

Laws That Protect Children In School: Understanding Educational Rights of Children in the United States

Learning Burst

**Developed by: Bonnie Roswig, JD (Center for Children's Advocacy)
& Robert D. Keder, MD (Connecticut Children's / UConn School of Medicine)**

This resource was supported by Cooperative Agreement Number NU38OT000282, funded by the Centers for Disease Control and Prevention. Its contents are solely the responsibility of the American Academy of Pediatrics and do not necessarily represent the official views of the Centers for Disease Control and Prevention of the Department of Health and Human Services.

Learning Outcomes

By the end of this learning burst, participants will be able to:

- Explain the basic rights afforded to children regarding public education in the United States of America.
- Compare and contrast the rights and supports offered to children in public schools under 3 federal laws (IDEA, Section 504 of the Rehab Act, and the ADA)
- Apply basic advocacy strategies to support the success of children with disabilities in schools.

Children with Special Health Care Needs & School

Common Educational Challenges of Children with Disabilities

Some students with disabilities:

- Fall below grade-level
- Are held back or are inappropriately pushed to the next grade
- Have difficulty with transitions
- Develop disengagement, school refusal, or are labeled with truancy

Many of these children may meet the criteria for:

**Section 504
Accommodations**

-or-

Special Education (IEP)

Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act

Goal:

- Ensure students with disabilities can access their education
- Puts accommodations in place so children with medical conditions can fully engage in educational programming similar to their non-disabled peers
- For children who do not have learning struggles but who need extra supports in school so that they can fully participate in the school experience



Section 504 of the Rehabilitation Act

Basics:

- Provides related aids and services designed to meet the individual needs of a student with a disability
- Documented in a **504 Plan**
 - Legal document lists specific school accommodations to address disability
- Listed accommodations are related to the specific needs of student
 - For example: Wheelchair ramps, preferential seating for child with ADHD, unlimited visits to nurse or bathroom, etc.
- Accommodations are required for all school-sponsored activities
- By law, schools cannot have a finite list of what they will or will not provide
- Healthcare provider can provide information on what child needs to fully participate

Section 504 of the Rehabilitation Act

Who is eligible:

- Child with physical or mental impairment that substantially limits one or more major life activities -or-
- Regarded as having impairment -or-
- Known to have a disability
- Attends a school that receives any federal funding

504 Plan versus a health care plan:

- Health care plan sets out what the child medically requires during their school day by the school health care team (eg, asthma plan, diabetes plan, etc.)
- 504 Plan sets out how the health care plan is integrated into the student's school experience
- Children who meet the 504 definition must have a 504 Plan and a health care plan
- 504 Plan is required even if the child is doing well in school

Section 504 of the Rehabilitation Act:

Clinical Examples

Clinical Examples:

- Allison is an 8-year-old girl with a new diagnosis of ADHD. She attends 3rd grade at public school. The healthcare provider provides a letter stating her medical diagnosis for the school and recommends a 504 meeting. The family shares this document with the school. Her family and teacher meet, discuss, and agree that preferential seating, extending time on tests, taking tests in a quiet setting, and homework reminders are helpful accommodations for her.
- Miguel is 15-year-old boy who plays soccer. He was in a car accident, fractured his leg, and will be in a cast for several months needing a combination of a wheelchair and crutches. The healthcare provider provides a letter advocating for access to an elevator key, dismissal from class 5-minutes early to get to his next class before the hallway is crowded, etc.
- These are documented in a formal 504 plan which is shared with the family and all teachers. The 504 team meets once a year to update as needed.

Section 504 of the Rehabilitation Act

Process/Steps:

- Parent, medical provider, school can request **504 Meeting**
- Meeting can include anyone requested by parent or school
- 504 Team develops list of accommodations so child can successfully access their education
- School has 45 days to produce completed 504 Plan
- Accommodations should be provided as soon as child needs
- School should not outright reject health care provider recommendations
- For questions on how to implement medical protections, connect with child's health care provider



Section 504 of the Rehabilitation Act

Section 504 and Parents with Disabilities:

- If a parent has a disability, the school is required to provide accommodation to the parent to fully participate in planning for their child

Limited English Proficiency:

- Under both state and federal law, all parents have the right to information about their child's education in a language they can understand
- Language access includes translated documents and an interpreter
- Parents have the right to these services even if they speak some English
- Having a child who speaks/reads English does *not* change these rights
- Covered by Title IV of the Civil Rights Act

