



## Education for Children with Disabilities

Most parents know that federal law requires schools to give children with disabilities special help if needed. There are two laws you should know about. The Individuals with Disabilities Education Act (IDEA) is a well-known law requiring special education services for eligible students. Another law may also apply to the education of children with a disability. It is Section 504 of the Rehabilitation Act of 1973. This fact sheet will give you information about these two laws.

Both laws require:

- Schools to identify every child with a disability who needs more than the regular to learn
- Testing and evaluation of a child's educational needs
- Children with disabilities and non-disabled students to attend school together
- Schools to provide every eligible child with a free appropriate public education (FAPE)

There are also differences in the laws. Section 504 makes it illegal for any program receiving federal money, like public schools, to discriminate against a person with a disability. This includes all public schools in South Carolina. Under IDEA, schools receive money that they must use for children with disabilities eligible for an individualized education program (IEP).

SC State Department of Education (SDE) and the Office of Special Education and Rehabilitative Services (OSERS) within the U.S. Department of Education both have oversight over IDEA.

If parents have concerns about special education services in a local school district, they may contact the "Ombudsperson" at the SC Department of Education's Office of Special Education Services (OSES). The OSES Ombudsperson can answer questions, share information, make direct contact with the school district, and serve as an impartial third party to resolve concerns. Contact: Ombudsperson, 1919 Blanding Street, Columbia SC 29201. Phone: 803 734-2833.

Also, parents may file a formal complaint about schools not following IDEA. The complaint can be sent to:

Office of Special Education Services  
 IDEA Complaint Investigation  
 1919 Blanding Street  
 Columbia, SC 29201

Or the complaint may be filed online at the Department's website.

More information about filing a complaint with the SC Department of Education is available on the Department's website at: <https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/state-complaint>.

The complaint form itself is available at <https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/state-complaint/scde-complaint-form/>.

The SC Department of Education does not handle complaints about schools not following 504. Instead, a complaint can be sent to the U.S. Department of Education, Office of Civil Rights (OCR). The address for complaints from South Carolina is:

Office for Civil Rights,  
 District of Columbia Office  
 U.S. Department of Education  
 400 Maryland Avenue, S.W.  
 Washington, DC 20202-1475

For more information about 504 complaints, see Disability Rights South Carolina fact sheet: "Filing a Section 504 Complaint." More information is available on the website of the U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

Here are some ways IDEA and 504 laws are similar and different

Who is covered?

**IDEA:** Students who need special education and related services to learn. A child must have one of the following conditions: intellectual disabilities, hearing problem, speech or language problem, visual problem, serious emotional problem, physical disability, autism, traumatic brain injury, a learning disability, or other health problem, such as Attention Deficit Hyperactivity Disorder. The problem must affect the student's ability to learn.

**Section 504:** Students who do not need special education, but still need changes in the regular school program to learn. A child must have a physical or mental disability which limits a major life activity, such as: caring for one's self, doing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working. HIV positive and the AIDS virus are considered physical disabilities under 504. The problem does not have to affect a child's ability to learn.

### What ages?

**IDEA:** 3 – 21 years (3rd birthday/if the student turns 21 after September 1 then the district must enroll the student for the school year; however, if the student turns 21 before or on September 1 then the district does not have to enroll the student).

**Section 504:** Anyone who attends any school, preschool through college, that receives federal money. Parents with a physical or mental disability must also have their needs met, such as an interpreter at a parent/teacher conference for a parent who is deaf.

### How do you know if a child needs special education?

**IDEA:** A child must

- Be evaluated and found to need special education,
- Have a written individualized education program (IEP), and
- Be placed in special education program in the least restrictive class as possible.

**Section 504:** A child must

- Be evaluated and found to have a disability, and
- Need changes to the regular school program to benefit from it.

### What type of education must be provided?

**IDEA:** A variety of classroom situations must be available for every child. The child should be placed in the program that will best fit his or her educational needs based on the child's IEP. A child should be educated as much as possible in regular school programs, including extracurricular activities and field trips.

**Section 504:** A child's special needs must be met through accommodations in the regular school program, including extracurricular activities and field trips. Examples of necessary accommodations are curb cuts for a wheelchair, classroom aids, special equipment and smaller class size.

### What is a parent's role?

**IDEA:** A parent should take part in any decisions made about the child, including:

- Agreeing to the first evaluation of the child for special education,
- Discussing plans for special education,
- Helping prepare the IEP,

- Sharing information about their child,
- And being told of any changes in the child's school program.

**Section 504:** A parent should take part in any decisions made about the child, including:

- Sharing information about their child,
- Helping to prepare the 504 plan,
- And being told of any changes in the child's school program.

### What if a parent does not agree?

**IDEA:** When parents and the school do not agree about what is best for the child, parents have a right to:

- Ask the S.C. State Department of Education, through a complaint, to investigate the concern
- Request mediation
- Ask for a due process hearing, to present the issues
- Appeal a due process hearing decision to the S.C. State Department of Education, and
- Appeal the state's decision on the due process hearing by filing a civil lawsuit.

**Section 504:** When parents and the school do not agree about what is best for the child, parents have a right to:

- Ask the Office of Civil Rights to look into the problem and offer a solution
- Ask for an administrative hearing.

This publication provides legal information, but is not intended to be legal advice. As the law may change, please contact Disability Rights SC for updates. Please let us know if you would like this information in an alternative format.

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