitutes an official action regarding the student's evaluation and placement. Therefore, the district must provide the parent with procedural safeguards.