



NewsLine

The Federation for Children with Special Needs

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Jonathan Mooney's Keynote Highlights the 2004 Federation Conference

It was neither Mother's Day nor Teacher Appreciation Day, but Jonathan Mooney's keynote address to the over 600 attendees at the Federation's Annual Conference at the World Trade Center in Boston on March 20, 2004, was in praise of mothers and teachers. Johnathan acknowledged all the parents in the audience and, using colorful examples of how his own mother interacted with his teachers and school administrators, emphasized the importance of parent's involvement in their children's education. While his own mom was a tremendous advocate, her methods were, at times, not always respectful. Jonathan cautioned the audience about the importance of

building respectful, cooperative relationships with school personnel. When interacting with teachers, he reminded parents to set a positive tone by identifying what is working for the student. Then, avoid laundry lists of things that are not working. Pick the single biggest issue and work together to figure out a plan. Jonathan also sang the praises of compassionate teachers who are able to recognize the unique talents of their students and take approaches to learning that are not always accepted by schools, hospitals and other institutions.

Jonathan Mooney is a young man with dyslexia. He did not learn to

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Several state agency officials participated in this year's Federation conference. Pictured (from left to right): John Chappell, Deputy Commissioner, MA Rehabilitation Commission; Robert Wentworth, Director Adolescent and Residential Services, MA Department of Social Services; David Driscoll, Commissioner, MA Department of Education; Ardith Wieworka, Commissioner, MA Office of Child Care Services; Rich Robison, Executive Director, Federation for Children with Special Needs; Gerald Morrissey, Jr., Assistant Secretary, Executive Office of Health and Human Services and Commissioner, MA Department of Mental Retardation; and Ed Dolan, Deputy Commissioner, MA Department of Youth Services. Also attending, not pictured, Joan Mikula, Associate Commissioner, MA Department of Mental Health.

Excerpts from:

Section 504, the Americans with Disabilities Act, and Education Reform

(Read the entire article on-line at www.fcsn.org/peer/ess/esshome.html)

Key Concepts Under Section 504 and the ADA

Section 504 of the *Rehabilitation Act of 1973* and Title II of the *Americans with Disabilities Act (ADA)* are broad civil rights statutes designed to promote equal access to and participation in programs and services. These laws require that students with disabilities receive benefits and services comparable to those given their non-disabled peers. Specifically, these laws make it illegal for schools to discriminate on the basis of disability by:

- Denying a student the opportunity to participate in or benefit from a benefit or service,
- Providing an opportunity to participate or a benefit that is unequal to that provided others,
- Providing a benefit or service that is not as effective as that provided to others,

- Providing lower quality benefits, services or programs than those provided others, or
- Providing different or separate benefits or services, unless it is necessary to provide benefits or services that are as effective as those provided to others.¹

The Section 504 regulations require that school systems receiving federal funds provide a free appropriate public education to children with disabilities in accordance with the Section 504 requirements regarding least restrictive setting, evaluation and placement, and procedural safeguards. FAPE under Section 504 means that the education provided to students with disabilities must meet those students' needs as adequately as the needs of non-disabled students are met.²

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Special Pull-out Section from Parents' PLACE:

Pointers: School Report Cards

Also available in Spanish and Portuguese and online at pplace.org

Legislative Update: IDEA

On May 13, 2004, the U. S. Senate voted to reauthorize S. 1248, the Individuals with Disabilities Education Act (IDEA). There were 95 votes in favor of the reauthorization. Senators Jeffords (I-VT) and Leahy (D-VT) voted against the bill because it did not include a mechanism for mandatory full funding; Senator Stabenow (D-MI) was only other opposing vote.

The Senate considered the bill for two days and approved the following five amendments:

1. Senator Gregg's amendment will increase Federal funds for services under IDEA to 40% by 2011.
2. Senator Clinton's amendment requires the Department of Education to participate in a study to determine the relationship between environmental health factors and developmental disabilities in children.
3. Senators Gregg, Enzi and Grassley's amendment allows school districts to collect fees if a court finds that the parents' claim is frivolous or groundless or brought with an

improper purpose, although attempts to cap parent's attorney's fees were thwarted.

4. Senator Murray's amendment will make it easier to ensure timely provision of services to children who are homeless, in foster care or who are disabled, when they transfer to a new school district.
5. Senator Santorum's amendment authorizes 15 states to participate in pilot demonstration projects to reduce the amount of paperwork associated with special education.

The next step in the reauthorization process is for S. 1248 to be considered by the Conference Committee, where senators and representatives will discuss the differences between the Senate and House versions of IDEA and come to an agreement about the final version.

For a full report, and updates about the progress if the reauthorization, visit the Federation website at www.fcsn.org.


Student Rights in Post-Secondary Settings

Many parents never thought their child with special needs would be able to attend college or university. Medical advances and better civil rights laws equal better opportunities for our children with disabilities who want to continue their education after high school (secondary education). Post-secondary schools (these include 2 and 4 year colleges, universities, and vocational and career schools) that receive funding from the U.S. Dept. of Education (DOE) are obligated to provide academic adjustments, including auxiliary aids and services, to ensure they do not discriminate on the basis of disability.

Up until the transition to a post-secondary setting, it was the school's responsibility to identify students with disabilities and work with a team (including the parents) to develop an IEP (Individualized Education Program). In post-secondary schools, the student must know what his/her needs are, document them, and be responsible for following the procedure laid out by the school to request the services and supports s/he needs.

The Office for Civil Rights has prepared a pamphlet so students with disabilities who want to attend post-secondary schools will know their rights and responsibilities, and the responsibilities of the school towards the student. This pamphlet, entitled "Students with Disabilities Preparing for Post-Secondary Education: Know Your Rights & Responsibilities," is available online at www.ed.gov/ocr/transition.html or by calling 1-877-4-ED-PUBS.

Another excellent resource to help prepare high school students (and their parents) for transition to college or university is the National Center on Secondary Education and Transition website at www.ncset.org. This site, funded by a grant from the U.S. DOE, Office of Special Education Programs (OSEP), provides information and technical assistance to help youth with disabilities successfully transition to a post-secondary school. There is information about teaching and learning, transition planning and family participation, in addition to other publications. There is also a listing of resources by state.



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From the Executive Director

The Federation: A Uniquely Parent Perspective!

On July 12, 1972, Massachusetts Governor Francis Sargent signed the Bartley-Daly Act into law, flanked by co-sponsors and members of the Massachusetts Coalition for Special Education who had worked tirelessly through an extended policy-making process.

This Act, more commonly known as Chapter 766, was the first comprehensive special education reform law in the country. It was, and is, intended to ensure that every child between the ages of 3 and 21 who has special needs would receive a free public education appropriate to the needs of each individual child. The law replaced categorical disability labels with the designation 'children with special needs' and clarified that the local school is responsible for providing special education. It required local schools to screen children, beginning at age 3, in their communities to identify any concerns and provide appropriate evaluations for students with a disability or developmental delay. It required local schools to inform parents about, and involve them in, the process of developing an Individualized Educational Plan for their child.

Massachusetts began implementing Chapter 766 during the 1974-75 school year. The federal government would follow suit that same year with the passage of Public Law 94-142, known today as the Individuals with Disabilities Education Act (IDEA), which established these same rights for children with special needs throughout the nation.

Martha Ziegler, then President of the Massachusetts Coalition for Special Education, announced that, "Consumers, parents and advocates would continue to function after the passage of the Massachusetts legislation to assist in every way necessary in the implementation of the bill." What was to follow was the creation of a strong parent training and advocacy organization known as the Federation for Children with Special Needs, incorporated in 1974 as a coalition of 10 parent groups representing children with a variety of disabilities.

Parent advocates like Martha Ziegler established the Federation as 'a forum to serve parents'. In a 1974 interview, Martha stated, "There were strong interest groups that were concerned about their own needs and feared giving up their turf. There was a need for a solid organization that would give parents credibility." According to Bander, in her *History of Special Education* (1982), parents of children with disabilities, particularly in

Massachusetts, gained national prominence and visibility because of their vocal membership, parent training programs, and statewide conferences to support parents in their efforts to learn about special education laws and programs to support their children's education.

Today, parents are not only expected to participate in their child's educational programs and healthcare, but also invited to participate in policy-level discussions about these services. In order to be effective, parents need to know their rights under the law and how to exercise those rights in the face of various stakeholder priorities and the concerns of local, state and federal governments.

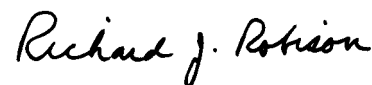
Today, parents are not only expected to participate in their child's educational programs and healthcare, but also invited to participate in policy-level discussions about these services. In order to be effective, parents need to know

their rights under the law and how to exercise those rights in the face of various stakeholder

priorities and the concerns of local, state and federal governments. The individual needs of a child with special needs remain preeminent and it is the parents who must speak on their children's behalf.

Using a parent helping parent approach, the Federation has helped empower parents to speak out on behalf of their children. When a parent calls for assistance, the listening ear on the other end of the phone is someone who understands, because he or she has been there.

For the past 30 years, the Federation has distinguished itself for its focus on parents as advocates, leaders and voices of those who would otherwise go unheard. For all of these reasons, we should be very proud! And personally, I am proud to be associated with the Federation as we embark on the next 30 years and hope that when it is again time to look back, we will still stand with pride on our record of accomplishment.



