

section 504— the 1973 law still makes a difference

By *Beth Ann Dobson*

I have been a teacher of deaf and hard of hearing students under the Special Education Department in Prince William County Schools for 11 years. I'd never had a student referred to the team that handles evaluations under Section 504 of the Rehabilitation Act of 1973—until Mary. Mary had received special education services for her profound hearing loss under the Individuals with Disabilities Education Act (IDEA) until the end of her freshman year, when it was determined that she was no longer eligible.

The IDEA requires that a student's disability have an adverse impact on his or her educational performance that results in the need for specialized instruction. The Individualized Education Program (IEP) team felt that this was not the case with Mary. They noted that Mary communicated skillfully with teachers and hearing peers, read as well as the average hearing students in her class, and had intelligible speech; therefore, the team felt that her profound hearing loss did not adversely impact her educational performance.

Of course, most people recognize that when profoundly deaf children do well in classrooms of hearing students, they are often working hard to compensate in ways that are invisible to their teachers and peers—and sometimes to IEP teams. Still Mary was referred to a different team of evaluators, the 504 team, which handles evaluations for accommodations under Section 504 of rehabilitation legislation.

With its mandate to ensure students with disabilities are not



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Photos courtesy of Beth Ann Dobson



Left and below: Dobson discusses with her students the agenda and objectives for the day.



discriminated against, the 504 team found Mary was eligible to receive accommodations because of her profound hearing loss. At first I was skeptical. The Rehabilitation Act of 1973, Section 504, states:

No otherwise qualified individual with a disability in the United States...shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

However, the processes 504 puts in place are not those of special education; they are designed to ensure the student accommodations in the general education setting. These accommodations help to minimize the impact of disability. Further, under 504 Mary would have a case manager—an individual stationed within her school—to ensure that her

accommodations were communicated to the general education teachers and implemented in every class. My district has a policy that special educators, such as myself, cannot be case managers. If Mary had problems with her accommodations, I would not be able to help her. I was afraid that she would not receive the understanding and services she needed. However, I was wrong. I had not taken into consideration Mary's determination, her outstanding rapport with general education teachers, and her diligence in getting the work done. Thanks to 504, Mary received copies of notes from general education teachers and peers, watched closed-captioned movies, and utilized her skills in order to achieve academic success.

The process of developing and implementing a 504 plan is different from that of implementing an IEP. The school must send official notice and consent for a 504 evaluation to



parents and give them a packet filled with information about their rights. Once the parents grant consent, the 504 team must find evidence of the student's disability and determine if that disability is keeping the student from performing according to his or her potential. The 504 eligibility team is generally composed of an administrator, a general education teacher, a case manager, a school psychologist, an individual who can interpret the data related to the student's disability (i.e., the audiogram), and any other individuals with expertise regarding the student and his or her disability.

Steven, another profoundly deaf student, also found 504 was the vehicle through which he could maintain his sign language interpreter, sit near the interpreter, be afforded extended time on tests, and be provided with a notetaker. Like Mary, Steven's IEP team decided that his profound hearing loss did not adversely impact his classwork. Like her, he has a case manager assigned and that case manager is responsible for distributing his 504 plan to his general education teachers and monitoring his accommodations. The 504 plans for both Mary and Steven—and for all students who receive services under 504—must be updated prior to the start of each new school year.

When Mary or Steven transfers to a different school district, a different 504 team needs to initiate a new plan, complete with referral for evaluation, as 504 plans do not automatically transfer between school districts. Parents are encouraged to review their local school district's Section 504 and special education policies and procedures in order to know what can be offered to the child or the adult student.

While 504 plans do not always have the specificity of IEPs, the rationale for each 504 accommodation must be explicit. For example, if a deaf student requires preferential seating (i.e., nearness to a sign language interpreter), the rationale for this must be stated. If accommodations or modifications are not being met, the student's school may be in violation of the law. For example, if a deaf student requires an FM system and a sign language interpreter, the school is obligated to provide them because they are crucial to the student's learning. The 504 case

manager needs to ensure that general education teachers understand the student's accommodations, the rationale for the accommodations, and the terminology, i.e., preferential seating, extended time, or sign language interpreter (Black & Koziol, 2012).

The feedback from parents is critical because they know their child well. They need to be certain that their child's accommodations are explicit, and that they are implemented. Wiggins (2012), in *7 Keys to Effective Feedback*, notes: "Feedback is information about how [teachers and administrators] are doing in their efforts to help students with disabilities reach success through Section 504." Relaying effective information is crucial in order for a student with a disability to have the opportunity to receive the same kind of education as his or her non-disabled peers.

Teachers, administrators, parents, and students need to understand and support implementation of the 504 plan in order for the students with disabilities to have an equal opportunity to be successful in the classroom. When any student has success, he or she begins to find meaning in life. Tim Tebow, quarterback for the New York Jets, reflected on success, stating:

"[Success] comes from having meaning in your life, doing what you love, and being passionate about what you do. That's having a life of success. When you have the ability to do what you love, love what you do, and have the ability to impact people...that's what having a life of meaning is." (Winged Foot Award, 2011)

Section 504 can assure that students like Mary and Steven keep their special education services; it can provide these students with the access needed to stimulate their desire, fulfill their potential, and attain academic success.

References

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