

- IDEA AND SECTION 504
- A COMPARISON -

<u>COMPONENT</u>	<u>IDEA</u>	<u>SECTION 504</u>
WHAT IS IT?	A federal funding law and regulation.	A federal civil rights law and regulation.
WHAT IS ITS PURPOSE?	To provide federal funds to state education agencies and districts to educate disabled students.	To eliminate disability discrimination in all programs and activities that receive federal funds.
WHO IS A "DISABLED STUDENT"?	Both regulations provide protections to "disabled students" but each regulation defines "disabled student" differently. Section 504 defines "disabled student" more broadly than does IDEA. Defines disabled student as a child aged 3-21 who has one or more of 14 specific disabilities (i.e., autism, deaf-blindness, developmental delay, deafness, emotional behavioral disability, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment, including blindness) and, due to disability, needs special education.	Defines disabled student as a school-aged child who has a physical or mental impairment that substantially limits one or more major life activities. The terms "physical or mental impairment," "substantially limits," and "major life activities" are to be interpreted broadly.
WHAT IS A "FREE APPROPRIATE PUBLIC EDUCATION" (FAPE)?	Both regulations require a district to provide FAPE to each disabled student in its jurisdiction but each regulation defines FAPE differently. Section 504 defines FAPE more broadly than does IDEA. Defines FAPE as special education and related services. Students can receive related services under IDEA only if they need related services to benefit from special education.	Defines FAPE as regular or special education and related aids and services that are designed to meet a student's individual educational needs and are based upon procedures that satisfy required evaluation, placement, and due process procedures. Students can receive related aids and services under Section 504 even if they are not provided any special education.

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WHAT DOES "APPROPRIATE" MEAN?	Both regulations interpret "appropriate" to mean designed to meet the individual educational needs of a disabled student. An appropriate education provides a disabled student sufficient individualized services to enable the student to receive educational benefit (i.e., not maximum benefit, not minimal benefit, some benefit).	
HOW IS FAPE DELIVERED?	Both regulations require that FAPE be delivered through an individualized education program. Section 504 defines individual education program with less specificity than does IDEA.	
	Requires a written individual education program (IEP) with specific content developed by specific participants at an IEP meeting.	Requires a documented placement decision, commonly called a Section 504 Plan, developed by a group of persons knowledgeable about the student, the meaning of the student's evaluation data, and placement options.
WHO CAN REFER A STUDENT FOR EVALUATION?	Both regulations contain a child find component, and allow any person (e.g., parents, guardians, school staff, etc.) to refer a student for evaluation.	
WHAT SHOULD A DISTRICT DO WITH A REFERRAL?	Both regulations require a district to decide whether to evaluate a referred student and to notify a student's parent or guardian of its decision. As a general rule, under both regulations, a district should evaluate a referred student if it knows or suspects that the student, because of disability, needs special education or related aids or services to participate in or benefit from the district's education program.	
WHAT EVALUATION PROCEDURES ARE REQUIRED?	Both regulations require that tests and other evaluation materials: <ul style="list-style-type: none"> a. be validated for the specific purpose for which they are used; b. be administered by trained personnel in conformance with the instructions provided by their producer; c. include those tailored to assess specific areas of educational need; and d. be selected and administered to assure that the test results accurately reflect whatever factors the tests purport to measure. 	
	Requires that re-evaluations be conducted at least every 3 years.	Requires periodic re-evaluations. The IDEA schedule satisfies Section 504.
	Provides for independent educational evaluations at district expense if a parent or guardian disagrees with a district's evaluation and either the district or a hearing officer agrees.	Does not provide for independent educational evaluations at district expense. However, a district must carefully consider any such evaluations presented.

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WHAT PLACEMENT PROCEDURES ARE REQUIRED?	Both regulations require that, when interpreting evaluation data and making a placement decision, a district must: <ul style="list-style-type: none"> a. draw upon information from a variety of sources; b. assure that all information is documented and considered; c. 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 option; and d. ensure that the student is educated with his/her non-disabled peers to the maximum extent appropriate (i.e. in the least restrictive appropriate environment). <p>Requires an IEP meeting before any change in placement.</p>	Requires a re-evaluation before any "significant change in placement."
IS PARENT OR GUARDIAN CONSENT EVER REQUIRED?	Both regulations require a parent or guardian to consent prior to a student's <u>initial</u> evaluation and <u>initial</u> placement. IDEA alone requires consent prior to re-evaluations. Under IDEA parents can revoke consent for placement at anytime.	
WHAT DUE PROCESS RIGHTS DO PARENTS AND GUARDIANS HAVE?	Both regulations require a district to notify a student's parent or guardian before the district takes any action regarding the identification, evaluation or placement of their child. IDEA procedures satisfy Section 504. "Any action" includes a decision not to evaluate a student and denial of placement. <p>Requires written prior notice and specific content to be included in the notice.</p>	Allows oral prior notice, but a district is wise to provide notice in writing.
WHAT KIND OF GRIEVANCE PROCEDURE IS REQUIRED?	Requires each state education agency (OSPI) to have a special education grievance procedure, commonly called a citizen complaint procedure.	Requires each district to have an internal Section 504 grievance procedure for parents and guardians, students, and employees.
WHAT KIND OF HEARING PROCEDURE IS REQUIRED?	Both regulations require a district to provide an impartial due process hearing procedure for parents or guardians who disagree with the identification, evaluation, or placement of their child.	
WHO CONDUCTS A DUE PROCESS HEARING?	Requires each state education agency (OSPI) to conduct such hearings through a state office of hearings.	Allows either state education agencies or districts to conduct such hearings (in WA, districts conduct such hearings).
HOW IS IT ENFORCED?	Enforced by the U.S. Department of Education, Office of Special Education Programs (OSEP).	Enforced by the U.S. Department of Education, Office for Civil Rights (OCR).

COMPONENT

**HOW IS IT
ENFORCED?
(con't.)**

IDEA

Each state education agency (OSPI) monitors compliance through complaint investigations and compliance reviews. OSEP monitors compliance through compliance reviews.

SECTION 504

OCR monitors compliance through complaint investigations and compliance reviews. The state education agency (OSPI) has FAPE oversight responsibilities. OSPI's FAPE oversight responsibilities require it to take action to correct a situation where it has caused a district to violate Section 504 (for example, through a State policy), and where it has knowledge of repeated, class (not individual) violations of Section 504 by a district.