Richard J. Robison



Richard Robison

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Kotin, Crabtree & Strong is a general practice law firm one of whose specialties is in law relating to children, including education and child care issues. Other areas of practice include disability issues, civil and criminal litigation, personal injury law, estate planning and administration, intellectual property, corporations, including representation of private schools and programs, child care and other organizations, real estate, taxation and mediation.

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Mooney Highlights Conference

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read until he was 12 years old. Today, Jonathan is a graduate of Brown University, with an honors degree in English literature. He is a writer, an international speaker and cofounder of Project Eye-to-Eye, a mentoring program for students with disabilities.

In addition to his mother's advocacy efforts and her involvement in his education, Jonathan's success is also due to academic accommodations he received. However, his mother didn't define his worth solely by his success at school. She understood the law of

diminishing returns and was able to help her son balance remediation with empowerment. This is something we all need to remember, as there will be times when academic accommodations do not work.

Conference attendees had their choice of 30 workshops on topics ranging from advocacy to writing measurable goals. No one went home empty-handed, as the rooms and halls of the World Trade Center were filled with flyers, brochures, other information and gifts from 64 exhibitors.



Commissioner Ardith Wieworka

The Massachusetts Office of Child Care Services is Here to Help You

*A message from Commissioner Wieworka,
MA Office of Child Care Services*

Are you trying to navigate the child care system? Does your child need a residential program to address his special needs? Do you need child care for your little one? Have you finally decided to pursue adoption but don't know where to go or what's the difference between all those agencies? If you have a child related question in these areas, we can help!

The Office of Child Care Services (OCCS) is a state government agency dedicated to helping children and families meet their needs. When you have questions, we have answers.

Our mission is to promote a strong and flexible system of child care that benefits children, families and communities. We are also committed to overseeing a safe, educationally beneficial and thoughtful system of residential care for children who can no longer remain at home. And finally, if you need assistance understanding the foster care placement system or adoption agencies, we regulate their business and can help you.

Our agency partners with many child-focused groups, including Parents For Residential Reform, a group dedicated to ensuring that families have the information they need to make that most difficult decision—to place a child in a residential setting,

We are proud of our efforts in working with such impressive groups, and making your child's interests our first priority.

In addition to being able to give you the licensing histories on all these programs that serve children, our website at www.quality-childcare.org contains a wealth of information. You'll find a search engine to locate child care, school-age or residential programs in your area. You can review information about OCCS regulations; you can read important and timely articles about the health and safety of children, as well as important principles of child guidance. We can inform you about how to start a program, get licensed, and the training opportunities that are available. Don't miss our grant program where providers of children's services can apply for funding to improve their programs.

Everything we do is to benefit children and to keep them safe. Call us at 617-988-6600 and we will answer your questions in person. Visit us at one of our five regional offices, or visit us on-line. We are public servants dedicated to helping you. We are proud of our government work and look forward to doing more each day to support you and your family.



Keynote speaker Jonathon Mooney graciously signs his book *Learning Outside the Lines* for conference participants.



Conference participants enjoy a chance to network over lunch.

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It's summer and the school year is ending. This transitional time can be stressful for both children and their parents. Are you feeling frustrated, overwhelmed, anxious, or isolated in your role as a parent or guardian?

Parents Helping Parents (PHP) offers free, confidential and anonymous weekly support groups for parents throughout Massachusetts. Share experiences and get support and encouragement from other parents who have similar concerns. Many of our groups offer free childcare. To find out more about PHP and to locate a group near you, call 1-800-882-1250, or visit www.parentshelpingparents.org.

Grupos de apoyo para padres en Lawrence y Fitchburg. Eres un padre o una madre que se siente agobiado(a), aislado(a) o estresado(a)? Te gustaría tener el soporte y las palabras de aliento de otros padres? Nuestros grupos son gratis, confidencial y anónimos. Para saber más acerca de Padres Ayudando a Padres, o para saber más sobre el grupo de Lawrence, llame a Elizabeth a 978-794-3949, o el grupo de Fitchburg, llame a Glenda a 978-342-2069, o visite nuestra pagina del web: www.parentshelpingparents.org.

Partners Online for Youth with Disabilities

Partners for Youth with Disabilities (PYD) is a mentoring organization for youth with physical, sensory and learning disabilities. PYD offers both individual and group opportunities for youth with disabilities to participate in educational, skill-building programs where they can learn independent living skills, self-advocacy, and career development. These programs not only help youth build skills, but also provide opportunities for socialization, leadership, community service, healthy living and other activities.

What is Partners Online (POL)?

POL is an online mentoring program that matches youth with disabilities, ages 14–24, with adult mentors who have similar disabilities. Through the use of technology, there are opportunities for sharing resources, advice and encouragement. In addition, POL helps youth learn the technology skills that are so important to the educational and professional pursuits of all people, especially individuals with disabilities.

Mentors undergo a rigorous screening process before they are matched with a youth. After screening and orientation, mentors are expected to:

- Contact their mentee via email at least once a week,
- Chat, Instant Message or phone their mentee at least once a week,
- Get together with their mentee once every three months.

PYD will provide mentors and mentees with the training and accommodations they need for email, instant messaging and chats, which occur in a secure environment, monitored by PYD staff.

If you are interested in being either a mentor or mentee, or just want to learn more about POL and other PYD programs, visit www.pyd.org, or call Susan Nicastro at 413-534-4479.

The Federation's Julie Sinclair wins Award for Her Service



Julie Sinclair, who staffs the PTI in the West, accepts an award for Outstanding Service to Families from Community Resources for People with Autism. Also pictured is Doug McCallum, Director of Family Support Services for the Department of Mental Retardation.

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Section 504 and Public Access

by Betsy Anderson

Section 504 of the Rehabilitation Act was passed in 1973, though the regulations were not finalized and publicized until 1977. The delay was to ensure that the language, concepts and intent of Section 504 were consistent with the Education for All Handicapped Act (known today as IDEA, the Individuals with Disabilities Education Act), which passed in 1975.

In a nutshell, Section 504 prohibits discrimination on the basis of disability in programs and activities that receive Federal financial assistance, or those funds will be withdrawn. This means all programs, not just educational programs, must provide individuals with disabilities reasonable accommodations so they can access programs and activities.

People knew about these laws, but it took time for many groups and organizations to figure out how to apply Section 504 in their settings.

For example, in the late 1970's the Boston Children's Museum created a committee to address their new responsibilities under Section 504. This was a major undertaking, because prior to the enactment of Section 504, no one took into consideration how many facilities were used by people with disabilities. To the museum's credit, they even included parents of children with disabilities and adults with disabilities on this committee. On behalf of the Federation, I served on the committee - an exciting and galvanizing experience!

Today Children's Museum in Boston is an accessible, family friendly place. It's hard to imagine there was a time when the museum staff did not consider how adults and children with disabilities would access the activities and programs at the museum. They even created a booklet to assist other museums in their implementation of accommodations for individuals with disabilities. Excerpts from the booklet* are provided below:

"We could see that the few special needs groups and individuals coming to the museum were not always having a good visit. We were not special educators, we were museum educators and we knew a bad visit when we saw one. At the time, the museum was inaccessible."

"All of our staff developed an increased sensitivity to the needs of disabled visitors, and most importantly, they lost some of their fear."

When a new program was developed, "Special needs groups . . . had to be invited because special educators didn't necessarily know their kids would enjoy or be welcome at a museum."

"We learned by doing. We found out that the things we feared didn't necessarily happen, and if they did, that we could handle and survive them, if we were only brave enough to take the initial risk. We also found that that there was a lot of satisfaction in overcoming our hesitation

and reaching out to a new audience. And finally, we learned that experience with all kinds of visitors made us better educators and exhibitors in general."

On a personal note, at around this same time, my son was enrolled in an art class at the Museum of Fine Arts (MFA) when he was suddenly hospitalized at Children's Hospital. This museum and hospital were two institutions that were also impacted by Section 504. I spoke with MFA staff about accommodations they could provide so my son could continue to participate in the class. They decided to bring the class to him by walking the 2 blocks to the hospital. Then they thought not only about accommodating my son, but also about what else they had to offer that could enrich the hospital environment. In no time at all, my son was selecting prints to hang in and around his room; he began receiving materials and instructions for his art class; and he and his roommates, none of whom could leave their beds, were working on parts of a totem pole, which was then assembled and hung in their room!

Any of these things might have happened on their own, but the reality was that there was no history of accommodation for people with disabilities, no models for what to do or how to do it, and no sense of entitlement among adults or families of children with special needs. Section 504 was a wonderful impetus!

*Excerpts from: *Is There Life After 504? A Guide to Building and Program Accessibility* from the Children's Museum, Boston. Janet Kamien, Amy Goldbas, Susan Porter. 1980.

Seção 504 continuação da página 10

e um papel, para mostrarem seu entendimento de geometria, enquanto outros alunos podem requerer uma avaliação do tipo portfólio.

