

Legal Rights and Responsibilities: Secondary vs. Postsecondary Education

Whose responsibility is it?

Issue	Secondary Section 504/IDEA	Postsecondary Section 504/ADA
Identification	School	Student
Assessment	School	Student
Programming	School	Student/College
Advocacy	School/Parent	Student
Decision Making	Placement Team	Student
Transition	Placement Team	Student

Source: Brinckerhoff, L.B., Shaw, S.F., & McGuire, JM

What are the differences between secondary and postsecondary disability laws?

Question	Secondary	Postsecondary
What is the law?	IDEA Section 504	ADA Section 504 (subpart E)
What is the intent of the law?	IDEA: To provide a free, appropriate public education in the least restrictive environment to students with disabilities. 504: To ensure that no otherwise qualified person with a disability is denied access to, benefits of, or is subjected to discrimination in any program or activity provided by any public institution or entity.	To ensure that no qualified person with a disability will be denied access to, or the benefits of, or be subjected to discrimination by any program or activity provided by any public institution or entity.
Who is covered under the law?	All infants, children and youth requiring special education services until age 21 or graduation from high school.	All qualified individuals with disabilities <u>who meet the entry age level criteria or particular program entry criteria of the college</u> and who can document the existence of a disability as defined by the ADA.
Who is responsible for identifying and documenting the need?	School districts are responsible for identifying, evaluating and planning educational services at no expense to the parent or individual.	Students are responsible for self-identification and for obtaining disability documentation from a professional who is qualified to assess their particular disability. The student, not the institution, assumes the cost of the evaluation.
Who is responsible for initiating service delivery?	School districts are responsible for identifying students with disabilities and providing special instruction, individualized education plans, and/or accommodations.	Students are responsible for notifying the Disability Support Services staff of their disability and of their need for accommodations. Accommodations, (not special education) are provided on a semester by semester basis in order for students with disabilities to have equal access to the institution's programs, services and activities.

<p>Who is responsible for enforcing the law?</p>	<p>IDEA is basically a funding statute, enforced by the Office of Special Education and Rehabilitation Services in the U.S. Dept. of Education. ADA/504 are civil rights statutes, enforced by the Office for Civil Rights (OCR), U.S. Dept. of Justice, and the Equal Employment Opportunity Commission (EEOC)</p>	<p>Section 504 (Subpart E) is a civil rights statute enforced by the Office for Civil Rights (OCR), U.S. Dept. of Education. The ADA is also a civil rights statute enforced by the U.S. Dept. of Justice, and the Equal Employment Opportunity Commission (EEOC).</p>
<p>What about self-advocacy?</p>	<p>The parent or guardian is the primary advocate. Students with disabilities should learn about their disability, the importance of self-advocacy, the accommodations(s) they need, and ways to become a self advocate.</p>	<p>Students must be able to communicate what their disability is, their strengths, weaknesses, how the disability impacts and functionally limits major life activities. They must be able to identify and justify any requested accommodations.</p>
<p>Question</p>	<p>Secondary</p>	<p>Postsecondary</p>

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