



Three Important Federal Laws: Protecting the Rights of Students with Disabilities in Public Schools

The three important federal laws are:

- Individuals with Disabilities Education Act (IDEA)
- Section 504 of the Rehabilitation Act (Section 504)
- Title II of the Americans with Disabilities Act (Title II of the ADA)

Most parents of students with disabilities who have an Individualized Education Program (IEP) know that their children have rights under IDEA. All students who are eligible under IDEA are also protected by Title II of the ADA and Section 504. However, not all students protected by Section 504 and Title II of the ADA are IDEA eligible. Eligibility, decision-making, and how disagreements are resolved are determined differently under each law.¹

The purpose of **IDEA** is to provide a free, appropriate public education (FAPE) to eligible children with disabilities through the provision of special education and related services. Under IDEA, school staff and parents develop an educational program (an IEP) based on an individual child's unique needs. **The educational program needs to provide a meaningful educational benefit for the child.**

Section 504 is a civil rights law that **prohibits disability discrimination** in programs and activities that receive federal funds. **The Minnesota Human Rights Act** prohibits disability discrimination in any public or private school regardless of whether they receive federal funds. Those programs include public school districts, charter schools, institutions of higher education, and other state and local education agencies. To qualify under Section 504, a student must have a disability and that disability must limit a major life function. Schools must provide special or regular education related aids and services to eligible students. They usually write a Section 504 Plan to describe the services and aids and the setting where the student will receive them. When the school determines that a child is eligible for services under Section 504, the school **must eliminate barriers** to his or her access to full participation in school activities, including the general education curriculum. The school can often eliminate barriers by providing accommodations for a student to give the child meaningful equal opportunities. If a student has an IEP, he or she does not need a Section 504 Plan because the aids and services will be written into the IEP.

Title II of the ADA is a nondiscrimination law that requires public entities, including public schools, charter schools, institutions of higher education, and other state and local education agencies, regardless of whether or not they receive federal funds, to provide students with disabilities public services that are **equal to those services provided to individuals without disabilities**. It requires schools to ensure that students with disabilities receive services that are as effective as services received by students without disabilities. This is done through the provision of appropriate auxiliary aids and services, giving primary consideration to that particular aid or service requested by the person with the disability, or his or her parent or guardian. Under Title II, services to students with disabilities must be compared to those who do not have disabilities.

¹ See PACER's handout on special education (IDEA) eligibility at PACER.org/parent/resources/understanding-the-spec-ed-process.asp. See Section 504 and ADA eligibility at PACER.org/parent/php/PHP-c33.pdf. See Minnesota Department of Education information on Section 504 at <http://education.state.mn.us/MDE/dse/504> and special education at <http://education.state.mn.us/MDE/fam/sped>.

Who makes the decisions? The IEP team makes IEP decisions. For Title II and Section 504, the school has the authority to assign who makes the determinations. PACER suggests that parents ask who has been assigned this role. The school has the responsibility of making sure that the identity and contact information of the school official is made publicly available in accessible formats. The school may designate the IEP team for an IDEA eligible student; however, the team must then make separate Title II and IDEA decisions.

Additional information:

For more information and how to resolve disagreements, parents may contact the following:

PACER Center

8161 Normandale Blvd.
Bloomington, MN 55437
(952) 838-9000
Email: PACER@PACER.org
PACER.org

For IDEA:

Office of Special Education Programs
Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-7100
(202) 245-7459
<http://idea.ed.gov>
<https://www2.ed.gov/about/offices/list/osers/osep/index.html>

Minnesota Department of Education

1500 Highway 36 West
Roseville, MN 55113
(651) 582-8200
Email: mde.commissioner@state.mn.us

For ADA and Section 504:

Office for Civil Rights/Chicago
U.S. Department of Education
Citigroup Center, Suite 1475
500 W. Madison St.
Chicago, IL 60661-4544
312-730-1560
Email: OCR.Chicago@ed.gov

Minnesota Department of Human Rights

540 Fairview Ave. N., Suite 201
St. Paul, MN 55104
(651) 539-1100
Email: info.mdhr@state.mn.us