

IDEA, ADA, IEP'S, and Section 504 Plans

Many students and families find it difficult to understand how different disability laws affect the provision of services at college. Below are three very important laws to understand.

The IDEA

The IDEA stands for The Individuals with Disabilities Education Act. The IDEA is a federal law that governs special education service delivery for schoolchildren ages 3-21 (or until high school graduation). The Individualized Education Plan (IEP) is developed by the educational team for each child and indicates how a child's education will be individualized in order to best serve him or her. The IDEA ensures that the student is successful in the K-12 system.

Section 504

Section 504 of the Rehabilitation Act of 1973 is a law that protects individuals from discrimination based on their disability. The Act is divided into seven Subparts. Subpart D applies to K-12 schools and Subpart E applies to postsecondary institutions. A 504 Plan is developed when a K-12 student needs certain accommodations and modifications to either the physical space in the school or the learning environment – however, a 504 Plan indicates that there is no need for special education (if there was a need for special education, the student would have been given an IEP discussed above). Subpart E states that postsecondary students must be granted the opportunity to compete with their non-disabled peers.

Section 508

The Rehabilitation Act Amendments of 1998 covers access to federally funded programs and services. The law strengthens section 508 of the Rehabilitation Act and requires access to electronic and information technology provided by the Federal government. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology. Federal agencies must ensure that this technology is accessible to employees and members of the public with disabilities to the extent it does not pose an "undue burden." Section 508 speaks to various means for disseminating information, including computers, software, and electronic office equipment. It applies to, but is not solely focused on, Federal pages on the Internet or the World Wide Web. It does not apply to web pages of private industry.

The ADA

The ADA stands for The Americans with Disabilities Act of 1990. The ADA is a federal civil rights law designed to provide equal opportunity for people with disabilities. The ADA ensures equal access and opportunity and also protects individuals with disabilities from discrimination.

The ADAA

The ADAA stands for The American with Disabilities Act Amendments of 2008, which retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it changes the way that these statutory terms should be interpreted in several ways. Most significantly, the Act:

- directs Equal Employment Opportunity Commission (EEOC) to revise that portion of its regulations defining the term "substantially limits";
- expands the definition of "major life activities" by including two non-exhaustive lists:

- the first list includes many activities that the EEOC has recognized (e.g., walking) as well as activities that EEOC has not specifically recognized (e.g., reading, bending, and communicating);
- the second list includes major bodily functions (e.g., "functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions");
- states that mitigating measures other than "ordinary eyeglasses or contact lenses" shall not be considered in assessing whether an individual has a disability;
- clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
- changes the definition of "regarded as" so that it no longer requires a showing that the employer perceived the individual to be substantially limited in a major life activity, and instead says that an applicant or employee is "regarded as" disabled if he or she is subject to an action prohibited by the ADA (e.g., failure to hire or termination) based on an impairment that is not transitory and minor;
- provides that individuals covered only under the "regarded as" prong are not entitled to reasonable accommodation.

Important Points

It is very important to understand that IEP's and 504 Plan's do not suffice as adequate documentation to accompany a student to a postsecondary institution since both are required under laws that do not apply once the student attends college. Although students are covered under Section 504 once they get to college, it is a different Subpart, as discussed above. IEP's and 504 Plans are sometimes helpful to colleges but are often insufficient as a sole form of documentation.

The key point to remember is that the purpose of the IDEA is to ensure that students are successful in the K-12 system whereas the ADA and Section 504 only ensure access, because success in college is up to the student!

Overall, the responsibilities of the student and of the school are very different at the post-secondary level. Here are some key points:

Identification

- At the high school level, the school is responsible for identifying students with disabilities, testing those students, and providing services.
- At the college level, the student must locate the office that provides services for students with disabilities, identify him- or herself to the office, request accommodations, and provide documentation to support the need for accommodations. Any student who needs additional or updated information to support accommodation requests, or who has never been identified before college, is responsible for paying for any testing.

Services

- At the high school level, students are typically assigned time to attend the resource room where strategy instruction is taught with a teacher who is specifically trained in working with students with disabilities.
- In college, unless the student chooses a school with a specialized program that provides such services, the student must make his/her own appointments at a learning center, where services are generally the same for all students (i.e. no special kind of instruction is typically offered for students with disabilities) and the staff does not typically have special training or background in working with students with disabilities.

Communication

- At the high school level, part of a student's plan may include mandated follow-up by school staff to inform parents of the student's academic performance, completion of homework, etc.
- A college may not, *by law*, contact parents about a student's academic performance unless the student gives the college permission to do so. Parents wishing to know how their student is doing must ask the student directly or get the student to give permission to the college to release such information.

Accommodation arrangements

- At the high school level, a formal plan (IEP or 504 plan) makes it the school's responsibility to arrange for the student to receive accommodations.
- At the post-secondary level, the student must, once approved, request his or her accommodations in each instance that they are needed. For example, the student must provide a purchased copy of a text in order to have it converted to an alternative format. For testing accommodations, the student must provide the appropriate office with the dates and times of his or her exams and may be required to have more participation in the arrangements for such accommodations. Colleges are not responsible for knowing a student's schedule and arranging accommodations without some form of initiation from the student.

Objective of accommodations

- At the high school level, accommodations and services are usually designed to maximize a student's potential.
- At the post-secondary level, accommodations are granted to create a "level playing field," rather than to help a student reach his or her greatest potential. Often, the reason certain accommodation requests are rejected is that they go beyond the scope of this goal.

It is important to understand that services vary from college to college. Students transferring from one post-secondary institution to another may experience differences in the level of service offered. Any student with questions should contact the Center for Academic Development.