

Human and Civil Rights Reporter

Spring 2009

Connecticut Education Association

UPDATE ON NEW LEGISLATION AFFECTING SECTION 504

Will it change how Section 504 eligibility teams do business?

As reported in the Fall 2008 edition of the *Human & Civil Rights Reporter*, the ADA Amendments Act (ADAA) of 2008 became effective on January 1, 2009. Designed to protect disabled individuals in the workplace and school settings, this new civil rights law was passed to ensure that the law was interpreted in a manner consistent with its original intent of being inclusive.

In adopting these changes, Congress expressed its disapproval of a string of United States Supreme Court cases that it viewed as overly restrictive. Although the legislation specifically amends the Americans with Disabilities Act, it includes a conforming amendment to the Rehabilitation Act of 1973 (Section 504) and thus will impact 504 determinations made in the public schools.

The U.S. Department of Education's Office for Civil Rights (OCR), the federal agency that enforces Section 504, currently is evaluating the impact of the ADAA, including whether any changes in regulations, guidance, or other publications are necessary. As a result, the law's precise impact on Section 504 cases in the public schools is not yet clear. However, the law

does make the following changes:

■ An individual's use of "mitigating measures" such as hearing aids and cochlear implants, prosthetics, low-vision devices (excluding ordinary eyeglasses or contact lenses) or medication to alleviate the effects of a disability can no longer be considered when determining whether he or she is, in fact, disabled.

■ The law clarifies what kinds of activities constitute "major life activities" by including in the law a nonexhaustive list of specific examples—"caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, and working."

■ It provides that the interpretation of whether a disability "substantially limits" a major life activity should be interpreted broadly and that it should not require "extensive analysis." It also states that the current regulation that defines this term as "significantly restricted" should be revised as it is too limiting.

Until OCR issues further clarification, it remains somewhat unclear about how these changes were intended to apply in the school setting. However, some analysts have noted that these changes were primarily directed at improperly decided cases in the employment sector rather than the public school setting, noting that there has not been such a significant problem with limiting students' rights under Section 504. In fact, some have argued that over- rather than under-identification of students under Section 504 has been the real problem for school districts nationally. Researchers have found that typically 1-2 percent of a district's student

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A Message from the HCR Commission Chair

Dear Fellow CEA Members,

As with most years, it is hard for me to believe that we are nearing the end of another school year. This journey of life sure is a spectacular ride with its ups and downs. Our journey as teachers is no different.

We continue to have hope that our new administration and Congress will bring positive changes to our nation and our profession, though what will be done remains to be seen. These are tough times. Our local budgets are being cut and many schools are losing positions. I understand that we must look at the loss of positions as just that. However, I know that those positions are filled by people. Having hope and staying positive are not easy but we must continue to do so. Staying positive also means bringing people together and not letting our differences separate us. It is only through supporting one another and overcoming our differences that we are going to emerge as better people.

As part of CEA's Summer Leadership Conference, HCR will be presenting a workshop titled "Tackling Bias and Overcoming Inequities" in which we hope our participants will gain a better understanding of how biases develop, ways to tackle our own biases, and how to overcome inequalities within our schools and communities. Please consider participating in this mostly teacher-led workshop.

Remember to value all people and find peace in your life.

Jennifer Jasenski

RECOMMENDED RESOURCES

Amnesty International

Amnesty International, on a global level, is an internationally based non-governmental organization that defends and fights for human rights worldwide. It has over 2.2 million registered members and countless unregistered supporters around the globe. Their issues range from domestic issues here in the U.S. to the international arms trade, genocide, lesbian, gay, bisexual and transgender rights, children's rights, women's rights, the death penalty, the war on terror, censorship, and torture.

Founded in 1961, Amnesty International has led many successful campaigns in the years since its birth regarding the fight for freedom and human rights, even receiving a Nobel Peace Prize for the organization's continued life-changing and life-saving work.

