

# Individuals with Disabilities Education Act (IDEA) to the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act

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# Advance Organizer

- ❖ Defining IDEA
- ❖ Defining Section 504
- ❖ Section 504 comparison with IDEA
- ❖ Section 504 and college accommodations
- ❖ Case Scenarios

# History of Education in the U.S.

- ❖ 1867, 39<sup>th</sup> Congress creates, Office of Education, Congress had instructed commissioner of education to collect “such statistics and facts as shall show the condition and progress of education in the several States and Territories.”
- ❖ The requirement was ignored until, in late 1963.

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# IDEA

## 20 U.S.C. Sec. 1400 et. seq.

- ❖ Originally enacted in 1975 as the Education for All Handicapped Children Act
- ❖ The Rehabilitation Act was followed in 1975 by the passage of **PL 94-142**
- ❖ Reauthorized in 1997 and 2004 (Individuals with Disabilities Education Improvement Act)
- ❖ Serves ages 3-22
- ❖ Serves ages 0-3 in early intervention programs
- ❖ Receives federal funding
- ❖ Includes legal timelines

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# PURPOSE OF IDEA 2004

- ❖ High expectations for children to access general education curriculum
- ❖ Prepare children to lead productive and independent adult lives
- ❖ Prepare children for further education
- ❖ Strengthen role and responsibility of parents



# IDEA Provides

- ❖ A free appropriate public education (FAPE)
- ❖ The least restrictive environment (LRE)
- ❖ An individualized education program (IEP)
- ❖ Procedural due process
- ❖ Non-discriminatory assessment
- ❖ Parental participation

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# Highlights of IDEA

## Reauthorizations: 1986–2004

- ❖ PL 101-476 (1990):
- ❖ Name of legislation changed to Individuals with Disabilities Education Act (IDEA)
- ❖ Autism and traumatic brain injury identified as discrete disability categories
- ❖ Rehabilitation counselling and social work considered related services
- ❖ Established the requirement of an individualized transition plan (ITP) by age 16
- ❖ States' immunity from lawsuits for violating IDEA repealed

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# Highlights of IDEA Reauthorizations: 1986–2004 cont..

- ❖ PL 105-17 (1997):
- ❖ Students with disabilities required to participate in state- and districtwide assessments
- ❖ Transition planning commences at age 14
- ❖ Orientation and mobility included as a related service
- ❖ Discretionary use of “developmentally delayed” label for pupils ages 3–9
- ❖ General educators required to participate on individualized education program (IEP) team

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## Highlights of IDEA Reauthorizations: 1986–2004 cont..

- ❖ Students with disabilities are to be involved in and have access to general education curriculum
- ❖ Mediation offered as a means of resolving disputes
- ❖ Benchmarks and measurable annual goals emphasized
- ❖ Pupils who violate student code of conduct may be removed from their current educational placement only after a due process hearing

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## Highlights of IDEA Reauthorizations: 1986–2004 cont...

- ❖ Assistive technology needs of each learner must be assessed
- ❖ Students expelled or suspended from school are still entitled to receive services in accordance with their IEP
- ❖ Greater variety of assessment tools and strategies are permissible for initial evaluations and re-evaluations

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# Eligibility with IDEA

- 1) Hearing impairments
- 2) Visual impairments
- 3) Speech or language impairments
- 4) Orthopedic impairments
- 5) Autism
- 6) Developmental Delay
- 7) Multiple Disabilities

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## Eligibility with IDEA cont..

- 8) Intellectual disability
- 9) Emotionally disturbed
- 10) Learning Disabled
- 11) Traumatic Brain Injury
- 12) Other health impaired
- 13) Specific learning disabilities

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# Section 504 & Life After High School...

Once a student exits high school either by graduating or aging out, IDEA no longer applies. Only Section 504 is available at college or in the workplace.





## What Section 504 Says...

*“The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities. The ADA prohibits discrimination on the basis of disability just as other civil rights laws prohibit discrimination on the basis of race, color, sex, national origin, age and religion. The ADA guarantees that people with disabilities have the same opportunities as everyone to enjoy employment opportunities, purchase goods and services and participate in state and local government programs.* Section 504(a) of the Rehabilitation Act of 1973, as amended



# Entitlement vs. Eligibility

- **Entitlement (high school/IDEA)** = You have a right by law to services or programs.  
*If a student has an IEP, they are “entitled” to the services in their IEP.*
- **Eligibility (college, work/Section 504)** = You must meet certain requirements in order to receive services or participate in programs.  
Services and accommodations are not a given.

