



# Keys to Understanding Section 504 & IDEA

## Section 504

## IDEA

The Rehabilitation Act of 1973 is a broad Civil Rights law designed to protect individuals with disabilities from discrimination in programs and activities that receive federal funding. Local Education Agencies (LEAs) receive no additional funding to implement this statute.

All individuals with disabilities who meet criteria after undergoing evaluation are covered. Initial evaluation must begin with written parental consent. The evaluation must include information from a variety of sources in order to determine if the individual has a physical or mental impairment which substantially limits one or more major life activities. Federal statutes does not provide an exhaustive list of potential impairments to be considered or a finite definition of substantial limitation. The regulation does not include a formal timeline for completion of the evaluation, though adhering to the Individuals with Disabilities Education Act (IDEA) standards has been found to be a reasonable comparison.

The group of people involved in making decisions must include individuals knowledgeable about the student, evaluation information, and placement/service options. The parent is not a required member of the 504 Committee, but may be invited by the LEA.

Periodic reevaluation for eligible students is required. Reevaluation procedures that meet the three-year IDEA requirement meet the periodic standard. Reevaluation is required prior to a significant change in placement. Annual review meetings are not required, but are widely utilized as an advisable practice.

Students must receive a plan documenting delivery of services and/or accommodations to ensure a Free Appropriate Public Education (FAPE) comparable to the education received by nondisabled peers. Students must be placed in a general education setting, unless the education of the child cannot be satisfactorily achieved using supplementary aids and services.

A reevaluation including Manifestation Determination must be conducted prior to disciplinary removals constituting a change in placement. Students found to be current users of drugs or alcohol are not entitled to Manifestation Determination prior to disciplinary action.

Each LEA must develop a local grievance procedure and provide an impartial hearing to a parent who disagrees with the identification, evaluation, or placement of a student. This process must allow parents the opportunity to participate and obtain legal representation. Details and specific procedures are determined by the LEA and provided to parents through written policy by the locally appointed Section 504 Coordinator. Parents may also choose to contact the Office of Civil Rights (OCR) to make a complaint that an LEA has violated the Section 504 rights of a student.

### PURPOSE OF STATUTE

### DETERMINATION OF ELIGIBILITY

### CONSTRUCTION OF COMMITTEE

### REVIEW & RE-EVALUATION

### FAPE & LEAST RESTRICTIVE ENVIRONMENT

### DISCIPLINARY PROCEDURES

### DUE PROCESS & DISAGREEMENT

The Individuals with Disabilities Education Act (IDEA) last reauthorized in 2004 is designed to provide additional federal funding to state education agencies to ensure that eligible students with disabilities receive adequate and appropriate educational services.

Covers eligible students from age 3 years-21 years who have undergone evaluation to determine the presence of a specific disability. Eligibility is defined by 13 different disability types, and the educational need for special education & related services created because of the disability condition. Full & Individual Evaluation (FIE) begins with written notification and receipt of parental consent. The evaluation must include multiple assessment tools used to assess all areas of suspected disability. In Texas, the FIE must be completed within 45 school days from the day following receipt of parental consent.

In Texas, an Admission, Review, and Dismissal (ARD) committee serves as the Individualized Education Program (IEP) team. The ARD committee is made up of the parent, at least one general education teacher of the child, at least one special education teacher of the child, a representative of the LEA, an individual knowledgeable about implications of evaluation results, the child with a disability (when appropriate), and other individuals with special expertise when required.

The ARD committee must meet at least annually to review the IEP and determine placement. Reevaluations are required every three years (or more often if needed) and are conducted using the Review of Existing Evaluation Data (REED) process. A reevaluation is not required prior to a change in placement.

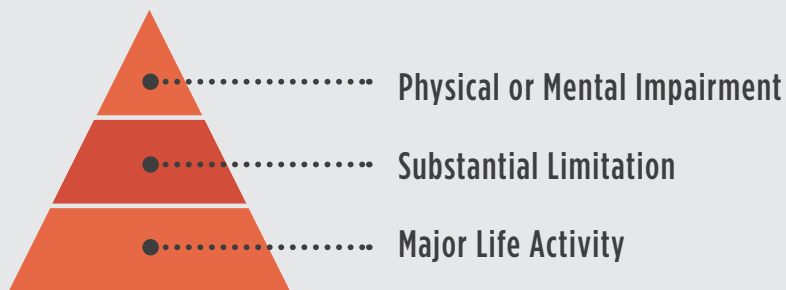
A written IEP is required to document the specially designed instruction and related services for each eligible student. The IEP is constructed to ensure a Free Appropriate Public Education (FAPE) that provides educational benefit to the child. To the maximum extent appropriate, a student with a disability is educated with non-disabled general education peers.

A Manifestation Determination must be conducted prior to disciplinary removals constituting a change in placement. A change in placement is triggered by a removal of more than 10 consecutive days, or more than 10 cumulative days within a school year if the series of short-term removals constitute a pattern of removal.

Parents have the right to disagree with decisions made within the IEP process. When informal attempts to resolve disputes are not successful, parents can request access to formal mediation services. Parents can also participate in a due-process hearing where an impartial hearing officer reviews evidence in order to determine a course of resolution. Each state and LEA must delineate specific procedures for parents to access these methods of resolution when disagreement about student identification, evaluation, or placement occurs.

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## Section 504 Disability Definition



## Guiding Considerations for Section 504

- » Temporary impairments of a physical or mental nature are not generally included under Section 504 eligibility unless the severity of the impairment is likely to cause substantial limitation in a major life activity for an extended period of time.
- » Episodic conditions and conditions that are in remission should be examined by the substantial limitations created while in the active phase.
- » Mitigating measures, or proactive strategies that counterbalance the effects of a disability, cannot be considered when determining eligibility for Section 504 and receipt of anti-discriminatory protection.
- » Major life activities include a variety of physical skills, mental abilities, and bodily functions. Major life activities are not limited to aspects of learning.

## The Role of RtI

Response to Intervention (RtI) is a tiered process used in schools to support students who are struggling academically or behaviorally. RtI provides structured & progress monitored interventions to target specific skills or behaviors to determine what kind of response is noted. Data gathered at each Tier of intervention can be used within the evaluation process for Section 504 & IDEA. RtI data can be collected before or during the evaluation process.

RtI must be balanced with Child Find duties under IDEA and Section 504. A student can be referred for either type of evaluation at any stage of RtI. RtI should not be used as a method to delay or deny evaluation to a student suspected of having a disability.

## Key Distinctions

- 1 Section 504 evaluation does not require the administration of formal standardized testing.
- 2 Section 504 eligibility is not limited to the disability categories established under IDEA.
- 3 Under Section 504 a student can be eligible for protective rights but not need an accommodation plan.
- 4 Under IDEA students must have both a disability and educational need to receive an IEP.

## References

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