

## Individuals with Disabilities Education Improvement Act of 2004

The IDEA is a comprehensive educational scheme, conferring on disabled students a substantive right to public education and providing financial assistance to enable states to meet their educational needs. To receive federal funding, states must have in effect "a policy that assures all children with disabilities the right to a free appropriate public education (FAPE)." Parents, teachers, and representatives of the school district participate in the process of determining what constitutes a FAPE for each disabled child. The process results in the creation of an Individual Education Plan (IEP), which is designed to meet each child's unique needs.

Basically, this is the law that insures that every student with a disability or who is suspected of having a disability is entitled to a free appropriate public education (FAPE). Each State also has a counterpart to the IDEA that governs how FAPE will be implemented. It is a combination of the federal law, federal regulation, state law, state regulation and court rulings that control the educational rights of children with disabilities from age 3 to 21.

### Other Laws that Effect Students' with Disabilities

These laws cover individuals with disabilities of all ages. The key difference to keep in mind while applying these laws is that the IDEA's focus is to correct or lessen the effect the disability has on the student's learning while section 504 of the Rehabilitation Act of 1973 (§ 504) and the Americans with Disabilities Act (ADA) are non-discrimination laws. In short IDEA is targeted at correcting deficits that interfere with learning and § 504 and the ADA insure that individuals with disabilities are not discriminated against because of their disabilities. The IDEA does not usually apply after high school.

### Section 504 of the Rehabilitation Act of 1973 (§ 504) (20 U.S.C. 1405; 29 U.S.C. 794.)

In 1975, several civil rights regulations were added to the Rehabilitation Act of 1973. These provisions can be found in Section 504 (Equal Opportunities) which specifically states: "No otherwise qualified individuals with handicaps in the United States, as defined in section 7(8), shall, solely by reason of the handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service".

The two key components are essentially that 1) programs are accessible to students with disabilities.

Accessibility includes the elimination of policy barriers, the provision of auxiliary aids such as readers and interpreters, and the provision of equal educational services and programs to disabled and non-disabled students. And 2) that in examinations or other procedures for evaluating students' academic achievements, institutions shall best ensure that the results of the evaluation represent the student's achievement in the course, rather than a student's impaired skills (except where such skills are the factors being measured)

### The Americans with Disabilities Act (ADA) (42 U.S.C. §§ 12101 et seq.)

The ADA requires § 504 type non-discrimination practices across the United States, not just recipients of Federal funding. The law is divided into three parts. Title I covers Employment. Title II covers governments and States, basically mirroring § 504. Title III covers Public Entities, which includes colleges and educational institutions.

What makes the ADA groundbreaking is that the law creates affirmative duties that both public and private entities must comply with. Although several recent Supreme Court rulings have weakened the enforcement provisions and narrowed the definition of a disability, the law is still an effective tool in the arsenal of tools used to protect the rights of individuals with disabilities.

**Taken from**

<http://www.specialeducationadvocacy.com/law.html>