Endnotes

1. 34 C.F.R. §104.4(b)(1) (§504 regulation); 28 U.S.C. §35.130(b)(1) (ADA regulation).
2. 34 C.F.R. §104.33.
3. See 42 U.S.C. 12131(2); 34 C.F.R. 104.4(b); 28 C.F.R. 35.130(b)(7); *Alexander v. Choate*, 469 U.S. 287, 300-01 (1985); *Thomas v. Davidson Academy*, 846 F. Supp. 611 (m.D. Tenn. 1994).
4. Além disso, as emendas da Lei Educacional Para Indivíduos Portadores de Deficiência, de 1997, exige que os estados desenvolvam "objetivos de rendimento e indicadores" para crianças portadoras de deficiência, que sejam consistentes, apropriados ao máximo, com os padrões fixados pelo estado para todos os alunos. 20 U.S.C. §1412(a)(16).

La Sección 504 continuado de página 11

para los materiales que están en una forma diferente (por ejemplo materiales escritos en Braille o una persona que lea el examen). Un numero pequeño de estudiantes puede requerir una clase diferente de evaluación (una evaluación alternativa) para demostrar su conocimiento y sus habilidades en una manera que no sea discriminatoria. Por ejemplo, algunos estudiantes pueden necesitar una evaluación "haciendo modelos de las cosas" en vez de tener una evaluación con papel y lápiz para demostrar su conocimiento sobre geometría y algunos estudiantes pueden requerir la evaluación de la carpeta o fólder con el cual han estado trabajando durante el año.

1. 34 C.F.R. §104.4(b)(1) (§504 reglamento); 28 U.S.C. §35.130(b)(1) (ADA reglamento).
2. 34 C.F.R. §104.33.
3. Veá 42 U.S.C. 12131(2); 34 C.F.R. 104.4(b); 28 C.F.R. 35.130(b)(7); *Alexander v. Choate*, 469 U.S. 287, 300-01 (1985); *Thomas v. Davidson Academy*, 846 F. Supp. 611 (m.D. Tenn. 1994).
4. Además, las enmiendas a la Ley para la Educación de Individuos con Discapacidades en 1997 requiere que los estados desarrollen "metas e indicadores de rendimiento" para niños con discapacidades que estén conformes con la máxima extensión apropiada y con las normas establecidas para todos los estudiantes por el estado. 20 U.S.C. §1412(a)(16).

Frequently Asked Questions

About Section 504

Information within this document pertains to Section 504 of the Rehabilitation Act of 1973.

What is Section 504?

Section 504 of the Rehabilitation Act of 1973 is the first civil rights law guaranteeing equal opportunity for persons with disabilities. It says:

No otherwise qualified handicapped individual... shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

What programs does Section 504 cover?

Examples of programs which receive Federal financial assistance, and which are therefore prohibited from discriminating under Section 504 include: public and private schools and colleges; mass transit systems; medical facilities; welfare, social service programs; legal services and housing programs.

Who is protected under Section 504?

Individuals protected by Section 504 are defined generally as "any person who:

- Has a physical or mental disability, which substantially limits one or more major life activities,
- Has a record of such impairment, or
- Is regarded as having such impairment."

Protection from discrimination under Section 504 entitles a student who has a disability to receive special accommodations in elementary and secondary education, as well as related services, in order that he/she may have access to the general curriculum. All services are designed to meet the individual educational needs of the student. Depending upon the student's individual needs, the school may be required to provide specialized instruction, adaptive equipment, assistive technology devices, or an aide. Related services can include speech therapy, occupational therapy, physical therapy, counseling, or transportation. In employment matters, the individual would have to be able, with reasonable accommodation by the employer, to do the essential functions of the job.

How does Section 504 allow students full access to publicly funded education?

Section 504 does not allow schools to exclude any student from academic or non-academic programs or activities or deny them services

just because their facilities or equipment are not accessible to individuals. This applies not only to architectural barriers such as stairs or small bathrooms, but also to communication barriers for students who are blind or deaf as well as barriers for children with medical problems such as asthma.

In this regard, schools are required to make structural modifications to their existing facilities when there are no other equally effective ways to make services available to their students with disabilities. This means the school may have to remove barriers, may have to add ramps, ensure that computers, tape recorders, TTYs are available, and adapt work areas. Non-structural changes could involve moving an office or a class to the first floor, instead of installing an elevator.

Furthermore, an organization may not make only one facility or part of a facility accessible if the result is to segregate students with disabilities into a single setting. Students with disabilities must have the same range of selection as all the other children in terms of quality and variety of programs and services being offered.

What is a 504 Accommodation Plan?

Section 504 entitles a student with a disability access to a Free and Appropriate Public Education. Under Section 504, eligible students receive access to special or regular education and related services designed to meet their individual needs. Special accommodations may be provided to allow access to special or regular education and related services. Examples of these special accommodations are preferential seating, extra time when taking an examination, or oral testing. It is important to remember that a student is eligible for an IEP if related services are needed for the student to have access to the general curriculum.

In addition, school districts must ensure that students with disabilities have meaningful opportunities to participate in all activities within the school on an equal basis with students without special needs. This would include special accommodations such as an aide or transportation involving non-academic and extra-curricular activities.

A student with a disability may be entitled to services under Section 504 even if he/she has been deemed ineligible for special education under criteria established by the Massachusetts Special Education Regulations.

In this instance, the student would not be considered eligible for an Individualized Education Program (IEP) but may be entitled to services under a 504 Accommodation Plan. All services must be provided at no cost to the parents except for fees that parents of children without disabilities must pay.

How are 504 Plans and IEPs alike, and how are they different?

Similarities

- Comprehensive evaluation
- Related services as necessary
- Accommodation on standardized testing
- Parental participation

Differences

- Limited discipline protections
- No transition plan
- No written plan required
- No progress report

Progress reports are not required under 504 Accommodation Plans. However, if parents disagree with any aspect of a 504 plan, they do have similar rights under due process as they have under special education law.

What if I disagree about a 504 Plan?

If you disagree with:

1. The decision to place your child on a 504 Plan rather than on an Individualized Education Program (IEP) Plan,
2. The contents of a 504 Plan, or
3. The decision to not provide a 504 Plan, you have the right to due process. You can request a mediation and, if necessary, a hearing, through the Bureau of Special Education Appeals (BSEA), 250 Main Street, Malden, MA 02148, (781) 338-6400. As noted, the 504 Accommodation Plan does not have to be in writing. Therefore, possible disagreements present a strong argument for ensuring that if services are going to be provided through a 504 Plan, those services should appear in writing.

If you disagree with the decision of the BSEA, you have the right to appeal the decision through Federal District Court.

If you feel that the school district has not followed the 504 Regulations, you may file a complaint with the U. S. Department of Education, Office for Civil Rights, John W. McCormack Building, Room 701, Boston 02109, (617) 223-9692; TDD (617) 223-9695, FAX: (617) 223-9669.

Should My Child Have an IEP or a 504?

The Parent Training and Information Center at the Federation receives many requests for assistance from parents about whether an IEP (Individualized Education Program) or a 504 Accommodation Plan is best for their child. In order to decide, it is important to have an understanding of common terms such as disability, accommodations, specially designed instruction, related services, and access to the general curriculum. The next step is to apply these terms to the needs of the student. The beauty of the special education and rehabilitation laws are that they inspire and require us to write plans that are specific to the individual student. Therefore, whichever plan is most appropriate for the child will list the supports, services and accommodations that are most likely to result in the student's academic success and his/her ability to demonstrate what has been learned.

504 Accommodation plans do not include measurable goals. If a student needs just a 504 Accommodation Plan, parents are encouraged to establish an on-going dialog with the individual teachers to see if the accommodations are being implemented and if they are working for the child. Students are not the only ones who need support. It is also important to know if the accommodations are working for the teacher and to know what supports the teacher might need to implement the accommodation. For example, if the child needs a scribe, is one being provided? Talk with the teachers and see what method of communication works best. Some suggestions include: weekly phone calls, e-mail exchanges, monthly meetings, or providing a checklist that the child or teacher fills out on a periodic basis.

	IEP	504
Student does not have a disability . ¹		
Student has a disability ¹ and accommodations ² have been identified but student does not require specially designed instruction . ³		●
Student has a disability ¹ and a related service ⁴ area has been identified as a needed support. This related service provides the student with access to the general curriculum . ⁵	●	
Student has a disability ¹ and requires both accommodations and specially designed instruction ³ in order for him/her to make progress in the general curriculum.	●	The 504 accommodations are written into the IEP, so a separate 504 Plan is not needed.

TERMINOLOGY:

1. Disability: A "School age child with a disability" is a child in a public or non-public school setting who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services. This includes a school age child who requires only a related service, or related services, if said service or services are required to ensure access to the general education curriculum.

For a detailed definition for each disability category visit www.doe.mass.edu/sped/2001/eligibility.pps

2. Accommodations: An *accommodation* allows a student to complete the same assignment or test as other students, but with a change in the timing, formatting, setting, scheduling, response and/or presentation. Accommodations do not alter in any significant way what the test or assignment measures. Accommodations include:

- Classroom modifications
- Special transportation arrangements
- Assistance with health or medical conditions
- Accommodations related to physical access

- Accommodations that make it possible for a student with a disability to participate in all aspects of school on an equal basis with students who do not have disabilities

A detailed list of accommodations can be found at www.wrightslaw.com/info/sec504.accoms.mods.pdf

3. Specially designed instruction: Adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction

- To address the unique needs of the child that result from the child's disability; and
- To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

4. Related services: Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. This includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and

medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

5. Access to the general curriculum:

According to the state and local frameworks, students with disabilities are taught the same curriculum as the general population of the school. There is one core curriculum for all students.

