

The Differences in Legal Rights and Responsibilities in Secondary and Postsecondary Education

In order to understand the differences between being a student in special education in high school and being a college student with a disability, you have to have a basic understanding of the legislation that dictates how each of those educational settings operates. The following chart will help you compare the laws:

	Secondary Education	Postsecondary Education
What is the law?	<p>IDEA: Individuals with Disabilities Education Act</p> <p>504: Section 504 of the Rehabilitation Act of 1973.</p> <p>ADA: Americans with Disabilities Act of 1990</p>	<p>504: Section 504 of the Rehabilitation Act of 1973, particular reference to Subpart E</p> <p>ADA: Americans with Disabilities Act of 1990</p>
What is the intent of the law?	<p>IDEA: To provide a free, appropriate public education in the least restrictive environment to identified students with disabilities, including special education and related services.</p> <p>504/ADA: To ensure that no other-wise qualified person with a disability is denied access to, benefits of, or is subject to discrimination solely on the basis of disability.</p>	<p>504/ADA: To ensure that no other-wise qualified person with a disability is denied access to, benefits of, or is subject to discrimination solely on the basis of disability.</p>
Who is covered under the law?	<p>IDEA: All infants, children and youth requiring special education services until age 21 or graduation from high school.</p>	<p>504/ADA: All qualified persons with disabilities who, with or without reasonable accommodations, meet the college's admissions requirements and the specific entry level criteria for the specific program and who can document the existence of a disability as defined by Section 504.</p>
What is a disability?	<p>IDEA: A list of 13 disability classification areas are defined in IDEA and include specific learning disabilities.</p> <p>504/ADA: have no such list. A person with a disability is defined as anyone who has:</p> <ol style="list-style-type: none"> 1. any physical or mental impairment which substantially limits one or more major life functions; 2. a history of such 	<p>504/ADA: A person with a disability is defined as anyone who has:</p> <ol style="list-style-type: none"> 1. any physical or mental impairment which substantially limits one or more major life functions 2. a history of such an impairment 3. is regarded as having such an impairment. <p>ADA: also includes HIV status and contagious and non-contagious diseases.</p>

	<p>an impairment</p> <p>3. or is regarded as having such an impairment.</p>	
<p>Who is responsible for identifying and documenting need?</p>	<p>School districts are responsible for identifying and evaluating potential students with disabilities. When such a determination is made, the district plans educational services for classified students at no expense to the family.</p>	<p>Students are responsible for self-identification and for obtaining disability documentation from a professional who is qualified to assess their particular disability; cost of the evaluation must be assumed by the student, not the post-secondary institution.</p>
<p>Who is responsible for initiating service delivery?</p>	<p>School districts are responsible for identifying students with disabilities and providing special education programs and services, including related services, and transition services as delineated in an Individualized Education Program.</p>	<p>Students are responsible for notifying the Disability Support Services staff of their disability and of their need for reasonable accommodations. Accommodations (not special education) are provided on a case-by-case, as-needed basis in order for students with disabilities to have equal access to the institution's programs and activities.</p>
<p>Who is responsible for enforcing the law?</p>	<p>IDEA is an entitlement law, enforced by the Office of Special Education and Rehabilitation Services in the US Department of Education. Local enforcement is the responsibility of the NYS Department of Education Office of Vocational and Educational Services for Individuals with Disabilities (VESID)</p>	<p>504/ADA: are civil rights statutes overseen by the Office of Civil Rights (OCR), and the US Department of Justice in conjunction with the Equal Employment Opportunity Commission (EEOC).</p>
<p>What about advocacy?</p>	<p>The parent or guardian is the primary advocate. Students with disabilities from age 14 on must be invited to participate in the IEP process. If the student does not attend, the district must ensure that the student's preferences and interests are considered.</p>	<p>Students must be able to self-identify and discuss their disability and needs in order to work with the Disability Support staff to implement reasonable accommodations. The Family Educational Rights Privacy Act (FERPA) guarantees student confidentiality. Conversations with parents regarding confidential information without written consent from the student are illegal.</p>