



## CASA Conference: September 2023

Holly Martinez, Education Advocate  
Disability Rights Texas

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## About Disability Rights Texas

- Part of the national Protection and Advocacy (P&A) System
- Established in 1977 through federal law
- Nonprofit legal firm
- Protect and advocate for the rights of Texans with disabilities ensuring their equal participation in society
- Serve Texans of all ages with a wide variety of disabilities

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## Services Offered

- Provide direct legal assistance to people with disabilities whose rights are threatened or violated
- Protect rights of individuals and groups of people with disabilities through courts and justice system
- Inform policy makers about how issues impact people with disabilities
- Educate people with disabilities and family members about their rights
- Make referrals to programs and services


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## Areas of Focus

- Alternatives to Guardianship
- Community Integration
- Disaster Preparedness and Recovery
- Early Childhood Intervention
- Education (K-12, college)
- Employment
- Healthcare
- Housing
- Institutional Rights and Civil Liberties
- Transportation
- Voting

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## Section 504 and Special Education: Similarities and Differences




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## Free Appropriate Public Education


- Guarantees that a child has a right to a free and appropriate public education, regardless of the severity of their disability
- Applies to Special Education and Section 504

# FAPE



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<b>FAPE</b>	<ul style="list-style-type: none"> <li>• Anti-discrimination, civil rights statute</li> <li>• Broad definition of disability</li> <li>• Eligibility is not limited to the impact on learning</li> <li>• Inclusive on effects to ANY major life activity of the student</li> <li>• Protection against segregation or exclusion of students with disabilities</li> <li>• Equal opportunities to participate in academic, nonacademic, and extracurricular activities as non-disabled peers</li> </ul>
<b>Section 504</b>	
<b>IDEA</b>	<ul style="list-style-type: none"> <li>• Federal statute</li> <li>• Requires public schools to provide <b>special education and related services</b> to meet the unique needs of a child with an eligible disability</li> <li>• Federal foundation for special education</li> <li>• IDEA provides the “what,” and the states determine “how” services are implemented</li> </ul>



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**Section 504 of the Rehabilitation Act of 1973 protects:**

Any eligible person who

- (1) has a physical or mental impairment that **substantially limits one or more major life activities,**
- (2) has a record of such an impairment, or
- (3) is regarded as having such an impairment.

**Individuals with Disabilities Act of 1973 (IDEA) protects:**

Children age 3 up to 22nd birthday (unless graduating with a full high school diploma before age 22) who are determined by a multidisciplinary team to be **eligible within one or more of 13 specific disability categories AND who need special education and related services.**



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### IDEA and Section 504 Requirements

- Find and Identify: IDEA only
- Involve Parents/Guardianship:
  - IDEA: Required
  - 504: Recommended
- Evaluations: IDEA and 504 (some differences)
- Document elements of FAPE:
  - IDEA: IEP Required
  - 504: Plan required, written documentation of the Plan is not mandated



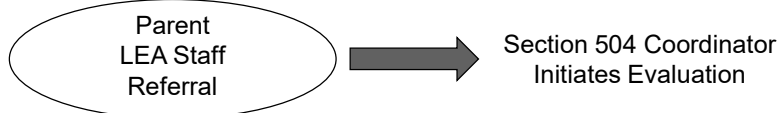
### IDEA and Section 504 Requirements

- Related Services: IDEA
- Least Restrictive Environment (LRE): IDEA and 504
- Records: IDEA and 504
- Process for resolving complaints: IDEA and 504
- Procedural Safeguards:
  - IDEA: Required
  - 504: Written notice recommended



### Referral Process

504



#### Special Education

**CHILD FIND:** IDEA requirement to IDENTIFY, LOCATE, and EVALUATE all children with disabilities from birth to the 22<sup>nd</sup> birthday

IDEA requires CHILD FIND evaluation regardless of:

- Severity of disability
- Child attends a private school
- Homelessness



### Evaluations: Special Education

Evaluations must answer 2 questions:

1. Does the student have a disability?
2. Does the student need special education and related services?

Disability
+
Educational need for specially designed instruction
=
Eligible for special education services

- **15** Days to obtain consent from the time the written request is provided
- **45** Days to complete the evaluation
- **30** To meet in an IEP meeting



