

SECTION 504 OF THE REHABILITATION ACT OF 1973 AND AMERICANS WITH DISABILITIES ACT OF 1990

A Handbook of Questions and Answers for Local School Systems

Introduction

Through the Office of Special Services, the Georgia Department of Education provides local school systems with technical assistance to support their efforts to establish policies and practices which promote equity in education and employment. Educators are challenged to provide leadership in creating school environments which foster high achievement among employees and students without discrimination.

This handbook is designed to assist public schools with preventing discrimination against students and employees with disabilities as defined and required by Section 504 of the Rehabilitation Act of 1973/Public Law 93-112 (Section 504) and the Americans with Disabilities Act of 1990/Public Law 101-336 (ADA). The question and answer format provides information related to compliance and clarifies the links between Section 504 and ADA.

The handbook is divided into categories for easy reference to the regulations of both laws. Each category consists of questions about Section 504 and ADA which are most frequently asked by educators. Federal regulations and other useful information are in the appendix section. Throughout this handbook specific references to Section 504 and ADA regulations are cited. In these references Section 504 regulations are referred to as 34 CFR 104, and ADA regulations are referred to as 28 CFR 35. Finally, a bibliography is provided to assist educators with achieving a more thorough understanding of both laws.

The Purpose and Intent of Section 504 and ADA

Section 504

Section 504 of the Rehabilitation Act of 1973/Public Law 93-112 is a comprehensive law which addresses the rights of handicapped (hereafter referred to as disability) persons and applies to all agencies receiving federal financial assistance. It applies to a variety of agencies and organizations including preschool, elementary, middle, secondary, vocational and postsecondary education programs. Compliance with Section 504 eradicates discrimination against individuals with disabilities while opening doors to a broader range of opportunities for them. When the regulations were issued, Secretary of Health, Education and Welfare Joseph Califano expressed the importance of its implementation in the following statement.

Today, I am issuing a regulation, pursuant to Section 504 of the Rehabilitation Act of 1973, that will open a new world of equal opportunity for more than 35 million handicapped Americans--the blind, the deaf, persons confined to wheelchairs, the mentally ill or retarded, and those with other handicaps.

The 504 Regulation attacks the discrimination, the many practices, and the injustices that have afflicted the nation's handicapped citizens. It reflects the recognition of the Congress that most handicapped persons can lead proud and productive lives, despite their disabilities. It will usher in a new era of equality for handicapped individuals in which unfair barriers to self-sufficiency and decent treatment will begin to fall before the force of the law.

Eliminating barriers to education programs and services, increasing building accessibility, and establishing equitable employment practices are thoroughly and specifically addressed in Section 504 regulations. The law is based on the same principles underlying the Civil Rights Act of 1964 (which prohibits discrimination based on race, color and national origin) and Title IX of the Education Amendments of 1972 (which prohibits discrimination based on sex). Section 504 states:

No otherwise qualified handicapped individual shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. (Section 504 of the Rehabilitation Act of 1973)

The Office for Civil Rights (OCR) is responsible for the enforcement and investigation of compliance with Section 504. Federal financial assistance to a local school district is contingent on compliance with Section 504 and other civil rights laws. OCR may determine that federal funds should be withheld from local school systems which are not in compliance with civil rights legislation.

ADA

The Americans with Disabilities Act of 1990 builds on the foundation of Section 504 regulations. According to an article by Patricia E. Brady in the December/January 1992 issue of *Washington Reports*, the law was written to accomplish the following purposes:

- (1) to provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities;
- (2) to provide protection against discrimination;
- (3) to bring persons with disabilities into the economic and social mainstream of American life;
- (4) to provide enforceable standards; and
- (5) and to ensure the federal government plays a role in enforcing standards.

The general ADA prohibition against discrimination is the same as that of Section 504 with one primary difference: ADA is broadened to include application to all public entities, including the private sector which provides services to the public. Section 504 applies only to recipients of federal funds. Like Section 504, ADA addresses legal responsibilities of employers to employees; but, in contrast, ADA provides a comprehensive treatment of employment issues that concern individuals with disabilities. ADA applies to public schools, but Section 504 regulations respond more specifically to the needs and concerns of disabled students and their parents or guardians.