- All classes are open to every student including shop and home economics.
- Special educators specially design instruction to meet the needs of students with disabilities by accommodating special needs and modifying content, teaching methods, and assignment requirements. Regular and special educators, as well as school staff, then apply the accommodations and modifications to the curriculum and school life.
- Students with disabilities are fully integrated into all facets of school life. All services and activities are open to everyone. This includes guidance programs and post-secondary planning, after school activities/sports, dances, student government and clubs.
- Access to the general curriculum does NOT include different instructional content or separate after school activities.

School Report Cards

Parents, report cards aren't just for kids anymore!

Under the **No Child Left Behind Act (NCLB)**, you as parents now receive a new kind of report card that tells you how well the school is doing educating your children. These report cards are different from the report cards teachers send home during the year. They are also different from the reports that let you know your children's scores on the Massachusetts Comprehensive Assessment System (MCAS) tests. Those reports tell you how your child is doing. **School report cards** tell you how your child's **school** is doing.

Why are school report cards important?

Parents can be an important force for changing schools for the better. School report cards give parents and the public vital data they can use to make good choices for their children and to help schools improve.

The school report card (and cover letter) will tell you if your child's school must offer certain options. For example, struggling students in low-performing schools may be eligible for FREE tutoring services.

What's in the report cards?

NCLB sets specific rules that each state must follow for what

they have to include in school report cards. Schools may also include additional information. Although they may differ from school to school and from district to district, Massachusetts school report cards are generally divided into three parts:

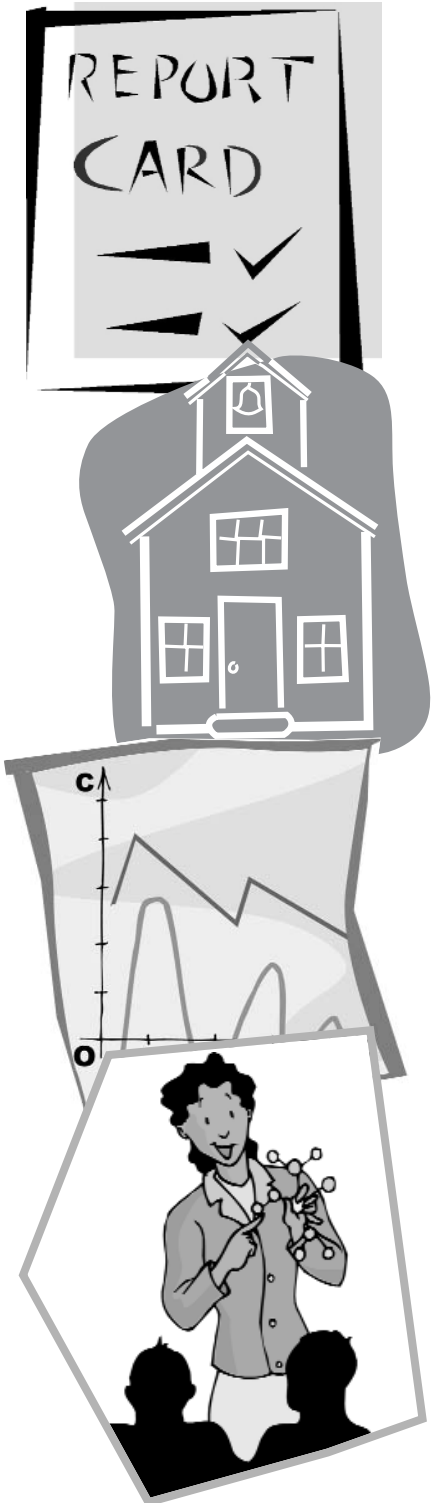
Part I: Teacher Qualifications

This section gives data about two important standards:

1. the percentage of teachers who are "certified" or "licensed" to teach in Massachusetts, and
2. the percentage of teachers who are "highly qualified" to teach in the **core subject areas**: mathematics, science, reading, history, English language, foreign languages, economics, civics and government, geography, and the arts.

"Highly qualified" means that the teacher has taken enough courses to teach a subject effectively. This change is important because, in the past, teachers who were qualified to teach one subject could be assigned to teach in other areas.

NCLB says that teachers for all core subjects must be "highly qualified" by the end of the 2005-2006 school year.



Part II School Achievement in Mathematics and Reading

This section tells you how well the students in your school did on the last round of MCAS tests for math and reading. This data is usually given in a chart form. NCLB requires that the data be broken down by grade level, subject area, and the overall performance of these different groups in the school:

- All students
- Students with limited English proficiency

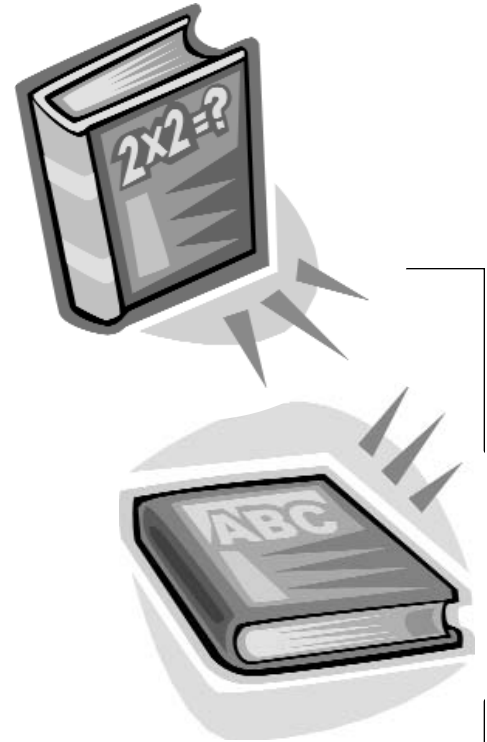
- Students with disabilities
- Students from different racial and ethnic groups
- Gender
- Low-income status
- Migrant status

This section shows you how the school district and the state did overall on the MCAS reading and math tests. Thus, you can compare your school's rating to those of the district overall and the state.

MCAS performance results show the percentage of students

who scored at each of the four performance levels:

- Advanced (A)
- Proficient (P)
- Needs Improvement (NI)
- Warning/Failing (W/F)



Let's take a look at how a school might report its Grade 8 Mathematics data:

This school's report card shows that: 124 students in regular education took the 8th grade mathematics MCAS. These 124 children account for 95% of the students in 8th grade regular education at the school. Of these 124, 2% scored in the Advanced range on the test, 18% in the Proficient range, 31% in the Needs Improvement range, and 50% in the Warning/Failing range.

Anytown Middle School Mathematics

Grade 8

	Participation		% Students at Each Performance Level			
	#	%	A	P	NI	W/F
STUDENT STATUS						
Regular	124	95	2	18	31	50
Disabled	76	93	1	0	9	89
Limited-English Proficient	59	95	0	8	10	81
RACE/ETHNICITY						
African American	86	96	0	3	24	72
Asian/Pacific Islander	2	NA	NA	NA	NA	NA
Hispanic	105	98	1	5	20	74
Mixed or other						
White	53	88	4	32	17	47
FREE LUNCH	190	97	0	9	20	71
ALL STUDENTS	246	95	1	11	21	67
DISTRICT	4828	98	1	11	21	67
STATE	78456	99	12	25	30	33

* NA means "not applicable." MCAS results for groups with fewer than 10 students are not shown in order to protect student confidentiality.

If this were your school's report card, you would be able to tell that:

- 3% of African-American students, 5% of Hispanic students, and 32% of White students received scores in the Proficient range.
- 1% of the school's students got scores in the Advanced range, as did 1% of the District's students overall, and 12% of the State's students overall.

Part III

Adequate Yearly Progress (AYP) Status

This section tells you if your school made “adequate yearly progress.” “Adequate yearly progress,” or AYP, is a new term for most of us. It is a measure of progress toward an important goal set by NCLB. The goal is that *all* students will be proficient in reading (English language arts or ELA, in Massachusetts) and mathematics by the year 2014. **Adequate yearly progress is a description of how well the school is doing each year to meet the 2014 proficiency goal.**

Students’ scores on MCAS tests in both English language arts (ELA) and mathematics are used to judge AYP. High schools must also use graduation rates. Elementary and middle schools must use attendance rates.

Because AYP is a measure of change, schools with low MCAS scores may still make AYP.

A major goal of NCLB is to close the achievement gap for minority students, low-income students, students with disabilities, and students with limited-English proficiency. Therefore, each group of students must make progress toward the goal. Even though a school might do well educating *most* students, it will not meet AYP unless *all groups of students* are making progress.

This graph shows that this school **DID NOT** make AYP in 2003. Why? It *did* make AYP for ELA in the aggregate (average

Adequate Yearly Progress History										
Students	English Language Arts					Mathematics				
	1999	2000	2001	2002	2003	1999	2000	2001	2002	2003
Aggregate	No	No	Yes	Yes	Yes	No	No	No	No	Yes
All subgroups	N/A	N/A	N/A	N/A	Yes	N/A	N/A	N/A	N/A	No

of all the students), and for each and every subgroup. But it *did not* make AYP in mathematics in 2003, because not every subgroup made AYP. A quick way to see if a school made AYP for the most recent year is to look at the two boxes (*aggregate* and *all subgroups*) for ELA and the 2 boxes for Mathematics for the last year. A “No” in any of those 4 boxes means that the school did not make AYP.

