

# Allergies and School

**By: Mary Jacob**

With the beginning of the school year upon us, it's important to understand what your school's responsibility is around your child and allergies. For clarification purposes, I am not speaking about children that are allergic to school – even though most of us as children thought we were allergic to school, as will our children. I am writing about a much broader topic, of children that come to school with significant allergies.

On January 29, 2012, The Office of Civil Rights (OCR) released a “Dear Colleague Letter” providing a low level of assistance in helping schools understand their responsibility in keeping children safe that have been identified as having an allergy that would substantially limit a major life activity when active.

The Americans with Disabilities Act (ADA) was amended in 2008 to broaden the definition of disability, explain how the new amendments affects Section 504, explains various obligations of school districts under Section 504 and addresses how OCR evaluates compliance under Section 504. In this broadened definition it expands the scope of major life activities by providing a nonexhaustive list of general activities and major bodily functions. In addition it clarifies that an impairment can be episodic and would be covered if the episodic event substantially limits a major life activity.

This doesn't necessarily mean if your child has an allergy to dust mites and it makes him sneeze, that this is substantially limiting a major life activity. However, if your child has an allergy to something that is significant enough to cause breathing problems, breathing is a major life activity, thus it would be considered a disability under these new guidelines. As a parent, you will need to determine if this applies to your child. The easiest way to do this is to ask your child's doctor.

If your doctor agrees that your child's allergies are episodic and can potentially limit a major life activity, I would highly recommend you have your doctor write a letter (not a hand scribbled note on his prescription pad) stating the above. Once you have the letter in hand, write a letter to your school principal or Academic Behavior Intervention Team (ABIT) chairperson, if in Jefferson Parish ask for a meeting. I always recommend hand delivering those letters, if possible. Once you have a meeting date, bring a copy of your doctor's letter and a copy of the January 19, 2012 “Dear Colleague Letter” to the meeting asking for a 504 plan for health related accommodations.

Is a 504 plan really necessary? A health plan alone is not an enforceable document. Only when the health plan is part of a 504 plan or IEP does it become enforceable. Of course, if your child is already on an IEP, then you'd want to have the health plan become part of the IEP and a separate 504 plan is not necessary.

If in doubt or if the school is refusing to provide you with a 504 plan, feel free to call Families Helping Families of Jefferson at 504.888.9111. A trained advocate will be able to answer your questions and assist you with the needed documentation.

Sample Letter

Date

School Principal or ABIT Chair

School

Address

City, State, Zip Code

Re: 504 Plan

Dear \_\_\_\_\_,

I am the parent of \_\_\_\_\_ who is a student at your school.

I am writing you to inform you of health concerns for my child which I believe would qualify him for a 504 Plan under Section 504 of the Rehabilitation Act.

Enclosed is a copy of a letter from my child's doctor explaining the health concerns. I've also enclosed a "Dear Colleague Letter" from the Office of Civil Rights, dated January 19, 2012 clarifying that any impairment that is episodic, as in allergies, is a disability if it would substantially limit a major life activity when active. You will note in the doctor letter, this is indeed the case of my child.

Thank you for everything you do for the school and keeping all children safe. I look forward to hearing from you within 1 week to schedule a meeting. You can either call me at \_\_\_\_\_ or email me at \_\_\_\_\_.

Sincerely,

Your Name

Enclosed: Letter from Dr. \_\_\_\_\_

OCR Letter dated January 19, 2012