

# Differences in Legal Rights & Responsibilities in Secondary & Postsecondary Education

<u>Secondary Education</u>	<u>Postsecondary Education</u>
<p><b><u>What is the law?</u></b></p> <ul style="list-style-type: none"> <li>➤ IDEA (Individuals with Disabilities Education Act)</li> <li>➤ 504 (Section 504 of the Rehabilitation Act of 1973, particularly Subpart D)</li> <li>➤ ADA (Americans with Disabilities Act of 1992)</li> </ul>	<p><b><u>What is the law?</u></b></p> <ul style="list-style-type: none"> <li>➤ 504 (Section 504 of the Rehabilitation Act of 1973, particular references in Subpart E)</li> <li>➤ ADA (Americans with Disabilities Act of 1992)</li> </ul>
<p><b><u>What is the intent of the law?</u></b></p> <p><b>IDEA:</b> To provide a free, appropriate, public education in the least restrictive environment to eligible students with disabilities, including special education and related services.</p> <p><b>504/ADA:</b> To ensure that no otherwise qualified person with a disability is denied access to, benefits of, or is subjected to discrimination in any program or activity provided by any public institution or entity.</p>	<p><b><u>What is the intent of the law?</u></b></p> <p><b>504/ADA:</b> To ensure that no otherwise qualified person with a disability will be denied access to, or the benefits of, or be subjected to discrimination by any program or activity provided by any public institution or entity</p>
<p><b><u>Who is covered under the law?</u></b></p> <p>All infants, children and youth requiring special education services, until age 21 or graduation from high school</p>	<p><b><u>Who is covered under the law?</u></b></p> <p>All qualified persons with disabilities who meet the entry age level criteria or particular program entry criteria of the college and who can document the existence of a disability as defined by the ADA.</p>
<p><b><u>What is a disability?</u></b></p> <p>A list of disabilities is provided in IDEA, and includes specific learning disabilities.</p> <p>504/ADA has no such list, but considers a person with a disability to have any physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having an impairment.</p>	<p><b><u>What is a disability?</u></b></p> <p>Any physical or mental impairment that substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having an impairment (504/ADA); ADA also includes HIV status and contagious and non-contagious diseases.</p>
<p><b><u>Who is responsible for identifying and documenting need?</u></b></p> <p>School districts are responsible for identifying, evaluating, and planning educational services at no expense to parent or individual.</p>	<p><b><u>Who is responsible for identifying and documenting need?</u></b></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 institution</p>
<p><b><u>Who is responsible for initiating service delivery?</u></b></p> <p>School districts are responsible for identifying</p>	<p><b><u>Who is responsible for initiating service delivery?</u></b></p> <p>Students are responsible for notifying the Disability</p>

students with disabilities and providing special instruction, individualized educational plans, and/or accommodations.

Support Services staff of their disability and of their need for accommodations. Accommodations (not special education) are provided on a semester-by-semester basis in order for students with disabilities to have equal access to the institution's programs and activities.

**Who is responsible for enforcing the law?**

IDEA is basically a funding statute, enforced by the Office of Special Education and Rehabilitation Services in the U.S. Department of Education. ADA/504 are civil rights statutes, enforced by the Office for Civil Rights (OCR), U.S. Department of Justice, and the Equal Employment Opportunity Commission (EEOC).

**Who is responsible for enforcing the law?**

This is basically a civil rights statute so the Office of Civil Rights in the U.S. Department of Education for 504, and primarily the U.S. Department of Justice, in conjunction with the Equal Employment Opportunity Commission (ADA)

**What about Self-Advocacy?**

The parent or guardian is the primary advocate. Students with disabilities learn about their disability, the importance of advocacy, the accommodations they need, and ways to become a self-advocate.

**What about Self-Advocacy?**

Students must be able to communicate what their disability is, their strengths and weaknesses, how the disability impacts and functionally limits major life activities, and identify any requested accommodations.

*Adapted from Kay McVey, Faculty Development Specialist, PROJECT CONNECT, Henderson State University*