

IDEA (IEP) and Section 504 (504 Plan)

Information adapted from the Office of Civil Rights (OCR) U.S. Department of Education, Free Appropriate Public Education for Students with Disabilities (7/1999).

An Overview of IDEA and Section 504

Since 1975, every child with a disability has been entitled to a free and appropriate public education (FAPE) designed to meet his or her individual needs under the rules and regulations of the Individuals with Disabilities Education Act (IDEA). This federal law governs all special education services and provides some funding to state and local education agencies to guarantee special education and related services for those students who meet the criteria for eligibility in a number of distinct categories of disability, each of which has its own criteria.

According to the U.S. Department of Education, approximately 5.5 million children with disabilities receive special education and related services and are protected by IDEA. However, some kids with special needs do not receive services under IDEA, but are served under Section 504 of the Rehabilitation Act of 1973. Section 504, a civil rights law, prohibits discrimination on the basis of disabling conditions by programs and activities receiving or benefiting from federal financial assistance. This statute does not require the federal government to provide additional funding for students identified with special needs. Schools must provide these children with reasonable accommodations comparable to those provided to their peers under the rulings of Section 504. Although not a financing statute, Section 504 does provide for enforcement of the mandate: A school that is found by the Office of Civil Rights to be out of compliance with Section 504 may lose its federal financing.

For some children, providing the appropriate modifications and accommodations they need is the only way they will be successful in their school experiences. A thorough understanding of the provisions of these two laws and how they differ can help you and your child's teachers plan the most appropriate education for your child.

An Overview of the Differences

The major differences between IDEA and Section 504 are in the flexibility of the procedures. For a child to be identified as eligible for services under Section 504, there are less specific procedural criteria that govern the requirements of the school personnel. Schools may offer a student less assistance and monitoring with Section 504 because there are fewer regulations by the federal government to instruct them, especially in terms of compliance.

In contrast, a child identified for services under IDEA must meet specific criteria. The degree of regulation is more specific in terms of time frames, parental participation, and formal paperwork requirements. IDEA also addresses the special education of students with disabilities from preschool to graduation only (from ages 3 to 21). Section 504 covers the lifespan and safeguards the rights of persons with disabilities in many areas of their lives, including employment, public access to buildings, transportation, and education.

The criteria for identification, eligibility, appropriate education, and due process procedures under IDEA and Section 504 vary. It is important for you and your child's teachers to understand how these laws differ, and how those differences could affect your child's education.

Identification and Eligibility

In order for children with disabilities to receive services, they must be identified and then determined to be eligible for these services. Under IDEA guidelines, school districts are required to identify and evaluate all children suspected of having a disability whose families reside within the district. Section 504 does not have this requirement.

IDEA

- Covers all school-aged children who fall within one or more specific categories of qualifying conditions (i.e., autism, specific learning disabilities, speech or language impairments, emotional disturbance, traumatic brain injury, visual impairment, hearing impairment, and other health impairments).
- Requires that a child's disability adversely affects her educational performance.

Section 504

- Covers individuals who meet the definition of qualified "handicapped" person -- for example, a child who has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as handicapped by others. (Major life activities include: walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.)
- Does not require that a child need special education to qualify. **Note:** Students who are ineligible for services or are no longer entitled to services under IDEA (e.g., kids with specific learning disabilities who no longer meet IDEA eligibility criteria) may be entitled to accommodations under Section 504.

Evaluation

A child with a disability is assessed to determine what services, if any, are needed.

IDEA Evaluation

- Requires that the child be fully and comprehensively evaluated by a multidisciplinary team.
- Requires informed and written parental consent.
- Requires a reevaluation of the child at least once every three years, or if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.
- Provides for independent evaluation at the district's expense if parents disagree with first evaluation.
- Does not require reevaluation before a significant change in placement.

Section 504 Evaluation

- Evaluation draws on information from a variety of sources and is documented.
- Decisions about the child, evaluation data, and placement options are made by knowledgeable individuals. Such decisions do not require written consent of the parents, only that the parents are notified.
- Requires "periodic" reevaluation.
- No provisions made for independent evaluation at school's expense.
- Requires reevaluation before a significant change in placement.

