

Exhibit 2: Comparison Table: IDEA and Section 504.

All students who are disabled under the IDEA are also considered to be handicapped and, therefore, protected under Section 504. Some students who are not eligible for IDEA services are deemed handicapped under Section 504. For the purpose of clarification in this manual, the term "handicapped" refers to students who are protected under the regulations of Section 504 only; the term "disabled" is reserved for students who are eligible for service under IDEA.

The IDEA defines as eligible only students who have certain specified types of disabilities and who, because of one of those conditions, need special education. Section 504, on the other hand, protects all handicapped students, defined as those having any physical or mental impairment that substantially limits one or more major life activities. Section 504 covers all students who meet this definition, even if they do not meet the IDEA criteria for having a disability and requiring special education.

Application of this definition would pertain to a student who has juvenile arthritis but who is not eligible for special education and related services through IDEA. Such a student has a health impairment and is handicapped for purposes of Section 504, if their condition substantially limits their ability to function at school. Accommodations and related services and aids must be provided for the student to benefit from education. Thus, the school division must evaluate the student and, if qualified under Section 504, must develop and implement a plan for the delivery of all needed services.

The following chart provides a comparison between components of IDEA and Section 504.⁸⁷

⁸⁷ Adapted from Student Access, A Resource Guide for Educators: Section 504 of the Rehabilitation Act of 1973. Council of Administrators of Special Education, Inc.

IDEA and Section 504 Comparison

Component	IDEA	Section 504
General Purpose	Is a federal funding statute whose purpose is to provide financial aid to states in their efforts to ensure adequate and appropriate services for disabled children.	Is a broad civil rights law that protects the rights of individuals with handicaps in programs and activities which receive federal financial assistance from the U.S. Department of Education.
Who is Protected?	Identifies all students (3 through 21 years of age) who fall within one or more qualified handicapped person; i.e., (1) has categories of qualifying conditions.	Identifies all school-age children as handicapped who meet the definition of or (2) has had a physical or mental impairment that substantially limits a major life activity, or (3) is regarded as handicapped by others. Major life activities include walking, seeing hearing, speaking, breathing, learning, working caring for oneself, and performing manual tasks. The handicapping condition need only substantially limit one major life activity in order for the student to be eligible.

Component	IDEA	Section 504
Responsibility to Provide a Free and Appropriate Public Education (FAPE)	Both laws require the provision of a free appropriate public education to eligible students covered under them including individually designed instruction. The Individualized Education Program (IEP) of IDEA will suffice for Section 504 written plan.	Does not require a written IEP document but does require a plan. It is recommended that the school division document that a group of persons knowledgeable about the student convened and specified the agreed upon services.
	Requires a written IEP document with signed consent and a required number of specific participants at the IEP meeting.	"Appropriate" means an education comparable to the education provided to non-handicapped students, requiring that reasonable accommodations be made. Related services, independent of any special education services as defined under IDEA, may be the reasonable accommodation.
Special Education vs. Regular Education	A student is only eligible to receive IDEA services if the multidisciplinary team determines that the student is disabled under one or more of the specific qualifying conditions and requires specially designed instruction to benefit from education.	A student is eligible so long as he/she meets the definition of qualified handicapped person; i.e., (1) has or (2) has had a physical or mental impairment that substantially limits a major life activity, or (3) is regarded as handicapped by others. It is not required that the handicap adversely affect educational performance or that the student need special education in order to be protected.
Funding	Provides additional funding for eligible students.	Does not provide additional funds. IDEA funds may not be used to serve children found eligible only under section 504.
Accessibility	Requires that modifications must be made if necessary to provide access to a press appropriate education.	Has regulations regarding building and program accessibility, requiring that reasonable accommodations be made.
Procedural Safeguards	Both require notice to the parent or guardian with respect to identification, evaluation, and/or placement. IDEA procedures will suffice for Section 504 implementation	Does not require written notice
	Requires written notice	Written notice not required but indicated by good professional practice
	Delineates required components of written notice.	Requires notice only before a "significant change" in placement.
Requires written notice prior to any change in placement		

IDEA AND section 504 Comparison

Component	IDEA	Section 504
Evaluations	A full comprehensive evaluation is required, assessing all areas related to the suspected disability. The child is evaluated by a multi-disciplinary team or group.	Evaluation draws on information from a variety of sources in the area of concern; decisions made by a group knowledgeable about the student, evaluation data, and placement options.
	Requires informed consent before an initial evaluation is conducted.	Does not require consent, only notice. However, good professional practice indicates informed consent
	Requires reevaluations to be conducted at least every 3 years.	Requires periodic reevaluations. IDEA schedule for reevaluation will suffice.
	A reevaluation is not required a significant change in placement. However, a review of current evaluation data, including progress monitoring, is strongly recommended.	Reevaluation is required before a before significant change in placement.
	Provides for independent educational evaluation at school division expense if parent disagrees with evaluation obtained by school and hearing officer concurs.	No provision for independent evaluations at school division expense. Divisions should consider any such evaluations presented.
Placement Procedures	When interpreting evaluation data and making placement decisions, both law require school divisions to:	
	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 the placement options.	
	D. Ensure that the student is educated with the student’s non-handicapped peers to the maximum extent appropriate (least restrictive environment).	
An IEP review meeting is required before any change in placement.	A meeting is not required for any change in placement.	
Grievance Procedure	Does not require a grievance procedure nor a compliance officer.	Requires districts with more than 15 employees to (1) designate an employee to be responsible for assuring district compliance with Section504 and (2) provide a grievance procedure for parents, students, and employees.
Due Process	Both statutes require school divisions to provide impartial hearings for parents or guardians who disagree with identification, evaluation, or placement of a student	
	Delineates specific requirements.	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.

Component	IDEA	Section 504
Exhaustion	Requires the parent or guardian to pursue administrative hearing before seeking redress in the courts.	Administrative hearing not required prior to Office of Civil Rights involvement or court action; compensatory damages possible.
Enforcement	Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by the State Department of Education and the Office of Special Education Programs.	Enforced by the U.S. Office of Civil Rights.
	The State Department of Education resolves complaints.	State Department of Education has not monitoring, complain resolution, or funding involvement.

Source: Virginia Health Department (1999). *Virginia School Health Guidelines*. pp. 244-7.