



Disability Rights Laws in Public Primary and Secondary Education: How do they relate?

Parents and caregivers of children with disabilities are often confused about which laws protect their children from discrimination and provide access to educational and related services in public K-12 schools.

There are three main laws that address the rights of students with disabilities in public schools:

- The **Individuals with Disabilities Education Act (IDEA)**
- **Section 504** of the Rehabilitation Act
- Title II of the **Americans with Disabilities Act (ADA)**

These three laws were written and passed at different times in US history. **Section 504** was first passed in 1973, **IDEA** in 1975, and the **ADA** in 1990. Because they are not part of some grand, overarching plan, it can be confusing to differentiate when and how they apply to students with disabilities. In this factsheet, we describe how these laws differ, so parents can understand the legal basis for both their child's civil and educational rights and can advocate for them in public schools. This document is a starting point for families to understand the various laws that affect them and how they interrelate.

What do these laws cover?

These laws each address different parts of the educational picture for students with disabilities.

The **ADA** is a broad law that provides civil rights protections to all individuals with disabilities in the US in many different aspects of life. Title II of the **ADA** prohibits discrimination by state and local governments, which includes public schools.

Section 504 is more limited, it provides civil rights protections to all individuals with disabilities in programs that receive federal funding, which includes most public schools. Both the **ADA** and **Section 504** are nondiscrimination laws that do not provide any funding to the covered entity.

Finally, **IDEA** is not an antidiscrimination law; it is a statute that mandates free appropriate public education (FAPE) in the least restrictive environment (LRE) for students with disabilities eligible under **IDEA**. Note that Free Appropriate Public Education (FAPE) and least restrictive environment (LRE) are legal terms defined in **IDEA**. **IDEA** provides federal funding to schools to support **IDEA** eligible students.



How do these laws relate?

Part of the reason it is confusing to differentiate between these laws is because they overlap in their coverage, their definitions of disability, their eligibility, and their planning requirements. These laws also overlap in the types of services, modifications, and accommodations they support.

Coverage

Who is covered—and therefore protected—under these laws differs based on the setting, the funding source, and the age of the individual. Table 1 shows how the laws differ in terms of coverage.

Table 1. Coverage

ADA	504	IDEA
Covers all individuals with disabilities as defined (see below) in a wide range of settings (public, private).	Covers all individuals with disabilities as defined (see below)—includes preschool, elementary, secondary, and postsecondary education settings as well as employment, health, welfare, and social services that receive federal funding.	Covers certain children with disabilities from birth to age 21 or graduation. This includes early intervention services children can receive before they reach school age.

Definition of Disability

The laws also differ slightly in how they define disability. The **ADA** and **Section 504** have the same broad definition. **IDEA** has a different, more limited definition. Table 2 shows how the laws differ in terms of definition of disability.

Table 2. Definitions of Disability

ADA	504	IDEA
A person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.	Same as ADA .	A child with specific disabilities who, by reason thereof, needs specially designed instruction and related services.
		<ul style="list-style-type: none"> • Autism • Deaf-Blind • Deafness • Emotional Disturbance • Hearing Impairment • Intellectual Disability • Multiple Disabilities • Orthopedic Impairments <ul style="list-style-type: none"> • Other Health Impaired • Specific Learning Disability • Speech or Language Impairment • Traumatic Brain Injury • Visual Impairment including Blindness



Eligibility

Definitions are important because they are an important part of deciding whether a law applies to a specific individual. To be considered for protections under the **ADA** and **Section 504**, a person must meet the definition of disability defined above. Under **IDEA**, the child must have a specific disability (as defined in law) and must need specially designed instruction and related services. A child can have a disability and be covered under **504** and **ADA** (non-discrimination), but not require specially designed instruction and thus not receive services under **IDEA**. For example:

- A student has diabetes, but is performing well for her grade without specialized instruction. She requires accommodations so she can take her shots and eat snacks at certain times, but does not need specially designed instruction. This student is covered under the **ADA** and **Section 504** because she has a disability that meets the definition under those laws. The student is not covered by **IDEA**, even though diabetes is covered under **IDEA** (other health impairment). The student’s diabetes does not affect her learning since she is performing at or above standard for her grade without specialized instruction.
- A student uses a wheelchair and requires that classrooms be accessible for his wheelchair (that is, he requires accommodation in facility access), but is performing at grade level otherwise and does not need specially designed instruction. This student is also covered by the **ADA** and **Section 504**. He is not covered by **IDEA** because his disability is not affecting his learning.
- A student with dyslexia is not performing adequately for his age level. The evaluation team agreed that his difficulty with reading is impacting his ability to learn. This student is covered by all three laws.

These three examples show the difference between accommodations, which are required under the **ADA** and **Section 504** to ensure nondiscrimination, and educational and related services, which are required under **IDEA**.

Documentation and Planning Requirements

Each law has different documentation and planning requirements. Table 3 shows how the laws differ.

Table 3. Documentation and Planning Requirements

ADA	504	IDEA
No formal written document is required, but it is a best practice to document the accommodations.	The regulations do not specifically require a written document, but it is a best and common practice to create a written Section 504 Plan. The Plan describes the aids and services that the student receives.	Requires an individualized education program (IEP). The IEP is a written document that identifies the services that the student receives. It is developed with the parents’ and school staff’ input.