## Evaluations: Special Education

### The evaluation must:

- Cover all areas of suspected disability
- Be Comprehensive
- Gather data from multiple sources/areas
- Be completed by a team of trained and knowledgeable professionals
- Administered in the student's native language

### Evaluation of Educational Needs:

- Performance compared with other students in the school district who are the same age or in the same grade
- Designed to measure performance in areas like reading, mathematics, and spelling
- Testing procedures may need to be modified
- Offer to help with the evaluation in every way you can
- AT: Provide information to the evaluation team early



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## 504: Evaluations

### Evaluation

Evaluation Data Sources	Medical/Health	Social Behavioral	Academic	Individuals
Examples	Hearing & Vision, School Health Records, Individual Health Plan, Outside Medical Evaluations	Behavioral Data, Disciplinary Records, Outside Psychological Evaluations, Intervention Progress Monitoring Data, Social and Developmental History	Universal Screening Data, Intervention Progress Monitoring Data, Curriculum Based Assessments, State Assessment Results, Grades, Benchmarks, Quizzes, Unit Tests	Observations and Input From: Student, Family, Teachers, Behavior Specialists, Counselors, School Nurse, Interventionist, Campus Administrator



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## Evaluations: SE/Additional/Related Services

- Evaluation to consider additional or related services
- Should be part of the full and individual initial evaluation (FIE)
- **Evaluation for related services (except for transportation) should include:**
- Specific recommendations for the type of services needed
- Frequency and duration of recommended service(s); direct or consult
- Personnel who will provide the services
- Measurable annual goals in the IEP
- IEP committee reviews recommendations for related services

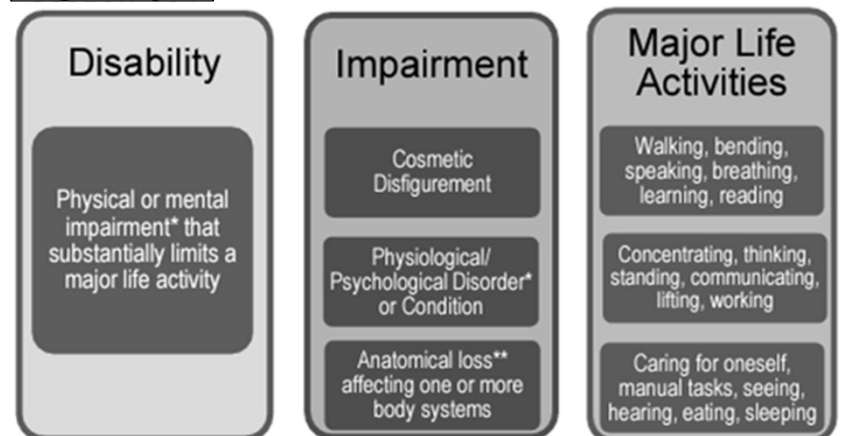
**Related Services:**  
(common, not all)  
Occupational Therapy  
Speech Therapy  
Physical Therapy

**Additional Evaluation Considerations:**  
(common, not all)  
Orientation and Mobility  
Functional Behavior Assessment  
Assistive Technology



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## Eligibility: 504



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## Eligibility: Special Education

In order to be eligible for Special Education, the student must exhibit one or more of the following disabilities according to federal and state criteria:

- Autism
- Deaf-blindness
- Deafness
- Emotional Disturbance
- Hearing Impairments
- Intellectual Disability
- Multiple Disabilities
- Orthopedic Impairments
- Other Health Impairments
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment (including Blindness)

To get an IEP plan, a student's disability must interfere with their ability to fully benefit from the general education curriculum, meaning that they need specialized instruction.



