



Tip Sheet Section 504 and the Graduate New Mexico Initiative

What is the Graduate New Mexico Initiative?

On August 5, 2009, Governor Richardson announced the next generation of his education reform efforts: *Graduate New Mexico! It's Everybody's Business*. In total, he committed \$9.4 million to closing the achievement and graduation gaps for our ethnic minority students, and to bring back 10,000 of New Mexico's dropouts. The goal is to get more students through high school, and then into college and the workforce.

How Does this Relate to Section 504?

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute that prohibits discrimination against individuals with disabilities. Section 504 ensures that the student with a disability has **equal access** and **educational opportunity**. The student may receive accommodations and related services. Under Section 504, a qualified individual with a disability (with respect to elementary and secondary education programs) is one who is of an age during which nondisabled individuals are provided educational services. That being the case, an LEA in New Mexico must comply with Section 504, Subpart D, for an enrolled student of any age who has not yet graduated, because under state law at Subsection A of 22-1-4 NMSA 1978 and Subsection M of 22-8-2 NMSA 1978, there is no upper age limit for enrollment.

- School districts must not exclude any student from reenrollment on the basis of disability.
- Whether or not the district's or school's program is considered as a secondary or an adult education program, Subpart D of the Section 504 regulations apply. The number of classes a student takes is irrelevant to Section 504 needs.
- If a returning student has not yet been identified under Section 504 and the school suspects a need or the student self-refers, then the student is referred to the school's Student Assistance Team (SAT) for consideration of a Section 504 evaluation. The SAT, wearing the hat of the Section 504 team, uses the same evaluation and identification procedures described in the state's *Section 504 Guide* at <http://www.ped.state.nm.us/Rtl/dl10/Section504.pdf>.
- Unless the student's parents are the court-appointed legal guardians, a student over the age 18 is an adult by state law and provides the signed consent for evaluation and services.
- If a returning student formerly received special education services before dropping out and is now over 22, then the student is referred to the school's SAT for consideration for a Section 504 evaluation as described above. The adult student (past age 22) may require accommodations and/or related services under Section 504.