Setting

Under **IDEA** children with disabilities must be educated with their peers without disabilities to the maximum extent appropriate with supplemental aids and services, if necessary, to allow them to benefit from public education. There is a presumption under the law that children with disabilities will be educated with children without disabilities and will be removed from the classroom or placed in special classes only when necessary to meet their individual needs. In these cases, placement in alternative educational settings is allowed under the law. **Section 504** and **ADA Title II**, which provide similar protections for children with disabilities, also presume students with disabilities will receive educational services in the regular educational environment with the appropriate aids and services necessary to ensure they benefit from educational opportunities. Table 4 shows how settings differ by law.

Table 4. Setting

ADA	504	IDEA
Least Restrictive Environment (LRE) Mandate		
Services, programs and activities of the school must be provided in the most integrated setting appropriate to the needs of the student.	To the “maximum extent appropriate” children with disabilities are to be educated with children who are not disabled. Removal from the regular education setting should only occur when education in general education classes with the use of supplemental aids and services cannot be achieved satisfactorily.	

Due Process

Schools have procedural safeguards for the identification, evaluation, or educational placement of students with disabilities. These procedures are there so that parents have a way to challenge the school’s decisions in case of a disagreement.

Some of these elements include notice, right to review records, a hearing, and an appeal. Table 5 shows how due process differs between laws.



Table 5. Due Process

ADA	504	IDEA
School districts must appoint an ADA coordinator and adopt grievance procedures.	School districts must appoint a Section 504 coordinator and adopt grievance procedures that incorporate appropriate due process standards. These standards must provide for the prompt and equitable resolution of complaints alleging any violations of Section 504 .	Parents have two years to file a written complaint from the date of the school’s action. The dispute then goes to a resolution meeting or mediation. If the dispute is still not resolved, then parents can pursue a due process hearing which is like a trial. Due process hearing decisions can be challenged by an appeal to the state education agency or by a lawsuit in state or federal court; depending on the laws adopted by that state.

Enforcement

When a parent believes that a school system is discriminating against a child because of his or her disability, the parent can file a complaint with these agencies listed in Table 6.

Table 6. Enforcement Agencies

ADA	504	IDEA
<ul style="list-style-type: none"> • The U.S. Department of Education’s Office for Civil Rights (OCR) • The U.S. Department of Justice 	<ul style="list-style-type: none"> • The U.S. Department of Education’s Office for Civil Rights (OCR) 	<ul style="list-style-type: none"> • State education agency • The U.S. Department of Education’s Office of Special Education and Rehabilitative Services (OSERS)

Coverage Under More than One Law

These laws interact with each other. A school system must meet the requirements of all three laws. However, meeting the requirements of one law does not automatically satisfy the requirements of the other laws. A student may have rights under more than one law at a time. Below are two examples that highlight situations where a student has coverage under multiple laws.

Example 1—Service Animals

Aeris, a 4th grade student with a learning disability and a physical disability, uses a service animal trained to remind her to take her medicine. Aeris has an IEP, and her service animal is not part of her IEP. However, Aeris’ IEP includes a detailed plan to ensure that the staff is prepared to remind her to take her medications on time throughout the school day. Aeris brings her service animal to school.



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The school administrators deny her service animal access because the disability-related task performed by the service dog is fulfilled by the school staff.

Question: Did the school administrators violate any laws?

Answer: Yes, the school administrators violated Title II of the **ADA** by denying Aeris' service animal access. Under Title II of the **ADA**, a public entity must allow an individual with a disability to be accompanied by a service animal. This requirement under the **ADA** is separate from the right to receive a free and appropriate public education under **IDEA**.

Example 2 – Effective Communication

Barret is a 7th grader who has hearing loss and uses cochlear implants. Even with his cochlear implants, Barret cannot hear everything and uses lip reading and educated guesses through observations to fill in the gaps of speech he does not hear. Barret's IEP provided for an FM amplification system, copies of written notes, obstruction-free seating and other communication-related accommodations. In addition, Barret requested Communication Access Realtime Translation (CART), a real-time transcription service that displays words on a screen as they are spoken. Because Barret did very well in school, the IEP team denied his request.

Question: Does Barret have a right to CART services?

Answer: Yes, Title II of the **ADA** states that communications with students with disabilities should be "as effective as communications with others." Furthermore, "In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities." Even though the school is meeting its obligation to provide a free and appropriate public education under the **IDEA** arguably without CART, the obligation to communicate effectively under the **ADA** is not being met; and therefore, CART must be provided.

Resources

U.S. Department of Education, Office for Civil Rights (OCR)

Parent and Educator Resource Guide to **Section 504** in Public Elementary and Secondary Schools:
<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>

Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools:
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faqs-effective-communication-201411.pdf>

Meeting the Communication Needs of Students with Hearing, Vision, or Speech Disabilities:
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-parent-201411.pdf>

What Are Public Schools Required to Do When Students with Disabilities Are Bullied?
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-bullying-201410.pdf>

Students with Disabilities in Extracurricular Athletics:
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201301-504.html>

U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS)

A Transition Guide to Postsecondary Education and Employment for Students and Youth with Disabilities:
<https://sites.ed.gov/idea/files/postsecondary-transition-guide-may-2017.pdf>



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Office of Special Education and Rehabilitative Services (OSERS) Policy Guidance on Free Appropriate Public Education (FAPE):

<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/guidance-on-fape-11-17-2015.pdf>

Resolution Memo:

<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/accombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf>

Questions and Answers on Procedural Safeguards and Due Process Procedures for Parents and Children with Disabilities:

<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/procedural-safeguards-q-a.pdf>

Department of Justice

Frequently Asked Questions about Service Animals and the **ADA**:

https://www.ada.gov/regs2010/service_animal_qa.html

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<http://www.southwestada.org>

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