

# ED452627 2001-03-00 Overview of ADA, IDEA, and Section 504: Update 2001. ERIC Digest E606.

ERIC Development Team

[www.eric.ed.gov](http://www.eric.ed.gov)

## Table of Contents

If you're viewing this document online, you can click any of the topics below to link directly to that section.

[Overview of ADA, IDEA, and Section 504: Update 2001. ERIC Digest E606.....](#) 1



**ERIC Identifier:** ED452627

**Publication Date:** 2001-03-00

**Author:** Henderson, Kelly

**Source:** ERIC Clearinghouse on Disabilities and Gifted Education Arlington VA.

## Overview of ADA, IDEA, and Section 504: Update 2001. ERIC Digest E606.

THIS DIGEST WAS CREATED BY ERIC, THE EDUCATIONAL RESOURCES INFORMATION CENTER. FOR MORE INFORMATION ABOUT ERIC, CONTACT ACCESS ERIC 1-800-LET-ERIC  
AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)



### Type/Purpose

A civil rights law to prohibit discrimination solely on the basis of disability in employment, public services, and accommodations.



### Who is Eligible?

Any individual with a disability who: (1) has a physical or mental impairment that substantially limits one or more life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment. Further, the person must be qualified for the program, service or job.



### Responsibility to Provide a Free, Appropriate Public Education (FAPE)?

Not directly. However, ADA provides additional protection in combination with actions brought under Section 504 and IDEA. ADA protections apply to nonsectarian private schools, but not to organizations or entities controlled by religious organizations. Reasonable accommodations are required for eligible students with a disability to perform essential functions of the job. This applies to any part of the special education program that may be community-based and involve job training/placement. Although not required, an IEP under IDEA will fulfill requirements of Title II of the ADA for an appropriate education for a student with disabilities.



### Funding to Implement Requirements?

No, but limited tax credits may be available for removing architectural or transportation barriers. Also, many federal agencies provide grants to public and private institutions to support training and technical assistance.



### Procedural Safeguards/Due Process

The ADA does not specify procedural safeguards related to special education; it does detail the administrative requirements, complaint procedures, and consequences for noncompliance related to both services and employment. The ADA also does not delineate specific due process procedures. People with disabilities have the same remedies that are available under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. Thus, individuals who are discriminated against may file a complaint with the relevant federal agency or sue in federal court. Enforcement agencies encourage informal mediation and voluntary compliance.



## Evaluation/Placement Procedures

The ADA does not specify evaluation and placement procedures; it does specify provision of reasonable accommodations for eligible students across educational activities and settings. Reasonable accommodations 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.

## INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), AMENDED IN 1997



### Type/Purpose

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.



### Who is Eligible?

Children and youth aged 3-21 who are determined through an individualized evaluation and by a multidisciplinary team (including the parent) to be eligible in one or more of 13 categories and who need special education and related services. The categories are autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment including blindness. Children aged 3 through 9 experiencing developmental delays may also be eligible. Infants and toddlers from birth through age 2 may be eligible for early intervention services, delivered in accordance with an individualized family service plan.



### Responsibility To Provide a Free, Appropriate Public Education (FAPE)?

Yes. A FAPE is defined to mean special education and related services that are provided at no charge to parents, meet other state educational standards, and are consistent with an individualized educational program (IEP). 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 those required to assist a child to benefit from special education, including speech- language pathology, physical and

occupational therapy, and others. A team of professionals and parents develop and review at least annually, an IEP for each child with a disability. IDEA requires certain content in the IEP.



#### Funding To Implement Requirements?

Yes. IDEA provides federal funds under Parts B and C to assist state and local educational agencies in meeting IDEA requirements to serve infants, toddlers, children, and youth with disabilities.



#### Procedural Safeguards/Due Process

IDEA provides for procedural safeguards and due process rights to parents in the identification, evaluation and educational placement of their child. Prior written notice of procedural safeguards and of proposals or refusals to initiate or change identification, evaluation, or placement must be provided to parents. IDEA delineates the required components of these notices. Disputes may be resolved through mediation, impartial due process hearings, appeal of hearing decisions, and/or civil action.