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## Implementation

The primary distinction lies in the level of services and individualization provided

### 504 Plan

- Plan to outline accommodations and modifications (environment) individualized to meet the student's needs
- No goals or objectives
  - No related services
  - Content is not modified

### Special Education: IEP

Individualized, specialized instruction that includes measurable goals, accommodations, and modifications, related services, if applicable



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## Implementation

### Services After Public Education

504 accommodations can follow the student to post-K-12 Education

Students receiving special education in K-12 school can work to obtain support through Section 504 if eligible

Special Education is not available post-K-12 instruction\*

\*Eligible students receiving special education can receive Transition support until the age of 22



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## Differences in Plans

- 504 plans provide accommodations without the need for specialized instruction and are not required to be updated every year
- IEP's meaning is to uphold the child's rights according to IDEA, while also meeting the child's needs through an individualized system of support.
- IEPs are annual and provide additional intentional interventions through related services and specialized instructional goals and objectives.



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### Similarities in Plans

A 504 plan and an Individualized Education Program (IEP) are educational plans designed to support and accommodate students with disabilities. While both plans have some similarities, the level of implementation, accountability, and procedure differ greatly between the plans:

- Legal Framework
- Purpose
- Eligibility
- Documentation
- Accommodations and Support
- Review and Re-Evaluation


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### Procedural Safeguards

**504**  
 Section 504 requires notice to parents regarding identification, evaluation and/or placements. Written notice is recommended. Notice must be made only before a "significant change" in placement. Following IDEA procedural safeguards is one way to comply with Section 504 mandates.

**Special Education**  
 Procedural safeguards are the collection of rights given to parents of children with disabilities under IDEA  
 Procedural safeguards are rights that parents can enforce to:

- Ensure participation in the process
- Raise complaints about the provision or denial of special education services
- Options for resolving disputes



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### Procedural Safeguards: Special Education

Procedural safeguards are provided to parents annually unless the parent:

- Requests another copy
- Requests an evaluation
- Files for a due process hearing

IDEA says the school district must give parents notice of their rights in their native (home) language or in any other way and **must make sure they understand them:**

Orally      Recording      Braille

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### PWN: Prior Written Notice (SpEd Only)

Prior written notice is a **required** document that the school must provide to parents whenever the school **proposes a change or refuses** a parent's request, affecting a student with a disability's identification, evaluation, placement, or receipt of special education.

Prior written notice will document that **full consideration** has been given to any input or information you provided regarding your child's educational needs and clarify that a decision has been made.

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## Disagreements: 504

### Dispute Resolution

#### Procedural Safeguards

Section 504 regulations require that LEAs establish and implement a system of PROCEDURAL SAFEGUARDS that includes:



Compliance with IDEA procedural safeguards is one way of meeting this REQUIREMENT.



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## Disagreements: 504

Because it is a civil rights law, technical assistance and enforcement of Section 504 is provided through the Office for Civil Rights (OCR):

- Section 504 requires local education agencies to provide impartial hearings for parents who disagree with a student's identification, evaluation, or placement.
- It requires that parents have an opportunity to participate in the hearing process and to be represented by counsel.
- Due process details are left to the discretion of the local education agency, but TEA recommends that districts develop policy guidelines and procedures.



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## Disagreements: Special Education

IDEA issues are addressed by the state education agency, TEA.

Increased structure and accountability with IDEA disputes:

- IEP Facilitation: serves as a means of preventing disputes related to special education programs and services
- TEA Complaint: complaint illustrating a violation of federal or state requirements
- Mediation: offered when both parties agree to participate in the mediation to discuss disagreement programming for a student with a disability
- Due Process: formal legal process similar to going to trial in a court when parties disagree on the provision of FAPE for the student with a disability



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**Q & A**



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## Apply for DRTx services

- Statewide Intake Lines:
  - 1-800-252-9108
  - 1-866-362-2851 (Sign Language Video Phone)
  - 512-271-9391 (Purple 2 Video Phone)
- Online Intake: [Intake.DRTx.org](https://Intake.DRTx.org)
- Self-advocacy resources, information about our services: [www.DRTx.org](https://www.DRTx.org)

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## Ways to Support Our Mission

- Sign up for our email newsletter at: [www.DRTx.org/subscribe](https://www.DRTx.org/subscribe)
- Follow us on Facebook, Twitter, Instagram, LinkedIn, and YouTube
- Create a fundraiser to benefit DRTx on Facebook or Instagram
- Give a one-time gift or set up a recurring monthly gift at: [www.DRTx.org/donate](https://www.DRTx.org/donate)
- Text DRTxGive to 512-229-9109 to make a donation

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