Parent Options

All parents whose children attend Title I* schools should pay close attention to whether or not the school made AYP. NCLB gives special options to parents when schools do not meet AYP.

- **Option to Transfer:** A Title I school that does not meet its AYP goals for two or more years in a row is called a school “in need of improvement.” These schools must give their students the option to transfer to a school that has made AYP. The school district must also provide transportation to the new school for eligible students. This option continues until the school has improved.
- **Free Tutoring:** Title I schools that do not make AYP for three or more years in a row must also pay for some students to receive “supplemental

educational services.” These services can be tutoring or other academic help, outside school hours. Although schools must tell parents if the school must provide supplemental services, **it is up to parents to ask for them.** While not every student will be found eligible, parents should still ask.

The letter that comes with the report card should state very clearly whether or not students in the school have the option to transfer or if they are eligible for supplemental educational services (free tutoring).

Parents of students in special education programs should also note that some special rules apply. As with all students, the U.S. Department of Education expects that students with disabilities will progress academically along with other students. However, it allows schools to calculate the scores of some students with significant cognitive disabilities using modified criteria. This rule applies to only 1 percent of the students being tested. Thus, these students benefit from NCLB’s charge that *all* students learn to high standards. At the same time, by using the modified criteria, schools will still be able to meet AYP.



* Title I provides federal funding for schools to help students who are behind academically or at risk of falling behind. Funding is based on the number of low-income children in a school, generally those eligible for the free lunch program. NCLB has special rules for Title I schools.

Action Pointers

Parents and community members can use the report cards as a useful tool for improving schools. You can use them to ask questions, advocate for additional support, and generally get more involved with your local school. Here are some questions to get you started:

► Did you get your school report card?

The Massachusetts Department of Education is asking districts to release school report cards in the Spring. Most schools send them home with the students.

If you don't get a copy of your school's report card, ask the school for a copy.

► Is the school report card easy to understand?

School report cards should be clearly written and easy to understand. If you have trouble understanding anything on it, ask the school principal for help. Let the principal and the school district know how parent-friendly the report card is (or is not).

► What else would you like to know about your child's school?

NCLB sets minimum requirements for what must be in the report cards, but schools may add more information. For example, some schools include data on class sizes, courses offered, enrollment in Advanced Placement classes, and/or the level and quality of parent involvement. What do you want to know that isn't on the school report card? Work with other parents and community members to identify key items, and ask to have this information added.

► Can you identify your school's strengths and weaknesses?

What do you know about the school that could explain low scores? If reading scores are low, ask what the plan is for improvement. If the school has high scores in one subject, or for one group of students, find out what is working. Ask how that success can expand to other areas and/or students.

► Are there achievement differences for students from different groups?

By giving data for different groups of students, school report cards can show where the achievement gaps are within the school. You can also see how the school performs compared to the district and the state. If some groups are excelling while others are not doing so well, ask the school principal what the school is doing to close any gaps. Ask, for example: Why do the school's students with Limited English Proficiency have difficulty with math? The problem may be a reading problem. Ask if the students with disabilities are improving along with the other students. Discuss with teachers and other families what you think should be done. Use the report card to help create equality.

► What are other parents saying?

Talk with other parents about the report cards and your school in general. If families don't know about them, help them get a copy of the school report card. Schools often hold school meetings to explain the report cards. Attend the meeting, or organize a school or community meeting to discuss the reports and education.



For more information

The *No Child Left Behind Act* views parents as key partners in helping their children succeed in school. Parents' PLACE helps parents get the information they need to make important decisions about their children's education. If you would like to receive more information on school report cards, public school choice, supplemental education services, MCAS tests and standards, or any other aspect of NCLB, Parents' PLACE is here to help! We offer print resources, workshops, a toll-free helpline, and a website and regular publications on education in English, Spanish, and Portuguese.

Call us toll free at
1-877-471-0980

Visit us at
www.pplace.org



**PARENTS LEARNING ABOUT
CHILDREN'S EDUCATION**

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Outside the Box... and Proud Of It!

A Personal Journey by Becky Rizzoli

Throughout my life, the biggest obstacle I've faced was the fact that I was "different." When I was a young child, I had trouble paying attention and sitting still in school. I got frustrated easily. After several years of testing and evaluations, I was diagnosed with ADHD (Attention Deficit Hyperactivity Disorder), anxiety, and learning disabilities.

During my childhood and adolescence, I struggled with my disabilities and wondered why I couldn't be "normal" like my peers. I was embarrassed when I was pulled out of the classroom for special education. At the same time, I was grateful that the school staff understood that students with special needs sometimes need accommodations, modifications, and other support services in order to succeed in school. Thanks to Chapter 766 and IDEA, I had an IEP (Individualized Educational Plan) that outlined accommodations that made it possible for me to be successful in school. For example, I was allowed to take as much time as I needed on exams and took them in a separate room. If I needed a few extra days to finish a term paper or other assignment, I was given an extension. My sensory integration and gross motor issues made it difficult for me to participate in athletics, so I was exempt from physical education. My fine motor disability made my handwriting illegible, so I used a computer for essay tests.

I had an IEP throughout elementary, middle and high school. After high school, I attended Stonehill College, a small, Catholic college in Southeastern Massachusetts. Stonehill's motto is "Light and Hope." During my four years at this beautiful school, I attained the light and the hope that allowed me to finally accept myself—disabilities and all.

I was nervous about attending college. I no longer had the security of my IEP. I was living on campus. My mother wasn't there to intervene with my teachers. I had to learn to advocate for myself.

At the beginning of each semester, I would meet with my academic advisor. We would write a letter to all of my professors explaining that I had ADHD and learning disabilities, and outlined the accommodations I might need, such as untimed tests. Several of my professors were very helpful, and I would meet with them often to explain my circumstances and how they could help me succeed.

The professor who helped me the most was a wonderful teacher, Professor "Warren." He became my mentor and role model. He also had ADHD and considered it a gift. Most people remain focused on one thing at a time, however, people with ADHD focus on several things at once. Because of this, we are able to notice things and make connections that other people do not. He pointed out that ADHD causes people to think differently and creatively. I had never thought of it that way before. With the right attitude, I could make my disability work to my advantage.

After I graduated from Stonehill College, I applied to a Catholic-based volunteer program. This program was dedicated to social justice and to helping those in need. I was assigned to Jersey City, where I taught music to blind children. I lived in a house with other volunteers that worked in different social service agencies around the city.

The year was challenging. I discovered that just because some folks are concerned with social justice, it didn't necessarily mean they were accepting of individuals with disabilities. The program staff questioned whether or not I belonged in the volunteer program. They felt that my disabilities would interfere with my work.

Rather than leave the program, I saw this as a chance to educate people about individuals with disabilities. As the year went on, my housemates and I adjusted to each other, and even developed friendships. However, I was still anxious about a three-day, silent retreat in which every volunteer had to participate. I was absolutely dreading the retreat. I was convinced my ADHD would cause my mind to wander, and since I couldn't talk to anyone, there would be no way to stop it. How was a person with ADHD supposed to be silent and meditate for three days?

When we got to the retreat center, we were introduced to the spiritual directors. My spiritual director was Christine, a young, energetic, optimistic, and deeply spiritual woman. I liked Christine right away. I felt very comfortable with her and shared my concerns. She realized I would need some accommodations during the retreat, such as meeting with me more frequently to talk. As the weekend went on, the silence did not seem like torture, but rather a chance to reflect on my spirituality and the beauty of nature. As I look back, I realize that the retreat I

had been dreading turned out to be one of the best experiences of my volunteer year. The retreat was a success for me because Christine was open-minded and willing to accommodate me. People like Christine and Professor Warren are a source of strength and inspiration to those they encounter, because they look at each person as an individual and recognize that there is more than one "right way" to accomplish a task.

Yet one wonders about the people who are less flexible and accommodating. Why are some people so rigid and unwilling to accept individuals with special needs? Eventually I came to realize that people act inappropriately when they don't understand our individual circumstances. Often, in our struggle for either self-advocacy or while advocating for our children, we tend to see people who refuse to provide accommodations as "the enemy." We view advocacy as "war." I've come to understand that many people genuinely want to help; however, they also need education and support to handle our unique situations.

I am a "special education success story," and it is my goal to help other young people with disabilities become successful as well. Today, I work at the Federation for Children with Special Needs. I feel that organizations, like the Federation, exist to remind people of the truth that our country was founded on—all people are created equal.

MATCHING GIFTS Make Your Contributions Go Further!

1. Check with your company's personnel department to see if they have a matching gifts program.
2. Ask for matching gifts forms for all the members of your team.
3. Review the requirements of your matching gifts program carefully—each program has its own policies.

