

Accessibility Services Office

Differences in Rights and Responsibilities from K – 12 to Postsecondary Education

	K – 12 Education	Postsecondary Education	Practical Application
Applicable Laws	IDEA: Individuals with Disabilities Education Act 504: Section 504 of the Rehabilitation Act of 1973. ADA: Americans with Disabilities Act of 1990, amended 2008	504: Section 504 of the Rehabilitation Act of 1973, particular reference to Subpart E ADA: Americans with Disabilities Act of 1990, amended 2008	Section 504(e) and ADA are not about special education services, they are about nondiscrimination and access for eligible individuals with disabilities.
Intent of Laws	IDEA: To provide a free, appropriate public education in the least restrictive environment to identified students with disabilities, including special education and related services. 504/ADA: To ensure that no otherwise qualified person with a disability is denied access to, benefits of, or is subject to discrimination solely on the basis of disability.	504/ADA: To ensure that no otherwise qualified person with a disability is denied access to, benefits of, or is subject to discrimination solely on the basis of disability.	IDEA meets the specific special education needs of the student and modifies them accordingly. 504(e) and ADA allow eligible individuals with disabilities the same access to programs, activities and services as their nondisabled peers.
Application of Laws	IDEA: All children and youth requiring special education services until age 21 or graduation from high school.	504/ADA: All qualified persons with disabilities who, with or without reasonable accommodations, meet the college's admission 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.	Not every student who received special education services under IDEA will by a qualified individual with a disability under 504(e) or ADA. And once admitted, not every request will be deemed to be reasonable.
Disability Definitions	IDEA: A list of 13 disability classification areas are included in IDEA and include specific learning disabilities 504/ADA have no such list.	504/ADA: A person with a disability is defined as anyone who has: (1) any physical or mental impairment that substantially limits one or more life functions; (2) a history of such an impairment; (3) or is	An emotional disturbance label may or may not result in a diagnosis of a mental impairment impactful enough to qualify as a disability.

		<p>regarded as having such an impairment.</p> <p>ADA also includes HIV status and contagious and non-contagious diseases.</p>	
Identification and Documentation Responsibility	<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 postsecondary institution.</p>	<p>Just because documentation is sent on behalf of students, does not mean the students will receive services without the student coming in to specifically request them.</p>
Service Delivery Responsibility	<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 Accessibility 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, services and activities.</p>	<p>Students must request accommodations in a timely manner. Resource rooms are not a typical service in college.</p>
Enforcement Responsibility	<p>IDEA is an entitlement law, enforced by the Office of Special Education and Rehabilitation Services in the US Department of Education.</p>	<p>504/ADA: are civil rights statutes overseen by the <i>Office of Civil Rights</i> (OCR), and the US Department of Justice in conjunction with the <i>Equal Employment Opportunity Commission</i> (EEOC).</p>	<p>All colleges and universities as well as the K-12 system are required to have appeals processes in place. Self-enforcement of these laws is also expected.</p>
Advocacy	<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 students' 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 Accessibility Services staff to implement reasonable accommodations.</p>	<p>Students must become self-advocates at the college level. Accessibility Services staff can assist students with the self-advocacy process.</p>

FERPA	The <i>Family Educational Rights Privacy Act (FERPA)</i> provides for postsecondary student privacy. Conversations with parents regarding confidential information without written consent from the student are illegal, unless required by law, in college. In K-12, FERPA rights for the student are vested in the parent or guardian.
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Under the provisions of *Section 504*...

Colleges and universities that receive federal assistance such as PELL grants, ROTC, federal grant money etc., may not discriminate on the basis of disability in the recruitment, admission, educational process or treatment of students in any of the institutions programs, services or activities. The ***Americans with Disabilities Act*** Title III (ADA) extends the provisions of Section 504 to private entities such as private colleges, regardless of whether or not they receive federal funding. Special exemptions exist for solely religiously funded institutions.

Section 504 specifies that colleges **may not**:

- Limit the number of students with disabilities who are admitted.
- Make pre-admission inquiries as to whether or not an applicant has a disability. (There are limited exceptions to this rule; however students are never **REQUIRED** to disclose during the admissions process.)
- Use admissions tests or criteria that inadequately measure the academic qualifications of students with disabilities because special provisions were not made.
- Exclude qualified students with disabilities from any course of study, program or activity.
- Establish rules or policies that might adversely affect students with disabilities.

In Summary

- A student with a disability must meet the same eligibility standards for admission as any non-disabled individual.
- To be considered a student with a disability by the college, a student must provide adequate documentation to demonstrate that there is a disability.
- When requesting accommodations the student must be able to demonstrate that the accommodations requested are reasonable and appropriate based on the documentation provided. The college then has the final choice of accommodation.
- Being regarded as disabled **DOES NOT** make an individual eligible for accommodations.