



504/IDEA: Laws That Work For Students

Section 504 of The Rehabilitation Act of 1973, Public Law 93-112

Section 504 has been called the "Civil Rights Act" for people with disabilities because it makes discrimination against them illegal and thereby protects their civil rights. Although the law is quite short, it is very broad, which means it applies to a lot of situations and covers many people.

What the Law Means

It says that any group or program that gets money from the federal government must include people who have disabilities in taking part in and benefiting from its activities. Federal money may be lost if the program discriminates against people with disabilities. These programs include all public schools-preschool through college or university, as well as state and local governments, places of employment, hospitals, and others.

Under Section 504, a program is discriminating against people with disabilities if it:

- ✓ denies access to a program or service;
- ✓ fails to make changes so that access is possible;
- ✓ offers a program that is not as good or effective as that offered to people without disabilities; or
- ✓ provides a separate service for people with disabilities instead of making a good faith effort to make changes that will allow access.

A person with a disability is one who either **"has a physical or mental impairment which substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."**

1. The **physical impairment**, or disability, may be physiological, cosmetic, or anatomical; the **mental impairment** may be psychological, intellectual, or emotional.
2. A person is protected under Section 504 if he or she **now has, once had, or is considered to have** such a disability. This means, for instance, that a person who is labeled as having mental retardation, even if he or she does not, may qualify as having a disability under Section 504 because the label itself could significantly limit that person's participation in some major life activities.
3. **Major life activities** include seeing, hearing, walking, breathing, speaking, using one's hands, or caring for oneself.

How the Law Affects Children

Section 504 has great meaning for children with special needs because **any program that receives federal money must respect the civil rights of children by offering equal services and facilities** or risk losing the funds. This includes early intervention services and all public schools. These programs must provide **appropriate** services for those children who qualify under 504. "**Appropriate**" here means having developed a written plan for inclusion, based on an evaluation conducted by qualified personnel.

The state of Maine receives federal money to implement early intervention services for children with special needs, so the state itself could lose federal funds if its services to children two and under are not adequate. Beginning with an evaluation, the child and family receive a plan for an individual program of services designed to help lessen the effects of a disability or prevent a delay in development.

Children over three who have special needs fall under the protection of the U.S. Department of Education regulations, written to implement Section 504. With its broad definition of impairment, 504 includes more children than special education laws do (All disabilities that qualify a child for special education meet 504's definition, too.). This means that children with special needs who are in regular education only, because they do not need special education, may still be eligible for modifications in the program and/or related services under Section 504. The reasoning here is that an impairment which "substantially limits one or more major life activities" will likely mean the need for **extra support in order for the child to truly have equal access** to the school program. Children with special health needs like asthma or diabetes, for instance, may not need special education services if the impairment does not affect intellectual ability or educational achievement. But some medical needs significantly limit the child's involvement in the school program and, thereby adversely affect learning, which is a major life activity for a child!

Individuals With Disabilities Education Act

The **Education for All Handicapped Children Act** (EHA), Public Law 94-142, was passed in 1975 and amended in 1986 by P.L. 99-457 and in 1990 by P.L. 101-476. In 1990 its name was changed to the **Individuals with Disabilities Education Act** (IDEA). IDEA added to both 94-142 and 99-457 while keeping the major purposes of each. IDEA was reauthorized in 1997, and was then renamed The Reauthorization of IDEA. The Reauthorization of IDEA is the most current version of IDEA, and is the most frequently quoted. For the purposes of this fact sheet, all three will be discussed as one and referred to as IDEA.

The Individuals with Disabilities Education Act is the federal special education law. Each state has written its own regulations to enact IDEA; while they must conform to the federal law; the state laws are much more specific in detail. IDEA establishes requirements and offers funds for special services to all children and youth who qualify, from birth to twenty-one (in Maine, 3-20). The law assures to each eligible student:

- 1. an education that's free and appropriate.** "Free" here means at no additional cost. According to IDEA, an appropriate education for a child with a disability is one that is characterized by all of the following:
 - 2. rights that are specified and protected.** The child and family have the right to confidentiality of all records; the right to give or deny permission for any step in the process, from referral to placement; and the right to challenge any decision made about the child if they disagree.
 - 3. a plan designed to meet individual needs.** A team of parents and professionals writes a plan of goals and objectives for the child, specifying what services are necessary, where and when they'll be offered, and who will provide them.
 - 4. placement based on assessment and evaluation.** The program of services, along with providers and locations, is the "placement"; it may be decided only after the child's needs have been assessed, or determined.
 - 5. inclusion with children without disabilities.** The "least restrictive environment" is the one where a child's special needs are met in the "regular" program as much as possible.
 - 6. involvement of parents in all decisions.** See # 2 and #3.
 - 7. a range of educational and related services.** A combination of programs and services is designed to lessen the effect of the disability on the child's development or education. It may include occupational, physical, or speech/language therapy, assistive technology, and counseling, among others.

Both Section 504 and IDEA are important laws in helping children with disabilities receive a free appropriate public education. IDEA is more often used because it is the basis for all special education regulations, but 504, with its broader definition of disabilities, can also be useful in accessing services for school children.

For more information on this or other topics related to the needs of children with disabilities, call or write Maine Parent Federation, P.O. Box 2067, Augusta, Maine 04338, 1-800-870-7746 (In-State Only) 207-623-2144, or e-mail MPF at parentconnect@mpf.org.