

Students - Placement of Students with AIDS

The following are excerpts from, "Placement of School Children with Acquired Immune Deficiency Syndrome (AIDS)," U.S. Department of Education, Office for Civil Rights, www.ed.gov/offices/ocr.

OCR Policy on the School Placement of Children with AIDS

Children with AIDS are handicapped persons. Section 504 prohibits discrimination against persons with handicaps in federally assisted programs such as elementary and secondary schools.

Where Should Children with AIDS Be Educated

Most children with AIDS can attend school in the regular classroom without restrictions. There has been no medical evidence disclosed to show that AIDS is contagious in the school setting. According to the latest medical information, there have been no reported cases of the transmission of the AIDS virus in schools. The Surgeon General and other health authorities, such as the Centers for Disease Control and the American Medical Association, have reinforced this position stating that there is no significant risk of contracting AIDS in the classroom.

If a parent or school official believes that a child with AIDS needs related services or placement outside the regular classroom, Section 504 requires an evaluation and placement process to determine the appropriate educational setting for a child with AIDS. However, a full educational evaluation is not required when neither the school officials nor parents believe that a child is in need of special education or related services.

If an evaluation is necessary, Section 504 requires the following procedures. Placement determinations are to be made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options available. The group may include the child's physician, public health personnel, the child's parent or guardian, and personnel familiar with all possible educational services. The group would draw upon information from a variety of sources, such as tests, teacher recommendations, and assessments of the child's physical condition.

In making placement decisions, the information needed by the placement team varies with the handicapping condition. In the case of children with AIDS, the placement group must have the benefit of the latest reliable public health information with regard to the risks that the disease entails. This information would be considered along with information on the child's medical condition, behavior, and so forth. In each case, risks and benefits to both the infected child and others in the setting should be weighed.

A Child with AIDS Has a Right to Section 504 Procedural Safeguards

Section 504 requires elementary and secondary school districts to provide a free appropriate public education for handicapped students that includes evaluation and placement procedures, and a system of procedural safeguards that includes notice to parents or guardians of their rights under the law, an opportunity for the child's parents or guardians to examine relevant records, an impartial hearing with an opportunity for participation by the parents or guardians and representation by counsel, and a review procedure.

A Child with AIDS Has a Right to Confidentiality

Under Section 504, singling out children handicapped with AIDS for treatment that differs from that provided to non-handicapped children or children with other handicaps with respect to confidentiality would constitute different treatment on the basis of handicap, and would be a violation of the regulation.

This provision would not affect State and local public health rules regarding the duty of school districts to report specified diseases to public health departments. However, when reporting any cases of AIDS to public health authorities, school districts should convey such information in a manner that respects the privacy of the individual and the confidential nature of the information, in the same way that information about other diseases is treated.