
1

What Educators Need to Know About the Law

Educators and parents need to be aware that individuals with disabilities have rights and protections that are guaranteed under the law. This brief overview of the law is by no means complete. Rather, it is intended to provide a basic understanding of the laws affecting children with disabilities and their families.

Before the 1970s, children with disabilities had no federally guaranteed legal right to a public education. Many persons with disabilities were excluded from public education or employment and often confined to institutions or kept at home. In some states, such as Alaska, laws provided for the exclusion from school of children who might have physical or mental incapacities. These laws were based on the belief that children with disabilities would not benefit from education and that their presence in school would have a detrimental effect on other students. We now know that these beliefs are erroneous. Laws have since been passed to give rights to and protect the rights of children with disabilities.

What the Law Provides

Although there are some differences between the laws, Section 504 of the Rehabilitation Act of 1973 and Pub. L. No. 94-142 (PL 94-142), more properly known as the Education for All Handicapped Children Act (EAHCA) of 1975 and subsequently renamed the Individuals with Disabilities Education Act (IDEA) in 1990, mandate that all children

with disabilities are entitled to a free, appropriate public education in the “least restrictive environment” (LRE) in light of a student’s educational needs. If a disability is so severe that a student’s needs cannot be met in the regular education classroom even with the use of supplementary aids and services, a different, more restrictive placement must be considered (Alper, Schloss, Etscheidt, & Macfarlane, 1995).

Section 504 and the IDEA, although similar, do differ in some important ways. For example, the IDEA covers students ages 3 to 21. Section 504 covers students and school staff of all ages, including those who may not be covered under the IDEA. In addition, the IDEA does not limit the amount of money a school district must be required to spend to provide services. However, Section 504 does allow a school district to discontinue services if it determines such services to be too costly. The IDEA has provisions that school districts be reimbursed for a portion of their costs associated with special education, but Section 504 has no such funding provisions. Although Congress still lacks the constitutional power to directly regulate the public school systems, federal funding does give the government a degree of leverage in dictating educational policy. What is more, current laws require that a recipient of federal funds has an obligation not to discriminate against any adult or child who has a disability. Schools receiving this funding are required to prevent discrimination in the “school district’s employment practices, access to school buildings and other facilities, and the design of new construction.”

The stated purposes of the IDEA are to

assure that all children with disabilities have available to them within the time periods specified . . . a free appropriate public education which emphasizes special education and related services designed to meet their unique needs; to assure that the rights of children with disabilities and their parents or guardians are protected; to assist States and localities to provide for the education of all children with disabilities; and to assess and assure the effectiveness of efforts to educate children with disabilities. (20 U.S.C. § 1400[c])

The IDEA provides for procedures to ensure that individuals with exceptional needs are given opportunities to interact to the “maximum extent” possible in the LRE with children without disabilities, unless the severity of the disability is such as to preclude such an arrangement. Thus, if a child, even with support, has a disability that prevents attendance within the regular school program, a free, appropriate public

education that still includes special education and related services for the child must be arranged. Related services are defined as

transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children. (20 U.S.C. § 1401[a]17)

Procedural safeguards in the IDEA expanded on the safeguards already adopted by Congress as part of the Education Amendments of 1974. Moreover, state and local school districts must adopt procedures that guarantee parents' rights. These include rights to "(a) inspect all the educational records of the child, (b) obtain an independent educational evaluation of the child, (c) obtain prior notice of their rights, (d) file complaints and have them resolved by an impartial due process hearing, and (e) have a State review of the hearing held at the local level" (Johnson, 1986, p. 40).

Alper et al. (1995) clearly summarize the major implications of IDEA and other federal laws that dictate how learners with disabilities are identified, assessed, placed, and taught:

1. Special education services suitable to the needs of the disabled student must be provided at no cost to the student or family.
2. Parents must receive written notification prior to the school's conducting a case study evaluation that may determine eligibility for special education services.
3. Individualized, comprehensive, and nondiscriminatory assessment must be provided for the purpose of identifying the learner's unique characteristics and needs.
4. An individualized education program (IEP) must be developed annually for students with disabilities. The IEP must contain a statement of current performance levels, annual goals, and short-term objectives, specific services to be provided, extent of participation in regular education settings, projected date for initiation of services, expected duration of services, objective criteria, and evaluation procedures.

