

## **IDEA VS. Section 504**

### **SERVICES AND ACCOMMODATIONS ADD/ADHD CHILDREN**

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1. **Scope:** The Individuals with Disabilities Education Act (IDEA) is a federal law involving the programmatic development and funding of special education services. Section 504 is a civil rights statute that requires that schools not discriminate against children with disabilities. Both statutes require the provision of a free and public education (FAPE), with the Section 504 provision defining FAPE more broadly.
2. **Eligibility:** Eligibility for IDEA is defined by 13 categories and requires that the disabling condition **adversely affects educational performance and requires special education services**. In most situations, ADD/ADHD is considered under IDEA to be a type of health impairment (Other Health Impaired). Section 504 eligibility involves the existence of a physical or mental condition that **substantially limits a major life activity (which includes learning)**. ADD/ADHD children would be considered eligible under 504 if their condition substantially limits their learning. To be eligible under IDEA the child must require some special education services, while Section 504 does not. Section 504 only applies to schools that receive federal funding.
3. **Evaluation/Testing:** IDEA involves complex multidisciplinary evaluation procedures. The testing under Section 504 is not clearly defined and involves less regulation than IDEA. IDEA does provide for independent evaluation at school district expense if there is parental disagreement with school evaluation.
4. **Written Plans:** Both IDEA and Section 504 require the development of education plans for the student. A written plan is required under IDEA, but not under Section 504. Most schools, however, provide for a written plan under 504. Parents are able to provide a written plan if one is not prepared by the school team. Although there are clear regulations involving an IDEA plan (IEP), Section 504 does not provide for similar procedures.

5. **Safeguards and Due Process:** IDEA involves a complex series of safeguards and due process steps that are far more detailed than those involved under Section 504. Under Section 504, parents do have the right to notification, record review and an impartial hearing. Parental participation is outlined under IDEA but not specifically provided for under Section 504.
6. **Advantages of 504:** Section 504 offers a faster, more flexible method of providing accommodations (and sometimes services) for children with ADD/ADHD that affects their learning. In some rare instances, where disagreements cannot be reconciled, it allows parents to more easily go to court and obtain monetary damages.
7. **Advantages of IDEA:** IDEA offers a wider range of service options. Eligibility procedures and process are more rigorous and specific. Procedural safeguards are more extensive and the due process more meaningful.
8. **Is a IDEA or 504 Plan Necessary?** Many ADD/ADHD children do not require services or accommodations under IDEA or Section 504. In many instances, a team-oriented approach involving parent, student, teacher, clinician, and physician is sufficient for children to make satisfactory educational progress.
9. **“A Two-Way Street”:** Schools are being bombarded with eligibility requests that are overwhelming administrative, financial, and educational resources. If accommodations are provided, families should consider what they can do to support the teacher and the school. Although not required legally, children develop a stronger sense of responsibility if they do something in return for the accommodations and support that they receive.