

Army Reserve Child, Youth & School Services

SECTION 504 & IDEA - SIMILARITIES & DIFFERENCES

Not all children with disabilities are entitled to services under the IDEA (Individuals with Disabilities Education Act); it only applies to those who are found to be eligible under the specified disability categories. In contrast, Section 504 of the Rehabilitation Act of 1973 is less limited: it protects all persons who have a physical or mental impairment that results in a substantial limitation (permanent or temporary) of one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

Students who are eligible under IDEA receive an Individualized Education Plan (IEP) that specifies the special education programs and services they will receive. Every student who has an IEP is also protected under Section 504. Students who do not qualify for an IEP may also be protected by Section 504.

WHAT IS THE PURPOSE OF SECTION 504?

Section 504 was enacted to eliminate obstacles to full participation by persons with disabilities in any activity or program that receives federal funding:

No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (ADA, Section 504)

WHAT IS THE DIFFERENCE BETWEEN SECTION 504 AND AN IEP?

Section 504 requires removal of hurdles to participation, such as stairs that prevent a person in a wheelchair from accessing a building or rules that exclude as a child with a chronic illness from school attendance. By distinction, an **IEP requires the school to provide special programs or services** in addition to the programs and services available to persons without disabilities.

WHO IS SERVED BY SECTION 504?

Here are some examples of students who may be protected by Section 504, but who may not be eligible for services under the IDEA:

- Students with communicable diseases;
- Students with temporary disabilities arising from accidents;
- Students who need short term hospitalization or homebound recovery;

CONTINUED 

CYSS Mission: To support readiness and quality of life by reducing the conflict between military mission requirements and parental responsibilities



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- Students with allergies or asthma;
- Students with AD/HD or specific learning disabilities; and
- Students not yet identified for IDEA

A critical question for schools is whether a student's impairment substantially limits the ability to learn. It is not true, as some school personnel have contended, that the impairment must be of a life activity other than learning. To determine whether a student's learning is substantially limited, schools need to consider more than the student's grades. For example, if a student with diabetes is barred by the school from participating in class trips because of the impairment, the student's learning is "limited". If a student needs preferential seating in order to focus, the student's learning is "limited" without this help. Interpreting Section 504's coverage too narrowly has resulted in many districts being found out of compliance for failure to identify students who do not qualify under IDEA, but should be protected by Section 504.

EVALUATIONS

A common failing of school districts is to evaluate only those students who fall within the IDEA categories, or to have no separate written evaluation procedures for other needs. As previously noted, Section 504's definition of eligibility is broader than the IDEA's. Therefore, a district's procedures and staff training should emphasize that a student may require an evaluation under Section 504 even if there is no reason to suspect that the student is in need of special education services under an IEP.

FREE, APPROPRIATE PUBLIC EDUCATION (FAPE)

By law, all children are entitled to a free, appropriate public education. Section 504 requires *the provision of regular or special education and related aids and services that...are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met.*

	Individualized Education Plan	Section 504 of the Rehabilitation Act of 1973
Oversight	Individuals with Disabilities Education Act	Americans with Disabilities Act
Purpose	An Education Law: Specialized instruction and modifications to the standard program	A Civil Rights Law: Accommodations for accessing standard program
Funding	Federally funded	No funding provided
Eligibility	Specific categories: autism, specific learning disabilities, vision, hearing, emotional, communication, intellectual, speech/language, or certain physical impairments	Broader: Includes temporary impairments or less severe impairments that limit at least one life activity

Sources: U.S. Department of Education: (<http://www2.ed.gov/about/offices/list/ocr/504faq.html>) | U.S. Department of Health and Human Services - Office for Civil Rights (<http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>) | Wrights Law (<http://www.wrightslaw.com/info/sec504.index.htm>) | NICHCY - National Dissemination Center for Children with Disabilities (<http://nichcy.org/laws/section504>)



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