# What is Section 504?

- ❖ Part of the Rehabilitation Act of 1973
- ❖ National civil rights law
- ❖ Grants equal access to qualified persons with disabilities to all programs and activities receiving federal funding





## What is Section 504 cont..?

- ❖ PL 93–112: Section 504—First public law specifically aimed at protecting children and adults against discrimination due to a disability.
- ❖ It employs a functional rather than categorical model for determining a disability: According to this law, individuals are eligible for services if they
  1. have a physical or mental impairment that substantially limits one or more major life activities;
  2. have a record of such an impairment; or
  3. are regarded as having such an impairment by others.

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# Americans with Disabilities Act 1990

- ❖ PL 101–336: Forbids discrimination against persons with disabilities in both the public and private sectors. Any person with an impairment that substantially limits a major life activity is covered by this legislation.

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# Americans with Disabilities Act 1990

The ADA goes far beyond traditional thinking of who is disabled and embraces, for instance, people with AIDS, individuals who have successfully completed a substance abuse program, and persons with cosmetic disfigurements.

# Americans with Disabilities Act 2008

PL 110–325: Commonly called Amendments Act of 2008 (ADAA). Changes incorporated in this legislation also apply to students eligible for protections under Section 504 of PL 93–112.

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# IDEA vs. ADA

- ❖ IDEA is more of an affirmative action law as children who qualify are given more services and protections than children without disabilities
- ❖ Section 504 of ADA was designed to level the playing field by eliminating barriers that exclude people with disabilities

# SIDE-BY-SIDE COMPARISON

	Section 504 Plan	IEP (Individualized Education Program)
<b>Type of Law</b>	<b>Civil Rights</b>	<b>Education</b>
<b>Eligibility Requirements</b>	<p>Disability significantly impairs a major life function (may not have an educational impact)</p> <p>Evaluations</p>	<p>Disability must:</p> <ul style="list-style-type: none"> <li>• Meet criteria under IDEA</li> <li>• Significantly impact educational performance</li> <li>• Require specialized services</li> <li>• Evaluations &amp; Re-evaluation</li> </ul>
<b>Includes</b>	Mostly accommodations, <i>sometimes</i> modifications and related services	Accommodations, modifications, courses, related services

# SIDE-BY-SIDE COMPARISON

cont...

<b>Length</b>	<b>Paperwork can be used as a guide for college</b>	<b>Ends with high school graduation</b>
<b>Committee in School</b>	Optional based on school policy	Mandatory
<b>Dispute Rights</b>	Less recourse	Parents/guardians have due process and procedural safeguards
<b>Parent Involvement</b>	Recommended No consent required	Required Consent required
<b>Federal Funding</b>	None	Yes

# Services under Section 504

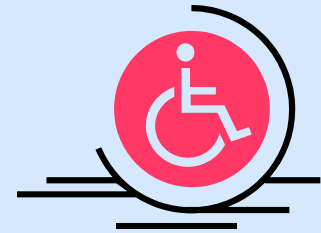
- ❖ Services must be individually designed & provided so they meet the educational needs of students with disabilities.
- ❖ Services should be designed so that students with disabilities have the same access to all programs as students without disabilities.





# 1<sup>st</sup> Requirement for Protection Under Section 504

- ❖ Have a physical or mental impairment
- ❖ OR
- ❖ Record of an impairment
- ❖ OR
- ❖ Regarded as having an impairment





## 2<sup>nd</sup> Requirement for Protection “Substantially Limit”

- ❖ Substantially limits is broadly interpreted and is not meant to be a demanding standard
- ❖ \*\*Key question to remember: *Does the student have an equal opportunity to participate in and benefit from his / her education compared to non-disabled peers?*



## 504 “Major life activities”

- ❖ Walking
- ❖ Seeing
- ❖ Hearing
- ❖ Speaking
- ❖ Breathing
- ❖ Learning
- ❖ Working
- ❖ Caring for oneself
- ❖ Performing manual tasks

<https://www.ada.gov/topics/intro-to-ada/>

# Background of P-12 Education and the IDEA

- ❖ Public school enrollment was 49.5 million in fall of 2021.
- ❖ More than 7 million students receive special education services.
- ❖ The National Center for Education Statistics states that the number of students aged 3–21 are protected under the Individuals with Disabilities Education Act (IDEA) is 7.2 million.
- ❖ This makes up 15% of all public-school students across the United States.