#### Evaluation/Placement Procedures

With parental consent, an individualized evaluation must be conducted using a variety of technically sound, unbiased assessment tools. Based on the results, a team of professionals (including the parent of the child) determines eligibility for special education. Reevaluations are conducted at least every 3 years. Results are used to develop an IEP that specifies the special education, related services, and supplemental aids and services to be provided to address the child's goals. Placement in the least restrictive environment (LRE) is selected from a continuum of alternative placements, based on the child's IEP, and reviewed at least annually. IEPs must be reviewed at least annually to see whether annual goals are being met. IDEA contains specific provisions about IEP team composition, parent participation, IEP content, and consideration of special factors.

#### SECTION 504 OF THE REHABILITATION ACT OF 1973



#### Type/Purpose

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 Eligible?

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 caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The person must be qualified for the services or job; in the case of school services, the person must be of an age when non-disabled peers are typically served or be eligible under IDEA.



### Responsibility To Provide a Free, Appropriate Public Education (FAPE)?

Yes. An "appropriate" education means an education comparable to that provided to students without disabilities. This may be regular or special education. Students can receive related services under Section 504 even if they are not provided any special education. These are to be provided at no additional cost to the child and his or her parents. Section 504 requires provision of educational and related aids and services that are designed to meet the individual educational needs of the child. The individualized educational program of IDEA may be used to meet the Section 504 requirement.



### Funding To Implement Requirements?

No. State and local jurisdictions have responsibility. IDEA funds may not be used to serve children found eligible only under Section 504.



### Procedural Safeguards/Due Process

Section 504 requires notice to parents regarding identification, evaluation, placement, and before a "significant change" in placement. Written notice is recommended. Following IDEA procedural safeguards is one way to meet Section 504 mandates. Local education agencies are required to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a student. Parents must have an

opportunity to participate in the hearing process and to be represented by counsel. Beyond this, due process is left to the discretion of local districts. It is recommended that they develop policy guidance and procedures.



#### Evaluation/Placement Procedures

Section 504 provides for a placement evaluation that must involve multiple assessment tools tailored to assess specific areas of educational need. Placement decisions must be made by a team of persons familiar with the student who understand the evaluation information and placement options. Students with disabilities may be placed in a separate class or facility only if they cannot be educated satisfactorily in the regular education setting with the use of supplementary aids and services. Significant changes to placement must be preceded by an evaluation.

Section 504 provides for periodic reevaluation. Parental consent is not required for evaluation or placement.

#### RESOURCES



##### Telephone Information Lines

The Americans with Disabilities Act (ADA) information line, 1-800-514-0301 or 1-800-514-0383 (TDD).

U.S. Office of Civil Rights, 1-800-421-3481.



##### Web Sites

Americans with Disabilities Act: <http://www.usdoj.gov/crt/ada/adahom1.htm>

Section 504 of the Rehabilitation Act: <http://www.ed.gov/offices/OCR/disability.html>

Individuals with Disabilities Education Act: <http://www.ideapractices.org/lawandregs.htm>

-----

ERIC Digests are in the public domain and may be freely reproduced and disseminated, but please acknowledge your source. This digest was prepared with funding from the Office of Educational Research and Improvement (OERI), U.S. Department of

Education (ED) under Contract No. ED-99-CO-0026. The opinions expressed in this publication do not necessarily reflect the positions or policies of OERI or ED.

---

**Title:** Overview of ADA, IDEA, and Section 504: Update 2001. ERIC Digest E606.

**Document Type:** Information Analyses---ERIC Information Analysis Products (IAPs) (071); Information Analyses---ERIC Digests (Selected) in Full Text (073);

**Available From:** ERIC Clearinghouse on Disabilities and Gifted Education, Council for Exceptional Children, 1110 North Glebe Rd., Arlington, VA 22201-5740. Tel: 800-328-0272 (Toll Free); e-mail: ericec@cec.sped.org. For full text: <http://www.ericec.org>.

**Descriptors:** Civil Rights Legislation, Disabilities, Due Process, Educational Legislation, Elementary Secondary Education, Eligibility, Federal Aid, Federal Legislation, Rehabilitation, Student Evaluation, Student Placement, Student Rights

**Identifiers:** Americans with Disabilities Act 1990, Individuals with Disabilities Educ Act Amend 1997, Rehabilitation Act 1973 (Section 504)

###



[\[Return to ERIC Digest Search Page\]](#)