ADA states:

No qualified individual with a disability shall, on the basis of the disability, be excluded from participation in or be denied benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. (Americans with Disabilities Act, Section 12112)

ADA does not replace or invalidate Section 504, but, rather, amplifies and expands its protective mandates. The Office for Civil Rights is responsible for enforcing both Section 504 and ADA in public schools.

Questions and Answers Related to Section 504 and ADA Coverage

Section 504 and ADA apply to what types of organizations/agencies?

Section 504 applies to all divisions of state government and all public or private agencies, institutions, and organizations that are the recipients of federal financial assistance (including grants, loans, and contracts). All local school systems in Georgia are subject to Section 504 regulations because they receive federal aid through grant programs such as vocational education, Chapter 1, special education, and food/nutrition.

ADA extends the Section 504 mandate prohibiting discrimination against individuals with disabilities to most of the private sector and to sections of state and local government. ADA regulations cover employment, public services, transportation, public accommodations, telecommunications, and miscellaneous provisions. Public schools are "public entities" as defined by ADA, and, therefore, they are required to adhere to ADA regulations.

Does the definition of "handicapped person" in Section 504 differ from the definition of "individual with a disability" in ADA?

In 1973, when the Rehabilitation Act was passed, "handicap" was the acceptable term for a mental or physical impairment. Today, the term "disability" is preferred and promoted. Either refers to a person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

[34 CFR 104.3(j) (1) and 28 CFR 35.104 (4)]

What specific handicaps/disabilities are listed in the laws?

Section 504 and ADA list life-altering physical and mental impairments which may qualify a person for protection from discrimination. Both laws protect individuals with physiological disorders or conditions, cosmetic disfigurements, or anatomical losses affecting one or more of the following body systems:

neurological	musculoskeletal	special sense organs	genitourinary
respiratory	hemic and lymphatic	skin	endocrine
cardiovascular	reproductive	digestive	

(Respiratory includes speech organs.)

[34 CFR 104.39 (j) (2) (A) and 28 CFR 35.104 (1) (A)]

ADA differs from Section 504 in that ADA provides a more specific list of disorders. In response to increasing concern about AIDS, HIV (symptomatic or asymptomatic) is listed. Categories of physical and mental disorders listed in ADA, which are inferred but not specially mentioned in Section 504, include:

orthopedic	visual	speech	hearing impairments	specific learning disabilities
muscular dystrophy	cerebral palsy	epilepsy	cancer	tuberculosis
heart disease	diabetes	mental retardation	emotional illness	

ADA names specific categories of mental disorders covered by its regulations. They include:

mental retardation	organic brain syndrome	emotional or mental illness	specific learning disabilities
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[28 CFR 35.104 (1) (B) (ii)]

Are alcoholism and drug addiction “qualified disabilities” under Section 504 and ADA?

ADA makes direct statements about alcoholism and drug addiction which are presented as legal interpretations in Appendix A of Section 504 regulations. For the purpose of Section 504 and ADA, both drug addiction and alcoholism are considered to be disabilities if these impairments substantially limit one or more of an individual’s major life activities and who have successfully completed a supervised drug rehabilitation program or who are currently participating in a supervised rehabilitation program, may not be denied employment or access to education based on their past illegal use of drugs. Also, rehabilitated individuals who are erroneously regarded as addicted to drugs or alcohol are protected by ADA and Section 504.

[28 CFR 35.131]

According to Appendix A of Section 504, *An Analysis of Final Regulations*, a school may not exclude an addict or alcoholic as a student on the basis of addiction or alcoholism unless the student cannot successfully participate in the education program or comply with the rules of the school. Section 504 does not prohibit a school from setting and enforcing rules related to use or possession of drugs or alcohol which apply to the total school population.

How severe does a physical or mental impairment have to be in order for a person to qualify for protection by Section 504 and ADA?

To qualify for protection under either law, the individual must have a physical or mental impairment that substantially limits a major life activity such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Persons with disabilities who can perform the essential functions of a job with the support of reasonable accommodations should not be denied employment on the basis of disability. For example, an individual with a hearing impairment may need a telephone hearing device or a paraplegic may need space for a wheelchair. The employer and the employee should determine together what modifications in the work environment are necessary to accommodate limitations caused by the disability.