IDEA: The Individuals with Disabilities Education Act – “Special Education” Requirements

IDEA: The Individuals with Disabilities Education Act: *The Basics*

- FAPE: Free and Appropriate Public Education is a legal right
- LRE: Least Restrictive Environment is a legal right
 - Children are entitled to receive special education alongside their peers
- IEP: Individualized Education Program is a legal document
 - All students qualified to received special education services must have an IEP
 - The IEP documents:
 - Reason child is qualified for special education services
 - Individualized and specific goals and objectives
 - Specific services the child will receive to meet those goals
 - Additional accommodations and modifications covered by a 504 plan

IDEA: The Individuals with Disabilities Education Act: *The Basics*

- IEP Team: Anyone relevant to discussing the child's progress
- IEP Meeting: Physical meeting of the IEP team
 - Schools required to have an annual review
 - Parents/caregivers and schools can request more frequent meetings
 - Any time this formal meeting occurs, documentation is developed
 - States can use slightly different terms



IDEA: The Individuals with Disabilities Education Act: *The Basics*

- Passed and enacted in 1975; reauthorized by Congress in 2004; Amended in December 2015
- Entitles children with disabilities to FAPE: a Free and Appropriate Public Education (and is therefore limited to public schools)
- Requires individual assessment to be completed to determine eligibility
- Medical diagnosis alone is insufficient
- Requires demonstration of educational impairment related to a core disability



IDEA: The Individuals with Disabilities Education Act: *The Basics*

IDEA Part C = Early Intervention Services

- Children ages 2 years and 11 months and younger
- Each state has an agency that provides early interventions services
- Some states provide “after 3” services to help bridge children
- Formal document: Individualized Family Service Plan (IFSP)

IDEA Part B = Special Education Services

- Children ages 3 to age 22 years
- Services mandated by federal, state, and local laws and regulations
- Special Education Service provided by Local Educational Agency (LEA)
- Formal document: Individualized Education Program (IEP)

IDEA: The Individuals with Disabilities Education Act: *Transitioning*

- States have different interpretations of eligibility
- As a child approaches 3rd birthday, they undergo evaluation to see if they are eligible
- Meeting is held with family, early intervention team, and LEA of the child
- Not all who receive early intervention services will need or be eligible for special education services
- Schools are required to provide pre-school programming (special education) for children who are determined to be eligible



IDEA: The Individuals with Disabilities Education Act: *Determining Eligibility*

Who is Eligible:

- Diagnosis does not automatically qualify child
- Must show adverse educational impact
- Must need specialized instruction
- Instruction designed to address social, emotional, behavioral, and academic needs of child
- Must fit one of 13 predefined categories:
Autism, deaf-blindness, deafness, emotional disturbance, hearing impaired, intellectual disability, multiple disabilities, other health impairment, specific learning disability, speech and language impairment, traumatic brain injury, visual impairment, developmental delay

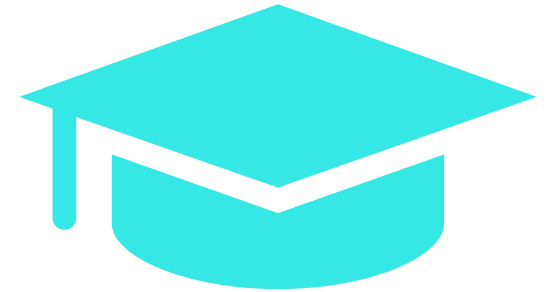
IDEA: The Individuals with Disabilities Education Act: *Determining Eligibility*

- Child Find: School, caregiver, or health care provider requests an assessment based on child's challenges in school
- Documented request for evaluation in writing with date included
- Concerns assessed and testing administered
- Eligibility determined based on test results
- Anyone can be invited to the team
- Federal Timeline (working school days from date of receipt of request):
 - 30-days to respond to request for evaluation
 - 60-days to complete evaluation
 - 90-days to respond to evaluation and determine eligibility
 - Does not include weekends, holidays, or school break

IDEA: The Individuals with Disabilities Education Act: *Transitioning*

Process/Steps:

- When child is nearing end of K-12, school is obligated to discuss transition to post-public education life
- Parents/caregivers, school staff, and relevant state agencies should attend
- Discuss child's needs and interests and any occupational placements
- Age to begin transition services vary by state law