The Avon High School Chapter of Amnesty International has set out with the mission to raise awareness in the school and town communities regarding current human rights violations and issues. Our group has been focusing on the genocide in Darfur, the death penalty, and the events taking place in Northern Uganda regarding child soldiers, as well as the violence in and oppression of Tibet. In early 2007, the first event of the Avon High School Amnesty International Chapter's calendar year was marked by a tremendously successful J. Foster fundraiser with teachers doing the "scooping" at the local ice cream parlor. Ultimately, the event raised well over \$300 to be donated to the Save Darfur Coalition.

This fundraiser was soon followed by a string of other extremely successful events including a Flatbread Benefit Night (in which the proceeds also benefited the Save Darfur Coalition), as well as a guest appearance and speech by Robert Meeropol, the son of Julius and Ethel Rosenberg, who were executed in 1953 on the basis of "conspiracy to commit espionage". Our Amnesty International chapter also hosted a Ugandan Cultural Festival at Avon High School with attendance of well over 100 community members, students, and teachers. The festival included games, crafts, art, history, food, videos, musical performances by Echo Uganda, a musical group centered out of Willimantic, as well as a lecture given by guest speaker Dr. Amii Omara-

Otunnu, Professor at UConn and UNESCO Chairman.

This year our chapter has gotten off to a very impressive start. We were fortunate to sponsor a very special day at Avon High School with the arrival of Carl Wilkens. Carl is the director of World Outside My Shoes, a non-profit educational and professional development organization committed to inspiring and equipping people to enter the world of "The Other". "The Other" may be under our own roof or on the other side of the globe.

Carl Wilkens is the former head of the Adventist Development and Relief Agency International in Rwanda. In 1994, he was the only one out of 257 Americans who chose to remain in the country after the genocide began. His choice to stay and try to help resulted in preventing the massacre of hundreds of children over the course of the genocide. As a result of Carl sharing his amazing story with our students they became inspired to enter the world of "The Other."

On the fundraising front, we have sold fair trade chocolate from Ghana. The money we raised helped to ensure that cocoa farmers and their families in West Africa have a better standard of living, clean water, a chance to go to school and the promise of a better future.

We are in the process of organizing a "Darfur Cultural Night" at the high school in late April following the structure described above for our Ugandan Cultural Festival. With the success of our Ugandan Night, we are excited and enthusiastic about this upcoming event.

The Amnesty International Chapter at Avon High School is dedicated to raising awareness, and helping to aid in the pursuit of human rights for all. For more information, contact:

Stu Abrams
Amnesty International
Avon High School
510 West Avon Road, Avon, CT 06001
www.amnestyusa.org

Written by AHS students Hannah Crane and Tara Breitsprecher in conjunction with club adviser Stu Abrams. Submitted by Marilyn Cohen, CEA Human & Civil Rights Commission Vice Chair and teacher at Avon High School.

Echoes and Reflections *A Multimedia Curriculum on the Holocaust*

The most comprehensive curriculum on the Holocaust is now available through the Anti-Defamation League's (ADL) Echoes and Reflections program. Through the study of the Holocaust, this extraordinary teaching tool will inspire teachers and students to connect with history as a means of confronting issues of intolerance, prejudice, and cultural diversity in their lives today. The curriculum includes ten comprehensive lesson plans, videotaped firsthand stories from Holocaust survivors and witnesses, photographs, timelines, and related primary source material. While this curriculum was designed for high-school-level students, it can be adapted for middle school students. And although it typically is taught as part of a history or social studies course, it does include material that would be appropriate for English and fine art classes as well. ADL also offers professional development workshops for teachers designed to familiarize them with the content and visual aids of the Echoes and Reflections curriculum.

"By learning about this unprecedented event in Western Civilization, we hope that students and teachers will infuse it with meaning by upholding human rights, freedom, and the sanctity of life."— Avner Shalev, Chairman of Yad Vashem (The Holocaust Martyrs' and Heroes' Remembrance Authority), a partner in Echoes and Reflections

For more information, go to www.echoesandreflection.org.