National Center of Education Statistics, (NCES, 2022).

# Background of Higher Education and the ADA

- ❖ With the ADA in effect for almost three decades, there is a growing number of students with disabilities going to college.
- ❖ There are 19.4 million undergraduates across U.S. Colleges, Community Colleges, and Universities.
- ❖ In fact, estimates show that 19% of undergraduate students have disabilities.
- ❖ That means approximately 3.7 million college students are receiving accommodations.

National Center of Education Statistics, (NCES, 2022).

# Background of Higher Education and the ADA

- ❖ With the *ADA* in effect for almost three decades, there is a growing number of students with disabilities going to college.
- ❖ The number of students in graduate and professional schools is 4 million.
- ❖ In fact, estimates show that 12% of graduate students have disabilities.
- ❖ That means approximately 480,000 graduate students are receiving accommodations.
- ❖ National Center of Education Statistics, (NCES, 2022).

# How to Make Colleges/Universities Accessible

- ❖ Rescheduling classes to an accessible location
- ❖ Using early enrollment options for students with disabilities to allow time to arrange accommodations
- ❖ Substituting specific courses required for completion of degree requirements
- ❖ Allowing service animals in the classroom
- ❖ Providing students with disabilities with a syllabus prior to the beginning of class

## How to Make Colleges/Universities Accessible cont..

- ❖ Clearly communicating course requirements, assignments, due dates, grading criteria both orally and in written form
- ❖ Providing written outlines or summaries of class lectures, or integrating this information into comments at the beginning and end of class
- ❖ Allowing students to use note takers or record lectures
- ❖ *Consider allowing all students to use textbooks or other resources during exams*



# How to Make Colleges/Universities Accessible cont..

- ❖ Extra time on tests and assignments
- ❖ Tutoring
- ❖ Seating options
- ❖ Allow students to take exams in testing center
- ❖ Allow students to use assistive technology
- ❖ Oral test administration
- ❖ Sign language interpreter

# How to Make Colleges/Universities Accessible cont..

- ❖ Allowing students with disabilities, whose disability prevents them from taking a full-time course load, to qualify for financial aid
- ❖ Modifications of policies and practices are not required when they would fundamentally alter the nature of the service, program |, or activity



# Remember:

## Section 504 & College Students

❖ The ADA gives college students the right to have equal access to:

- Courses, Programs & Activities
- Services
- Jobs
- Facilities

❖ The ADA gives college students the right to have equal opportunity to:

- Work and Learn
- Receive **reasonable, effective and appropriate** accommodations and modifications

# Remember...

- ❖ There are no IEP's in college or in the workplace.
- ❖ The only way to get accommodations is to ask
- ❖ Students are responsible for asking for accommodations
- ❖ Self-advocacy skills are critical.

# Final Thoughts & Considerations

- ❖ Train faculty & staff
- ❖ Meet with individual students
- ❖ Promote student self-advocacy skills
- ❖ Plan ahead with structural accessibility features
- ❖ Ensure documentation is current and up to date

## Case Scenario

1. You are a professor for undergraduate courses. One of your classes is required for incoming freshmen. Your classroom is on the second floor. You have a student that is in a wheelchair. The third day of class, the elevator is broken. You are informed that all classrooms in the building are used for other classes.

*What are you going to do?*

## Case Scenario

2. You have a student in your 8:00 AM class that you have a scheduled office conference with, per the student's request. The student informs you that she has ADHD and anxiety and takes medication for these conditions. She has to take these medications on a regular scheduled basis, and they make her tired and sleepy. She is asking you that she be allowed to come to class at 8:30 AM.

*What are you going to do?*