

THE THREE MAJOR EDUCATION LAWS & HOW THEY RELATE TO DISABILITIES

Responsibilities of K-12¹ and Post-Secondary Institutions²

¹ K-12 refers to the years in public school from kindergarten through the end of high school

² Includes vocational training schools, colleges and universities

LAWs • Delivery of services as per intent of laws •	Used by All K-12 Public School Districts Individuals with Disabilities in Education Act (IDEA) Public Law 105-17 ----- <i>(See reverse side of this sheet for more information about IDEA)</i>	Used by Post-Secondary Institutions Americans with Disabilities Act (ADA) Public Law 101-336 & Section 504 of the Rehabilitation Act Public Law 93-112 ----- <i>(See reverse side of this sheet for more information on these two laws)</i>
Identification of disability	Mandated. Local school district identifies disability	Not mandated. Student provides documentation of disability and verification of need for services/accommodation(s)
Cost burden of disability evaluation/identification	Provided free by school district	Student's responsibility
Development of plan to ensure school/training success	Mandated. Parent/guardian/school develop Individual Education Plan (IEP)	Student/institution jointly identify disability limitations and determine appropriate accommodation(s)
Provision of specialized disability-related services & accommodations	Mandated. Student entitled to that which is identified on IEP	Mandated. However, provision is based upon disability-caused educational limitations that justify eligibility for <i>reasonable</i> accommodations/services
Accountability	Mandated. District assumes responsibility for IEP implementation	Student responsible for own progress. However, institutions should have in place internal systems to monitor law compliance
Role of advocacy	Mandated. Parent/teacher/student may all assume role as advocates	Not mandated. Student must advocate for self
Changes in curriculum and education/training procedures to ensure student success	Mandated. Fundamental alterations to educational program/classroom teaching and assessment permitted as identified on IEP	Not mandated and generally not permitted. Accommodations may not alter fundamental nature of course/training or impose an undue burden on an institution
Provision of <i>personal</i> services (e.g., transportation, personal attendant, nurse, special tutoring)	Mandated	Not mandated
Student Achievement	Mandated right to education	Not assured. Student responsible for own academic/training success
Enforcement	U.S. Department of Education	U.S. Department of Justice

IDEA defines a “child with a disability” according to the following criteria:

- (a) A child who has been evaluated according to IDEA's standards
- (b) A child who has been determined, through this evaluation, to have one or more of the disabilities listed below, and
- (c) A child who, because of the disability, needs special education and related services.

The Disabilities Listed by IDEA Are The Following:

mental retardation/developmental disabilities	hearing impairments, including deafness	speech, language impairments
visual impairment, including blindness	serious emotional disturbance	orthopedic impairments
autism	traumatic brain injury	other health impairments
specific learning disability	deaf-blindness	multiple disabilities

Four Major Provisions of IDEA

- 1. The Law applies to children with disabilities enrolled in all public schools from infant programs through twelfth grade.
- 2. Education for all disabled children is mandated. Schools must provide education, or risk losing their federal aid.
- 3. Children with disabilities are to be taught in the least restrictive environment (LRE). To the maximum extent possible, children must be “mainstreamed” into regular classes so that they can have appropriate peer models.
- 4. Children with disabilities must have individualized education programs (IEPs). Plans are developed to ensure that each student is benefiting from special education and must include:
 - a. A statement of the present level of education performance of the child.
 - b. A statement of annual goals.
 - c. A statement of the specific educational services to be provided and the extent to which the child will be able to participate in regular educational programs.
 - d. The projected date of initiation of services and their anticipated duration.
 - e. Appropriate criteria and evaluation procedures for determining on an annual basis whether the plan is achieving its stated instructional goals.

The Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) enforces IDEA. Contact the Department of Education at: Office of Special Education and Rehabilitative Services, Phone: (202) 205-5465 or visit <http://www.ed.gov/offices/OSERS/Contact/>

Section 504 of the Rehabilitation Act of 1973 & the Americans with Disabilities Act (ADA)

Both laws ban discrimination on the basis of disability in any program or activity. Each uses a definition of “disabled person” that is broad and includes:

- 1. Persons with *physical and/or mental impairments*¹, or
- 2. Persons with a *history* of such impairments, or
- 3. Persons who are *perceived* as having such impairments, even though such impairments do not, in fact, exist.
- 4. Impairments must *substantially limit*² *major life activities*³

The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; AIDS, HIV infection, heart disease; mental retardation; emotional illness; drug addiction; and alcoholism.

Terms explained and clarified

¹ *Physical and/or mental impairment* means

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

² *Substantially limits* means

- Unable to perform major life activities, or
- Is restricted significantly in the condition, manner, or duration under which a major life activity can be performed - compared to others.

³ *Major life activities* means

- Daily and routine functions such as caring for one's self
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working

For additional information about either of these two laws and their enforcement, contact your nearest Office for Civil Rights or the United States Department of Justice or visit <http://www.ed.gov/about/offices/list/ocr/index.html>

<http://fog.ccsf.edu/~jwilde>
For more information on *The Disability Journey*