Another helpful Holocaust resource for teachers

The Holocaust Remembrance Project has created a teacher resource guide containing more than 50 lesson plans designed for high school teachers to use with their students. Each lesson plan includes photos, written excerpts and thought-provoking questions "designed to engage students in the study of the Holocaust and to apply the lessons of the Holocaust to our world today." It is provided free of charge, but users must register to use the site that can be found at www.holocaust.hklaw.com

CEA-sponsored workshop

SECTION 504: AN EMERGING ISSUE FOR TEACHERS

Section 504 of the Rehabilitation Act of 1973 is receiving increased attention in schools. This workshop will provide an overview of the civil rights law, its procedural requirements (with an emphasis on the eligibility process) and relationship to IDEA, and its applicability to such timely issues as AD(H)D, field trips, allergies, and AIDS. A case-study method is utilized.

Length: 2+ hours (*CEUs offered*)
Presenter: Robyn Kaplan-Cho, CEA

Local associations interested in hosting this workshop should contact Robyn Kaplan-Cho at robynk@cea.org.

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population should qualify for Section 504 services, yet in some districts, they account for 20-30 percent. This overidentification problem often can be attributed to Section 504 teams agreeing to a parent's request for services under Section 504 or a physician's recommendation without ever applying the appropriate legal standard. This standard, despite the new ADA changes discussed above, remains unchanged. If a child clearly does not have a disability (i.e., his/her school performance could be caused by other nondisability issues such as lack of attendance or family problems), or if that disability does not impact a major life activity in any way, the student should not qualify for Section 504 protections. The ADA does seem to indicate that in cases where the Section 504 team feels it is a close call, the decision should be made in favor of coverage. But in clear cases, a Section 504 team acting reasonably can deny Section 504 coverage to a student. Ultimately, it is important for team members to remember that by qualifying a student for Section 504 coverage, they have officially determined that the student is disabled and that the district is legally responsible for writing and implementing a Section 504 plan. Both of these represent significant decisions with serious implications for the student, staff, and school district.

Teacher-recommended cyberbullying Web sites

- www.bullypolice.org – Tracks and grades state bullying legislation and provides sample policies
- www.bullycide.org – Moms speak out about the bullying/suicide connection
- www.jeffreyjohnston.org – Designed by parents, teachers, and students and created in memory of a Florida teen who committed suicide in 2005 after being subjected to years of bullying

New cyberbullying workshop offered to local Associations **Cyberbullying: Your Responsibilities, Your Rights**

Texting, picture messaging, online social networking – you do it; your students do it. But because of the anonymous nature and unlimited audiences of technological communication, cyberbullying has emerged as one of the most challenging issues for students and educators today. In a matter of seconds, anyone can be privy to personal, hurtful, and offensive information generated by one person about another.

In this workshop designed by teachers, you will obtain critical guidance on what your responsibilities are when one of your students reports being the target of cyberbullying, hear about topical resources for the classroom, and learn what your legal rights are if you become a victim of cyberbullying.

Local associations interested in more information about hosting this workshop in their district should contact:

Lynn Rice Scozzafava

Litchfield High School Language Arts

President, Litchfield Education Association

Litchfield High School: 860-567-7530 x 547 or mobile 860-480-1460

**HCR
Workshop**



Nationally recognized equity trainer Phyllis Lerner presented a workshop entitled "Classroom Bias? The Good, The Bad and The Ugly" on March 19th at the Inn at Middletown. More than 30 CEA members participated in the seminar that examined how and what teachers teach in an effort to increase effectiveness and equity in the classroom. The workshop was sponsored by CEA's Human and Civil Rights Commission.

What Is the Human and Civil Rights Commission?

The Human and Civil Rights (HCR) Commission is a standing committee of CEA that provides content and technical information to CEA members on human and civil rights issues such as affirmative action, cultural competence, student achievement, ESEA, IDEA, gender equity, diversity training, English-language learners, safe schools, and NCLB.

