

(16.10) Must school districts be proactive in identifying students who may be eligible for educational services under Section 504?

Yes. School districts have an obligation under Section 504 to look for and assess students who may be eligible under this law. This is commonly known as “Child Find”. Districts must “identify and locate” every eligible student with disabilities living in their jurisdiction (including a homeless child) “who is not receiving a public education”. [34 C.F.R. Sec. 104.32(a).] Districts must “identify and locate” every eligible student with disabilities living in their jurisdiction (including a homeless child) “who is not receiving a public education”. [34 C.F.R. Sec. 104.32(a).] Districts must inform students and their parents of this obligation. [34 C.F.R. Sec. 104.32(b).] In addition, districts are required to evaluate students who, because of a disability “need or are believed to need special education or related services”. [34 C.F.R. Sec. 104.35(a).] These regulations put an affirmative duty on districts to have procedures in place to ensure that a child with a potential eligibility under Section 504 is promptly evaluated.

These circumstances can trigger the duty of your district to evaluate your child for Section 504 eligibility, ongoing behavioral and disciplinary problems, medical/psychological documentation of a condition provided by parents, sudden need for a wheelchair, or hospitalization due to psychological and emotional needs. Likewise, information from a screening test could raise the suspicion of a disability and be subject to the inquiry on whether district has met its Child Find duty. Additionally, because the ADA Amendment Act (ADAA), effective on January 1, 2009, expanded the scope of disability under both the

ADA and Section 504 (especially with respect to mitigating factors, temporary disabilities and impairments that are episodic or in remission), districts' Child Find duty must be designed to identify students who are now covered under the broader definition.