IDEA: The Individuals with Disabilities Education Act: *Disagreements*

Process/Steps:

- Sometimes schools and families do not see eye-to-eye
- Could be about eligibility for services, school placement, or services not being appropriately provided
- IDEA covers specific steps for challenging the school's decisions, called "Due Process"
- If family needs additional help, connect them with educational and/or legal advocate



ADA: The Americans with Disabilities Act

ADA: The Americans with Disabilities Act

Title II of the ADA:

No qualified individual shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any public entity

Basics:

- Prevents discrimination against children with disabilities
- Schools, aftercare, and summer programs receiving government funding
- Requirement: Provide persons with disabilities equal opportunity to benefit from programs, services and activities → leveling of the playing field
- Requires reasonable accommodations and modifications

ADA: The Americans with Disabilities Act

Examples of Modifications:

- Wheelchair ramp
- Accessible toilets
- Access to medications
- American Sign Language interpretation
- Access to Braille textbooks
- Relocating classes
- Closed captioning



Comparing and Contrasting

Section 504 (Rehabilitation Act)

- First enacted in 1973
- Makes discrimination against people with disabilities illegal when federal funds involved
- Regular education with related aids/services & accommodations with entitlement to FAPE in the LRE.
- Functionally defined entitlement
- All children (not all covered by IDEA)
- 504 Disability Accommodation Plan
- Applies to entities that have any federal funding

IDEA

- First enacted in 1975
- Requires educational programs for children with disability to provide FAPE
- Receipt of special education and related services
- Categorically defined eligibility
- Individualized Family Service Plan for Birth to 3yo
- IEP for 3-22yo (through academic year that student turns 22)
- Limited to public schools

ADA

- First enacted in 1990
- Prohibits discrimination against people with disabilities
- Requires reasonable accommodations & modifications
- Assumes inclusion
- Applies to all entities in the US including public and private

Protection & Disability Rights

Lipkin, P. H., Okamoto, J., Council on Children with Disabilities and Council on School Health, Norwood Jr, K. W., Adams, R. C., Brei, T. J., ... & Young, T. (2015). The individuals with disabilities education act (IDEA) for children with special educational needs. *Pediatrics*, 136(6), e1650-e1662.

The Importance of Your Voice

- If you see something, say something!
We are all part of the process.
- ***Stand up*** for students' rights
- ***Participate*** in the process
- ***Support*** parents/caregivers & families



Case Scenario(s)

Case #1 Susan is a 6-year-old girl in the first grade. She is struggling in school. Recently, she has been acting out, not listening to directions, talking to peers during instructional time and getting into arguments with peers.

- What could be going on?
- What can be done at school to help her?



Case Scenario(s)

Case #2: John is a 10-year-old boy in 5th grade with an IEP. He is medically complex and requires a G-Tube. The parent insists that he requires a special school, a full-time para-professional, and a full-time nurse.

- How do you make the determination of the appropriate educational setting for John and what additional supports are required?



Recap

- Section 504, IDEA, and the ADA exist to support children with disabilities and special health care needs
- Understanding these laws helps the larger school community serve the needs of students
- The best outcomes occur when caregivers, healthcare providers and school personnel work together to meet the needs of the child



- If appropriate, attend IEP and 504 meetings to share expertise
- Consider what other written or online materials might be helpful to you, your school colleagues, and caregivers
- Review the resources on the next slide



Resources

For Families:

- Healthy Children: [IEPs and 504 Plans: A Guide for Parents](#)
- Healthy Children: [Your Right to Special Services](#)
- Healthy Children: [Involving Your Child in the Decision-Making Process: AAP Report Explained](#)

For Medical Professionals:

- American Academy of Pediatrics: [School Suspension and Expulsion: Policy Statement](#)
- American Academy of Pediatrics: [The Individuals With Disabilities Education Act \(IDEA\) for Children With Special Educational Needs](#)
- National Association of School Nurses: [The Role of the School Nurse in the Special Education Process: Part I: Student Identification and Evaluation](#) & [The Role of the School Nurse in the Special Education Process: Part 2: Eligibility Determination and the Individualized Education Program](#)

For Historical Context:

