

A COMPARISON of IDEA and Section 504

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

Type and purpose

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?

- **IDEA**
- Children ages 3-20 in Maine who are determined by a multidisciplinary team to be eligible within one or more of 13 specific disability categories and who need special 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. Also Developmental Delay from 3 through Kindergarten year.

Who is protected?

- **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 regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.
- Amended in 2009 to include eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating, and the operation of a major bodily function.
- Expanded in 2012 by an interpretation to factor out the positive effects of mitigating measures, such as medication.

Provides for a free, appropriate public education (FAPE)

- **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.

Provides for a free, appropriate public education (FAPE)

- **504**
- Yes. An "appropriate" education means an education comparable to that provided to students without disabilities. This may be defined as regular services with accommodations. 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. Many experts recommend that a group of persons knowledgeable about the students convene and specify the agreed-upon services

Funding to implement services

- **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

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

- **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 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.

Evaluation and placement procedures

- **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 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

• **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.

Mediation

Complaint

Due Process Hearing

Due process

• **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.

• Questions ??????????