



Understanding the Important Distinctions Between Section 504 and the IDEA Part I of II

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Special education is a key component for all schools. For some children, providing the appropriate modifications and accommodations is the only way they will be successful in their academic experience. Yet, for all the importance placed on special education, there is still much confusion surrounding the services and programs best suited for each child.

One area of uncertainty focuses on Section 504 of the Rehabilitation Act of 1973, commonly referred to as "Section 504." For many years, educators have struggled to discern the seemingly esoteric differences between Section 504 and the more commonly known Individuals with Disabilities Education Act (IDEA). This two part series of articles will explore some of the key differences between Section 504 and the IDEA.

This first article focuses on the main differences in the purpose and eligibility criteria of the two laws. The next article will discuss the differences in the procedural aspects of the identification, evaluation, provision of FAPE, and procedural safeguards of both Section 504 and the IDEA.

Purpose

Section 504: Section 504 is a broad federal civil rights statute that prohibits discrimination against persons on the basis of their disability by institutions that receive financial federal assistance. The statute is intended to ensure that disabled students have the same educational opportunities as those provided to non-disabled students. Kindergarten through 12th grade students who are eligible for Section 504 protections are also entitled to a free and appropriate public education (FAPE).

IDEA: The IDEA is a federal statute that requires that all eligible students, ages 3 to 21, receive a free and appropriate education through specialized instruction and related services.

Eligibility

Section 504: For a student to qualify for Section 504 protection, the student must have a qualifying disability, meaning that the student has: (1) a physical or mental impairment that (2) substantially limits one or more major life activities. Major life activities include: walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, performing manual tasks, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, and communicating.

IDEA: For a student to qualify for services under the IDEA, a student must have a disability that falls within one or more of the **specific categories** of qualifying conditions including: autism, specific learning disabilities, speech or language impairments, emotional disturbance, traumatic brain injury, visual impairment, hearing impairment, orthopedic impairment and other health impairments. The IDEA lists criteria for each qualifying disability. Further, the disability must adversely affect their educational performance and the student must require specialized instruction in order to qualify under the IDEA.

The key difference in terms of eligibility depends on the whether or not the student has one of the specific disabilities listed in the IDEA, whether or not there is an educational impact because of the disability, and whether or not the student requires specialized instruction as a result.

For example, a student who utilizes a wheelchair and is academically on par with his peers will likely not meet one of the qualifying categories under the IDEA if he does not require specialized instruction in order to make academic progress. However, because the student has a physical impairment that limits his ability to walk and to traverse the campus, he is likely eligible for a 504 plan to address his access to the educational environment.

A student who has a specific learning disability has a disability that falls into one of the specific categories of the IDEA; however, if that student does not require specialized instruction in order to make educational progress, he will likely not be eligible for IDEA services. Nonetheless, because this student has a physical or mental impairment that substantially limits his ability to learn, concentrate, or think, he will likely be eligible for a 504 Plan.

Summary

Regardless of which law applies to an eligible student, both Section 504 and the IDEA mandate that the school provide FAPE. The provision of FAPE and the assurances of procedural safeguards are much more relaxed under Section 504 than under the IDEA. The next articles discusses the differences in the procedures for the identification, evaluation, and provision of FAPE, and the procedural safeguards and due process hearings of both Section 504 and the IDEA

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