- Crip Camp: A Disability Revolution (2020) LeBrecht, J. & Newnham, N. Higher Ground Productions.
<https://cripcamp.com/> (Viewable on YouTube and Netflix)

Additional Questions

Contact Agency
Contact Person and Title
Contact Email Address
Contact Phone Number

Optional Additional Slides

Section 504 of the Rehabilitation Act:

Clinical Examples

Clinical Examples:

- Allison is an 8-year-old girl with a new diagnosis of ADHD. She attends 3rd grade at public school. The healthcare provider provides a letter stating her medical diagnosis for the school and recommends a 504 meeting. The family shares this document with the school. Her family and teacher meet, discuss, and agree that preferential seating, extending time on tests, taking tests in a quiet setting, and homework reminders are helpful accommodations for her.
- Miguel is 15-year-old boy who plays soccer. He was in a car accident, fractured his leg, and will be in a cast for several months needing a combination of a wheelchair and crutches. The healthcare provider provides a letter advocating for access to an elevator key, dismissal from class 5-minutes early to get to his next class before the hallway is crowded, etc.
- These are documented in a formal 504 plan which is shared with the family and all teachers. The 504 team meets once a year to update as needed.

IDEA: The Individuals with Disabilities Education Act: *Clinical Examples*

- Maliq is a 7-year old boy in the second grade who dislikes school. You notice he is having difficulty with identifying rhyming sounds and is struggling with reading. He had language delays and received Early Intervention services but was not found eligible for special education as his language skills caught up by his third birthday. You advocate for his family to request a special education evaluation through his school district in writing. A special education evaluation is completed and it is determined that he has a specific learning disability with impairment in reading. An IEP is developed that includes goals/services related to phonemic awareness and reading fluency. His IEP team now meets every year.
- Melinda is a 3-year old girl with autism and language delays. She received services through Early Intervention (IFSP) and has now transitioned to a special education preschool program (IEP) with her school district where she continues to receive speech and language therapy, occupational therapy, and behavior support/instruction.

ADA: The Americans with Disabilities Act:

Clinical Examples

Case Examples:

- Juliana is a 15-year old girl in the 10th grade who is a star athlete on her private high school's lacrosse team. She was diagnosed with rheumatoid arthritis and now has mobility impairments. Her school building is two floors and does not have an elevator. Some of her classes were on the second floor. The healthcare provider provides a letter of attestation of her disability which the family shares with the school requesting relocation of all her classes to the first floor as a reasonable modification.
- George is a 10-year old boy with autism requiring some support and ADHD. His school paraprofessional is out sick this week and due to staffing shortages, the school is considering if he can attend the class field trip to a museum this week. The healthcare provider writes a letter of attestation of his disabilities and (with family permission and availability) offer his mother to attend the trip with his peers.

Clarifying language

Terms used in this presentation:

- **Medical Diagnosis**: Names a child's disease/injury/disability made by a healthcare provider. These include:
 - Physical disease (eg, cancer, cerebral palsy)
 - Mental or behavioral health disorders (eg, anxiety, depression)
 - Developmental disorders (eg, autism, ADHD, learning disability)
- Medical diagnoses usually have codes assigned to them from the medical world
- Medical services often need a diagnosis for insurance to cover them

Clarifying language

Terms used in this presentation:

- **Disability**: A physical or mental impairment that substantially limits a person's ability to participate in a major life activity
 - Can be caused by a number of different disorders
 - Is not necessarily defined by a specific cause
- **Special Education Disability Categories**
 - Defined by federal laws
 - Child must fit a specific predefined category to receive special education services

Glossary and Pronunciation

Some acronyms are spelled out. Others are pronounced as a word.

- **FAPE**: /FAE-p/ or /FAY-p/, Free and Appropriate Public Education (Say it!)
- **IDEA**: /I-D-E-A/, Individuals with Disabilities Education Act (Spell it!)
- **IFSP**: /I-F-S-P/, Individualized Family Service Plan (Spell it!)
- **IEP**: /I-E-P/, Individualized Education Program (Spell it!)
- **PPT**: /P-P-T/, Planning and Placement Team (Spell it!)
- **ADA**: /A-D-A/, The American's with Disabilities Act (Spell it!)
- **LEA**: /L-E-A/, Local Educational Agency (Spell it!)
- **MTSS**: /M-T-S-S/, Multi-Tiered Systems and Supports (Spell it!)