

COMPARISON

ISSUES	SECTION 504	INDIVIDUALS WITH DISABILITIES EDUCATION ACT	AMERICANS WITH DISABILITIES ACT
TYPE	A Civil Rights Law	An Education Act	A Civil Rights Law
TITLE	The Rehabilitation Act of 1973, as amended.	The Individuals With Disabilities Education Act (IDEA) Amendments of 1997	Americans With Disabilities Act of 1990 (ADA), as amended.
PURPOSE	Is a civil rights law that protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance.	Is a federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure a free appropriate public education for children with disabilities.	Provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.
RESPONSIBILITY	General education, but shared with special education.	Special education, but shared with general education.	Public and private schools, business establishments and public buildings. (services)
FUNDING	State and local responsibility. (no federal funding)	State, local, and federal. IDEA funds cannot be used to serve children eligible only under Section 504.	Public and private responsibility. (no state or federal funding)
ADMINISTRATOR	Section 504 coordinator (systems with 15 plus employees) to coordinate efforts to comply with this law.	Special education director.	ADA Coordinator is required to coordinate efforts to comply with this law.
SERVICE TOOL	Accommodations and/or services.	Individualized Education Program (IEP). Some IEPs may include Section 504 accommodations necessary for success in the general classroom.	Reasonable accommodations and legal employment practices.

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POPULATION	Identifies person as disabled so long as she/he meets the definition of qualified persons with disabilities; i.e., has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded as disabled by others.	Identifies 13 qualifying conditions: autism, deafness, deaf-blindness, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, emotional disturbance, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment.	Identifies person as disabled so long as she/he meets the definition of a qualified person with disabilities, i.e., has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as disabled by others.
ELIGIBILITY	A person is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment that substantially limits a major life activity, or is regarded as disabled by others. The child is not required to need special education services to be protected.	A child is eligible to receive special education and related services if the multidisciplinary team determines that the child has a disability under one of the thirteen qualifying conditions and requires special education services.	A person is eligible so long as she/he meets the definition of a qualified person with disabilities, i.e., currently has or has had a physical or mental impairment which substantially limits a major life activity, or is regarded by others as having a disability. The child is not required to need special education services in order to be protected.
FREE APPROPRIATE PUBLIC EDUCATION	A child could receive special education services and/or related services and/or accommodations.	A child must first be eligible and need special education before they are entitled to a related service. The related service must benefit the children special education program.	Addresses education in terms of accessibility requirements. Requires private and public entities not to use employment practices that discriminate on the basis of a disability.

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ACCESSIBILITY	Federal regulations regarding building and program accessibility requires that reasonable accommodations be made.	Requires that modifications must be made if necessary to provide access to a free appropriate public education.	Requires that public programs be accessible to individuals with disabilities.
DRUG AND ALCOHOL USE	Current drug use is not considered a disability. An individual who has stopped using drugs and/or alcohol and is undergoing rehabilitation could be eligible for accommodations.	Drug and alcohol use is not covered under special education.	Current drug use is not considered a disability. Current alcohol abuse that prevents individuals from performing duties of the job or that constitutes a direct threat to property or safety of others is not considered a disability.
CONTAGIOUS DISEASES	Individual with disabilities excludes any individual with a contagious disease that renders the individual unable to perform their job.	Could be eligible under the category of "other health impaired."	Permits qualification standard requiring that an individual with a currently contagious disease or infection not pose a direct threat to the health or safety of others.
PROCEDURAL SAFEGUARDS	Both require notice to the parent or guardian with respect to identification, evaluation, and placement.		Makes provisions for public notice, hearings, and awarding attorney fees.

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PROCEDURAL SAFEGUARDS CONT.		Notice provisions are much more comprehensive. Minimum requirements of the notice are specified.	Self-evaluations and transition plans are required and updated annually.
NOTICE AND CONSENT	Notice is required before a “significant change in placement.” Written consent would be considered a best practice.	Parental consent is generally required before taking action in regards to the child’s special education program.	
EVALUATIONS	<p>Evaluation draws on information from a variety of sources in the area of concern. Decisions are made by a group knowledgeable about the child, evaluation data, and placement options. Requires written parental notice. Written parental consent is considered a best practice.</p> <p>Requires periodic reevaluations.</p> <p>Reevaluation is required before a significant change in placement.</p>	<p>A full comprehensive evaluation is required assessing all areas related to the suspected disability. The child is evaluated by a multidisciplinary team. Parental consent is required before the initial evaluation can be conducted.</p> <p>Consider a reevaluation every 3 years if determined appropriate by the team. Parental consent is required before the re-evaluation is conducted.</p> <p>A reevaluation is required before a significant change in placement.</p>	All schools should conduct or update their Section 504 self-evaluation regarding services, accessibility, practices, and policies to assure discrimination is not occurring with any individual with disabilities.

