

## IDEA AND SECTION 504: A Comparison

| Component  | IDEA   | Section 504  |
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| Purpose  | To provide federal financial assistance to state and local education agencies to assist them to educate children with disabilities.  | To eliminate discrimination on the basis of disability in all programs and activities receiving federal financial assistance.  |
| Who is protected?  | All school-age children who fall within one or more of 13 specific categories of disability and who, because of such disability, need special education and related services (i.e., mentally retarded, hard of hearing, speech or language impaired, visually impaired, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf, deaf-blind, multiple disabled, specific learning disabled, autistic, or traumatic brain injured). | All school-age children who have a physical or mental impairment which substantially limits a major life activity, have a record of such an impairment or are regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself and performing manual tasks and thinking concentrating, eating, sleeping, lifting, bending reading communicating. Section 504 protects a broader group of students than does the IDEA. |
| Duty to provide a Free and Appropriate Public Education (FAPE) | Both laws require the provision of F APE. Section 504 defines FAPE more broadly than does the IDEA.  |  |
|  | Requires that FAPE be provided to only those protected students who, because of disability, need special education or related services.  | Requires that FAPE be provided to only those protected students who, because of disability, need regular education accommodations, special. Education or related services.   |
|  | Defines FAPE as special education and related services. A student can receive related services under the IDEA if and only if the student is provided special education and needs related services to benefit from special education.   | Defines FAPE as regular or special education and related aids and services. A student can receive related services under Section 504 even if the student is in regular education full-time and is not provided any special education.  |
|  | Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting.   | Does not require a written IEP document, but does require a plan. It is recommended the district document that a group of persons knowledgeable about the student convened and specified the agreed upon plan of services.   |

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| Special Education vs. Regular Education | A student is protected by the IDEA, if and only if: because of disability, the student needs special education.   | A student is protected by Section 504 regardless of whether the student needs special education. Some students protected by Section 504 are in regular education full-time and are not provided any special education. |
| Funding                                 | Provides additional funding for protected students.   | Does not provide additional funds. IDEA funds may not be used to serve students protected only under Section 504.  |
| Procedural Safeguards                   | Both laws require prior notice to parents or guardians with respect to the identification, evaluation and/or placement of protected students. IDEA procedures will suffice for Section 504 implementation.  |  |
| Evaluations                             | Both laws require that tests and other evaluation materials: <ol style="list-style-type: none"> <li>1. Be validated for the specific purpose for which they are used;</li> <li>2. Be administered by trained personnel in conformance with the instructions provided by their producer,</li> <li>3. Include those tailored to assess specific areas of educational need; and</li> <li>4. Be selected and administered to assure that the test results accurately reflect whatever factors the test purport to measure.</li> </ol> |  |
|   | Requires informed consent before an initial evaluation is conducted.  | Same as IDEA.  |
|   | Requires re-evaluations to be conducted at least every 3 years.   | Requires periodic re-evaluations. IDEA schedule for re-evaluation will suffice.  |
|   | A re-evaluation is not required before a change of placement. However, an IEP team should review current evaluation data, including progress towards goals and objectives when considering a significant change of placement. When data are insufficient to answer questions regarding the appropriateness of the special education and related services being considered, then a re-evaluation is required.  | Requires re-evaluation before a significant change in placement.   |
|   | Provides for independent educational evaluation at district expense if parent disagrees with evaluation obtained by school and hearing officer concurs.   | No provision for independent evaluations at district expense. However, a district must carefully consider any such evaluations presented.  |

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| Placement Procedures | <p>When interpreting evaluation data and making placement decisions, both laws require districts to:</p> <ol style="list-style-type: none"> <li>1. Draw upon information from a variety of sources;</li> <li>2. Assure that all information is documented and considered;</li> <li>3. Ensure that the eligibility decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options; and</li> <li>4. Ensure that the student is education with his/her non-handicapped peers to the maximum extent appropriate (least restrictive environment).</li> </ol> |  |
|                      | An IEP meeting is required before any change in placement.  | A re-evaluation meeting is required before any "significant change" in placement   |
| Grievance Procedure  | Does not require a grievance procedure, nor a compliance offer.   | Requires districts with more than 15 employees to, (1) designate an employee to be responsible for assuring district compliance with Section 504, and (2) provide a grievance procedure for parents, students and employees. |
| Due Process          | Both statues require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation or placement of a student  |  |
|                      | Contains detailed hearing rights and requirements.  | Requires notice, the right to inspect records, the right to participate in a hearing and to be represented by counsel, and a review procedure.   |
| Exhaustion           | Requires the parent or guardian to pursue administrative hearing before seeking redress in the courts.  | Administrative hearing not required prior to OCR involvement or court action; however, claim can be dismissed if issues are based solely upon underlying IDEA claims.  |
|                      | Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by OSPI and the Office of Special Education Programs.  | Enforced by the U.S. Office for Civil Rights.  |
|                      | OSPI and CDE resolve complaints.  | OSPI has no monitoring, complaint resolution or funding involvement.   |