5. An individualized family service plan (IFSP) must be provided to children with disabilities who are 3 to 5 years of age. The IFSP must contain the child's current performance levels, family strengths and weaknesses, anticipated outcomes, necessary services, time lines for initiating and completing services, the name of the service manager, and methods for transitioning the child to appropriate services.
6. An individual transition plan (ITP) must be included with the IEPs of adolescents and young adults. The ITP is developed with the assistance of community-based vocational rehabilitation personnel. It complements the IEP by adding skills and services needed to support the transition from school to work.
7. Beyond specific educational services, students with disabilities are entitled to receive necessary related services. These include developmental, corrective, and other support services needed for the child or youth to benefit fully from the educational program. They may include transportation, counseling, medical evaluation, and physical, occupational, and recreation therapy.
8. Educational services must be provided in the least restrictive setting appropriate to the student's educational needs.
9. Finally, parents and guardians are entitled to due process when disputes regarding the appropriateness of the educational program occur. (pp. 8–9)

The IDEA Amendments of 1997 strengthened parents' roles. The amendments require that parents of children with disabilities are included on the individualized education program (IEP) team and given opportunities to become active participants in the education of their children. Previously, no requirement existed for reporting to the parents of children with disabilities as to the progress of their children. IDEA 1997 requires schools to report progress, or lack of progress, as often as reports are given to parents of children without disabilities.

Emphasis is placed on providing children with disabilities meaningful access to the general curriculum to the maximum extent possible. Supplementary aids and support services are to be made available to assist and support their participation in the general education curriculum. In cases in which a student is a nonparticipant, an explanation is required to be stated on the IEP document as to why and how the disability of the student affects actual participation in the general education program or extracurricular activities.

Before the passage of the IDEA Amendments of 1997, no requirement existed for students with disabilities to participate in state and district assessments. Students with disabilities are now required to meet the same standards and assessments as students without disabilities. If this is not an appropriate expectation for a particular student with disabilities, it must be stated on the IEP as to how the disability would affect a student’s performance. In this regard, special accommodations can be taken into consideration for the assessment process, such as cognitive abilities, behavior, language needs, communicative needs, use of Braille, and the need for assistive technology. If accommodations are going to be used for testing, they must be stated on the IEP. Suggested testing accommodations are shown in Table 1.1.

Although it is not required, a 3-year evaluation meeting can be called to serve the best interests of a child with a disability. It is not necessary to wait for 3 years, but changes can be made during the school year to best serve the student’s needs without formal testing. Parents and guardians are involved and informed as to why the changes may be needed.

Table 1.1 Advisory on Inclusion of Students

Flexible Scheduling	
Extension of Time	May use the entire testing window if needed
Testing Duration	Specify the amount of time a student will work without a break, for example, 30-minute blocks of time
Successive Administration	Administer the test or section over two or more testing sessions
Multiple Days	Administer the test or section over several days
Flexible Setting	
Individual Administration	Administer tests individually and in separate locations
Small-Group Administration	Administer tests to small groups of students in separate locations
Adaptive or Special Equipment Test Setting	Provide special lighting in regular test setting
Adaptive or Special Equipment in Separate Test Location	Provide special acoustics, minimize noise, etc.
Revised Test Format	
Braille Editions or Transcriptions	Provide Braille materials
Large-Print Editions	Provide large-print editions
Changes in Presentation Questions/Items	Increase spacing between test items, reduce number of items on a page
Changes in Space for Answers/ Vertical Format, etc.	Increase size of answer bubbles or blocks; arrange items in multiple choice

(Continued)

Table 1.1 (Continued)

Revised Test Directions	
Rewriting or Reformatting	Simplify language in directions; provide additional examples or cues such as arrows on answer form
Emphasizing Key Words/ Directions	Highlight or underline key words or verbs in instructions
Reading Standard Directions	Read directions to student; reread directions for each page
Use of Aids and/or Classroom Assistants to Interpret the Test Items	
Special Equipment	Use of magnification, auditory amplification, auditory tape of the test, "masking" of test protocol, use of markers to maintain place
Proctor/Reader	Repeat oral comprehension items more than in standard test demonstration, read or sign test passage (if not a test of reading comprehension), questions, items, and multiple-choice responses to student. Cue on-task behavior
Equipment to Record	Use tape recorders, typewriters, word processors, pointers, communication
Responses	Boards, adaptive writing devices

SOURCE: California Department of Education.

