



DISABILITY RIGHTS EDUCATION & DEFENSE FUND

A COMPARISON of ADA, IDEA, and Section 504

The Americans with Disabilities Act of 1990 (ADA), the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973 represent three attempts to improve the living conditions of those with disabilities.

Type and purpose

ADA

A civil rights law to prohibit discrimination solely on the basis of disability in employment, public services, and accommodations.

IDEA

An education act to provide federal financial assistance to State and local education agencies to guarantee special education and related services to eligible children with disabilities.

504

A civil rights law to prohibit discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance.

Who is protected?

ADA

Any individual with a disability who: (1) has a physical or mental impairment that substantially limits one or more life activities; or (2) has a record of such impairment; or (3)

IDEA

Children ages 3-21 who are determined by a multidisciplinary team to be eligible within one or more of 13 specific disability categories and who need special

504

Any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment or (3) is

is regarded as having such an impairment. Further, the person must be qualified for the program, service, or job.

education and related services. Categories include autism, deafness, deaf-blindness, hearing impairments, mental retardation, multiple disabilities, orthopedic impairments, other health impairments, serious emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury, and visual impairments

regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.

Provides for a free, appropriate public education (FAPE)

ADA

Not directly. However, (1) ADA protections apply to nonsectarian private schools, but not to organization or private schools, or entities controlled by religious organization; (2) ADA provided additional protection in combination with actions brought under Section 504. Reasonable accommodations are required for eligible students with a disability to perform essential functions of the job. This applies to any part of the special education program that may be community-based and involve job training/placement.

IDEA

Yes. A FAPE is defined to mean special education and related services. Special education means "specially designed instruction at no cost to the parents, to meet the unique needs of the child with a disability..." Related services are provided if students, require them in order to benefit from specially designed instruction. States are required to ensure the provision of "full educational opportunity" to all children with disabilities. IDEA requires the development of an Individualized Education Program (IEP) document with specific content and a required number of participants at an IEP meeting.

504

Yes. An "appropriate" education means an education comparable to that provided to students without disabilities. This may be defined as regular or special education services. Students can receive related services under Section 504 even if they are not provided any special education. Section 504 does require development of a plan, although this written document is not mandated. The Individualized Education Program (IEP) of IDEA may be used for the Section 504 written plan. Many experts recommend that a group of persons knowledgeable about the students convene and specify the agreed-upon services.

Funding to implement services

ADA

No, but limited tax credits may be available for removing architectural or transportation barriers. Also, many federal agencies provide grant funds to support training and to provide technical assistance to public and private institutions.

IDEA

Yes. IDEA provides federal funds under Parts B and C to assist states and local education agencies in meeting IDEA requirements to serve infants, toddlers and youth with disabilities.

504

No. State and local jurisdictions have responsibility. IDEA funds may not be used to serve children found eligible under Section 504.

Procedural safeguards

ADA

The ADA does not specify procedural safeguards related to special education; it does detail the administrative requirements, complaint procedures, and consequences for noncompliance related to both services and employment.

IDEA

IDEA requires written notice to parents regarding identification, evaluation, and/or placement. Further, written notice must be made prior to any change in placement. The Act delineates the required components of the written notices.

504

Section 504 requires notice to parents regarding identification, evaluation and/or placements. Written notice is recommended. Notice must be made only before a "significant change" in placement. Following IDEA procedural safeguards is one way to comply with Section 504 mandates.

Evaluation and placement procedures

ADA

The ADA does not specify evaluation and placement procedures: it does specify provision of reasonable accommodations for eligible activities and settings. Reasonable accommodations may include, but are not limited to, redesigning equipment, assigning aides, providing written communication in

IDEA

A comprehensive evaluation is required. A multidisciplinary team evaluates the child, and parental consent is required before evaluation. IDEA requires that reevaluations be conducted at least every 3 years. For evaluation and placement decisions, IDEA requires that more than one single procedure or information source be used; that

504

Unlike IDEA, Section 504 requires only notice, not consent, for evaluation. It is recommended that district obtain parental consent. Like IDEA evaluation and placement procedures under Section 504 require that information be obtained from a variety of sources of the area of concern; that all data are documented and considered; and

alternative formats, modifying tests, redesigning services to accessibility locations, altering existing facilities, and building new facilities.

information from all sources be documented and carefully considered; that the eligibility decision be made by a group of persons who know about the student, the evaluation data, and placement options; and that the placement decision serves the student in the least restrictive environment. An IEP meeting is required before any change in placement.

that decisions are made by a group of persons knowledgeable about the student, evaluation data, and placement options. Section 504 requires that students be educated with their non-disabled peers to the maximum extent appropriate. Section 504 does not require a meeting for any change in placement.

Due process

ADA

The ADA does not delineate specific due process procedures. People with disabilities have the same remedies that are available under the Title VII of the Civil Rights Act of 1964, as amended in 1991. Thus, individuals who are discriminated against may file a complaint with the relevant federal agency or sue in federal court. Enforcement agencies encourage informal mediation and voluntary compliance.

IDEA

IDEA delineates specific requirements for local education agencies to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a child.

504

Section 504 requires local education agencies to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a student. It requires that parents have an opportunity to participate in the hearing process and to be represented by counsel. Beyond this, due process details are left to the discretion of the local education agency. It is recommended that districts develop policy guidelines and procedures.