[28 CFR 35.104]

Does Section 504 cover all children with disabilities in a school district?

All school systems receiving federal funds are required to provide a free appropriate education to "each qualified handicapped child" in its jurisdiction. Schools without appropriate personnel, programs, or facilities to accommodate a child's disability may refer the child to an appropriate educational program. The school system making the referral is responsible for costs resulting from the transfer (i.e., students' transportation to and from school, tuition, etc.).

[34 CFR 104.33 (a)]

Communicable Diseases and Conditions that Pose a Threat to Others

Does either Section 504 or ADA provide specific guidelines related to communicable diseases?

In School Board of Nassau County vs. Arline 480 U.S. 273 (1987), the Supreme Court ruled that people with contagious diseases, like tuberculosis, are entitled to protection under Section 504. Soon after this decision, the U.S. Equal Employment Opportunity Commission, Office of Legal Counsel, issued a legal opinion that symptomatic HIV disease substantially limits a major life activity and therefore is included in the Section 504 and ADA definition of disability. The opinion concluded that asymptomatic HIV disease is an impairment that substantially limits a major life activity, either because of its actual effect on the individual or because of the reaction of others to individuals with HIV disease. These guidelines apply to other contagious diseases as well.

[Americans With Disabilities Act Handbook, Published by the U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice, p. II-19]

How should school systems deal with the contagious aspects of diseases or with mental or physical impairments that may be a threat to others?

An individual with a disability that poses a direct threat to the health and safety of others is not protected by Section 504 or ADA. The term "direct threat" means that there is no reasonable accommodation known that will significantly reduce the risk of the disease threatening the well-being of others.

Where questions of safety are involved, the principles established in 36.208 of the Department's regulation implementing Title III of the ADA to be codified at 28 CFR Part 36, of the Act, will be applicable. That section implements section 302(b)(3) of the Act, which provides that a public accommodation is not required to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of the public accommodation, if that individual poses a direct threat to the health or safety of others.

[Americans With Disabilities Act Handbook, Published by the U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice, p. II-27]

[see also Appendix III, GBOE Rule: 160-1-3-.03, Communicable Diseases]

What guidelines should be used in determining whether or not a disease is a direct threat to others?

The following guidelines should be used in determining whether or not an individual with a disability is a direct threat to others:

Gather and assess significant data which describe:

- the nature, duration and severity of the risk;
- the probability that the potential injury will occur; and
- whether reasonable modifications of policies, practices, or procedures will mitigate or eliminate risk.

Seek the assistance of physicians, public health authorities, such as U.S. Health Service, the Centers for Disease Control, and the National Institute of Health, including the National Institute for Mental Health.

[Americans With Disabilities Act Handbook, Published by the U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice, p. II-27 - II-28]

Implementing Section 504 and ADA

Who within the school system has responsibility for coordinating Section 504 and ADA compliance efforts?

School systems are required to designate an employee(s) to coordinate compliance efforts. This person(s) should have primary responsibility for knowing what modifications in facilities, programs, services, and benefits must be made to comply with Section 504 and ADA. The Section 504/ADA coordinator(s) assists appropriate school system personnel with information and guidance in complying with Section 504 and ADA.

[34 CFR 104.7 (a) and 28 CFR 35.107 (a)]

Who may the Section 504/ADA coordinator contact for technical assistance in implementing Section 504 and ADA?

The Equity Unit in the Georgia Department of Education's Office of Special Services provides technical assistance to school systems related to Section 504/ ADA implementation. To receive technical assistance contact:

Section 504/ADA Coordinator
Office of Special Services
Georgia Department of Education
1854 Twin Towers East
Atlanta, Georgia 30334
Phone: (404) 656-2540

The Office for Civil Rights (OCR) is the federal enforcement agency for Section 504/ADA in public schools. Upon request, OCR will provide technical assistance to school systems related to Section 504 and other civil rights regulations. To receive technical assistance from OCR you may contact:

Office for Civil Rights
U.S. Department of Education
101 Marietta Tower, P. O. Box 1705
Atlanta, Georgia 30301
Phone: (404) 331-7820

What are some specific responsibilities that should be assigned to the Section 504/ADA coordinator?