The importance of transition plans has always been addressed in the IDEA. Since 1990 ITPs were a requirement of IDEA for students who were 16 years or older, but with the reauthorization of IDEA in 1997, a statement of transition service needs is now required at age 14 for students with disabilities. The 1997 Amendments state, "The purpose of the requirement is to focus attention on how the child's educational program can be planned to help the child make a successful transition to his or her goals for life after secondary school" (H. Rep. No. 105-95 [1997], pp. 101–102; S. Rep. No. 105-17 [1997], p. 22).

Typically, members of the IEP team handle the development of an ITP for a student with disabilities. The student and his or her family are the core members of the team. Other members on the IEP team include transition specialists who are well informed about resources and adult services in the community, related services support personnel, and representatives of any outside agency assisting the student.

The purpose of the team is to discuss the transition needs of the student to develop goals and activities that will provide a successful transition from secondary education to adulthood. Working collaboratively, the team draws on the expertise and knowledge of the different members to make recommendations and decisions for the student. The linguistics of the parents are taken into consideration, and if their language is other than English, an interpreter is provided. The parents can also request a written translation of the IEP document.

Beginning at age 14, the team examines the student's course of study to determine whether the coursework is educationally preparing the student for the transition. At this time, the team may consider other courses that might be more relevant for the student's goals in life. At age 16, or younger if appropriate, an important facet in the ITP is a consideration of the student's preferences and interests. The student's service needs, educational experiences, and interagency linkages are addressed. Emphasis is placed on postschool education, vocational training, and employment. When the student with disabilities is nearing graduation or culmination, the team arranges for the student to have actual links with the community or workplace. If appropriate, daily living skills are also addressed. The ITP is a legal document and is reviewed annually, or as needed, to address the changing needs of the student.

When a student with disabilities has reached the age of majority, as stated under state law, IDEA 1997 has outlined procedures for the transfer of parental rights to the student who must receive this notification at least one year before reaching the age of maturity. Parents are also given this notification of any transfer of rights. This notification must be noted on the student's IEP. If a student has been determined to be incompetent, the rights remain with the parents. In some cases, students may not have been determined by law to be incompetent but still do not have the ability or competence to give consent with respect to their educational program. Their transfer of rights is still protected under IDEA 1997. For these students, states are required to establish procedures for appointing parents or other individuals to represent the students' educational interests.

Discipline and Students With Disabilities

One of the most frequently misunderstood areas that educators face when dealing with students with disabilities is discipline. Consistent with the U.S. Supreme Court's ruling in *Honig v. Doe* (1988), a school district may not unilaterally change the placement of a child with a disability for misbehavior that is a manifestation of that student's disability. At issue in *Honig* was a situation in which a school district suspended two children with disabilities for more than 10 days—an action that violated the so-called “stay put” provision of the IDEA. This means that although a school district may discipline children with disabilities who present dangers to themselves or others, any exclusion from school for more than 10 days violates the heart of the IDEA.

Properly understood, however, this does not leave school officials helpless. Rather, it means that educators must first consult with parents and seek to amend a child's IEP to find a more appropriate, and often more restrictive, placement before removing a child with a disability who misbehaves from the classroom (*Honig v. Doe*, 484 U.S. 305 [1988]).

The reauthorization of IDEA 1997 addresses the serious concerns of teachers and school administrators regarding the issue of discipline of students with disabilities while at the same time preserving school safety. The changes in IDEA gives school districts increased flexibility to maintain a safe learning environment for all students as well as to protect the rights of students with disabilities. This amendment provides for due process hearings so that the rights of students with disabilities are protected.