*You can contribute to The Federation for Children with Special Needs online!
Go to www.fcsn.org for details.*

Excertos da: Seção 504, Lei dos Portadores de Deficiência Americanos, e da Reforma Educacional

Preparado pelo PEER Project
(Leia o artigo na íntegra online:
www.fcsn.org/peer/ess/esshome.html)

Conceitos Chave Sob a Lei Seção 504 e a ADA
A seção 504 da Lei de Reabilitação de 1973 e o Title II da Lei dos Portadores de Deficiência Americanos (ADA, sigla em inglês) constituem amplos estatutos dos direitos civis, designados para promover o acesso e a participação, igualmente, nos programas e nos serviços. Estas leis exigem que os alunos portadores de deficiência recebam benefícios e serviços comparáveis aos recebidos por seus colegas não-deficientes. Especificamente, estas leis tornam ilegal para as escolas discriminarem com base na deficiência do aluno, da seguinte maneira:

- Negar ao aluno a oportunidade de participar e de beneficiar-se dos serviços e dos benefícios,
- Dar a oportunidade de participar ou de beneficiar-se de algum programa de modo desigual ao oferecido aos outros,
- Fornecer um benefício que não seja tão eficaz quanto ao oferecido aos outros,
- Fornecer benefícios, serviços ou programas de qualidade inferior aos oferecidos aos demais, ou
- Fornecer serviços ou benefícios diferenciados, a menos que seja necessário fornecer benefícios ou serviços que sejam tão eficazes quanto aos oferecidos aos outros.¹

Os regulamentos da Seção 504 requer que os sistemas escolares que recebem fundos federais providenciem uma educação pública apropriada e gratuita às crianças portadoras de deficiência, de acordo os requerimentos da Seção 504, com respeito à avaliação, ao local e aos procedimentos de salvaguarda o menos restritivo possível. A FAPE, sob a Seção 504, significa que a educação fornecida aos alunos com deficiência precisa abranger as necessidades daqueles alunos, de um modo tão adequado quanto às dos alunos não-deficientes.²

Adaptações Razoáveis

Os sistemas escolares precisam fazer adaptações e modificações para abranger as necessidades dos alunos portadores de deficiência, de acordo com as responsabilidades para com os alunos deficientes, sob a Seção 504 e o Title II da ADA.³ Fazer adaptações e modificações significa mudar o modo de se fazer as coisas como normalmente são feitas, de modo a levar em conta as necessidades relacionadas à deficiência da criança. Exemplos de adaptações e modificações incluem mudar regras, normas ou práticas; remover barreiras arquitetônicas ou

de comunicação; ou providenciar apoios, serviços, ou tecnologia assistiva.

Conceitos Legais Chave e a Reforma Educacional Baseada nos Padrões

A reforma educacional baseada nos padrões almeja obter resultados de uma educação de alta qualidade, por identificar os desejados resultados da aprendizagem para os alunos, dando forma aos currículos e ao ensino igualmente, fazendo com que as escolas sejam responsáveis pelos resultados. Se o estado ou sistema escolar adota padrões para a educação em geral, então os alunos portadores de deficiência têm o direito a uma educação baseada nos mesmos padrões. A falha em aplicar os padrões para estes alunos é uma falha em oferecer “serviços e benefícios comparáveis”. As escolas violam a Seção 504 e a ADA ao negarem os benefícios dos padrões da reforma da educação aos alunos portadores de deficiência.⁴

Conectando o Currículo, os Cursos e as Estratégias de Ensino aos Padrões Estabelecidos para todos os Alunos

Alunos portadores de deficiência, como todas as outras crianças, devem receber cursos e instruções que ensinem o currículo; do contrário, os serviços e benefícios comparáveis lhes serão negados, numa clara violação da Seção 504 e da ADA. Para alguns alunos, o método de ensino, de parte ou de todo o currículo, deve ser modificado, talvez com uma adaptação razoável, ou com apoio ou serviços suplementares, necessários para a máxima participação possível no ensino regular. Para um pequeno número de alunos com deficiências significantes, pode ser necessário modificar, adaptar ou expandir o currículo ou a instrução para dar acesso aos padrões. Este tipo de decisão deve ser feita individualmente, com base em avaliações educacionais individualizadas, válidas e competentes.

Também é discriminatório para os sistemas escolares adotarem “critérios ou métodos de administração” (políticas e práticas) que limitam as oportunidades para que os alunos portadores de deficiência aprendam de acordo com os padrões. Para evitar-se uma tal discriminação, os sistemas escolares devem identificar e examinar quaisquer políticas e práticas que possam ter o efeito de limitar o acesso dos alunos aos cursos e ao ensino necessários para aprender o currículo e atingir os padrões. Dependendo das circunstâncias, qualquer número de políticas ou práticas podem ter este efeito. Exemplos incluem a falta de coordenação (em termos tanto de agenda

como de conteúdo) entre os programas, tais como as salas de recursos e o currículo acadêmico principal; fornecer um currículo diluído, em salas e programas separados, para alunos portadores de deficiência; e a falha em integrar os serviços de apoio da educação especial e os serviços relacionados com as salas de ensino regular.

Usando a Avaliação para a Responsabilidade da Escola

Avaliação é a chave para garantir que as iniciativas da reforma escolar alcance, de verdade, uma educação de qualidade. O propósito da avaliação, geralmente chamada de “avaliações de larga escala”, é juntar informações que mostrem se as escolas estão ensinando os alunos, com sucesso, segundo os padrões. Essas informações são usadas, então, para identificar pontos fracos em escolas e fazer, assim, as melhorias necessárias. A avaliação é a maneira que a reforma educacional baseada nos padrões mantém as escolas responsáveis pela aprendizagem e pelo rendimento dos alunos. Em Massachusetts, este tipo de avaliação recebeu o nome de Sistema de Avaliação Extensiva de Massachusetts, ou MCAS (“Massachusetts Comprehensive Assessment System, ou MCAS”).

Historicamente, os alunos portadores de deficiência têm sido excluídos, em grande número, desse tipo de avaliação. Como resultado, dados sobre o rendimento destes alunos nunca estão disponíveis quando a eficiência dos programas e serviços da escola são avaliados, e as decisões sobre as políticas e as iniciativas de reforma são tomadas. Com a exclusão da avaliação, as escolas não são responsabilizadas pela qualidade de ensino que os alunos portadores de deficiência recebem. São negados, a estes alunos, o benefício deste aspecto crítico da reforma educacional, em violação do requerimento de se fornecer benefícios e serviços comparáveis, sob a Seção 504 e a ADA.

Estas leis dos direitos civis exigem não apenas que os alunos portadores de deficiência tomem parte nestas avaliações de responsabilidade, mas que, também, que recebam as adaptações razoáveis e necessárias para delas participar.

Para muitos alunos, a participação na avaliação não vai exigir nenhuma mudança no modo como ela é feita. Já outros alunos requerem adaptações, tais como tempo extra e materiais em diferentes formatos (p. ex. materiais em Braille, ou um leitor) para que possam participar. Um pequeno número de alunos pode requerer um tipo diferenciado de avaliação (uma “avaliação alternativa”) para que possam demonstrar seus conhecimentos e habilidades de uma maneira não discriminatória. Por exemplo, alguns alunos podem precisar de um teste tipo “prático”, usando modelos, em vez de um lápis

Copiado de:

La Sección 504 de la Ley de Americanos con Discapacidades y la Reforma Educativa

Preparado por el Proyecto PEER
(Puede leer este artículo completo en
www.fcsn.org/peer/ess/esshome.html)

Conceptos claves bajo la Sección 504 y ADA

La Sección 504 y la Ley de Rehabilitación de 1973 y el Título II de la Ley de Americanos con Discapacidades (ADA por sus siglas en Inglés) son estatutos amplios de derechos civiles diseñados para promover igual acceso y participación en programas y servicios. Estas leyes requieren que los estudiantes con discapacidades reciban beneficios y servicios que se comparen a los que se les dan a sus compañeros sin discapacidades. Específicamente estas leyes convierten toda acción de discriminación por parte de las escuelas basada en una discapacidad, en un acto ilegal:

- Negarle la oportunidad a un estudiante de participar o de beneficiarse de un servicio
- Ofrecer una oportunidad para participar o beneficiarse que no es igual a la que se le ofrece a otros,
- Ofrecer un beneficio o un servicio que no es tan efectivo como el que se les ofrece a otros,
- Ofrecer beneficios, servicios o programas de baja calidad en comparación a los que se les ofrecen a otros
- Ofrecer beneficios o servicios diferentes o separados, a menos que sea necesario ofrecer beneficios o servicios que sean tan efectivos como los que se les ofreció a otros.¹

Los reglamentos de la Sección 504 requieren que los sistemas escolares que reciben dineros federales ofrezcan una educación pública apropiada y gratuita a los niños con discapacidades de acuerdo con los requisitos de la Sección 504 en relación con un ambiente menos restrictivo, evaluación y ubicación y a un proceso debido. Educación pública apropiada y gratuita (FAPE por sus siglas en inglés) bajo la Sección 504 significa que la educación que se le provee a las estudiantes con discapacidades tiene que satisfacer las necesidades de esos estudiantes tan adecuadamente como son satisfechas las necesidades de los estudiantes sin discapacidades.²

Acomodaciones Razonables

Para conocer las responsabilidades de los estudiantes con discapacidades bajo la Sección 504 y el Título II de ADA, los sistemas escolares tienen que hacer acomodaciones y modificaciones para alcanzar las necesidades de los estudiantes con discapacidades.³

Realizando acomodaciones y modificaciones significa cambiar la manera en que las cosas se hacen usualmente para poder tomar en cuenta las necesidades del niño relacionadas con su discapacidad. Ejemplos de acomodaciones y modificaciones incluyen la modificación de reglamentos, políticas o prácticas, reestructurando la arquitectura de la escuela y eliminando barreras en la comunicación u ofreciendo ayudantes, servicios o ayuda tecnológica.

