



FOCUS on...

Issues in Special Education

GUIDANCE & TECHNICAL ASSISTANCE
From the Missouri Division of Special Education

Grading, Awarding Credit and Graduation For Students with Disabilities

The Division of Special Education receives a number of inquiries each year regarding the issues of grading, awarding of credits, and graduation for students with disabilities. This technical assistance bulletin has been developed to clarify for districts some of the issues surrounding these topics.

Background

The IDEA 2004 and Section 504 of the Rehabilitation Act of 1973 are both administered by the U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS). However, the authority for compliance with the two laws lies within two different divisions of OSERS. The authority for ensuring compliance with the IDEA falls under the responsibility of the Office of Special Education Programs (OSEP). The IDEA also gives responsibilities for ensuring compliance with IDEA directly to the states. The authority for ensuring compliance with Section 504 lies with the Office for Civil Rights (OCR).

What is the Difference between Section 504 and the IDEA?

The IDEA specifically lists types of disabilities under which a child may be determined eligible to receive special education and related services. Additionally, to be eligible to receive services under the IDEA, the disability must result in a need for specially designed instruction. Districts are required to develop an Individualized Education Program (IEP) for any student found eligible for services under IDEA. Section 504 is much broader than the IDEA. Section 504 covers qualified students with disabilities who attend schools receiving federal financial assistance. To be protected under Section 504, a student must be determined to: 1) have a physical or mental im-

pairment that substantially limits one or more major life activities; 2) have a record of such an impairment, or 3) be regarded as having such an impairment. Section 504 requires that school districts provide a free and appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

SECTION 504 PROVIDES THAT:

No otherwise qualified individual with disabilities in the United States...shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by an Executive agency or by the United Postal Service. (20 USC Section 794).

If a child is eligible for services under IDEA, he or she will also be protected under Section 504. However, students eligible under Section 504 may not be eligible for services under the IDEA. The regulations also make clear that certain conditions, such as drug and/or alcohol addiction, heart disease, etc., which would not qualify a child under the IDEA, may be disabilities under Section 504. While Section 504 requires that the condition "substantially limit a major life activity" such as walking, seeing, hearing, speaking, breathing, learning and working, it need not necessarily adversely affect the student's educational performance, a requirement under the IDEA. The determination of whether a student has a physical or mental impairment that substantially limits a major activity must be made on an individual inquiry



to consider the needs of all students when they make instructional decisions and set policy (i.e., curriculum adoptions, staffing patterns, and professional development). It is important to expect students with disabilities to meet the high standards that have been set for all students. This may involve using the accommodations and supports provided by special education. It is also important to remember that the majority of students with disabilities identified under IDEA do not have significant cognitive disabilities which would inhibit their ability to participate and progress in the general education curriculum.

What Does IDEA Say About Grading, Awarding of Credit, and Graduation of Students with Disabilities?

The IDEA does not specifically address issues regarding grading, awarding of credit, or specific criteria for graduation of students with disabilities. These issues are covered under the “discrimination” provisions of Section 504.

How is Discrimination Defined?

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies an individual with a disability the opportunity to participate in or benefit from an aid, benefit, or service which is afforded nondisabled students (e.g., district practice of refusing to allow any student on an IEP the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disability; expelling a student for behavior related to his/her disability; refusing to dispense medication to a student who could not attend school otherwise, etc.).
2. Fails to afford the person with disabilities an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded others (e.g., applying a Missouri State High School Athletic Association (MSHSAA) policy that conditions interscholastic sports eligibility on the student’s receiving passing grades in five subjects without regard to the student’s disability).
3. Fails to provide aids, benefits, or services to the person with a disability that are as effective as those provided to nondisabled persons (e.g., placing a student with a hearing impairment in the front row as opposed to providing him/her with an interpreter).
Note: “Equally effective” means equivalent, as opposed to identical. Moreover, to be equally effective, an aid, benefit, or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results.
4. Provides different or separate aids, benefits, or services unless such action is necessary to be as effective as the aids, benefits, or services provided to nondisabled students (e.g., segregating students in separate classes, schools, or facilities, unless necessary).
5. Aids or perpetuates discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability (e.g. sponsoring a student organization that excludes persons with disabilities).
6. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disabilities.
7. Otherwise limits the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school).
8. In determining the site or location of a facility, makes selections that effectively exclude persons with disabilities, denies them the benefit of, or otherwise subjects them to discrimination. In *Hendricks v. Gilhool*, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the Education Handicapped Act (EHA) by allowing students with disabilities to be located in inferior facilities such as trailers, wings in basements, and unnecessarily restrictive classrooms, due to a lack of classroom space.