If the IEP team determines that the student's misconduct was not a manifestation of the student's disability, the student is subject to the same disciplinary actions as are applied to students without disabilities. Short-term removals for misconduct are permitted to the same extent as are applied to students without disabilities. Overall, if the misconduct is of a less serious nature, a student with disabilities can be removed from that student's current placement multiple times for 10 consecutive days or less for separate incidents of misconduct. The 1997 IDEA gives school officials the right to remove a student with a disability from that student's current placement for up to 10 days without the parents' consent (§ 300.520[a][1]).

There are no specific limits on the number of days a student with disabilities can be removed from that student's current placement. If a student is removed for more than 10 cumulative days in a year, however, services must be provided to continue that student's progress in attaining the goals of the IEP and the education curriculum (§ 300.524). It is the responsibility of the special education teacher of the child and school personnel to determine the extent and if services may be needed for the student (§ 300.121[d]).

If the removal constitutes a pattern of removals culminating in more than 10 days in a school year, a change of placement for a student with disabilities may be indicated. Factors such as "the length of the removal, the total amount of time the child is removed, and the proximity of the removals to one another" (§ 300.519) are taken into consideration. The IEP team determines what interim alternative educational setting may be needed. If a student is placed in an alternative setting, the goals, services, and modifications stated in that student's IEP are continued.

The amendment to IDEA allows a school district to protect teachers and students from a dangerous student, even if the student is classified as a student with a disability. The amendment provides that a local educational agency may place a student with a disability in an alternative educational setting for up to 45 days for conduct that poses a serious danger to the safety of other students or school personnel.

If a student has brought a weapon to school, possessed or used drugs, or solicited the sale of controlled substances while at school or at a school function (§ 300.520[a][2]), school authorities are allowed to remove the student from that student's regular placement for up to 45 days at a time. This does not require the parents' consent, even though they may disagree to a disciplinary change of placement for their child.

At the end of the 45-day placement, if school officials feel that the child would still be a threat if returned to that child's regular placement, another request to extend the time for up to an additional 45 days can be made to an impartial hearing officer (§ 300.521). School officials can also seek to obtain a court order to remove a student from that student's regular placement to protect the right to have a safe learning environment for all students and teachers.

This amendment provides for due process hearings so that the rights of students with disabilities are protected. At the same time, it enables school districts to remove violent students, even if they have disabilities, so that teachers and other students are protected (Amendment to Education for All Handicapped Children Act, 20 U.S.C., § 1415 [e]).

IDEA 2004 Reauthorization

The IDEA has been updated about every 5 years. The reason for updating the law after a period of time is to provide enough time to see how the law actually works out in practice. If changes in the law are necessary to achieve the purpose of IDEA, the law can be amended and revised.

On December 3, 2004, President George W. Bush signed IDEA 2004 (PL 108-446) and stated, "All students in America can learn. That's what all of us up here believe. All of us understand we have an obligation to make sure no child is left behind in America. So I'm honored to sign the Individuals with Disabilities Education Improvement Act of 2004, and once again thank the members for being here."

IDEA 2004 continued the policy of LRE or mainstreaming requiring school districts to educate students with disabilities, including children in public or private institutions or other care facilities, with their nondisabled peers to the maximum extent appropriate. The purpose of mainstreaming is to prevent schools from segregating students with disabilities from the general education students. At this time, the term *inclusion* was not used in IDEA.

Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

A few of the new changes follows but these changes do not reflect the many changes in the new Individuals with Disabilities Education Improvement Act. Previously, schools have been required to wait until a child fell considerably below grade level before becoming eligible for special education services. This requirement changed with the new law. School districts are no longer required to follow the discrepancy regulation, but are given more leeway in the identification of children with disabilities. Determining if a child has a learning disability is to be based on a child's response to scientific research-based interventions. Educators cannot rely on a single procedure to determine if a child is eligible for special education services.