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EVALUATIONS CONT.	No provision is made for independent evaluations at district expense. The school district should consider other evaluations and information regarding the child.	Provides for independent educational evaluation. A due process hearing is available if the school and parent disagree on the need for an independent evaluation.	
SERVICES	When interpreting evaluation data and making service decisions, require districts to: <ul style="list-style-type: none"> * Draw upon information from a variety of sources. * Assure that all information is documented and considered. * The service decision is made by a group of persons including those who are knowledgeable about the child, disability, the meaning of the evaluation data and placement options. * Ensure that the child is educated with his/her nondisabled peers to the maximum extent appropriate. (Least Restrictive Environment — LRE). * Provide notice and conduct an evaluation before any change of services. 		both laws
REVIEW OF PROGRAM	Accommodations should be reviewed periodically.	An IEP review meeting is required at least annually, or before any significant change.	
GRIEVANCE PROCEDURES	Requires districts to provide a grievance procedure for parents, children, and employees.	The parent can file a complaint with the state or request a due process hearing.	Any school district shall adopt and publish grievance procedures for resolution of ADA complaints.
COMPLAINT PROCEDURES	An individual or organization may file a complaint with the Office for Civil Rights. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases OCR will consider complaints where more than 180 days have elapsed.	A complaint process through the state is required. Parents can file a complaint with the state, a decision must be provided within 60 days.	An individual or organization may file a complaint with the Office for Civil Rights. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred. In certain cases OCR will consider complaints where more than 180 days have elapsed.

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DUE PROCESS	<p>Both statutes require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation, or placement of child with disabilities. School districts or parents can initiate due process hearings.</p> <p>Requires that the parent have an opportunity to participate and be represented by counsel. Other details are left to the discretion of the local school district. Policy statements should clarify specific details.</p> <p>Delineates specific requirements.</p>		<p>Due process hearings can be initiated by either party. The court may allow a reasonable attorney's fee for the prevailing party.</p>
MEDIATION	<p>Not required, however mediation should always be suggested.</p>	<p>Mediation is optional for the parents, and should always be suggested.</p>	<p>Not required, however mediation should always be suggested.</p>
EXHAUSTION	<p>Administrative hearing is not required prior to OCR involvement or court action.</p>	<p>The parent or guardian should exhaust all administrative hearings before seeking court action.</p>	<p>An administrative hearing is not required prior to OCR involvement or court action.</p>
ENFORCEMENT	<p>Enforced by the U.S. Office for Civil Rights. Regional offices are located throughout the United States. The office is part of the U.S. Department of Education. The regional office is located at the Federal Building, Suite 310, 08-7010, 1244 Speer Boulevard, Denver, CO 80204-3582, (303) 844-5695; TDD (303) 844-3417.</p>	<p>Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the State Board of Education and the Office of Special Education Programs.</p> <p>The Colorado Department of Education will resolve complaints under Individuals with Disabilities Education Act.</p>	<p>Enforced by the U.S. Office for Civil Rights under an agreement with EEOC.</p>

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<p>DISCIPLINE OF CHILDREN WITH DISABILITIES</p>	<p>Requires that a school district evaluate all children with disabilities before making an initial placement or any subsequent, significant change in his or her placement. The proposed exclusion of a child with disabilities that is permanent (expulsion), for an indefinite period, or for more than 10 consecutive school days, constitutes a “significant change in placement.”</p> <p>Before implementing a suspension or expulsion that constitutes a significant change in the child’s placement, the school must conduct a reevaluation to determine if the behavior was caused by the disability.</p> <p>If there is no relationship between the disability and the behavior, the school can expel the child. The school is not required to provide services and/or accommodations during the expulsion period.</p>	<p>Before implementing a change in the child’s placement, the school must conduct a manifestation determination to determine if the behavior was caused by the disability.</p> <p>If there is no relationship between the disability and the behavior, the school can expel the child but still needs to provide a free appropriate public education. This means the special education services outlined in the IEP. If there is a relationship, no disciplinary action can be taken. However, a change in services and placement can be proposed.</p>	