Conceptos legales claves y la reforma educativa basada en normas

La reforma educativa basada en normas tiene como propósito alcanzar resultados de alta calidad educativa, identificando los resultados deseados en el aprendizaje de los estudiantes, dándole forma al currículo y a la instrucción y haciendo a las escuelas responsables por los resultados.

Si un estado o un sistema escolar usa normas para la educación regular, entonces los estudiantes con discapacidades tienen el derecho a una educación basada en estas mismas normas. La falta para usar las normas con los estudiantes con discapacidades es una falta para proveer "beneficios y servicios comparables". Las escuelas violan la sección 504 y los reglamentos de ADA cuando a los estudiantes con discapacidades se les niega los beneficios de la reforma educativa basada en normas.⁴

Uniando el currículo, los cursos y las estrategias de instrucción a las normas establecidas para todos los estudiantes

Los estudiantes con discapacidades, como a todos los niños, se les tiene que proveer cursos e instrucción que enseña el currículo, de otra manera, se les negara beneficios y servicios comparables, lo cual es una violación a la Sección 504 y ADA. Para algunos estudiantes, el método de enseñar parte o todo el currículo puede ser modificado, tal vez como una acomodación razonable, o como una ayuda suplementaria o un servicio necesario para una participación máxima en la educación regular. Para un número pequeño de estudiantes con discapacidades significativas, puede ser necesario el modificar, adaptar o expandir el currículo o la instrucción para ofrecer acceso a las normas. Estas decisiones tienen que ser tomadas a nivel individual y basadas en las evaluaciones educativas individualizadas validas y competentes.

Es discriminatorio que los sistemas escolares adopten "métodos o criterio de administración"

(políticas y prácticas) las cuales limitan las oportunidades para que los estudiantes con discapacidades aprendan las normas. Para evitar esta discriminación, los sistemas escolares tienen que identificar y examinar cualquier política o práctica que pueda tener el efecto de limitar el acceso a los cursos y a la instrucción necesarias para aprender el currículo y alcanzar las normas. Dependiendo de las circunstancias cualquier número de políticas y prácticas puede tener este efecto. Algunos ejemplos incluyen falta de coordinación (en horario y contenido) entre programas que sacan a los estudiantes de las clases, como el salón de recursos y el currículo académico; ofreciendo un currículo secundario en programas y clases para estudiantes con discapacidades; y falta de integrar los apoyos de educación especial y los servicios relacionados en clases de educación regular.

Usando las evaluaciones para hacer responsables a las escuelas

Las evaluaciones son la clave para asegurar que las iniciativas de la reforma escolar verdaderamente ofrezcan educación de calidad. El propósito de estas evaluaciones, llamadas comúnmente "evaluaciones a larga escala" es reunir información que muestre si las escuelas están exitosamente enseñándole a los estudiantes las normas. Luego, esta información es usada para identificar las debilidades en las escuelas y para hacer las mejoras necesarias. Las evaluaciones son la manera que la reforma educativa basada en normas hace a las escuelas responsables por el aprendizaje y el rendimiento de los estudiantes. En Massachussets, esta evaluación es llamada Sistema Global de Evaluación de Massachussets o MCAS (por sus siglas en Inglés).

Históricamente, un gran número de los estudiantes con discapacidades han sido excluidos de estas evaluaciones. Como resultado, la información sobre el rendimiento de estos estudiantes a menudo no existe cuando la efectividad de los programas escolares y servicios es evaluada y cuando se están tomando decisiones sobre políticas e iniciativas de reformas. Con la exclusión de estas evaluaciones, las escuelas no son responsables de la calidad de educación que reciben los estudiantes con discapacidades. A estos estudiantes se les niega el beneficio de la reforma educativa basada en normas en violación a los requisitos para proveer beneficios y servicios comparables bajo la Sección 504 y ADA. Estas leyes civiles requieren no solamente que los estudiantes con discapacidades tomen parte en estas evaluaciones sino que también reciban cualquier acomodación razonable y necesaria para participar.

Para muchos estudiantes, la participación en las evaluaciones no requerirá ningún cambio en la manera en que se da la evaluación. Otros estudiantes para poder participar requerirán acomodaciones como tiempo extra para la evaluación o

Section 504, the ADA, and Education Reform

continued from page 1

Reasonable Accommodations

In meeting the responsibilities to students with disabilities under Section 504 and Title II of the ADA, school systems must make accommodations and modifications to address the needs of students with disabilities.³ Making accommodations and modifications means changing the way things are usually done in order to take into account a child's disability-related needs. Examples of accommodations and modifications include modifying rules, policies or practices; removing architectural or communication barriers; or providing aids, services, or assistive technology.

Key Legal Concepts and Standards-Based Education Reform

Standards-based education reform aims to attain high quality educational outcomes by identifying desired learning outcomes for students, shaping curricula and instruction accordingly, and holding schools accountable for the results. If a state or school system adopts standards for general education, then students with disabilities have the right to an education based on these same standards. Failure to apply standards to students with disabilities is a failure to provide "comparable benefits and services." Schools violate Section 504 and ADA regulations whenever students with disabilities are denied the benefits of education reform standards.⁴

Linking Curriculum, Courses, and Instructional Strategies to the Standards Set for All Students

Students with disabilities, like all other children, must be provided with courses and

instruction that teach the curriculum; otherwise, they will be denied comparable benefits and services, in violation of Section 504 and the ADA. For some students, the method of teaching some or all of the curriculum may need to be modified, perhaps as a reasonable accommodation, or as a supplementary aid or service necessary for maximum feasible participation in regular education. For a small number of students who have significant disabilities, it may be necessary to modify, adapt, or expand the curriculum or instruction to provide access to the standards. These decisions must be made on an individual basis, and based upon valid and competent individualized educational evaluations.

It is also discriminatory for school systems to adopt "criteria or methods of administration" (policies and practices) which limit opportunities for students with disabilities to learn the standards. To avoid such discrimination, school systems must identify and examine any policies or practices that may have the effect of limiting students' access to the courses and instruction necessary to learn the curriculum and meet the standards. Depending upon the circumstances, any number of policies and practices might have this effect. Examples include lack of coordination (in terms of both scheduling and content) between pull-out programs, such as resource rooms, and the mainstream academic curriculum; providing a diluted curriculum in separate programs and classes for students with disabilities; and failing to integrate special education supports and related services into regular education classes.

Using Assessment for School Accountability
Assessment is key to ensuring that school reform initiatives actually deliver quality education. The purpose of these assessments, often called "large-scale assessments," is to gather information that shows whether schools are successfully teaching students the

standards. This information is then used to identify weaknesses in schools and to make necessary improvements. Assessment is the way that standards-based education reform holds schools accountable for student learning and achievement. In Massachusetts, this assessment is the Massachusetts Comprehensive Assessment System, or MCAS.

Historically, students with disabilities have been excluded from such assessments in large numbers. As a result, information about the achievement of these students is often missing when the effectiveness of school programs and services is evaluated and decisions about policies and reform initiatives are being made. With exclusion from assessment, schools are not held accountable for the quality of education students with disabilities receive. These students are denied the benefit of this critical aspect of standards-based education reform in violation of the requirement to provide comparable benefits and services under Section 504 and the ADA. These civil rights laws require not only that students with disabilities take part in these accountability assessments, but also that they receive any reasonable accommodations necessary to participate.

For many students, participation in assessment will not require any changes in the way that the assessment is given. Other students will require accommodations such as extra time for the assessment or materials in a different format (e.g., written materials in Braille, or a reader) in order to participate. A small number of students may require a different type of assessment (an "alternate assessment") to demonstrate their knowledge and skills in a nondiscriminatory manner. For example, some students may need a "hands-on" test using models rather than a pencil and paper test to show their understanding of geometry, and some students may require a portfolio assessment.

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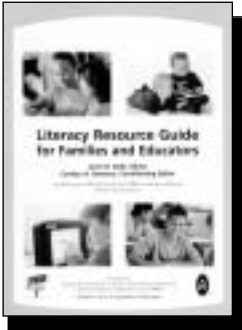
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Endnotes

- 34 C.F.R. §104.4(b)(1) (§504 regulation); 28 U.S.C. §35.130(b)(1) (ADA regulation).
- 34 C.F.R. §104.33.
- See 42 U.S.C. 12131(2); 34 C.F.R. 104.4(b); 28 C.F.R. 35.130(b)(7); *Alexander v. Choate*, 469 U.S. 287, 300-01 (1985); *Thomas v. Davidson Academy*, 846 F. Supp. 611 (m.D. Tenn. 1994).
- In addition, 1997 amendments to the Individuals with Disabilities Education Act require states to develop "performance goals and indicators" for children with disabilities that are consistent, to the maximum extent appropriate, with the standards set by the state for all students. 20 U.S.C. §1412(a)(16).

Federation Publications Catalog



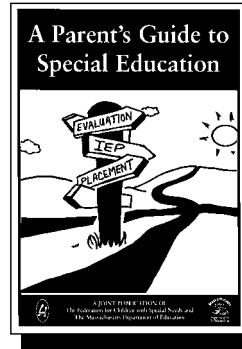
Literacy Guide for Families & Educators

The Literacy Resource Guide for Families and Educators highlights current research-based literacy resources available through the U.S. Department of Education and its funded projects with an eye toward appealing to parents, educators, and caregivers.