State Guidelines for Grading, Transcribing of Grades, Awarding of Credit, and Graduation of Students with Disabilities

To assist districts in meeting the requirements of the IDEA and providing for non-discriminatory treatment of students with disabilities in the areas of grading, transcribing of grades, awarding of credit, and graduation, the State Department of Elementary and Secondary Education developed a “Special Policy Consideration for Students with Disabilities” section in its publication, *Graduation Handbook, Graduation Requirements for Students in Missouri’s Public Schools*. It can be found at: <http://dese.mo.gov/divimprove/sia/gradindex.htm>.

The policy is stated as such:

Each school district must provide a free, appropriate public education for students with disabilities until they are graduated or attain the age of 21 years. Local school boards must establish policies and guidelines which ensure that students with disabilities have the opportunity to earn credits toward graduation in a nondiscriminatory manner and within the spirit and intent of that requirement. Local board of education policies *must* provide that:

1. Any specific graduation requirement may be waived for a disabled student if recommended by the IEP Committee.
2. Students with disabilities receive grades and have credit transcribed in the same manner as all other students when they complete the same courses as other students.
3. Students with disabilities who complete regular courses modified as indicated in their IEPs to accommodate their disabilities will receive grades and have credit transcribed in the same manner as students who complete the same courses without modification; however, the fact that the courses were modified may be noted on the transcripts as long as the notation does not specifically disclose that a student has a disability.
4. Students with disabilities who meet the goals and objectives of their IEPs, as measured by the evaluation procedures and criteria specified in the IEPs, will have credit transcribed in accordance with the state definition of units of credit.
5. All students with disabilities who meet state and local graduation requirements by taking and passing regular courses without modification; taking and passing regular courses with modification; and/or successfully achieving IEP goals and objectives shall be graduated and receive regular high school diplomas.
6. Students with disabilities who reach age 21, or otherwise terminate their education, and who have met the district’s attendance requirements but who have not completed the requirements for graduation, receive a certificate of attendance.



Note: A student with a disability who is awarded a Certificate of Attendance rather than a regular High School Diploma retains his/her rights to services under the IDEA until the age of 21.