Other changes were made in the Individuals with Disabilities Education Improvement Act. In grades K–12, children who had not been identified as needing special education services, but who are in need of intervening support to succeed in general education classes, can receive this support. This eliminates the need for a formal identification and allows the child to receive behavioral and academic support. School districts are allowed to use 15% of the federal money granted for these services.

This act also addresses the need for making IEPs more relevant to student progress. The long-term goals are required to be measurable and functional. There is no longer a requirement to have the short-term objectives addressed on the IEP. There is, however, an exception to this requirement. Schools must provide short-term objectives for students with significant disabilities, which represents only a small percentage—less than one percent—as stated in the Individuals with Disabilities Education Improvement Act.

The students with significant disabilities will be able to have alternate achievement standards. When an alternate assessment is deemed

necessary for a student, it must be stated in their IEP, including why alternate assessment is needed and why a particular assessment is chosen for the student.

Previously, transition was addressed at age 14. The Individuals with Disabilities Education Improvement Act increased the age to 16 to address transition. The law also states, however, that transition can be addressed earlier than age 16 if necessary.

When minor changes are deemed necessary for a student with disabilities, there is greater flexibility. Changes can be made to the IEP without reconvening the IEP team. Parents and school professionals can make minor changes to the IEP of a student with disabilities giving additional flexibility to all concerned. The Individuals with Disabilities Education Improvement Act also increases the parental involvement in the IEP process. They can now use teleconferencing, videoconferencing, and other alternative means for participation in the IEP process.

Early intervention for infants and toddlers is stressed. When there is a need, intervention referrals are to be made. Infants and toddlers who are abused, drug exposed, neglected, or have suffered family violence will need intervention.

The law requirements that “highly qualified” teachers should teach special education students became effective immediately upon President Bush’s signature.

Only a few of the changes made in the new Individuals with Disabilities Education Improvement Act have been addressed, but there are many. These changes and amendments can be found on the official U.S. government Web site: <http://idea.ed.gov>. A print version of the Individuals with Disabilities Education Improvement Act can be ordered on the following Web site: <http://www.gpoaccess.gov>.

U.S. Secretary of Education Rod Paige expressed the importance of this law upon the approval of a House–Senate conference committee of legislation to reauthorize IDEA. Secretary Paige stated, “This is a giant step toward promoting educational excellence for America’s 6.8 million children and youth with disabilities.”

No Child Left Behind

The No Child Left Behind (NCLB) Act of 2001 reauthorized the Elementary and Secondary Education Act (ESEA) of 1965, which was the federal law affecting education from kindergarten to high school. The ESEA was to help educate disadvantaged children, but 40 years

later, only 32% of fourth graders could read at grade level. Many minority children and those who lived in poverty made up the remaining 68% who cannot read well. Congress added benchmarks, measurements, and sanctions to ESEA and renamed it the NCLB. President Bush signed it on January 8, 2002. Now NCLB is up for reauthorization, which was scheduled for November 2007. Since it was deemed necessary to improve the scope of the law, Congress introduced and passed the Higher Education Extension Act of 2007 in order to provide time to make changes in the act. The Higher Education Extension Act of 2007 was signed into law. It will keep NCLB on the books up through April 30, 2008, allowing additional time to address the concerns about NCLB.

Since reauthorization of NCLB is forthcoming, only a few of the changes made will be addressed here. Briefly, schools are accountable for adequate yearly progress (AYP) toward meeting state proficiency goals. It is a standards-based education reform, which was formerly known as outcome-based education. This reform is based on high expectations and setting of goals and requires states to develop criterion-based assessments in certain grades. If a school does not attain these proficiency goals, over time the school will be subject to improvement, corrective action, and restructuring measures. Schools that meet these goals are eligible for State Academic Achievement Awards.

If students attend a school that does not meet state minimum achievement standards for 2 or 3 years, the school must offer the student choices. These include transferring to a higher performing local school, receiving free tutoring, or attending afterschool programs.

Parents of students in schools failing to meet AYP goals must be given detailed report cards on their child with explanations on the AYP performance. The parents also need to be informed if their student is being taught by a paraprofessional teacher who does not meet the "highly qualified" requirements. A teacher who is "highly qualified" has fulfilled the state's certification and licensure requirements.