Necessary Modifications

Gather necessary information for assessing modifications in facilities, classrooms, and programs to make them accessible to students and employees with disabilities. Report this information to the system superintendent and other staff who have the authority to initiate modifications. [34 CFR 104.6 and 28 CFR 35.105]

Identification of Children with Disabilities

Identify children with disabilities in the school district and notify their parents and guardians of a school system's legal responsibility to provide children with disabilities with a "free and appropriate education." [34 CFR 104.33 (a)]

Notification To Parents and Guardians of School System's Nondiscrimination Policy

On a continuous basis, inform the public, employees, applicants, and students that the school system does not discriminate on the basis of handicap/disability. This notification may be made through some public medium such as an announcement placed annually in an appropriate newspaper or magazine. [34 CFR 104.8 and 38 CFR 35.106]

Implementation of a Grievance Procedure

Assist in developing and implementing a grievance procedure that provides for prompt and equitable resolution of complaints of discrimination. [34 CFR 104.7 (b) and 28 CFR 35.107 (b)]

What should a notification of nondiscrimination contain?

A nondiscrimination notice should include (1) the name of the school system; (2) a policy statement of nondiscrimination which applies to all programs, activities, and employment; and (3) the name, address, and phone number of the Section 504/ADA coordinator.

[Title IX of the Education Amendments of 1972 requires that school systems give public notice of their policy not to discriminate based on sex. It also requires school systems to designate a Title IX coordinator and include this person's name, address, and phone number in the notice of nondiscrimination. Although the Civil Rights Act of 1964 does not require that school systems issue a notice of nondiscrimination, it does require that school systems give assurance that they will not discriminate based on race, color, or national origin. It is recommended that school systems include race, color, national origin, sex, and handicap/disability in a public notice of nondiscrimination.]

An example of a notice of nondiscrimination follows:

The Scotts County Board of Education does not discriminate on the basis of race, color, national origin, sex, or handicap/disability. Ms. Mary Greene is the Section 504/ADA coordinator and responsible for coordinating compliance with federal legislation related to individuals with disabilities. For Section 504 compliance information, contact Ms. Greene at Scotts County Board of Education, 1200 Brookwood Road, Highland, Georgia, Phone: (404) 658-2410. Mr. William Tell is the Title IX coordinator and is responsible for coordinating compliance with federal legislation related to gender discrimination. For Title IX compliance information, contact Mr. Tell at Scotts County Board of Education, 1200 Brookwood Road, Highland, Georgia 31405, phone: (404) 658-2550. Mr. Tell also coordinates federal compliance legislation prohibiting discrimination based on race, color, and national origin.

A nondiscrimination policy statement should appear on all official public documents provided to the general public, such as brochures developed by a school/school system, student and faculty handbooks, and employment applications.

An example of a nondiscrimination policy statement follows:

The Scotts County Board of Education does not discriminate on the basis of race, color, national origin, sex, or handicap/disability in education programs, activities, and employment. [34 CFR 104.8 and 38 CFR 35.107 (a)]

What procedures should be followed in establishing a grievance procedure?

The following guidelines may be used to help school systems comply with the Section 504 and ADA mandate to adopt a grievance procedure which provides prompt and equitable resolution of complaints of discrimination:

- Provide a description of the method an employee or student should use in expressing a complaint or grievance to a school/school system. Clarify whether the complaint should be expressed by talking to a specific person, writing a letter or memo to a specific person, completing a designated form, or using some other means.
- Provide timelines which indicate how soon after the incident or violation the aggrieved person is expected to make a complaint.
- List and explain sequential steps students or employees may take to resolve the complaint. The grievance procedure should attempt to resolve complaints of discrimination at the lowest possible level, but provide opportunity for the complaint to be heard at higher levels should lower levels fail to bring resolution.
- Provide timelines which indicate when a student or employee may expect a response to the complaint.
- If a hearing is scheduled, provide timelines for notifying a student or employee of the hearing.
- Provide timelines for notifying employees of the decision made to resolve the complaint.
- Provide a written assurance that complaints may be made without fear of reprisal.
- Include the name, title, office address, and phone number of the Section 504/ADA coordinator.
- (Timelines should allow sufficient time for responses and investigation, yet move the grievance process to the most immediate and prompt resolution possible.)

