

Differences Between Secondary Education and Postsecondary Education Regarding Individuals with Disabilities.

I. Differences Between Disability Laws: the Individuals with Disabilities Improvement Act 2004 (IDEIA 2004); Section 504, of the Rehabilitation Act of 1973 (Section 504); and the Americans with Disabilities Act of 1990 (ADA).

| | Secondary Education | Postsecondary Education |
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| Laws that apply: | <p>IDEIA 2004 and Section 504 Applies to public and private schools (preschool - high school).</p> | <p>Section 504: Applies to any program or activity that receives Federal financial assistance (including postsecondary education).</p> <p>ADA (Sections II and III): Title II applies to public institutions and Title III applies to private institutions.</p> |
| The purpose of the law: | <p>IDEIA 2004: An education law that requires public and private schools to provide free, appropriate, public education (FAPE) in the least restrictive environment and that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.</p> <p>Section 504: Prohibits the denial of public education participation, or enjoyment of the benefits offered by public school programs because of a child's disability. Also includes a requirement of a FAPE. Nondiscrimination protection extends to IDEA students as well under Section 504.</p> | <p>Section 504: A civil rights law that was written to eliminate discrimination on the basis of handicap (disability) in any program or activity receiving Federal financial assistance.</p> <p>ADA: A civil rights guarantee law which provides persons with disabilities in the United States protection from discrimination for individuals on the basis of disability. To ensure that no otherwise qualified person with a disability is denied access to, benefits of, or is subject to discrimination solely on the basis of disability.</p> |
| The law covers: | <p>IDEIA 2004: Only those who are educationally disabled (an</p> | <p>Section 504 and ADA: all qualified persons with disabilities who, with or without reasonable academic</p> |

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| | <p>impairment that meets criteria for 1 or more of the 13 categories defined), in that they require special education services (Individualized Education Program), ages 3-21 years.</p> <p>Section 504: A person with a disability is defined as anyone who has a physical or emotional impairment which substantially limits one or more major life functions. “504-only students” are those who are entitled to the protections of 504, but are not also eligible under the IDEIA.</p> | <p>adjustments, auxiliary aids or services, meet the postsecondary institutions admissions requirements and the essential functions of the curriculum. A person with a disability is defined as anyone who has a physical or emotional impairment which substantially limits one or more major life functions.</p> |
| <p>Who has responsibility to identify and evaluate?</p> | <p>IDEIA 2004: A referral to special education services may be made by the parent(s), a local education agency (LEA), a state education agency (SEA) or other state agencies. Once in special education, evaluations done periodically, but at least every three years (unless waived by IEP team).</p> <p>Section 504: Each school district establishes and implements the identification, evaluation or educational placement of persons who, because of disability need or are believed to need accommodations under 504.</p> | <p>Section 504 and the ADA: The individual with the disability must self-identify and provide appropriate documentation. There are no IEPs, 504 plans, or placement committees; a student must be a self-advocate and ask for academic adjustments, auxiliary aids or services.</p> <p>Postsecondary institutions have specific guidelines for documentation of a disability. Students are required to provide documentation that meets the postsecondary institutions’s specific guidelines. The classifications or diagnosis of the condition is not as important as the functional limitation caused by the individual’s condition.</p> |
| <p>Who has to pay for the evaluation?</p> | <p>IDEIA 2004: The LEA or school district has the responsibility to evaluate the child at no expense to the parent. The LEA has 60 calendar days after permission is received from the parent to evaluate.</p> | <p>The individual must pay for the cost of the evaluation.</p> |
| <p>Who determines eligibility</p> | <p>IDEIA 2004: After an assessment is performed, a</p> | <p>A postsecondary institution makes the determination</p> |

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| <p>under the law?</p> | <p>team of qualified professionals and the parent determine eligibility. It is determined whether the child meets one of the 13 categories and if the child is in need of specialized instruction.</p> <p>Section 504:</p> | <p>based upon a reasonable process set forth by the institution. Each institution may have somewhat different requirements. The documentation must support that the individual meets the definition of disability above.</p> |
| <p>How are services provided to individuals with disabilities under this law?</p> | <p>IDEIA 2004: Necessary special education and related services are defined by the student's multi-disciplinary team and written in a document called the Individualized Education Program (IEP).</p> <p>Section 504: An accommodation plan is created for the 504 student. The accommodation plan provides accommodations so that the student has equal access to the educational benefits of the school's program and activities.</p> | <p>Services, auxiliary aids, and academic adjustments may be provided in the regular education setting. Individuals must</p> |
| <p>How are services funded under this law?</p> | <p>IDEIA 2004: Some federal funds are available to cover the costs of compliance with IDEIA regulations. School districts typically combine local, state, and federal funds to cover the full cost of implementing IDEIA regulations.</p> <p>Section 504: the LEA or school district is responsible for funding accommodations. Federal funding is not available to schools for Section 504.</p> | <p>No Federal funding is available to the school or postsecondary institution to implement Civil Rights statute. The school or institution is responsible for funding services, auxiliary aids, or academic adjustments.</p> |
| <p>Who enforces this law?</p> | <p>The Office of Special Education and Rehabilitative Services promulgates regulations governing the enforcement of the IDEIA.</p> | <p>The Office for Civil Rights (OCR), U.S. Department of Education and the U.S. Department of Justice in conjunction with the Equal Employment Opportunity Commission (EEOC)</p> |
| <p>If an institution with responsibility for providing a</p> | <p>If a public school fails to provide a free appropriate educational program (as determined by an impartial</p> | <p>A postsecondary institution must have grievance procedures. These procedures are different from high</p> |

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| <p>service is found to have failed in that responsibility, what options are available?</p> | <p>judge), reimbursement by district of school- related expenses may be available to parents of children with disabilities to ensure a FAPE.</p> | <p>school. However, the postsecondary school's grievance procedures must include steps to ensure prompt and equitable resolution of complaints.</p> <p>If an individual is dissatisfied with the outcome from using the school's grievance procedures wishes to pursue an alternative to using the grievance procedures, an individual may <u>file a complaint</u> against the school with the Office for Civil Rights or in a court.</p> |
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