Another change that should be mentioned concerns support for state and local efforts to keep our schools safe and drug free. It ensures that students who have been victims of school violence on school grounds or students who are in a persistently dangerous school will be allowed to transfer to a safe school. Schools are also required to report school safety statistics on a school-by-school basis.

Local education agencies (LEAs) must use Federal Safe and Drug-Free Schools and Communities funding to implement drug and violence prevention programs.

Postsecondary Transition

Postsecondary transition presents many problems and is fraught with concern for all who are entering adult life. It is especially difficult for children with disabilities. IDEA regulations, however, relieve them of many concerns and help make the transition smoother. If a student drops out or ages out of school, the law has no absolute guarantee that they will continue to receive services.

In IDEA, the term *transition services* means a coordinated set of activities that is designed to be within a results-oriented process for a child with a disability—that is, focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to postschool activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, and independent living or community participation and is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests.

An evaluation is not required before the termination of a child’s eligibility if it is due to graduation from a secondary school with a regular high school diploma or if the child exceeds the age of eligibility. If this is the case, the LEA must provide the child with a summary of his or her academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals.

Children who are receiving special education services must have transition goals in their IEPs starting at age 16 or earlier if needed. Postsecondary goals must address transition services beginning no later than the first IEP to be in effect when the child reaches 16 or earlier and should be based upon transition assessments, training education, employment, independent living skills, if appropriate, and transition services needed to reach the goals.

Transition services include the following:

1. Transition services means a coordinated set of activities for a child with a disability that is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to postschool activities including postsecondary education, vocational education, integrated employment (including supported employment),

community and adult education, adult services, independent living, or community participation.

2. [It i]s based on the individual child's needs, taking into account the child's strengths, preferences, and interests. (20 U.S.C. § 1401)

To make a successful transition from high school, various options should be addressed. The Virginia State Department of Education listed a few of the options, such as "community colleges, four-year colleges, on-the-job training, apprenticeships, military service, adult education, technical schools, and independent living skills. Assisting in helping a student make satisfactory correct decisions is essential for the transition from high school to adult life."

Many who have disabilities plan to continue their education into college. Their rights are protected from discrimination by Section 504 and Title I. A postsecondary school is required to provide appropriate adjustments, and if the school provides housing for students who are not disabled, it must also provide convenient housing for students with disabilities at the same cost. If the requirements for admission to a college are met, there can be no discrimination because of a disability. It is not necessary for a student to inform the school of having a disability unless there is a need for accessible facilities. The disclosure of having a disability is always voluntary.

Academic adjustments in college are determined by the disability and individual needs. These adjustments may include auxiliary aids and modifications to academic requirements. Examples of this are reduction of academic course load, electronic devices, sign language interpreters, and computers with screen reading, voice recognition, or other devices to assist a student with a disability. The postsecondary school does not have to provide personal attendants, individually prescribed devices, or tutoring. To receive this additional help, it is necessary for a student to inform the school of the disability. The request for an academic adjustment can be made at any time, but it is best if it is requested as early as possible. If the academic adjustments are not working, it is important that the student notify the school as soon as possible to make a satisfactory college experience.

The Collaborative Team

Educating students with disabilities is a shared, collaborative team effort. Depending on the student's IEP and personal needs, the team may include a special education teacher, regular education teacher, school nurse or other health care professional, school psychologist, social worker, speech pathologist, physical therapist, occupational therapist, other professionals and consultants, building principal, and parents. The regular classroom teacher may call on one or more of these individuals for information and assistance, as needed.

The team membership for both elementary and secondary schools is generally the same. This team is commonly referred to as a Student Success Team (SST), but individual school districts often use many different titles for the team. Regardless of the title given to the team, their purpose remains the same—to help students achieve.

Teachers can make a referral to the SST for support and assistance with students who are experiencing difficulties in areas of academics, behavior, attendance, or other school-related issues. Because referrals to the SST are not referrals for special education services, the team is not subject to the restrictions and time lines of special education. Before a student is referred to the SST, documented interventions and modifications for the student need to have been incorporated in the general education class.