(See Appendix III - Sample Grievance Procedure)

Accommodating Individuals with Disabilities

What are the basic Section 504 and ADA regulations related to accessibility?

The language of Section 504 and ADA related to accessibility is virtually the same with two exceptions. ADA uses the term *public entity* and Section 504 uses the term *recipient of federal funds*. Both laws have apparent application to public schools.

ADA states:

. . . no qualified individual with a *disability* shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of services, programs, or activities of a public entity or be subjected to discrimination by any public entity. [28 CFR 35.149]

Section 504 states:

No qualified *handicapped* person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity. . . [34 CFR 104.21]

Neither Section 504 nor ADA requires that every part of a facility be made accessible; however, adjustments must be made so that overall programs or activities, when viewed in their entirety, are accessible to handicapped persons. According to both ADA and Section 504, schools and central office buildings must be made accessible to and usable by individuals with disabilities. Even though it may be necessary to make significant structural changes in a building to accommodate persons with disabilities, under the following conditions, ADA regulations allow school systems to find other alternatives:

- if the changes threaten to destroy the historical significance of historic property,
- if the modifications change the fundamental nature of a service or program, or
- if the modifications cause undue financial and administrative burdens.

It is the responsibility of the school system to prove that any of these conditions exist.

[28 CFR 35.150 (a) and 34 CFR 104.12]

What reference provides specific guidelines for modifying buildings or designing buildings to make them accessible to individuals with disabilities?

ADA Accessibility Guidelines may be found in Appendix B of the Americans with Disabilities Act Handbook, published by the U.S. Equal Employment Opportunity Commission and the U.S. Department of Justice.

What actions are school systems required to take to accommodate applicants and employees with disabilities?

Both Section 504 and ADA require that reasonable accommodations be made for applicants and employees with known physical or mental disabilities. Making reasonable accommodations involves modifying the workplace to assure that any qualified person with a disability has rights and privileges equal to those of employees without disabilities. In the preemployment process, modifications should be made so that qualified applicants with disabilities may participate in competition for employment.

The facility used for preemployment activities should be accessible to applicants with disabilities. For example, adequate space should be allotted for interviewing applicants in wheelchairs or for interviewing persons with seeing-eye dogs. Employers should use the following guidelines in gathering information from applicants with disabilities during the preemployment process.

1. Applicants with disabilities should not be asked to undergo a preemployment medical examination unless a conditional offer of employment has been made and the examination is required of all applicants.
2. If medical information is gathered, after a conditional offer of employment, maintain an applicant's medical history on a separate form and handle it as a confidential medical record.
3. Use information from an applicant's medical record only to:
 - (a) Inform supervisors and managers regarding work restrictions necessary to accommodate the employee's disability.
 - (b) Inform first aid and safety personnel if the condition may require emergency treatment.
 - (c) Provide relevant information to government officials who are investigating compliance.

4. Do not ask the applicant if he or she is handicapped or ask about the nature or severity of the person's handicap; however, questions may be asked about an applicant's ability to perform a job-related functions.

[34 CFR 104.14]

What changes must school systems make to programs and services for them to be accessible to students with disabilities?

In order for school systems to comply with "reasonable accommodations" requirements of Section 504 and ADA, school systems may need to make provisions that include, but are not limited to:

- Redesign equipment.
- Reassign classes or other services to accessible buildings.
- Assign aides (professional or paraprofessional).
- Provide home study.
- Alter existing facilities and construction of new facilities to conform with the requirements of ADA and Section 504. (Structural changes in existing facilities are not required, where other methods will achieve compliance.)
- Purchase telecommunication devices for persons with hearing and speech impairments.
- Provide interpreters for persons who are deaf.
- Provide telephone amplifiers and assistive listening systems for persons with hearing impairments.

