Students with Disabilities: High School

Through the completion of high school, students with disabilities are protected by three main pieces of legislation:

- The Individuals with Disabilities Education Act of 2004 (IDEA)
- The Americans with Disabilities Act of 1990 (ADA)
- Section 504 of the Workforce Investment Act (Section 504)

IDEA stands for The Individuals with Disabilities Education Act, a federal law that governs special education service delivery for school children ages 3-21 (or until high school graduation).

The Individualized Education Plan (IEP) is developed by the educational team for each child and indicates how a child's education will be individualized in order to best serve him or her. The IDEA ensures that the student is successful in the K-12 system.

Section 504 Section 504 of the Rehabilitation Act of 1973 is a law that protects individuals from discrimination based on their disability. The Act is divided into seven Subparts. Subpart D applies to K-12 schools and Subpart E applies to postsecondary institutions. A 504 Plan is developed when a K-12 student needs certain accommodations and modifications to either the physical space in the school or the learning environment – however, a 504 Plan indicates that there is no need for special education (if there was a need for special education, the student would have been given an IEP.) Subpart E states that postsecondary students must be granted the opportunity to complete with their non-disabled peers.

The ADA (Americans with Disabilities Act) of 1990. The ADA is a federal civil rights law designed to provide equal opportunity for people with disabilities. The ADA ensures equal access and opportunity and also protects individuals with disabilities from discrimination.

Federal and state law protect students from disability discrimination in public schools. These laws make sure that students with disabilities have educational opportunities and benefits equal to those provided to students without disabilities. To be protected by these laws, a student must have a physical or mental impairment that substantially limits one or more major life activities.

Under Section 504, students with disabilities can access the accommodations, aids, and services they need to access and benefit from education. Section 504 requires that public schools provide a "free appropriate public education" (FAPE) to every student with a disability - regardless of the nature or severity of the disability. This may include regular or special education services. Students can receive related services under Section 504 even if they are not provided with special education services.

Under Section 504, an individual with a disability is defined as a person who:

- has a physical or mental impairment that substantially limits a major life activity;
- has a record of such an impairment; or
- is regarded as having such an impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) must be made on a case by case basis.

What is the difference between Section 504 and IDEA (Individuals with Disabilities Act)

Children have different rights under Section 504 and IDEA. Key differences between Section 504 and IDEA:

- Section 504 does not require written plans.
- Parents have fewer rights under Section 504.
- The school must notify the parent that a 504 plan was developed, but they do not have to invite the parent to the meeting when the 504 is developed.
- Section 504 has fewer procedural safeguards to protect the parent and child.
- Section 504 protections follow the child after they leave the public school system. IDEA does not. When a student graduates from high school with a regular diploma (or reaches the age of 22), their entitlement to rights under IDEA ends. IDEA rights do not follow the child into college or the workplace. Section 504 provides protections against discrimination after the child leaves public school. *Important - Parents have no rights after their child leaves public school under Section 504 or IDEA.
- Section 504 of the Rehabilitation Act covers several areas: preschool, elementary and secondary schools, employment practices, accessibility, health, welfare, and social services.

Section 504 does require schools to develop a system of procedural safeguards that includes notice, an opportunity for the parent to review records, and an impartial hearing and review procedure. Schools can comply with these requirements by using the procedural safeguards in IDEA but are not required to do so.