When a referral is made to the SST, a meeting is scheduled to address the concerns and needs of the student. The collaborative efforts of the team identify the student's strengths, weaknesses, and results of the modifications already attempted. Based on the team's discussion, a plan of action is developed along with systematic monitoring of the student's progress. A follow-up meeting is scheduled to review and evaluate the results of the plan. The team's responsibility is to differentiate between those students whose needs can be met in the general education program with further modifications and those students who may need a referral for special education assessment under IDEA. See the Process Flow Chart (Figure 1.1).

Some students may not meet the eligibility requirements for special education services under IDEA, but they may have a disability that requires accommodations within the regular education program. Individuals between the ages of 3 and 21 who meet the requirements under Section 504 may qualify for services. The U.S. Department of Education Regulation (34 C.F.R. § 104.3[j]) states that

eligibility for services under Section 504 is an “individual with a disability” who

1. has a physical or mental impairment which substantially limits one or more major life activities;
2. has a record of such disability; or
3. is regarded as having such a disability.

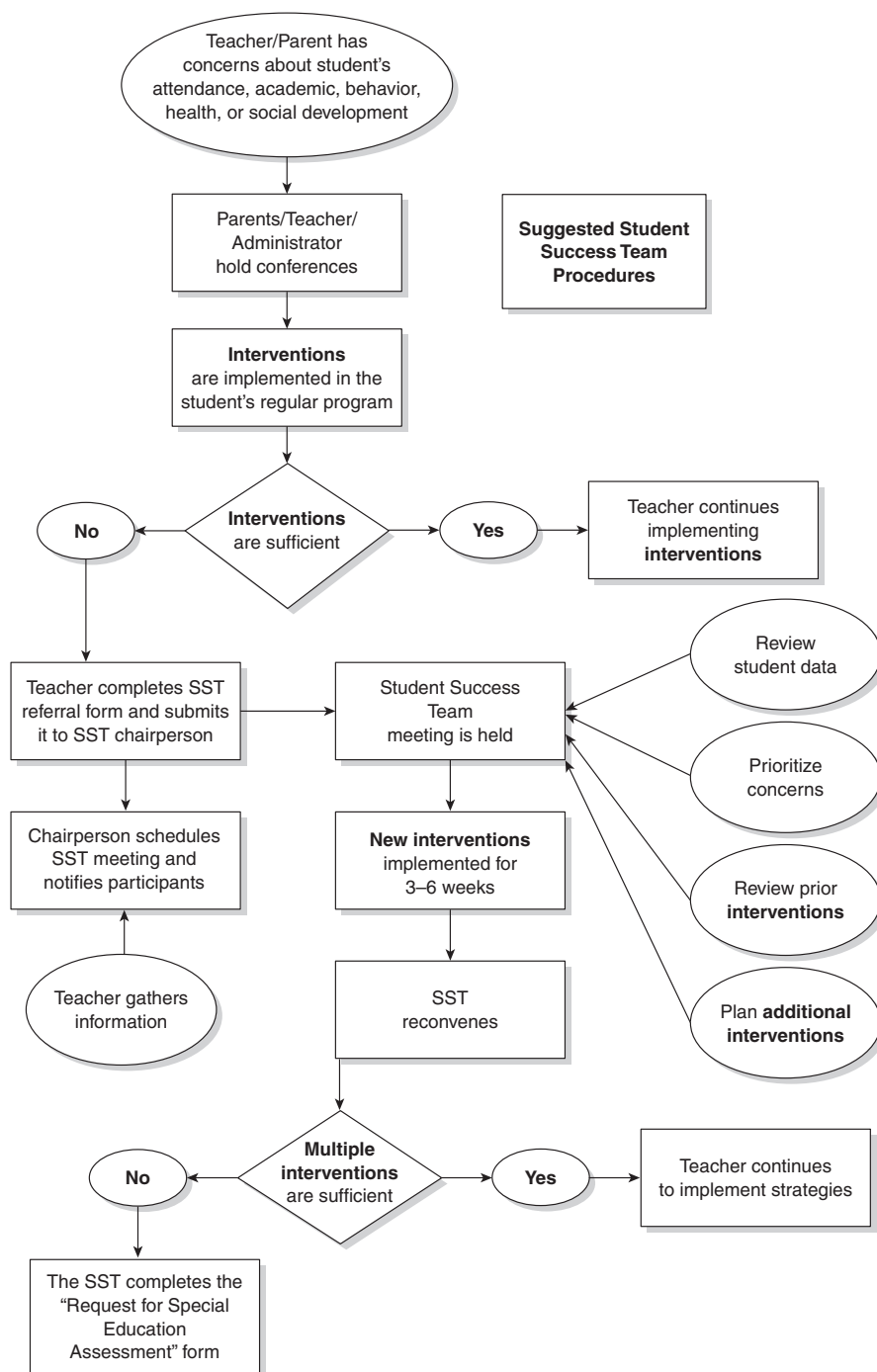
If a disability does not substantially limit a major life activity (i.e., caring for oneself, walking, hearing, seeing, learning, breathing, performing manual tasks, working, etc.), the individual is not considered disabled.

