

# 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 civil rights laws for people with disabilities.

<b>TYPE AND PURPOSE</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
A civil rights law to prohibit discrimination solely on the basis of disability in employment, public services, and public accommodations.	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.	A civil rights law to prohibit discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance.
<b>WHO IS PROTECTED?</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
Any individual with a disability who: (1) has a physical or mental impairment that substantially limits one or more major life activities; or (2) has a record of such 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. Further, the person must be qualified for the program, service, or job.	Children ages 3-21 in K-12 education 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, intellectual disabilities, multiple disabilities, orthopedic impairments, other health impairments, serious emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury, and visual impairments.	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. Further, the person must be qualified for the program, service, or job.
<b>DOES IT PROVIDE FOR A FREE, APPROPRIATE PUBLIC EDUCATION (FAPE)?</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
Not directly. However, (1) ADA protections apply to nonsectarian private schools, but not to entities controlled by a religious organization; (2) ADA provided additional protection in combination with actions brought under Section 504. Reasonable modifications to policies, practices, and procedures are required for eligible students with a disability. It also requires public and nonsectarian private schools to meet physical accessibility and barrier removal requirements.	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 required participants at an IEP meeting.	Not directly. However, it does provide for 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 a 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.
<b>IS FUNDING PROVIDED TO IMPLEMENT SERVICES?</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
No, but limited tax incentives 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.	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.	No. State and local jurisdictions have responsibility. IDEA funds may not be used to serve children found eligible only under Section 504.

<b>PROCEDURAL SAFEGUARDS</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
The ADA does not specify procedural safeguards related to special education; it does detail administrative complaint procedures, and consequences for noncompliance related to both services and employment.	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.	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.
<b>EVALUATION AND PLACEMENT PROCEDURES</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
The ADA does not specify evaluation and placement procedures: it does specify provision of reasonable modifications to policies, practices, and procedures for eligible activities and settings. Reasonable modifications may include, but are not limited to, redesigning equipment, assigning aides, providing written communication in alternative formats, modifying tests, reassigning services to accessible locations, altering existing facilities, and building new facilities.	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.	Unlike IDEA, Section 504 requires only notice, not consent, for evaluation. It is recommended that districts 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.
<b>DUE PROCESS</b>		
<b>ADA</b>	<b>IDEA</b>	<b>504</b>
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 Due in federal court. Enforcement agencies encourage informal mediation and voluntary compliance.	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.	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.

Provided by:

**Mid-Atlantic ADA Center**

*Providing information, guidance and training*

*on the Americans with Disabilities Act*

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*Adapted by the Mid-Atlantic ADA Center from a document created by the Disability Rights Education Defense Fund (DREDF). <http://www.dredf.org/advocacy/comparison.html>*