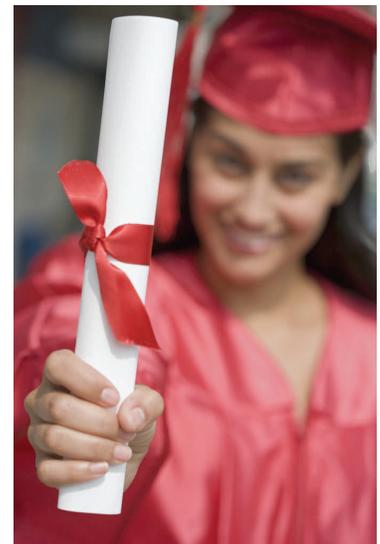
FREQUENTLY ASKED QUESTIONS

- ◆ **Can a student with a disability earn honors (such as Honor Roll, National Honor Society, or Valedictorian/Salutatorian)?**
Yes. Each local district should have a policy that outlines the criteria that students must meet in order to qualify for various honors and awards. This policy must not be discriminatory in regard to students with disabilities.
- ◆ **Can a local district or IEP team waive MSHSAA rules regarding participation in extracurricular activities for students with disabilities?**
No. The IEP team may determine that it is appropriate for a student to be on a modified grading system, and as long as the student meets the MSHSAA eligibility requirements under that system he or she may participate in extracurricular activities.
- ◆ **Can the IEP team override A+ Schools program requirements?**
No. However, it is possible that with modifications agreed upon by the IEP team, the student will be able to meet an A+ Schools requirement that he or she could not have met without the modifications. For example, a grade point average a student achieves after modifications is valid. The IEP team cannot indicate that a lower GPA for a student would qualify him/her for A+ scholarship eligibility. It is important to stress that the IEP team should not act in retrospect, but must make modification decisions prior to the completion of any coursework. Modifications to grades may not be made on an informal basis by any teacher—the decision must be made by the IEP team and documented on the IEP. Transition planning is a requirement in IDEA for all students when they turn 16 or younger if determined appropriate by the IEP Team.
- ◆ **Are students with disabilities eligible for the financial incentives associated with A+ Schools?**
Yes. As indicated in the response above, students with disabilities are eligible for participation in the A+ Schools program, and that would include the financial incentives portion of that program.
- ◆ **When must a Notice of Action for Change of Placement /Graduation be provided?**
The Notice of Action for Change of Placement/Graduation must be provided at least ten (10) days prior to graduation.
- ◆ **When must a Summary of Performance be provided?**
A summary of performance must be provided to the student not more than 60 days before or 30 days after the child is graduating with a regular diploma or leaves the educational system after turning age 21.
- ◆ **Does an IEP team need to meet prior to providing a Notice of Action-Change of Placement at the time of graduation?**
If the student meets regular education requirements for graduation, the IEP team does not have to meet, but a Notice of Action must be sent at least ten (10) days prior to graduation. However, if an IEP student is receiving his high school diploma based on the completion of all his IEP goals, the IEP team must meet to make this determination.
- ◆ **Can a district indicate on a student's report card that a grade received is based upon modifications to the classwork and/or curriculum?**
Yes. Students with disabilities should have grades transcribed in the same manner as other students; however, for students who have received grades based upon modified classwork and/or curriculum, it may be noted as such on their report cards.
- ◆ **Can a district indicate on a student's permanent transcript that a student received accommodations in a general education curriculum class?**
No. The use of accommodations generally does not reflect a student's academic credentials and achievement, but does identify the student as having a disability.
- ◆ **Can a district indicate on a student's permanent transcript that a grade received is based upon a modified or alternate education curriculum?**
In general yes. While a transcript may not disclose that a student has a disability or has received special education or related services due to a having a disability, a transcript may indicate that a student took classes with a modified or alternate education curriculum



Summary

- ◆ A local district must have a policy regarding grading, transcribing of grades, awarding of credit, and graduation of students with disabilities.
- ◆ Any specific graduation requirement may be waived for a student with a disability if recommended by the IEP team.
- ◆ Students with disabilities may be graded on modified scales, as determined by their IEP team. If this is the case, it must be indicated as such in the student's IEP.
- ◆ Students with disabilities should receive grades and have their grades transcribed the same as other students when they complete the same courses as other students with no modifications.
- ◆ Students with disabilities who have courses modified to accommodate their disability should receive grades and have them transcribed the same as other students on their report cards. Transcripts may indicate that students with disabilities have taken classes with a modified or alternate education curriculum as long as the transcript does not specifically disclose that the student has a disability. .
- ◆ Transcripts may not indicate that students with disabilities have received accommodations while taking general education classes.
- ◆ Students with disabilities who meet the goals and objectives of their IEPs will have credit transcribed in accordance with the state definition of units of credit.
- ◆ Students with IEPs may receive awards and honors according to local district policies and procedures. Local policies and procedures may not be discriminatory toward students with disabilities in this regard.
- ◆ Students with disabilities may participate in the A+ Schools program and receive any financial incentives awarded by the program, as long as they meet the requirements of the program. The requirements of the program may not be changed or waived by the local district for students with disabilities, but IEP teams can specify accommodations and/or modifications through the IEP for the student in order to enable him or her to meet the requirements of the program.
- ◆ Students with disabilities must meet MSHSAA and/or local district requirements for participation in extracurricular activities; however, the IEP team may specify that the student needs a modified grading system that would apply to the requirements.
- ◆ Students with disabilities should receive a regular High School Diploma if they have passed general education courses with or without modification or successfully met the goals and objectives of their IEP.
- ◆ Students with disabilities who have not completed requirements for graduation but have met the district's attendance requirements and reach the age of 21 (or otherwise terminate their education prior to age 21), may be awarded a Certificate of Attendance. IDEA requires that students who receive Certificates of Attendance prior to age 21 retain their right to special education services up to age 21.
- ◆ Since the GED is not a regular diploma, it does not end the right to FAPE.





FOR MORE INFORMATION

Questions regarding students with disabilities, call the Division of Special Education—Compliance Section at (573) 751-0699 or by e-mail at webreplyspeco@dese.mo.gov.

Questions regarding 504, contact:

Office for Civil Rights, Region VII

8930 Ward Parkway

Suite 2037

Kansas City, MO 64114

Phone: (816) 823-1404

On-line: <http://www.ed.gov/about/offices/list/ocr/index.html>

Graduation Requirements for Students in Missouri's Public Schools:

<http://dese.mo.gov/divimprove/sia/gradindex.htm>.



**Missouri Department of Elementary & Secondary Education
Division of Special Education**

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