HCR takes an active leadership role in CEA by:

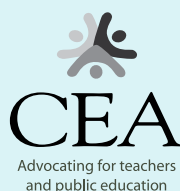
- Monitoring legislation that affects human and civil rights.
- Presenting the Human and Civil Rights Awards at the Summer Leadership Conference.
- Developing, delivering, and promoting appropriate statewide professional development programs to meet needs in the education environment.
- Sharing information about the HCR Commission's work in the *HCR Reporter* and on the Web site (www.cea.org/about/Commissions/hcr).
- Working on equity issues in Connecticut's schools.
- Reviewing the status of human, professional, and civil rights of teachers in Connecticut.

Human and Civil Rights Reporter is published biannually by the Connecticut Education Association (CEA) Human and Civil Rights Commission and CEA's Policy and Professional Practice Department. This newsletter is intended to provide CEA members with legal perspectives on various human and civil rights issues. Reader input is encouraged and appreciated as a vital means of addressing members' professional and educational needs in this arena. It is written and edited by Robyn Kaplan-Cho, Connecticut Education Association, Capitol Place, Suite 500, 21 Oak Street, Hartford, CT 06106-8001. Tel. 860-525-5641 or 1-800-842-4316. E-mail: robynk@cea.org.

2008-2009 HCR Commission

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New Summer Leadership track to examine bias and equity issues

Tackling Bias and Overcoming Inequities

What are the intangible barriers of bias and inequity that prevent you and your students from achieving success? In this workshop, participants will explore bias and inequity from both personal and professional perspectives and will engage in activities that will stimulate your intellect. During our time together we will be inspired to tackle the obstacles we face every day in the classroom. For more information about the Summer Leadership Conference, go to www.cea.org.

WALKING THE TALK: CLASSROOM STRATEGIES FOR ADDRESSING BIAS

This workshop, designed for K-12 classroom instructors, examines various approaches to designing and integrating activities into the classroom that raise awareness of bias and empower students to advocate for change, especially around gay, lesbian, bisexual, or transgendered (GLBT) bias.

Length: 90-120 minutes

Presenter: National Education Association (NEA)-Certified Trainers

BARGAINING SPECIAL EDUCATION LANGUAGE: WHERE STUDENTS' RIGHTS AND TEACHERS' RIGHTS INTERSECT

Your contract can serve as an important vehicle for protecting your rights and advancing your concerns as a teacher working with special education students. In this workshop, teachers will learn how to integrate special education issues into the collective bargaining process. Participants will study the pros and cons of negotiating contract provisions related to performing health procedures, teacher notification and scheduling of PPT meetings, professional development opportunities, class-size limitations, local dispute-resolution procedures for special-education-related problems, placement decisions, and many more related topics. Model contract language will be provided. This workshop is ideal for negotiating committees and teachers with a particular interest in this area of the law.

Length: 2+ hours (CEUs offered)

Presenter: Robyn Kaplan-Cho, CEA

TAKING A STAND: CREATING SAFE SCHOOLS FOR ALL STUDENTS

This introductory workshop is designed for all school personnel who are interested in addressing bias regarding sexual orientation and gender issues. It uses video clips and hands-on activities to examine the obvious and subtle ways that bias plays out in schools. It also offers resources for creating schools that are safe for all students, regardless of sexual orientation and gender identity.

Length: 90-120 minutes

Presenter: National Education Association (NEA)-Certified Trainers

MYTH BUSTERS: UNDERSTANDING YOUR LEGAL RIGHTS AND RESPONSIBILITIES IN THE SPECIAL EDUCATION PROCESS

This workshop focuses on the laws of special education with a particular emphasis on regular and special education teachers' rights and responsibilities when participating in the special education process. Participants will learn what the law requires of them as well as what they can and cannot do in such areas as PPT meetings, drafting IEPs, and accommodating students in the regular education environment. The impact of special education laws on teachers' working conditions as well as changes to the Individuals with Disabilities Education Act (IDEA) will be integrated into the workshop.

Length: 2+ hours (CEUs offered)

Presenter: Robyn Kaplan-Cho, CEA

Human and civil rights workshops are offered to CEA members free of charge. If you are interested in having your local Association host one of these workshops, contact your local Association president or CEA UniServ representative for more information. CEUs will be offered.

HCR Workshops

