

Federal Laws and Rights in Transition IDEA 2004, ADA, Section 504, FERPA, WIOA

The Individuals with Disabilities Education Act (IDEA 2004) is the federal special education law that entitles eligible students with disabilities to a free appropriate public education (FAPE) in the least restrictive environment.

This law governs the education of children with disabilities, birth through age 21, and requires:

- local education agencies find and evaluate children suspected of having a disability,
- special education services for students in grades K-12 be provided at no cost to parents, and
- each student determined eligible for special education have **an Individualized Education Program (IEP)** that meets his or her unique educational needs.

IDEA does not apply to students who have completed high school and are attending a postsecondary education institution.

As mentioned earlier in the booklet, IDEA 2004 expands requirements for planning a student's transition from high school to adult life, including postsecondary education, vocational education, integrated employment, continuing and adult education, adult services, independent living, and community participation. IDEA requires that:

- transition services start at age 16 (or earlier when appropriate),
- transition services be based on the student's strengths, as well as their preferences and interests,
- activities developed as part of transition services be "results-oriented,"
- transition planning include the development of appropriate measurable postsecondary goals, based upon age-appropriate transition assessments related to training, education, employment, and, when appropriate, independent living skills,
- the IEP contains a statement about the transition services (including courses of study) needed to assist the student in reaching future goals, and
- schools now provide a **"Summary of Performance" (SOP)** to students whose are exiting special education. The summary must include information about the student's academic achievement and functional performance and recommendations for assisting the student in meeting postsecondary goals. This document identifies the kinds of support students will need after high school. Information in the **Summary of Performance** should also satisfy the requirement for documenting a disability under Section 504 needed by a postsecondary institution.

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Title II of Americans with Disabilities Act of 1990 (ADA) is a federal civil rights law intended to prevent discrimination on the basis of a disability. Title II of the ADA applies to public colleges and universities, requiring that auxiliary aids and services be provided to students in those settings. In order to receive accommodations, program modifications, and auxiliary aids and services, a student must first disclose that he or she has a disability and give the postsecondary institution appropriate documentation. The US Department of Education enforces Title II of the ADA.

Section 504 of the Rehabilitation Act of 1973 protects people with disabilities from discrimination in programs that receive federal funding:

“No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.”

To qualify for **Section 504** services, a person with a disability must have a physical or mental impairment which substantially limits one or more major life functions, such as walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, or performing manual tasks.

Examples include but are not limited to:

- learning impairments
- emotional or psychiatric disabilities
- learning disabilities
- ADD or ADHD
- severe allergies, health impairments, or chronic asthma
- cosmetic disfigurement or amputation
- injuries or broken bones
- communicable diseases such as HIV
- drug addiction (unless current user, not in rehabilitation programs)
- alcohol addiction (does not exclude current users).



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FERPA (Family Education Rights and Privacy Act of 1974) protects the rights of student education records in all schools that receive federal funding under an applicable program of the US Department of Education. FERPA gives parents certain rights regarding their child's education records. At age 18, these rights transfer to the student and apply to students who attend school beyond the high school level. Colleges and universities must maintain the confidentiality of students' records.

In a postsecondary setting, students have the right to inspect their records, to consent to release their records to a third party, and to challenge information in the records.

Parents, as result of the law, can only get information about their student if the student gives consent to the postsecondary institution or if the student is a dependent on either parent for tax purposes. FERPA states:

“The school may disclose information from an eligible student's education records to the parents of the student, without the student's consent, if the student is a dependent for tax purposes. Neither the age of the student nor the parent's status as a custodial parent is relevant. If a student is claimed as a dependent by either parent for tax purposes, then either parent may have access under this provision.”

The **Workforce Innovation Opportunity Act (WIOA)** was re-authorized in July 2014 and replaces the Workforce Investment Act of 1998. This new law represents changes in Vocational Rehabilitation and how services and activities may be delivered to young people age 14 and older who have not yet graduated who may be on an IEP or eligible under Section 504. It is intended to increase opportunities, particularly for those facing barriers to employment, and invests in the important connection between education and career preparation.



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There are some major differences in how laws apply to high schools and postsecondary institutions. The following chart describes five areas in which these differences exist.

High School	Postsecondary Institution
<ul style="list-style-type: none"> • A disability under IDEA is defined by 13 different categories. One step in becoming eligible for special education requires a student to be identified as having one of these disabilities. 	<ul style="list-style-type: none"> • Under 504/ADA, a person with a disability is anyone who has a physical or mental impairment, a history of such impairment, or is regarded as having such an impairment.
<ul style="list-style-type: none"> • Schools are responsible for identifying and evaluating students suspected of having a disability. 	<ul style="list-style-type: none"> • Students are responsible for the evaluation and obtaining documentation regarding a disability.
<ul style="list-style-type: none"> • IDEA is an entitlement enforced by the Office of Special Education and Rehabilitation Services, US Dept. of Education. 	<ul style="list-style-type: none"> • 504 and ADA are civil rights statutes overseen by the Office of Civil Rights and the US Department of Justice.
<ul style="list-style-type: none"> • Parents and guardians have rights in the special education process. 	<ul style="list-style-type: none"> • Students are responsible for disclosure of disability and have rights.
<ul style="list-style-type: none"> • Children birth to 22 may be eligible for services as determined by a team of parents and educators. 	<ul style="list-style-type: none"> • Eligibility is determined by the college based on the student's documentation.

(Information contained in this chart was adapted from WYN Collegiate Consortium of Disability Advocates and Preparation for Postsecondary Education and Training Overview of Information Strategies.)