In determining which actions to take, priority should be given to those methods which provide access that most fully integrates individuals with disabilities into the life of the school/school system and ensures that they have the opportunity to receive the benefit of all programs, activities and services afforded to others. [34 CFR 104.22 (b) and 28 CFR 35.150 (b)]

Since each disability is unique, the reasonable accommodation principle should be applied on a case-by-case basis for both staff and students.

Evaluating and Placing Students with Disabilities As Defined Under Section 504

What guidelines should school systems use in establishing evaluation procedures for students with disabilities?

According to Section 504, school systems are required to establish procedures for evaluating and placing students with disabilities who are believed to need special education or related services. These procedures must ensure that:

- documentation is available which shows that evaluation materials have been validated for the specific purpose for which they are used;
- tests are administered by trained personnel and according to appropriate instructions;
- tests and other evaluation materials include components which assess specific areas of educational need and not merely an intelligence quotient; and
- tests administered to students with impaired sensory, manual, or speaking skills accurately reflect a student's aptitude, achievement level, or other factors which tests purport to measure.

[34 CFR 104.34 (b)]

What guidelines should school systems follow in establishing placement procedures for students with disabilities under Section 504?

The following guidelines from Section 504 should be used in making placement decisions:

- Base placement decisions on information gathered from a variety of sources such as:
 - Aptitude and Achievement Tests
 - Teacher Recommendations
 - Social or Cultural Background
 - Adaptive Behavior
- Use established procedures which ensure information from all sources is documented and carefully considered.
- Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and placement options.

Student Support Teams (SST) serve this function.

- Place a student with a disability under Section 504 in the regular educational environment, unless it can be proven that the student cannot be educated satisfactorily in a regular environment with reasonable accommodations.
- Ensure that students with disabilities under Section 504 can participate in non-academic and extracurricular activities, meals, recess periods and other services and activities with non-disabled persons to the maximum extent appropriate to meet the needs of the person with a disability.
- If a facility has been designated for students or staff with disabilities, assurances must be given that the facility is comparable to facilities for non-disabled persons.
- Establish procedures for periodic reevaluation of students with disabilities placed under Section 504 who are receiving modified education or placement services.

[34 CFR 104.35 (b)]

[GBOE Rule: #150-4-2-.32]

Are school systems required to provide an opportunity for parents to express disagreement with evaluation and placement decisions?

Section 504 requires that school systems provide a system of “procedural safeguards” which allows parents or guardians to express disagreement with evaluation and placement decisions. Procedural safeguards should include notifying parents that they have an opportunity to examine relevant records, a right to an impartial hearing, and state level review. A student’s parents or guardians and legal counsel may participate in the hearing. Section 504 disagreements between parents and local school systems related to student evaluation and placement may be heard by special education hearing officers trained under the Individuals with Disabilities Act (GBOE Rule: #160-1-3-.03). School systems are responsible for bearing the cost of the hearing.

A list of impartial hearing officers may be obtained from the Georgia Department of Education’s Equity Unit. (See page 9 of this handbook for the address and telephone number.)

[34 CFR 104.36]

Self-Evaluation of Section 504/ADA Compliance

How may school systems determine which of their policies or practices may be discriminatory to individuals with disabilities and in violation of Section 504 and ADA?

Both ADA and Section 504 require local school systems to conduct a self-evaluation to determine if any of their policies and procedures are discriminatory to individuals with disabilities. A self-evaluation done for Section 504 will satisfy the requirements of ADA. Self-evaluation results should serve as the basis for determining what modifications in policies, programs, services, and facilities should be made in general for the local school system. Once the evaluation has been conducted, it must be reviewed and updated annually and used as the basis for maintaining Section 504 and ADA compliance. Employees and students with disabilities, the Section 504/ADA coordinator, and concerned organizations should assist in the self-evaluation (see Appendix V). School systems must maintain a self-evaluation file which contains a list of interested persons consulted, a description of areas examined and any problems identified, and a description of any modifications made. Problems identified through an annual review and any modifications made based on annual review should be included in the self-evaluation file.

[34 CFR 104.6 (c) and 28 CFR 35.105]