

Legal Rights and Responsibilities

Secondary vs. Post-secondary Education

QUESTION	SECONDARY	POST-SECONDARY
WHAT IS THE LAW?	<u>IDEA</u> (Individuals with Disabilities Education Act- http://idea.ed.gov) and <u>Section 504</u> of the Rehabilitation Act of 1973 (http://www.Section504.gov)	<u>ADA</u> (Americans with Disabilities Act of 1990- http://www.ada.gov) and <u>Section 504</u> (Subpart E) of the Rehabilitation Act of 1973 (http://www.Section504.gov)
WHAT IS THE INTENT OF THE LAW?	<u>IDEA</u> : To provide a free, appropriate public education (FAPE) in the least restrictive environment to students with disabilities. <u>Section 504</u> : To ensure that no otherwise qualified person with a disability is denied access to, benefits of, or is subjected to discrimination in any program or activity provided by any entity that receives federal funds of any kind.	<u>Section 504</u> : To ensure that no otherwise qualified person with a disability will be denied access to, or the benefits of, or be subjected to discrimination by any program or activity provided by any entity that receives federal funds of any kind. <u>ADA</u> : Allows eligible individuals with disabilities the same access to programs, activities and services as their nondisabled peers. ADA's main purpose is to extend the legal mandate of Section 504 beyond recipients of federal funds.
WHO IS COVERED UNDER THE LAW?	All infants, children and youth requiring special education services until age 22 or graduation from high school.	All qualified individuals with disabilities who meet the entry age level criteria or particular program entry criteria of the college and who can document the existence of a disability as defined by Section 504 and/or ADA.
WHAT IS A DISABILITY?	<u>IDEA</u> : 13 disability classification areas are defined in IDEA and include types of specific disabilities: 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, Visual impairment. <u>Section 504/ADA</u> : Has no specific list. A person with a disability is defined as anyone who has: (1) any physical or mental impairment which substantially limits one or more major life functions; (2) a history of such an impairment; or (3) is regarded as having such an impairment.	<u>Section 504</u> : - see description under "Secondary." <u>ADA</u> : In addition to what is covered in Section 504, ADA also includes HIV status and contagious and non-contagious diseases.

Considerations for the College Search

<p>WHO IS RESPONSIBLE FOR IDENTIFYING AND DOCUMENTING THE NEED?</p>	<p>School districts are responsible for identifying, evaluating and planning educational services at no expense to the parent or individual.</p>	<p>Students are responsible for self-identification and for obtaining disability documentation from a professional who is qualified to assess their particular disability. The student, not the institution, assumes the cost of the evaluation.</p>
<p>WHO IS RESPONSIBLE FOR INITIATING SERVICE DELIVERY?</p>	<p>School districts are responsible for identifying students with disabilities and providing special instruction, Individualized Education Plans (IEPs), transition services as delineated in an IEP and accommodations.</p>	<p>Students are responsible for notifying the Disability Support Services staff of their disability and of their need for accommodations. Accommodations, (not separate special education programs), are provided on a case-by-case and semester-by-semester basis in order for students with disabilities to have equal access to the institutions' programs, services and activities.</p>
<p>WHO IS RESPONSIBLE FOR ENFORCING THE LAW?</p>	<p><u>IDEA</u> is basically an entitlement statute, enforced by the Office of Special Education and Rehabilitation Services in the U.S. Department of Education. <u>Section 504</u> is a civil rights statute enforced by the Office for Civil Rights (OCR), U.S. Department of Education.</p>	<p><u>Section 504</u> is a civil rights statute enforced by the Office for Civil Rights (OCR), U.S. Department of Education. <u>ADA</u> is a civil rights statute enforced by the U.S. Department of Justice.</p>
<p>WHAT ABOUT SELF-ADVOCACY?</p>	<p>The parent or guardian is the primary advocate. Students with disabilities should learn about their disability, the importance of self-advocacy, the accommodation(s) they need and ways to become a self-advocate. Students with disabilities from age 14 on must be invited to participate in the IEP process. If the student does not attend, the district must ensure that the student's preferences and interests are considered.</p>	<p>Students must be able to communicate what their disability is, their strengths, weaknesses and how the disability impacts and functionally limits major life activities. They must be able to identify and justify any requested accommodations. The Family Educational Rights Privacy Act (FERPA) guarantees student confidentiality. Conversations with parents regarding confidential information, without written consent from the student, are illegal after the student reaches the age of majority.</p>

"Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities."

IDEA, amended in 2004, Public Law 108-466

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