IDEA Accommodations/Services

- Requires an individualized education program (IEP).
- "Appropriate" education means a program designed to provide "educational benefit" for a person with disabilities.
- Placement may be any combination of special education and general education classrooms.
- Provides related services, if required. Related services may include speech and language therapy, occupational therapy, physical therapy, counseling services, psychological services, social services, and transportation.

Section 504 Accommodations

- Does not require an IEP, but does require a plan.
- "Appropriate" means an education comparable to the education provided to those students who are not disabled.
- Placement is usually in a general education classroom. Children can receive specialized instruction, related services, or accommodations within the general education classroom.
- Provides related services, if needed.

A **504 Plan** is a legal document that outlines a plan of instructional services for students in the general education setting. Students with ADHD or medical problems often have a 504 plan. While not an IEP, the document usually describes the types of accommodations that will be made for a student in school. This section contains articles that provide helpful information about 504s and various types of accommodations.

What are accommodations?

Accommodations are alterations in the way tasks are presented that allow children with learning disabilities to complete the same assignments as other students. Accommodations do not alter the content of assignments, give students an unfair advantage or in the case of assessments, change what a test measures. They do make it possible for students with LD to show what they know without being impeded by their disability.

How does a child receive accommodations?

Once a child has been formally identified with a learning disability, the child or parent may request accommodations for that child's specific needs. The Individuals with Disabilities Education Act states that a child's IEP (Individualized Education Program) team - which both parent and child are a part of – must decide which accommodations are appropriate for him or her. Any appropriate accommodations should be written into a student's IEP. Here are some examples of possible accommodations for an IEP team to consider, broken into six categories:

Presentation:

- Provide on audio tape
- Provide in large print
- Reduce number of items per page or line
- Provide a designated reader
- Present instructions orally

Response:

- Allow for verbal responses
- Allow for answers to be dictated to a scribe
- Allow the use of a tape recorder to capture responses
- Permit responses to be given via computer
- Permit answers to be recorded directly into test booklet

Timing:

- Allow frequent breaks
- Extend allotted time for a test

Setting:

- Provide preferential seating
- Provide special lighting or acoustics
- Provide a space with minimal distractions
- Administer a test in small group setting
- Administer a test in private room or alternative test site

Test Scheduling:

- Administer a test in several timed sessions or over several days
- Allow subtests to be taken in a different order
- Administer a test at a specific time of day

Other

- Provide special test preparation
- Provide on-task/focusing prompts
- Provide any reasonable accommodation that a student needs that does not fit under the existing categories

Should accommodations have an impact on how assignments are graded?

School assignments and tests completed with accommodations should be graded the same way as those completed without accommodations. After all, accommodations are meant to “level the playing field”, provide equal and ready access to the task at hand, and not meant to provide an undue advantage to the user.

Who Qualifies?

To qualify under Section 504 a student must:

- Be determined to have a physical or mental impairment that *substantially limits* one or more major life activities including learning and behavior.
- Have a record of having such an impairment OR
- Be regarded as having such impairment.

How can Section 504 help my child?

Section 504 ensures that a qualified child with a disability has equal access to education. The child may receive appropriate accommodations and modifications tailored to the child's individual needs.

What is an "appropriate" accommodation under Section 504?

An appropriate accommodation for a student with a disability under Section 504 could entail

- education in regular classrooms,
- education in regular classrooms with supplementary services, modifications and/or accommodations,
- special education and related services OR
- any combination of the above.

How do I get my child covered under Section 504?

In order to receive services under Section 504, a child must first be determined to have a disability that *substantially limits* one or more major life functions, including education, learning, and behavior. Only the school can determine if your child qualifies for accommodations. Parents seeking to have their child receive services under Section 504 should take the following steps:

1. Submit a **written request** to the school asking for an evaluation to determine if there is a significant impact on your child's learning or behavior.
2. Request a copy of your School District's Policies and Procedures on Section 504. This document may be referred to by various names, including Procedural Safeguards, Parental Rights or something similar. This document will inform you of your and the school's rights and responsibilities in helping your child receive the accommodations she or he needs.