

Comparison of Pertinent Areas of Section IDEA, 504 and ADA¹

Areas	IDEA	Section 504	ADA
Type	Education Act	Civil Rights Law	Civil Rights Law
Title	The Individuals with Disabilities Education Act (IDEA) (2004)	The Rehabilitation Act of 1973	Americans with Disability Act of 1990 (ADA) & ADA Amendments Act, 2008
Responsible Entity	Special Education	General Education	Public and Private Schools
Funding	State, local, and federal funding (IDEA funds cannot be used with students who are only eligible under 504)	No federal funding - state and local school responsibility	No federal funding - Public and private responsibility
Administrator	Special Education Director or designee	Section 504 Coordinator (for entities with 15 employees or more)	504 Coordinator may oversee ADA responsibilities
Service Tool	Individualized Education Program	<ul style="list-style-type: none"> • Appropriate Academic Adjustments • Accommodations and/or Services 	Reasonable Accommodations and Legal Employment Practices
Purpose	To provide educational rights and benefits for children with disabilities including the right to a free appropriate public education, an IEP designed to meet the child's unique needs, and procedural safeguards.	<ul style="list-style-type: none"> • To protect the rights of individuals with disabilities from discrimination in programs and activities that receive Federal financial assistance from the U.S. Department of Education; • To empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society. 	<ul style="list-style-type: none"> • To provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; • To prohibit discrimination on the basis of disability by state and local governments.
Population	Identifies 13 categories of qualifying conditions: <ul style="list-style-type: none"> • Autism • Deaf Blindness • Deafness • Emotional disturbance • Hearing impairment • Mental retardation • Multiple disability • Orthopedically impaired • Other health impaired 	<ul style="list-style-type: none"> • Identifies students as disabled so long as she/he meets the definition of qualified persons with disabilities (e.g., "has a physical or mental impairment; has a history of impairment; or is believed to have a disability that substantially limits a major life activity such as caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working"). • Determination must be made without considerations for "mitigating measures". 	

¹ From Educational Audiology Handbook (2012), Johnson & Seaton, Delmar Cengage Learning; Resources: www.ed.gov: 504, IDEA, Title II of ADA; Wrightslaw: IDEA 2004 (2006).

	<ul style="list-style-type: none"> • Specific learning disability • Speech or language impairment • Traumatic Brain Injury • Visually impaired including blindness 	<ul style="list-style-type: none"> • Applies to all employers, schools and educational programs, nursing homes, mental health centers, and human service programs that receive or benefit from Federal financial assistance. 	
Free Appropriate Public Education (FAPE)	<p>Both require the provision of a free appropriate public education to eligible students, including individually designed instruction.</p> <p>Requires the school to provide an IEP designed to meet the child’s unique needs and from which the child receives educational benefit (i.e. “appropriate education”).</p>	<ul style="list-style-type: none"> • Requires the provision of regular or special education and related aids and services that are designed to meet individual educational needs as adequately as the needs of persons without disabilities are met. • “Appropriate” means an education comparable to the education provided to nondisabled students. 	<ul style="list-style-type: none"> • Addresses education in terms of accessibility requirements but does not require individual entitlement for FAPE. • Public entities cannot use employment practices that discriminate on the basis of a disability.
Eligibility	<p>A student is only eligible to receive special education and/or related services if the multidisciplinary team determines that the student has a disability under one of the thirteen qualifying conditions and requires specially designed instruction to receive FAPE.</p>	<ul style="list-style-type: none"> • A student is eligible so long as she/he meets the definitions of qualified person with disabilities, i.e., currently has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded as disabled by others. • The student is not required to need specially designed instruction in order to be protected. • Mitigating measures cannot be used to exclude students. 	<ul style="list-style-type: none"> • A person is eligible so long as she/he meets the definition of qualified person with disabilities, i.e., currently has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded by others as having a disability. • Mitigating measures cannot be used to exclude a person. • ADAAA (2008) aligned ADA and 504 definitions of disabilities.
Accessibility	<p>Requires that accommodations and modifications must be made to provide access to a FAPE; IEP students automatically protected under 504.</p>		<p>Requires that public and private programs be accessible to individuals with disabilities and that “reasonable accommodations” are provided to students with disabilities.</p>
Undue Hardship	<p>Size of the program and its budget, type of operation, nature and cost of accommodation.</p>	<p>Consideration is given for the size of the program, extent of accommodation, and cost relative to school budget.</p>	<p>Size of the business and its budget, type of operation, nature and cost of accommodation.</p>
Procedural	<p>Comprehensive system of</p>	<p>No prior written notice</p>	<p>Makes provisions for public</p>

Safeguards	safeguards including written notice prior to any change in placement and the right to an independent evaluation at public expense.	requirement for placement change.	notice, hearings, and awarding attorney fees.
Consent	Requires written consent before initial evaluation and placement.	Does not require consent but a school district would be wise to do so.	Consent not required.
Due Process	Both statutes require schools to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, records who disagree with the identification, evaluation, records or placement of students with disabilities.		Due process hearing can be initiated by either party. The court may allow the prevailing party, other than the United States, a reasonable attorney's fee.
	Delineates specific requirements.	Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the school district. Policy statements should clarify specific details.	
Enforcement	Enforced by the U.S. Office of Special Education Programs, U.S. Department of Education. Compliance is monitored by each state's Department of Education, Office of Special Education Programs, with oversight by the U. S. Department of Education.	Enforced by the U.S. Office for Civil Rights. U.S. Department of Education has no monitoring, complaint resolution, or funding involvement.	In education, enforced by the U.S. Office for Civil Rights.