A referral is given to a Section 504 team composed of members similar to that of the SST. The Section 504 team reviews the nature of the disability and how it affects the student’s education. The team members evaluate the student’s attendance, relevant medical records, and cumulative records as well as the documents and records provided by the parents. Determination is made as to the accommodations needed by the student to reach that student’s potential in the general education program. All pertinent information and decisions made by the team are required to be documented.

As stated in Section 504 of the Rehabilitation Act of 1973, “No otherwise qualified individual with a disability, shall solely by reason of her or his handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program activity receiving Federal financial assistance” (29 U.S.C. § 794[a], 1973).

A student with a disability may be placed in a regular classroom on a part-time or a full-time basis, with consultative or other assistance provided by special educators. The curriculum for a student with a disability may parallel the regular curriculum, but the regular teacher will need to modify teaching techniques and pace, course content, and evaluation methods to fit the student’s special learning needs. Special educators can provide guidance to regular teachers on strategies to use with students with special needs (Alper et al., 1995).

Figure 1.1 Process Flow Chart



SOURCE: California Department of Education.

For Further Information

Books

- Buzzeo, T. *Collaborating to meet standards: Teacher/librarian partnerships for K-6.*
- Buzzeo, T. *Collaborating to meet literacy standards: Teacher/librarian partnerships for K-2.*
- Cramer, S. F. *Special educator's guide to collaboration.*
- Demchak, M. A., & Greenfield, R. G. *Transition portfolios for students with disabilities.*
- Kimmelman, P. *Implementing NCLB.*
- Levinson, E. M. (Ed.). *Transition from school to post-school life for individuals with disabilities.*
- Miller, R. J., Lombard, R. C., & Corbey, S. A. *Transition assessment: Planning transition and IEP development for youths with mild to moderate disabilities.*
- Smith, D. D. *Introduction to special education: Making a difference.*
- Smith, D. D. *Introduction to special education: Teaching in the age of opportunity, IDEA 2004.*
- Sunderman, G. L., Kim, J. S., & Orfield, G. G. *NCLB meets school realities: Lessons from the field.*
- Turnbull, H. R., Turnbull, A. P., Stowe, M., Wilcox, B. L., & Turnbull, H. R., III. *Free appropriate public education.*
- Wilmshurst, L., & Brue, A. W. *A parent's guide to special education.*
- Wright, P. W. D., & Wright, P. D. *Wrightslaw: Special education law.*
- Wright, P. W. D., Wright, P. D., & Heath, S. W. *Wrightslaw: No child left behind.*
- Yell, M. L. *The law and special education.*
- Ysseldyke, J., Algozzine, B., & Thurlow, M. L. *Critical issues in special education.*

Organizations and Agencies

Council for Exceptional Children (CEC)
 1110 N. Glebe Road
 Arlington, VA 22201-5704
 800-328-0272
 E-mail: cecpubs@cec.sped.org
<http://www.sped.org>

National Center on Secondary Education and Transition
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