The Guide lists whether the resources are available in print, online, CD-rom, and videotape.

The description of each item also includes information about cost (many are free!), ordering (including bulk copies), and the relevance for specific audiences (e.g., older students, students with disabilities, and English-language learners). Bold symbols denote resources that address one or more of the five key early reading skills: phonemic awareness, phonics, vocabulary, reading comprehension, and fluency.

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A Parent's Guide to Special Education

The Guide contains the most current and accurate information available regarding the special education system in Massachusetts.

The Federation hopes that this publication will assist families in obtaining the supports and services that their children with disabilities need to succeed in school. The Guide is also an excellent resource for schools and service providers seeking concise, easy-to-read guidance on the implementation of the state's new special education laws, regulations, and policies.

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Health News

at the Federation for Children
with Special Needs

Massachusetts Family Voices Update

The white marble memorials and cherry blossoms of Washington D.C. provided a picturesque backdrop for the Family Voices tri-regional meeting, held from March 28-30, 2004. How fitting that an organization that speaks out on behalf of children and youth with special health care needs would meet in our nation's capital, a place where every one has a voice.

Polly Sherman and Beth Dworetzky, co-network members from Massachusetts Family Voices, attended this meeting alongside network members from throughout New England (region I), as well as New York, New Jersey, the Virgin Islands, Puerto Rico, Wisconsin and Indiana. This meeting was not only a great opportunity to network with Family Voices members from region I, but also to learn about Family Voices activities in other areas of the country.

In addition to networking time, attendees heard an inspiring and thought-provoking presentation by Sue Swenson, Vice President of the ARC. Sue gave an overview of national issues, with an emphasis on Medicaid, the fastest

growing part of many state budgets. She stressed that now is the time to, "Be political, as if your life depended on it," because Medicaid programs are the most vulnerable to budget cuts. To help address policy issues, Sue also provided information about best practices in grass-roots organization and leadership development.

Patti Hackett and Ceci Shapland, from the Healthy and Ready to Work Initiative (HRTW), gave a presentation about transition. The Maternal Child Health Bureau uses six performance measures to assess each state's progress in providing improved health outcomes for children and youth with special health care needs. These are:

1. Early and continuous screening,
2. Families and youth are partners in decision-making,
3. Every child has a Medical Home,
4. Access to affordable health insurance,
5. Services are organized and easy to access, and
6. Transition to adulthood.



Polly Sherman, Nora Wells and Beth Dworetzky (left to right) at the Tri-regional Family Voices meeting in Washington D.C.

Transition cannot be collapsed into a separate performance measure. Rather, each of the other five measures needs to be examined through 'transition-colored' glasses. As our children become adolescents, and eventually transition to adult life, the other five measures must 'transition' with them. Each measure should be tailored to meet the youth's changing needs, and often these needs are diagnosis or disability-specific.

Another topic addressed at this meeting was the power of data and the importance of data collection. In order to receive grants or other funding for services, it used to be enough for families to just tell their stories. These days, data tells the story and family stories are merely the illustrations. Nora Wells, a national Family Voices staff member at the Federation, talked about numbers and data collection. Nora is part of a national effort to quantify the work that Family Voices network members do in each state.

Family Voices Projects at the Federation for Children with Special Needs

New Data Resource

Perhaps you were one of the families interviewed for the National Survey of Children with Special Health Care Needs, sponsored by the federal Maternal and Child Health Bureau and the Centers for Disease Control and Prevention. The survey, conducted in 2001, gathered information from families of children with special needs in every state about their child's insurance coverage, access to care, satisfaction with services and unmet needs, as well as financial and employment impacts. Family Voices and the Child and Adolescent Health Measurement Initiative have recently launched a new on-line resource, the Data Resource Center, which provides access to this excellent data in user-friendly formats. Visit www.cshcndata.org to search for state specific, regional or national results, and print findings as graphs or tables. Please contact Nora Wells at nwells@fcsn.org with questions or comments.

Family Matters: Using Bright Futures to Promote Health and Wellness for Children with Disabilities

Family Voices and Tufts University Medical School have been funded by the Centers for Disease Control and Prevention to carry out a project to determine effective strategies for health and wellness for children with disabilities. We hope to learn how to help families of children with disabilities promote their children's health, using peer support. We will be using *Bright Futures: Guidelines for Health Supervision of Infants, Children, and Adolescents* materials as the basis for the health and wellness recommendations. We hope to raise awareness of the importance of health promotion for families of children with special needs and provide a model, with resources and strategies, for use by Family Voices and others concerned about bright futures for all children. Also, we hope to learn from families the strategies they have devel-

oped and found successful so we can share those with other families.

- In this first year, Family Voices is conducting focus groups in five states.
- Next year we will hold parent education workshops in several states using Bright Futures materials on topics such as oral health, healthy eating, television/computer time, and physical activities. We will also provide one-to-one peer support to interested families.

For more information contact Barbara Popper, the Project Director, at bpopper@fcsn.org.

News from Family TIES of Massachusetts

Family TIES of Massachusetts is a statewide information and support network for families of children with special needs. It is a project at the Federation for Children with Special Needs, funded by the Massachusetts Department of Public Health, Division for Special Health Needs. We offer information and referrals for families of children with special needs, direct parent-to-parent support and trainings.

STAFFING UPDATE: Please join us in welcoming **Karen Douglass**, our new Southeast Regional Coordinator. Karen is the mother of two young boys. She has a strong background in training and business, and was actively involved in the Kennedy Donovan Early Intervention program in New Bedford, where her younger son received services. She was an officer in the MOMS Club of the Attleboros, an organization that provides support to stay-at-home mothers. You may reach Karen at the Canton office of the Massachusetts Department of Public Health. Her phone number is **781-774-6749**.

Please note **Lisa Mayer**, our Metrowest Regional Coordinator, has a new telephone number at the Canton office. Lisa's number is **781-774-6602**.

NEW RESOURCE DIRECTORIES: The Seventh Edition of the *Family TIES Directory: Resources For Families of Children with Special Needs* is now available. Call your Regional Coordinator directly, or via our toll-free number (**1-800-905-TIES**), to receive a copy, or visit our website at www.massfamilyties.org to view it on-line.

CENTRAL DIRECTORY FOR EARLY INTERVENTION PROGRAMS: Family TIES maintains the Central Directory of Early Intervention (EI) programs throughout the state. We provide EI program contact information to parents seeking this valuable service for their young children (birth–age 3), and to professionals who refer families to EI. For up-to-date EI program information, parents and professionals are encouraged to call our toll-free number at **1-800-905-TIES** or visit our website at www.massfamilyties.org.

SHARE YOUR VOICE—CALLING ALL ADVISORS: Parents of children with special needs advocate daily for their children's educational, medical and social needs. Each of us has the potential to be an advisor to the "powers that be." Family TIES invites *you* to share your voice by becoming an advisor to the Massachusetts Department of Public Health.

There are many ways to participate. You may choose to attend a focus group, participate in phone or written surveys, become a member of an advisory board or committee, review materials or grants, or become part of a phone tree.

Some of the areas in which we would appreciate your assistance include: Access to Medical Care, Cultural Competency/Diversity, Emergency Medical Planning, Genetic Testing and Genetics, Health Insurance—Public and Private Policies, Medical Home Partnerships, Nutrition for Children with Special Needs, Parent Education/Training Opportunities, Respite/Family Supports, Transition Issues—Work and Independent Living.

If you would like more information about becoming a parent advisor or about any of the opportunities or topic areas, call your Regional Coordinator at **1-800-905-TIES** or Joanne Spencer, Family TIES Parent-to-Parent and Outreach Coordinator, at **781-774-6740**.

PROGRAM UPDATE—FAMILY TIES PARENT-TO-PARENT PROGRAM: The mission of the Family TIES Parent-to-Parent program is to bring together parents facing similar challenges in raising their children with special needs. Sharing experiences is a way to provide strength and support to each other. It is a chance to talk to someone who has "been there" and to realize that you are not alone in your experiences with your child.

Family TIES coordinators are all parents of children with special needs and have experienced the power of parent-to-parent support in our own lives. We appreciated parent-to-parent support, especially when we were first facing the news of our child's diagnosis and along the way also, as we have faced transitions, obstacles, and crises with our children. We have developed a database of parents who are our volunteer Family TIES Support Parents. These parents have been trained by Family TIES to provide support or are parents who have previous experience and training in providing this unique kind of support.

To request a Parent-to-Parent match, or to receive more information about becoming a Support Parent (a Support Parent Training is planned for early summer), please call Joanne Spencer, the Family TIES Parent-to-Parent and Outreach Coordinator at **781-774-6740**, e-mail us at www.famtiesp2p@fcsn.org, or visit our website at www.massfamilyties.org. You can also request a match by leaving a message on the Family TIES toll-free line **1-800-905-TIES**.

NewsLine

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Our Mission:
To provide information, support, and assistance to parents of children with disabilities, their professional partners, and their communities. We are committed to listening to and learning from families, and encouraging full participation in community life by all people, especially those with disabilities.

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high school experience.

Dr. Allen C. Crocker at the Federation's 30th Anniversary Gala



The Federation recently celebrated its 30th Anniversary with a Gala held at the Seaport Hotel. Among the more than 350 attendees was Dr. Allen C. Crocker who received the Martha H. Ziegler Founder's Award. Look for a recap of the Gala in our fall issue.